7-6-90
Vol. 55 No. 130
Pages 27799-28012

federal register

Friday
July 6, 1990

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

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

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

The **Federal Register** will be furnished by mail to subscribers for $340 per year in paper form; $195 per year in microfiche form; or $37,500 per year for the magnetic tape. Six-month subscriptions are also available at one-half the annual rate. The charge for individual copies in paper or microfiche form is $1.50 for each issue, or $1.50 for each group of pages as actually bound, or $175.00 per magnetic tape. Remit check or money order, made payable to the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, or charge to your GPO Deposit Account or VISA or Mastercard.

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

How To Cite This Publication: Use the volume number and the page number. Example: 55 FR 12345.

SUBSCRIPTIONS AND COPIES

PUBLIC	
Subscriptions:	
Paper or fiche	202-783-3238
Magnetic tapes	275-3328
Problems with public subscriptions	275-3054
Single copies/back copies:	
Paper or fiche	783-3238
Magnetic tapes	275-3328
Problems with public single copies	275-3050
FEDERAL AGENCIES	
Subscriptions:	
Paper or fiche	523-5240
Magnetic tapes	275-3328
Problems with Federal agency subscriptions	523-5240

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

Contents

Federal Register
Vol. 55, No. 130
Friday, July 6, 1990

ACTION
NOTICES
Agency information collection activities under OMB review, 27847

Administration on Aging
See Aging Administration

Agency for International Development
NOTICES
Housing guaranty programs:
Tunisia, 27909

Aging Administration
NOTICES
Grants and cooperative agreements; availability, etc.:
Discretionary funds program; Statewide legal hotlines, 27942

Agricultural Marketing Service
RULES
Marketing orders; expenses and rates of assessment, 27801
PROPOSED RULES
Onions grown in Idaho and Oregon, 27825

Agriculture Department
See also Agricultural Marketing Service; Federal Grain Inspection Service; Forest Service
NOTICES
Agency information collection activities under OMB review, 27854

Air Force Department
NOTICES
Privacy Act:
System of records, 27868

Army Department
See Engineers Corps

Arts and Humanities, National Foundation
See National Foundation on the Arts and the Humanities

Coast Guard
RULES
Regattas and marine parades:
Unlimited Hydroplane Race, 27820

Commerce Department
See also Export Administration Bureau; International Trade Administration; Minority Business Development Agency; National Oceanic and Atmospheric Administration; National Telecommunications and Information Administration
NOTICES
Agency information collection activities under OMB review, 27856

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Jamaica, 27867
Mexico, 27867

Comptroller of the Currency
PROPOSED RULES
Assessments and other fees, 27964

Defense Department
See also Air Force Department; Defense Intelligence Agency; Engineers Corps; Navy Department
PROPOSED RULES
Privacy Act; implementation, 27835
NOTICES
DOD dependents schools; special education decisions list, 27868
Meetings:
Science Board task forces, 27868
Privacy Act:
Systems of records, 27871

Defense Intelligence Agency
NOTICES
Senior Executive Service:
Performance Review Committee; membership, 27870

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Arenol Chemical Corp., 27910

Education Department
NOTICES
Agency information collection activities under OMB review, 27874
Grants and cooperative agreements; availability, etc.:
Handicapped children's early education program, etc., 27940
Handicapped individuals, severely; vocational rehabilitation services, special project and demonstration, 27936

Employment and Training Administration
PROPOSED RULES
Nonimmigrant aliens temporarily employed as registered nurses; attestations by facilities, 27992

Employment Standards Administration
See also Wage and Hour Division
NOTICES
Minimum wages for Federal and federally-assisted construction; general wage determination decisions, 27911

Energy Department
See also Federal Energy Regulatory Commission
NOTICES
Natural gas exportation and importation:
Southern California Edison Co., 27883
Trans Marketing Houston, Inc., 27884

Engineers Corps
RULES
Historic properties protection procedures; Army Department permits processing
Correction, 27821
NOTICES
Environmental statements; availability, etc.:
Houston-Galveston Navigation Channels, TX, 27870

Environmental Protection Agency
PROPOSED RULES
Hazardous waste:
Underground storage tanks—
Financial responsibility requirements, 27837
NOTICES
Environmental statements; availability, etc.:
Agency statements—
Comment availability, 27886
Weekly receipts, 27885

Executive Office of the President
See Management and Budget Office; Presidential Documents

Export Administration Bureau
NOTICES
Foreign availability assessments:
Diamond turning machines, 27857
Gallium arsenide, 27858
12 MFLOPS array processors, 27859

Family Support Administration
NOTICES
Agency information collection activities under OMB review, 27900

Federal Aviation Administration
RULES
Airworthiness directives:
Airbus Industrie, 27803
McDonnell Douglas, 27804
Short Brothers, PLC, 27805
PROPOSED RULES
Airworthiness directives:
Aviatech Inc., 27826
Boeing, 27828
SAAB-Scania, 27829
NOTICES
Advisory circulars; availability, etc.:
Aircraft—
Flight attendant seat and torso restraint system installations, 27925
Airport noise compatibility program:
Charlotte/Douglas International Airport, NC, 27926

Federal Election Commission
NOTICES
Meetings; Sunshine Act, 27931

Federal Energy Regulatory Commission
NOTICES
Environmental statements; availability, etc.:
Holyoke city, Economic Development & Industrial Corp., 27875
Meetings; Sunshine Act, 27931
Natural gas certificate filings:
Northwest Pipeline Corp. et al., 27875
Preliminary permits surrender:
Skykomish River Hydro et al., 27881
Applications, hearings, determinations, etc.:
Arkla Energy Resources, 27881
El Paso Natural Gas Co., 27882
Valero Interstate Transmission Co., 27882

Federal Ethics Law Reform, President's Commission
See President's Commission on Federal Ethics Law Reform

Federal Financial Institutions Examination Council
NOTICES
Home Mortgage Disclosure Act disclosure statements and aggregate MSA reports; data availability, 27886

Federal Grain Inspection Service
NOTICES
Meetings:
Soybean oil and protein testing; program operations review, 27854

Federal Highway Administration
PROPOSED RULES
Motor carrier safety standards:
Hours of service of drivers; emergency tow truck operations, 27844
NOTICES
Environmental statements; notice of intent:
Salt Lake County, UT, 27927

Federal Reserve System
NOTICES
Meetings; Sunshine Act, 27931

Federal Retirement Thrift Investment Board
NOTICES
Meetings; Sunshine Act, 27931

Financial Management Service
See Fiscal Service

Fiscal Service
NOTICES
Surety companies acceptable on Federal bonds:
Meritplan Insurance Co., 27929

Fish and Wildlife Service
NOTICES
Endangered and threatened species permit applications, 27905
Endangered and threatened species:
Recovery plans—
Peters Mountain mallow, 27905
Environmental statements; availability, etc.:
Cedar Island National Wildlife Refuge, NC, 27906
Lake Ilo National Wildlife Refuge, ND, 27907

Food and Drug Administration
RULES
Human drugs:
Cold, cough, allergy, bronchodilator, and antiasthmatic products (OTC)—
Antitussive products; final monograph, 27806
PROPOSED RULES
Food for human consumption:
Bottled water; quality standards, 27831

Forest Service
NOTICES
Environmental statements; availability, etc.:
Salmon National Forest, ID, 27855

General Services Administration
PROPOSED RULES
Acquisition regulations:
Hazardous material data; supplies inspection, 27839

Health and Human Services Department
See Aging Administration; Family Support Administration; Food and Drug Administration; National Institutes of Health; Public Health Service

Health Resources and Services Administration
See Public Health Service

Housing and Urban Development Department
NOTICES
Grants and cooperative agreements; availability, etc.:
Facilities to assist homeless—
Excess and surplus Federal property, 27901

Indian Affairs Bureau
NOTICES
Indian tribes, acknowledgment of existence determinations, etc.:
Revived Ouachita Indians of Arkansas and America, 27903

Interior Department
See Fish and Wildlife Service; Indian Affairs Bureau; Land Management Bureau; Surface Mining Reclamation and Enforcement Office

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping and countervailing duties:
Administrative review requests, 27859
Export certificates of review, 27860

Interstate Commerce Commission
NOTICES
Motor carriers:
Compensated intercorporate hauling operations, 27909
Railroad operation, acquisition, construction, etc.:
Georgia Southern & Florida Railway Co., 27910
Joppa & Eastern Railroad Co., 27910

Justice Department
See also Drug Enforcement Administration
RULES
Organization, functions, and authority delegations:
Attorney General, 27808
NOTICES
Pollution control; consent judgments:
National Starch & Chemical Co., 27910

Labor Department
See Employment and Training Administration; Employment Standards Administration; Wage and Hour Division

Land Management Bureau
RULES
Public land orders:
Alaska, 27822
Colorado, 27822
NOTICES
Alaska Native claims selection:
Ouzinkie Native Corp., 27904
Meetings:
Richfield District Grazing Advisory Board, 27904
Roswell District Grazing Advisory Board, 27904
Withdrawal and reservation of lands:
California, 27904

Management and Budget Office
NOTICES
Budget rescissions and deferrals, 27974

Minority Business Development Agency
NOTICES
Business development center program applications:
Louisiana, 27861
Texas, 27862–27865
(4 documents)

National Aeronautics and Space Administration
NOTICES
Agency information collection activities under OMB review, 27912

National Archives and Records Administration
NOTICES
Agency information collection activities under OMB review, 27912, 27913
(2 documents)

National Foundation on the Arts and the Humanities
NOTICES
Agency information collection activities under OMB review, 27914

National Institutes of Health
NOTICES
Meetings:
National Institute of Arthritis and Musculoskeletal and Skin Diseases, 27900

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Bering Sea and Aleutian Islands groundfish, 27823
NOTICES
Endangered and threatened species:
Listing and recovery and priority guidelines; correction, 27933

National Telecommunications and Information Administration
NOTICES
Committees; establishment, renewal, termination, etc.:
Frequency Management Advisory Council, 27866

Navy Department
RULES
Navigation, COLREGS compliance exemptions:
USS Champion et al., 27817
USS Cowpens et al., 27818

Nuclear Regulatory Commission
NOTICES
Applications, hearings, determinations, etc.:
Vermont Yankee Nuclear Power Corp., 27914

Office of Management and Budget
See Management and Budget Office

Oversight Board
NOTICES
Meetings; regional advisory boards:
Regions 5 and 6, 27915

Pension Benefit Guaranty Corporation
RULES
Multiemployer and single-employer plans:
Premium payments, 27808

Personnel Management Office
RULES
Performance management and recognition system; merit increase formula and performance below fully successful level procedures
Correction, 27933

Postal Service
NOTICES
International postal rates and fees:
Surface air lift service, 27915

Presidential Documents
PROCLAMATIONS
Special observances:
Idaho Centennial Day (Proc. 6155), 27999

President's Commission on Federal Ethics Law Reform
RULES
Separate executive agency status and office address, and rulemaking authority clarification
Correction, 27933

Public Health Service
See also Food and Drug Administration; National Institutes of Health
NOTICES
Organization, functions, and authority delegations:
Indian Health Service; correction, 27900

Railroad Retirement Board
NOTICES
Regional Rail Reauthorization Act of 1973; Title VII benefit program termination, 27917

Securities and Exchange Commission
RULES
Securities:
Employee benefit plans; registration and reporting requirements
Correction, 27933
NOTICES
Joint industry plan:
NASDAQ/NMS securities traded on exchange on unlisted or listed basis; reporting plan, 27917
Meetings; Sunshine Act, 27931

Small Business Administration
NOTICES
Interest rates; quarterly determinations, 27925
Small business investment companies:
Maximum cost of money; debenture rate, 27925

State Department
NOTICES
Meetings:
International Communications and Information Policy Advisory Committee, 27925

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Missouri, 27811
NOTICES
Agency information collection activities under OMB review, 27909

Textile Agreements Implementation Committee
See Committee for the Implementation of Textile Agreements

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration

Treasury Department
See also Comptroller of the Currency; Fiscal Service
NOTICES
Agency information collection activities under OMB review, 27928, 27929
(3 documents)
Meetings:
Debt Management Advisory Committee, 27928

United States Information Agency
NOTICES
Art objects, importation for exhibition:
Kazmir Malevich 1878–1935, 27930

United States Institute of Peace
NOTICES
Meetings; Sunshine Act, 27932

Veterans Affairs Department
RULES
Vocational rehabilitation and education:
Veterans education—
Training outside United States, 27821
PROPOSED RULES
Vocational rehabilitation and education:
Independent living services and assistance; permanent program, 27836
Veterans education—
Department of Defense Authorization Act (FY 1990 and 1991); implementation, 27836

Wage and Hour Division
PROPOSED RULES
Nonimmigrant aliens temporarily employed as registered nurses; attestations by facilities, 27992

Separate Parts In This Issue

Part II
Department of Education, 27936

Part III
Department of Education, 27940

Part IV
Department of Health and Human Services, Aging Administration, 27942

Part V
Department of Treasury, Comptroller of the Currency, 27964

Part VI
Management and Budget Office, 27974

PART VII
Department of Labor, Employment and Training Administration, and Wage and Hour Division, 27992

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR
Proclamations:
6155 27799

5 CFR
430 27933
2637 27933

7 CFR
916 27801
917 27801
Proposed Rules:
958 27825

12 CFR
Proposed Rules:
5 27964
8 27964
11 27964
16 27964

14 CFR
39 (3 documents) 27803–27805
Proposed Rules:
39 (3 documents) 27826–27829

17 CFR
229 27933
230 27933
239 27933
240 27933
249 27933

20 CFR
Proposed Rules:
621 27974
655 27974

21 CFR
341 27806
Proposed Rules:
103 27831

28 CFR
0 27808

29 CFR
2610 27808
Proposed Rules:
504 27974

30 CFR
925 27811

32 CFR
706 (2 documents) 27817, 27818
Proposed Rules:
299a 27835

33 CFR
100 27820
325 27821

38 CFR
21 27821
Proposed Rules:
21 (2 documents) 27836

40 CFR
Proposed Rules:
280 27837
281 27837

43 CFR
Public Land Orders:
4176 Partial Revocation 27822
6785 27822
6786 27822

48 CFR
Proposed Rules:
523 27839
546 27839
552 27839

49 CFR
Proposed Rules:
395 27844

50 CFR
675 27823

Federal Register
Vol. 55, No. 130
Friday, July 6, 1990

Presidential Documents

Title 3—

The President

Proclamation 6155 of July 3, 1990

Idaho Centennial Day, 1990

By the President of the United States of America

A Proclamation

On July 3, 1890, President Benjamin Harrison signed a proclamation declaring Idaho the 43rd State of the Union. During the succeeding century, Idaho and its people have made substantial contributions to the social and economic development of the United States.

Rich in valuable minerals, fertile land, and unspoiled forests, Idaho is truly the "Gem State." It was Meriwether Lewis and William Clark who first charted the rich, mountainous territory that is now Idaho. During their expedition of 1805–1806, they discovered lush valleys, rivers, and forests teeming with fish and wildlife—land that had been cultivated and cherished by generations of Indian tribes, including the Kootenai, Nez Percé, Coeur D'Alene, and Shoshoni. The Lewis and Clark expedition introduced the rest of the Nation to this fertile territory and inspired a long line of explorers and settlers to follow.

The story of those who settled and developed Idaho is one of enterprise and discovery, hope and hard work. Close behind Lewis and Clark came fur traders, missionaries, and brave pioneer families making their way west along the Oregon Trail. The discovery of gold in the mid-19th century brought a rush of prospectors to the territory and marked the birth of one of Idaho's most productive industries.

Since becoming a State in 1890, the people of Idaho have demonstrated the same vision, strength, and industriousness exhibited by their forebears. In farming, mining, and tourism, they have made effective use of the State's natural resources, bringing progress and prosperity to the region and to the entire country. Today, all Americans continue to benefit from the careful development of Idaho's vast resources, including its minerals, timber, and, of course, the famous Idaho potato.

The people of Idaho have also set a wonderful example of environmental stewardship, effectively preserving the breathtaking mountain scenery and pristine rivers explored by Lewis and Clark nearly 2 centuries ago. Each year, thousands of individuals and families visit Idaho to explore its magnificent national forestlands and recreational areas such as Bear Lake and the Craters of the Moon National Monument.

From its snowcapped mountain peaks and verdant plains to the deep and winding canyons of the Snake River, Idaho continues to be a land of extraordinary natural splendor and untold promise. Its geographic diversity, its colorful history, and its enviable quality of life make the Gem State one of our Nation's great treasures. This year, as they celebrate a century of statehood, the people of Idaho can be very proud indeed.

In recognition of Idaho's contributions to the United States and in commemoration of its Centennial, the Congress, by Senate Joint Resolution 245, has designated July 3, 1990, as "Idaho Centennial Day" 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 July 3, 1990, as Idaho Centennial Day.

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

George Bush

[FR Doc. 90-15847]
Filed 7-3-90; 2:00 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 55, No. 130
Friday, July 6, 1990

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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 916 and 917

[Docket No. FV-90-166FR]

Expenses and Assessment Rate for Specified Marketing Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule authorizes expenditures and establishes assessment rates for the 1990–91 fiscal year (March 1–February 28) under Marketing Order Nos. 916 and 917. These expenditures and assessment rates are needed by the Nectarine Administrative Committee and the Plum and Peach Commodity Committees established under these orders to pay marketing order expenses and collect assessments from handlers to pay those expenses. This action would enable the committees to perform their duties and the orders to operate.

EFFECTIVE DATE: Sections 916.228, 917.251 and 917.252 are effective for the period March 1, 1990, through February 28, 1991.

FOR FURTHER INFORMATION CONTACT: Thomas Tichenor, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, telephone: (202) 475–5464.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Marketing Order Nos. 916 (7 CFR part 916) regulating the handling of nectarines grown in California, and 917 (7 CFR part 917) regulating the handling of fresh pears, plums, and peaches grown in California. These agreements and orders are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the Act.

This 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 "non-major" rule.

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

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

There are about 650 handlers of California plums, peaches and nectarines subject to regulation under Marketing Order Nos. 916 and 917 and about 2,030 producers of these commodities in California. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural services firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and producers may be classified as small entities.

These marketing orders, administered by the U.S. Department of Agriculture (Department), require that assessment rates for a particular fiscal year apply to all assessable fresh fruit handled from the beginning of such year. An annual budget of expenses is prepared by each marketing committee and submitted to the Department for approval. The members of these committees are handlers and producers of the regulated commodities. They are familiar with the committees' needs and with the costs for goods, services, and personnel in their local areas and are thus in a position to formulate appropriate budgets. The budgets are formulated and discussed in public meetings. Thus, all directly affected persons have an opportunity to participate and provide input.

The assessment rate recommended by each committee is derived by dividing anticipated expenses by the packages of fresh fruit expected to be shipped under the order. Because that rate is applied to actual shipments, it must be established at a rate which will produce sufficient income to pay the committees' expected expenses. Recommended budgets and rates of assessment are usually acted upon by the committees shortly before a season starts, and expenses are incurred on a continuous basis. Therefore, budget and assessment rate approvals must be expedited so that the committees will have funds to pay their expenses.

The Nectarine Administrative Committee (NAC) met May 2, 1990, and unanimously recommended a 1990–91 budget with expenditures of $3,639,676 and an assessment rate of $0.18 per 25-pound package or equivalent. In comparison, the 1989–90 fiscal year budgeted expenditures were $3,515,037 and the assessment rate was $0.185. Major expenditure categories projected for 1990–91 with budgeted 1989–90 expenditures in parenthesis are: Salaries and employee benefits, $217,846 ($193,190); production research, $86,181 ($86,587); market development and promotion, $1,853,715 ($2,076,100); inspection, $940,100 ($907,500); and uncollected assessment accounts, $350,000 ($65,000). With the exception of a $25,000 grant to the Pear Commodity Committee in recognition of the significant amount of staff time devoted to compliance efforts, the remaining expenses are for program administration.

The NAC budget includes $16,667 for the possible construction of production research facilities in California. However, this type of expenditure is not authorized under the order. These budgeted funds may be used for other research recommended by the NAC and approved by the Department.

The NAC estimates available 1990–91 assessment income at $2,926,000. This amount is based on assessments totaling $3,276,000 (18,200,000 packages of assessable nectarines shipped at $0.18 per 25-pound package), less $350,000 in anticipated uncollected contested assessments. Assessment income will be supplemented with interest income estimated at $55,000, and income from export development and research subsidies from State and Federal agencies estimated at $102,000. In

addition, the NAC had $604,307 in uncontested reserves as of March 1, 1990, an amount well within the maximum authorized. Total income and available reserves will be sufficient to cover all anticipated 1990–91 expenditures, except for uncollected accounts ($350,000). Uncollected contested reserves totalled $503,806 as of March 1, 1990.

The Plum Commodity Committee (PLCC) met May 3, 1990, and recommended 1990–91 marketing order expenditures of $3,909,913 and an assessment rate of $0.22 per 28-pound package or equivalent. For comparison, budgeted 1989–90 fiscal year expenditures were $3,154,353 and the assessment rate was $0.21. Major expenditure categories projected for 1990–91 with budgeted 1989–90 expenditures in parenthesis are: salaries and employee benefits, $217,846 ($193,190); production research, $56,589 ($67,091); market development and promotion, $2,004,275 ($1,580,950); inspection, $1,057,500 ($1,078,000); and uncollected assessment accounts, $357,000 ($85,000). The market development and promotion expenses and the uncollected assessments accounts are erroneously listed in the proposed rule as $2,040,275 and $350,000 respectively. Both entries have been corrected in this final rule. With the exception of a $25,000 grant to the Pear Commodity Committee in recognition of the significant amount of staff time devoted to compliance efforts, the remaining expenses are for program administration.

The PLCC budget includes $16,666 for the possible construction of production research facilities in California. However, this type of expenditure is not authorized under the order. These budgeted funds may be used for other research recommended by the PLCC and approved by the Department.

The PLCC estimates available 1990–91 assessment income at $2,854,600. This amount is based on assessments totaling $3,229,600 (14,680,000 packages of assessable plums shipped at $0.22 per 28-pound package), less $375,000 in anticipated uncollected contested assessments. Assessment income will be supplemented with interest income estimated at $35,000, and income from export development and research subsidies from State and Federal agencies estimated at $315,000. In addition, the PLCC had $451,765 in uncontested reserves as of March 1, 1990, an amount well within the maximum authorized. Total income and available reserves will be sufficient to cover all anticipated 1990–91 expenditures, except for uncollected accounts ($375,000). Uncollected contested reserves totalled $576,622 as of March 1, 1990. Two members of the PLCC voted against the $0.22 assessment rate. They favored a $0.21 rate of assessment.

The Peach Commodity Committee (PCC) met May 3, 1990, and unanimously recommended 1990–91 marketing order expenditures of $3,248,020 and an assessment rate of $0.185 cents per 25-pound package or equivalent. For comparison, 1989–90 fiscal year expenditures were $2,849,419 and the assessment rate was $0.185 per 25-pound package or equivalent. Major expenditures categories projected for 1990–91 with budgeted 1989–90 expenditures in parenthesis are: Salaries and employee benefits, $203,765 ($182,282); consultant fees, $4,000 ($5,000); production research, $60,682 ($61,087); market development and promotion, $1,629,895 ($1,546,700); inspection $986,000 ($864,000); and uncollected assessment accounts, $185,000 ($50,000). With the exception of a $15,000 grant to the Pear Commodity Committee in recognition of the significant amount of staff time devoted to compliance efforts, the remaining expenses are for program administration. Mr. Jonathan Field, manager of the committees, commented that the administrative grant of the PCC to the Pear Commodity Committee should be $15,000 rather than the $25,000 listed in the proposed rule [55 FR 22034, May 31, 1990]. A review of documentation submitted by the PCC reveals that the amount should, indeed, be $15,000 as indicated in Mr. Field's comment. The change is hereby made in the final rule.

The PCC budget includes $16,667 for the possible construction of production research facilities in California. However, this type of expenditure is not authorized under the order. These budgeted funds may be used for other research recommended by the PCC and approved by the Department.

The PCC estimates available 1990–91 assessment income at $2,595,550. This amount is based on assessments totaling $2,780,550 (15,030,000 packages of assessable peaches at $0.185 per 25-pound package), less $185,000 in anticipated uncollected contested assessments. Assessment income will be supplemented with interest income estimated at $45,000, and income from export development and research subsidies from State and Federal agencies estimated at $135,000. In addition, the PCC had $561,213 in uncontested reserves as of March 1, 1990, an amount well within the maximum authorized. Total income and available reserves will be sufficient to cover all anticipated 1990–91 expenditures, except for uncollected accounts ($185,000). Uncollected contested reserves totalled $228,377 as of March 1, 1990.

While this action imposes some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be significantly offset by the benefits derived from the operation of the marketing orders. Therefore, the Administrator of the AMS has determined that this action will not have a significant economic impact on a substantial number of small entities.

This action adds new §§ 916.228, 917.251 and 917.252 and is based on the committees' recommendations and other information. A proposed rule concerning this action was published in the **Federal Register** [55 FR 22033, May 31, 1990]. Comments on the proposed rule were invited from interested persons until June 11, 1990. The only comment received was from Mr. Field, discussed earlier.

After consideration of all relevant matter presented, including the committees' recommendations, and other available information, it is found that this final rule will tend to effectuate the declared policy of the Act.

This final rule should be expedited because the committees need to have sufficient funds to pay their expenses, which are incurred on a continuous basis. In addition, handlers are aware of these actions which were recommended at public meetings. Therefore, it is found that good cause exists for not postponing the effective dates of these actions until 30 days after publication in the **Federal Register** (5 U.S.C. 553).

List of Subjects in 7 CFR Parts 916 and 917

Marketing agreements, Nectarines, Peaches, Pears, Plums, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR parts 916 and 917 are amended as follows:

PART 916—NECTARINES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR parts 916 and 917 continues to read as follows:

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

Note: These sections will not appear in the annual Code of Federal Regulations.

2. A new § 916.228 is added to read as follows:

§ 916.228 Expenses and assessment rate.

Expenses of $3,639,676 by the Nectarine Administrative Committee are authorized, and an assessment of $0.18 per 25-pound package or equivalent of assessable nectarines is established for the fiscal year ending February 28, 1991. Any unexpended funds from the 1989–90 fiscal year may be carried over as a reserve.

PART 917—FRESH PEARS, PLUMS AND PEACHES GROWN IN CALIFORNIA

3. A new § 917.251 is added to read as follows:

§ 917.251 Expenses and assessment rate.

Expenses of $3,909,913 by the Plum Commodity Committee are authorized, and an assessment of $0.22 per 28-pound package or equivalent of assessable plums is established for the fiscal year ending February 28, 1991. Any unexpended funds from the 1989–90 fiscal year may be carried over as a reserve.

4. A new § 917.252 is added to read as follows:

§ 917.252 Expenses and assessment rate.

Expenses of $3,248,020 by the Peach Commodity Committee are authorized, and an assessment of $0.185 per 25-pound package or equivalent of assessable peaches is established for the fiscal year ending February 28, 1991. Any unexpended funds from the 1989–90 fiscal year may be carried over as a reserve.

Dated: June 29, 1990.

William J. Doyle,

Associate Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90–15694 Filed 7–5–90; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90–NM–114–AD; Amdt. 39–6648]

Airworthiness Directives; Airbus Industrie Model A300 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300 series airplanes, which requires a one-time inspection to detect chafing on the engine fire extinguisher pipe in the pylon area at Rib 12, and repair, if necessary. This amendment is prompted by recent reports of chafing of the engine fire extinguishing pipe due to the pipe rubbing against the metal collars of the fire wall rings. This condition, if not corrected, could result in a hole in the fire extinguishant pipe, thus rendering the fire extinguishing system ineffective.

EFFECTIVE DATE: July 23, 1990.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM–113; telephone (206) 431–1918. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A300 series airplanes. There have been recent reports of chafing marks found on the engine fire extinguisher pipe in the pylon area at Rib 12. The chafing was caused by the pipe rubbing against the metal collars of the fire wall rings. This condition, if not corrected, could result in a hole in the fire extinguishant pipe, thus rendering the fire extinguishing system ineffective.

Airbus Industrie has issued All Operators Telex (AOT) 26/90/01, February 9, 1990, and a Correction dated February 28, 1990, which describe procedures for a one-time inspection to detect chafing on the engine fire extinguisher pipe in the pylon area at Rib 12, and repair, if necessary. The DGAC has classified this AOT as mandatory, and has issued Airworthiness Directive 90–056–106(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires a one-time inspection to detect chafing of the engine fire extinguishing pipe, and repair, if necessary, in accordance with the AOT previously described.

This is considered to be interim action until final action is identified, at which time the FAA may consider further rulemaking.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It had been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration

amends 14 CFR part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Airbus Industrie: Applies to Model A300 series airplanes, equipped with General Electric engines up to and including airplane serial number 153 and serial number 157, certificated in any category. Compliance is required within 400 hours time-in-service (flight hours) after the effective date of this AD, unless previously accomplished.

To ensure proper operation of the fire extinguishing system, accomplish the following:

A. Perform an inspection of the engine fire extinguishing pipe in the pylon area at Rib 12, in accordance with All Operators Telex (AOT) 26/90/01, dated February 9, 1990, and Correction dated February 28, 1990. If chafing is found, prior to further flight, repair in accordance with the AOT.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Maintenance Inspector (PMI). The PMI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective July 23, 1990.

Issued in Seattle, Washington, on June 28, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-15648 Filed 7-5-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-104-AD; Amdt. 39-6647]

Airworthiness Directives; McDonnell Douglas Models DC-9-81, DC-9-82, DC-9-83, and DC-9-87 (MD-81, MD-82, MD-83, MD-87) Series Airplanes and Model MD-88 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Models DC-9-81, DC-9-82, DC-9-83, DC-9-87, and MD-88 series airplanes, which requires a one-time inspection of both the left and right elevator control tab assemblies and replacement of the fittings, if necessary. This amendment is prompted by a report of improperly (non-) heat treated elevator control tab fittings, which may have been installed on some airplanes. This condition, if not corrected, could result in failure of the fittings and loss of elevator control.

EFFECTIVE DATE: July 23, 1990.

ADDRESSES: The applicable service information may be obtained from McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager of Publications, C1-HCO (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Lee, Aerospace Engineer, Airframe Branch, ANM-122L, FAA, Northwest Mountain Region, Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California 90806-2425; telephone (213) 988-5325.

SUPPLEMENTARY INFORMATION: In May 1990, McDonnell Douglas reported that a new vendor had made two deliveries of non-heat treated aluminum elevator control tab fittings (P/N 5937825-1/-2), totaling 289 parts. These fittings are installed on the elevator control tabs (P/N 5910413-507/-508) at the inboard end and are connected to the elevator control mechanism. The subject fittings may have been installed on airplanes delivered between December 30, 1989, and May 8, 1990. In the same time period, nine spares were delivered and all nine have been accounted for. The non-heat treated fittings could fail under design loading conditions, resulting in loss of elevator control.

Since this situation is likely to exist on other airplanes of the same type design, this AD requires a one-time inspection of both the left and right elevator control tab assemblies and replacement of the fittings, if necessary.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

McDonnell Douglas: Applies to Models DC-9-81, DC-9-82, DC-9-83, and DC-9-87 series airplanes, and Model MD-88 airplanes, delivered between December 30, 1989, and May 8, 1990, certificated in any category. Compliance required as indicated, unless previously accomplished.

To prevent the loss of elevator control, accomplish the following:

A. Within 30 days after the effective date of this AD, conduct a visual inspection to determine the date on the elevator control tab identification tag (P/N 5910413-507/-508). The identification tag is located on the inboard side of the second hinge cutout from the inboard end of the control tab.

Note: Do not use the date on the P/N 5910413-407/-408 tag, which is similar.

1. Confirm that the elevator control tab assembly has not been changed from that which was delivered on the airplane;

2. If the elevator control tab assembly has been changed since the delivery of the airplane, the identification tag date of the original tab must be ascertained by inspection of the original part.

3. If the date on the identification tag is between December 30, 1989, and May 8, 1990, accomplish the following:

a. Remove access opening door no. 3523A, left-hand, and 3624A, right-hand. (Reference Maintenance Manual 6-23-00, Figure 2.)

b. Check the elevator control tab fitting in the clevis area using Webster pliers, or equivalent per Douglas Process Specification (DPS) 1.05. Non-heat treated (soft) parts will exhibit a reading of less than 10 on the Webster pliers. Properly heat treated parts will have a reading of 10 or greater on Webster pliers, which is equivalent to Rockwell "B" 78-87, Rockwell "E" 103-107, or Brinell 126-147.

Note: Remove all paint and primer locally before using Webster pliers. An invalid reading will be obtained if any paint remains in the indentation area.

Note: Do not use conductivity readings as a method of acceptance.

B. If the fittings are properly heat treated, no further action is required.

C. If the fittings have a Webster pliers reading of less than 10, before further flight, remove the fittings and replace them with fittings exhibiting a Webster pliers reading of 10 or greater.

D. If only one fitting per airplane is found to be soft, special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

E. Any elevator control tab fitting, P/N 5937825-1/-2, that fails the hardness test specified in paragraph A.3.b., above, shall not be subsequently installed on any airplane, unless the fitting is heat treated to meet the requirements in paragraph A.3.b.

F. Replacement of the elevator control tab fittings with those exhibiting a Webster pliers reading of 10 or greater, constitutes an acceptable alternate means of compliance with the requirements of this AD.

G. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Los Angeles Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Los Angeles ACO, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Los Angeles ACO.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to McDonnell Douglas Corporation, 3855 Lakewood Boulevard, Long Beach, California 90846, Attention: Business Unit Manager of Publications, C1-HCO (54-60). This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Los Angeles Aircraft Certification Office, 3229 East Spring Street, Long Beach, California.

This amendment becomes effective July 23, 1990.

Issued in Seattle, Washington, on June 26, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-15649 Filed 07-05-90; 8:45 am]

BILLING CODE 4910-13-M

---

14 CFR Part 39

[Docket No. 90-NM-128-AD; Amdt. 39-6649]

Airworthiness Directives; Short Brothers, PLC, Model SD3-60 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Short Brothers Model SD3-60 series airplanes, which requires repetitive visual inspections to detect cracks in the outerwing/strut attachment fittings and the stub wing/strut attachment fittings, and repair or replacement, if necessary. This amendment is prompted by the results of a damage tolerance analysis, which revealed that these fittings are subject to fatigue cracks. This condition, if not corrected, could result in reduced structural capability of the wings.

EFFECTIVE DATE: July 23, 1990.

ADDRESSES: The applicable service information may be obtained from Short Brothers, PLC, Service Representative, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3719. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. William Schroeder, Standardization Branch, ANM-113; telephone (206) 431-1565. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: The United Kingdom Civil Aviation Authority (CAA), in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Short Brothers Model SD3-60 series airplanes. A recent damage tolerance evaluation revealed that fittings designed for a lighter airplane were installed on the Model SD3-60, and are subject to fatigue cracks. Undetected fatigue cracks, if not corrected, could result in reduced structural integrity of the wings.

Short Brothers has issued Service Bulletin SD360-57-12, dated June 8, 1990, which describes procedures for repetitive inspections to detect cracks in the outer wing/strut attachment fittings and stub wing/strut attachment fittings. The United Kingdom CAA has classified this service bulletin as mandatory.

This airplane model is manufactured in the United Kingdom and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires repetitive visual inspections to detect cracks in the outer wing/strut attachment fittings (left and right) and the stub wing/strut attachment fittings (left and right), in accordance with the

service bulletin previously described. Repair or replacement, if necessary, must be accomplished in a manner approved by the FAA.

This is considered to be interim action. The manufacturer is developing a modification that will preclude the need for repetitive inspections. Once this is developed, the FAA may consider further rulemaking to revise this AD to require additional necessary action.

Since a situation exists that requires immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable, and good cause exists for making this amendment effective in less than 30 days.

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

The FAA has determined that this regulation is an emergency regulation and that it is not considered to be major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Executive Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It had been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Short Brothers: Applies to Model SD3-60 series airplanes, Serial Numbers SH3601 through SH3642, inclusive, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent reduced structural integrity of the wings, accomplish the following:

A. Upon the accumulation of 9,600 hours time-in-service or within 30 days after the effective date of this AD, whichever occurs later, and thereafter at intervals not to exceed 600 hours time-in-service, perform the following inspections:

1. For airplanes with Serial Numbers SH3601 through SH3635, inclusive: Perform a visual inspection of the left and right outerwing/strut attachment fittings in accordance with Short Brothers Service Bulletin SD360-57-12, dated June 8, 1990.

2. For airplanes with Serial Numbers SH3601 through SH3642, inclusive: Perform a visual inspection of the left and right stub wing/strut attachment fittings in accordance with Short Brothers Service Bulletin SD360-57-12, dated June 8, 1990.

B. If cracks are found, prior to further flight, repair or replace with serviceable part in a manner approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

C. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

D. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to Short Brothers, PLC, Service Representative, 2011 Crystal Drive, Suite 713, Arlington, Virginia 22202-3702. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective July 23, 1990.

Issued in Seattle, Washington, on June 27, 1990.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-15651 Filed 7-5-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 341

[Docket No. 88P-0142]

RIN 0905-AA06

Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Amendment of Monograph for OTC Antitussive Drug Products

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule that amends the final monograph for over-the-counter (OTC) antitussive drug products by adding a new section that exempts antitussive drug products containing menthol in a lozenge dosage form from that part of the accidental overdose warning required by § 330.1(g) (21 CFR 330.1(g)) that states, "In case of accidental overdose, seek professional assistance or contact a poison control center immediately." The exemption is being provided because OTC antitussive drug products containing menthol in a lozenge dosage form have been determined to have a low potential for acute toxicity resulting from accidental ingestion. This amendment of the final monograph is part of the ongoing review of OTC drug products conducted by FDA.

EFFECTIVE DATE: July 6, 1990.

FOR FURTHER INFORMATION CONTACT: William E. Gilbertson, Center for Drug Evaluation and Research (HFD-210), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8000.

SUPPLEMENTARY INFORMATION: In the Federal Register of August 12, 1987 (52 FR 30042), FDA issued a final monograph for OTC antitussive drug products (21 CFR part 341) that established conditions under which these products are generally recognized as safe and effective and not misbranded. The monograph provides for menthol to be used in a lozenge

dosage form at a dose of 5 to 10 milligrams (mg).

Under 21 CFR 330.1(g), the following general warning statements are required on all orally administered OTC drug products: "Keep this and all drugs out of the reach of children. In case of accidential overdose, seek professional assistance or contact a poison control center immediately." Section 330.1(g) also states that FDA will grant an exemption from these general warnings where appropriate upon petition.

Since the publication of the final monograph for OTC antitussive drug products, two companies submitted citizen petitions (Refs. 1 and 2) requesting an exemption for menthol-containing antitussive cough drops from the required general warning statements in § 330.1(g). After reviewing the citizen petitions, the agency proposed to provide for this exemption in a proposed amendment of the final monograph for OTC antitussive drug products published in the **Federal Register** of July 6, 1989 (54 FR 28442). The agency concluded that accidental ingestion of menthol lozenges marketed in the monograph dosage (5 to 10 mg) is highly unlikely to present any degree of acute oral toxicity. Because of this low potential for acute toxicity, the agency proposed to amend the monograph for OTC antitussive drug products by adding a new section providing an exemption for antitussive drug products containing menthol in a lozenge dosage form from the second part of the accidental overdose warning required by § 330.1(g), which states, "In case of accidental overdose, seek professional assistance or contact a poison control center immediately."

However, the agency concluded that products containing menthol should continue to bear the first part of the general warning, which states, "Keep this and all drugs out of the reach of children." The agency considers this part of the warning necessary to reinforce and ensure that all drugs, regardless of potential toxicity, are treated by consumers as drugs and kept out of the reach of all children.

Interested persons were invited to file written comments regarding the proposal by September 5, 1989. Comments on the agency's economic impact determination could have been submitted until November 3, 1989. Final agency action occurs with the publication of this amendment to the final monograph for OTC antitussive drug products.

One comment from a manufacturer was submitted in response to the proposal. Copies of the comment are on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. The comment requested that OTC antitussive drug products containing menthol in a lozenge dosage form also be exempted from the first part of the general warning which states "Keep this and all drugs out of the reach of children." The comment stated that this warning gives the impression that an antitussive drug product containing menthol in a lozenge dosage form is potentially harmful. The agency stated its position on this part of the warning in the proposal (54 FR 28442). (See also the discussion above.) The agency has not changed its position that this part of the warning is necessary to reinforce and ensure that all drugs, regardless of potential toxicity, are treated by consumers as drugs and kept out of the reach of all children.

Based on the above, the agency is finalizing this exemption as proposed and is adding new § 341.74(f) to the final monograph for OTC antitussive drug products to provide an exemption for products containing 5 to 10 mg menthol in a lozenge dosage form from the requirement in § 330.1(g) that the labeling bear the general warning statement. "In case of accidental overdose, seek professional assistance or contact a poison control center immediately." However, the labeling must continue to bear the first part of the general warning in § 330.1(g) of this chapter, which states, "Keep this and all drugs out of the reach of children."

In the **Federal Register** of October 2, 1989 (54 FR 40412), FDA proposed to amend the final monograph for OTC antitussive drug products to adopt the new United States Pharmacopeial (U.S.P.) definition of the term "lozenge." Comments submitted to that proposed rulemaking are being reviewed, and the agency will publish a final rule in a future issue of the **Federal Register**. However, the finalization of the rulemaking for the new U.S.P. definition of the term "lozenge" is not necessary before final action is taken on the proposed exemption from the accidental overdose warning for antitussive drug products containing menthol in a lozenge dosage form.

References

(1) Comment No. CP1, Docket No. 88P-0142, Dockets Management Branch.

(2) Comment No. CP2, Docket No. 88P-0142, Dockets Management Branch.

No comments were received in response to the agency's request for specific comment on the economic impact of this rulemaking (54 FR 28442). The agency has examined the economic consequences of this final rule in conjunction with other rules resulting from the OTC drug review. In a notice published in the **Federal Register** of February 8, 1983 (48 FR 5806), the agency announced the availability of an assessment of these economic impacts. The assessment determined that the combined impacts of all the rules resulting from the OTC drug review do not constitute a major rule according to the criteria established by Executive Order 12291. The agency therefore concludes that not one of these rules, including this final rule for OTC antitussive drug products, is a major rule.

The economic assessment also concluded that the overall OTC drug review was not likely to have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act (Pub. L. 96-354). That assessment included a discretionary regulatory flexibility analysis in the event that an individual rule might impose an unusual or disproportionate impact on small entities. However, this particular rulemaking for OTC antitussive drug products is not expected to pose such an impact on small businesses. Therefore, the agency certifies that this final rule will not have a significant economic impact on a substantial number of small entities.

The agency has determined under 21 CFR 25.24(c)(6) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environment assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 341

Antitussive drug products, Labeling, Over-the-counter drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act, subchapter D of chapter I of title 21 of the Code of Federal Regulations is amended in part 341 as follows:

PART 341—COLD, COUGH, ALLERGY, BRONCHODILATOR, AND ANTIASTHMATIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

1. The authority citation for 21 CFR part 341 continues to read as follows:

Authority: Secs. 201, 501, 502, 503, 505, 510, 701 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 351, 352, 353, 355, 360, 371).

2. Section 341.74 is amended by adding new paragraph (f) to read as follows:

§ 341.74 Labeling of antitussive drug products.

* * * * *

(f) *Exemption from the general accidental overdose warning.* The labeling for antitussive drug products containing the active ingredient identified in § 341.14(b)(2) marketed in accordance with § 341.74(d)(2)(iii) is exempt from the requirement in § 330.1(g) of this chapter that the labeling bear the general warning statement "In case of accidental overdose, seek professional assistance or contact a poison control center immediately." The labeling must continue to bear the first part of the general warning in § 330.1(g) of this chapter, which states, "Keep this and all drugs out of the reach of children."

Dated: June 9, 1990.

James S. Benson,

Acting Commissioner of Food and Drugs.

[FR Doc. 90-15686 Filed 7-5-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 1417-90]

Revision of Delegations Respecting the Settlement Authority of Claims Against the Federal Bureau of Investigation

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The current regulation respecting the authority of the Director of the Federal Bureau of Investigation (FBI) to settle certain claims against the Bureau for damage arising from certain Department of Justice (DOJ) law enforcement activities is being revised to reflect a recent amendment to the United States Code which expanded that authority to allow settlement of claims up to $50,000.

EFFECTIVE DATE: May 15, 1990.

FOR FURTHER INFORMATION CONTACT: Joseph R. Davis, Assistant Director—Legal Counsel, Federal Bureau of Investigation, Washington, DC 20535 (202) 324-5018.

SUPPLEMENTARY INFORMATION: A recent amendment to 31 U.S.C. 3724 increased the authority vested in the Attorney General to settle claims for damage caused by certain DOJ law enforcement activities from $500 to $50,000. In order to facilitate the settlement of such claims, the settlement authority delegated to the Director of the FBI by the Attorney General is being increased from $500 to $50,000. Public comment will not be necessary on this rule because its subject is limited to a matter of internal Department procedure.

This rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981. As required by the Regulatory Flexibility Act, it is hereby certified that this rule will not have a significant impact on small business entities.

List of Subjects in 28 CFR Part 0

Authority delegation (Government agencies), Government employees, Organization and functions (Government agencies), Whistleblowing.

For the reasons set forth in the preamble, subpart P of 28 CFR part 0 is amended as follows:

PART 0—ORGANIZATION OF THE DEPARTMENT OF JUSTICE

1. The authority citation for part 0 is revised to read as follows:

Authority: 5 U.S.C. 301, 2303, 3103; 8 U.S.C. 1103, 1324A, 1427(g); 15 U.S.C. 644(k); 18 U.S.C. 2254, 3621, 3622, 4001, 4041, 4042, 4044, 4082, 4201 *et seq.*, 6003(b); 21 U.S.C. 871, 878(a), 881(d), 904; 22 U.S.C. 263a, 1621-1645o, 1622 note; 28 U.S.C. 509, 510, 515, 516, 519, 524, 543, 552, 552a, 569; 31 U.S.C. 1108, 3801 *et seq.*; 50 U.S.C. App. 1989b, 2001-2017p; Pub. L. No. 91-513, sec. 501; EO 11919; EO 11267, EO 11300; Pub. L. No. 110-203.

2. Section 0.89a is amended by revising paragraph (b) to read as follows:

§ 0.89a Delegations respecting claims against the FBI.

* * * * *

(b) The Director of the Federal Bureau of Investigation is further authorized to exercise the power and authority vested in the Attorney General under the Act of December 7, 1989, Public Law 101-203, 103 Stat. 1805 (31 U.S.C. 3724) with regard to claims thereunder not exceeding $50,000 in any one case.

* * * * *

Dated: May 15, 1990.

Dick Thornburgh,

Attorney General.

[FR Doc. 90-15673 Filed 7-5-90; 8:45 am]

BILLING CODE 4410-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This final rule amends the Pension Benefit Guaranty Corporation's regulation on Payment of Premiums, 29 CFR part 2610, to add an exemption and a special rule. The exemption, which implements a retroactive statutory change and is thus applicable beginning with the 1988 premium payment year, provides that plans that were at the full funding limit for the preceding plan year are not subject to the variable rate portion of the premium for the current plan year. The special rule, which is applicable beginning with the 1990 premium payment year, provides that plans with fewer than 500 participants that are paying the maximum variable rate premium are not required to calculate the amount of their unfunded vested benefits.

EFFECTIVE DATE: July 6, 1990.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Assistant General Counsel, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006; telephone 202-778-8824 (202-778-8059 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION:

Background

The Omnibus Budget Reconciliation Act of 1987, Public Law 100-203 ("OBRA '87"), included the Pension Protection Act, which amended section 4006 of the Employee Retirement Income Security Act of 1974, as amended ("ERISA") to establish a two-part premium structure for single-employer plans. This new structure, effective for plan years beginning on or after January 1, 1988, provides for a flat rate assessment of $16 per participant and a variable rate assessment of up to $34 per participant, resulting in a maximum per participant premium of $50. (The $34 statutory ceiling for the variable rate portion is subject to reduction based on the contribution history of the plan.) The variable rate assessment is determined in accordance with a formula that is based on the amount of the plan's "unfunded vested benefits" as of the last day of the preceding plan year.

To implement these changes, the Pension Benefit Guaranty Corporation

("PBGC") substantially revised its regulation on Payment of Premiums, 29 CFR art 2610 (final revision issued on July 10, 1989 (54 FR 28944)). The PBGC is now making two additional amendments to its premium regulation.

First, the PBGC is implementing section 7881(h) of the Omnibus Budget Reconciliation Act of 1989, Public Law 101-239 ("OBRA '89"), which amended section 4006(a)(3)(E) of ERISA to create an exemption from the variable rate portion of the premium for those plans that were at the full funding limit of section 412(c)(7) of the Internal Revenue Code of 1986 ("IRC") for the preceding plan year. Under this new exemption (amended § 2610.24(a)(5)), a plan is exempt from the variable rate portion of the premium for a premium payment year if the plan's contributing sponsor(s) made contributions to the plan for the preceding plan year in an amount not less than the IRC section 412(c)(7) full funding limit, and an enrolled actuary so certifies. A plan may qualify for this exemption without having received any contributions for the preceding plan year if, pursuant to section 412(c)(7), the maximum allowable contribution for that plan year was zero.

This new statutory exemption for plans at the full funding limit is effective "as if included in the provision of the Pension Protection Act to which such amendment relates" (OBRA '89 section 7882), and is thus retroactively effective beginning with the 1988 premium payment year. Accordingly, the implementing regulatory exemption is likewise effective beginning with the 1988 premium payment year.

In order for a plan to establish entitlement to this new exemption, it must submit a certificate by and enrolled actuary that the plan qualifies for the exemption (amended § 2610.24(a)(5)). If a plan that paid a variable rate portion of the premium for the 1988 or 1989 premium payment year qualifies for this new exemption with respect to that premium payment year, it may request a refund or claim a credit against the premium owed for 1990. In either case, the plan must file an amended Form 1 and Schedule A, along with an actuarial -certification in accordance with the rules of amended § 2610.24(a)(5), for the premium payment year (or years) in question. Those plans that have not yet paid their 1989 variable rate amounts *i.e.*, plans with plan years beginning towards the end of 1989, may also qualify for this new exemption. If so, they should not pay a variable rate amount for 1989, but should instead submit a 1989 Schedule A, marked "Full Funding Limit Exemption" in line 1, along with an actuarial certification in accordance with the rules of amended § 2610.24(a)(5). (For the 1990 and later premium payment years, the necessary enrolled actuary certification will be included in the certification section on Schedule A to Form 1.)

Under amended § 2610.24(a)(5)(i), the determination of the IRC section 412(c)(7) full funding limit for the preceding plan year is based on the methods of computing that limit, including actuarial assumptions and funding methods, that were used by the plan with respect to the preceding plan year. For this purpose, it is irrelevant that a higher or lower full funding limit would have been determined if different computation methods had been used. It is the plan's actual practice with respect to the prior plan year that is controlling. Moreover, the computation methods used must have met all requirements, including the requirements for reasonableness, under IRC section 412.

In the event of a PBGC audit, the plan administrator may be required to provide documentation to establish both the computation methods used during the prior plan year and the conformance of these methods with the requirements of IRC section 412. The PBGC will report to the Internal Revenue Service any plan using computation methods that appear not to meet those requirements.

Amended § 2610.24(a)(5)(ii) provides relief with respect to plans to which contributing sponsors made contributions that were rounded down slightly from the amount of the full funding limit. (Note that relief may also be available when the plan's actuary rounds off *de minimis* amounts (to the extent permitted by IRS) in determining the full funding limit. Whether the exemption applies in such circumstances would be determined under amended § 2610.24(a)(5)(i), based on a review of the plan's practice with respect to the computation methods used.)

Finally, beginning with the 1990 premium payment year, in order for a plan to qualify for the new exemption, the contributions for the preceding plan year must have been made by the earlier of the due date or actual payment date for the variable rate portion of the premium. In this manner, contributions receivable that may never be paid will not be counted in determining whether a plan is exempt from the variable rate portion of the premium. For the 1988 and 1989 premium payment years, a plan may qualify for the exemption if the contributions for the preceding plan year were made within the time permitted under IRC section 412(c)(10).

The PBGC is also amending § 2610.24 to add a new special rule relieving certain plans from having to compute unfunded vested benefits under § 2610.23. This special rule is effective beginning with the 1990 premium payment year. Under this special rule (§ 2610.23(d)), plans with fewer than 500 participants that pay the maximum variable rate portion of the premium are not required to calculate or to report the amount of their unfunded vested benefits. The PBGC is making this change in response to a comment it received when it published the 1989 Premium Payment Package for public comment.

In adopting this special rule, the PBGC has attempted to balance its need for information regarding the unfunded vested benefits of plans paying the maximum variable rate premium against the burdens and costs imposed on such plans in calculating and reporting such information. The PBGC needs this information, particularly for large plans, both for audit purposes (*e.g.*, to track year-to-year fluctuations) and to determine the potential revenue impact of any future changes in the premium rates. These needs are not as great with respect to smaller plans, since the smaller plans account for a much smaller percentage of the total single-employer plan premiums. Moreover, the burdens and costs associated with providing this information are proportionally greater for smaller plans. Accordingly, the PBGC has decided to provide all but the large plans (500 or more participants) with relief from this reporting requirement.

To qualify for this special rule, the plan must pay a per participant variable rate portion equal to the general $34 maximum or, if applicable, the reduced maximum determined under the cap reduction rule in § 2610.23(a)(3). Thus, plans taking advantage of the cap reduction will not lose the benefit of this special rule. (The PBGC reminds plan administrators that the cap reduction ceases to exist after the 1992 premium payment year.)

Finally, the PBGC has made a number of minor editorial changes to the terms used in the interest rate adjustment formula (§ 2610.23(c)(2)) under the alternative calculation method and to certain related sections. These changes are made to correspond to a change in the line entries in the 1989 Schedule B (which is used as the basis for the alternative calculation method in the 1990 premium payment year).

One of the amendments to part 2610 contained herein implements a statutory amendment that is effective as of the 1988 premium payment year; the other relieves, on a prospective basis, a burden for small plans. In order to enable plans to take advantage of these new rules for their 1990 premium payments, the PBGC finds that notice of and public comment on these amendments would be contrary to the public interest. Because these amendments relieve, rathen than impose, burdens, the PBGC finds that good cause exists for making these amendments effective immediately.

E.O. 12291 and Regulatory Flexibility Act

The PBGC has determined that these amendments do not constitute a "major rule" within the meaning of Executive Order 12291, because they will not have an annual effect on the economy of $100 million or more; nor create a major increase in costs or prices for consumers, individual industries, or geographic regions, nor have significant adverse effects on competition, employment, investment, innovation or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Because no general notice of proposed rulemaking is required for these amendments, the Regulatory Flexibility Act of 1980 does not apply. See 5 U.S.C. 601(2).

List of Subjects in 29 CFR Part 2610

Employee benefit plans, Pension insurance, Pensions, and Reporting and recordkeeping requirements.

In consideration of the foregoing, part 2610 of chapter XXVI of title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2610—PAYMENT OF PREMIUMS

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

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307(1988), as amended by sec. 7881(h), Pub. L. 101-239, 103 Stat. 2106, 2242.

2. Section 2610.21 is amended by revising the last sentence thereof to read as follows:

§ 2610.21 Purpose and scope.

* * * Certain provisions, as specifically noted, apply to plan years beginning on or after January 1, 1989, or to plan years beginning on or after January 1, 1990.

§ 2610.23 [Amended]

3. In § 2610.23, the second sentence of the introductory text of paragraph (c) is amended by removing the words "lines 6d(i), 6d(ii)" and adding in their place "line 6d".

§ 2610.23 [Amended]

4. In § 2610.23, the fourth sentence of the introductory text of paragraph (c) is amended by removing the words "lines 6d(i) and 6d(ii)" and adding in their place "line 6d".

§ 2610.23 [Amended]

5. In § 2610.23, paragraph (c)(1) is amended by adding, after the words "the value of vested benefits entered in line 6d(ii)" the words "(if the 1987 or 1988 schedule B is used) or the total value of vested benefits entered in lines 6d(ii) and 6d(iii) (if the 1989 or later schedule B is used)".

§ 2610.23 [Amended]

6. In § 2610.23, paragraphs (c)(2), (c)(2)(ii) and (c)(2)(iii) are amended by removing, in each place they appear, the terms "$VB_{6d(i)}$" and "$VB_{6d(ii)}$" and adding in their place the terms "VB_{PAY}" and "$VB_{NON\text{-}PAY}$", respectively.

§ 2610.23 [Amended]

7. In § 2610.23, paragraph (c)(2)(iii) is amended by adding after the words "the amount entered in line 6d(ii) of the schedule B" the words "(if the 1987 or 1988 schedule B is used) or the total of the amounts entered in lines 6d(ii) and 6d(iii) of the schedule B (if the 1989 or later schedule B is used)".

§ 2610.23 [Amended]

8. In § 2610.23, paragraph (c)(2)(vi) is amended by adding after the words "the entry in line 6d(ii) of the schedule B" the words "(if the 1987 or 1988 schedule B is used) or the entries in lines 6d(ii) and 6d(iii) of the schedule B (if the 1989 or later schedule B is used)".

§ 2610.23 [Amended]

9. In § 2610.23, paragraph (c)(2)(vii) is amended by removing the words "lines 6d(i) and 6d(ii)" and adding in their place "line 6d".

10. Section 2610.24 is amended by revising the introductory text of paragraph (a) and paragraph (c)(3), by redesignating paragraphs (d), (e) and (f) as paragraphs (e), (f) and (g), and by revising newly redesignated paragraph (e), and by adding new paragraphs (a)(5) and (d), to read as follows:

§ 2610.24 Variable rate exemptions and special rules.

(a) *Exemptions.* A plan described in any of paragraphs (a)(1)–(a)(5) of this section is not required to determine its unfunded vested benefits under § 2610.23 and does not owe a variable rate amount under § 2610.22(a)(2).

* * * * *

(5) *Plans at full funding limit.* With respect to premium payment years beginning on or after January 1, 1990, a plan is described in this paragraph if, on or before the earlier of the due date for payment of the variable rate portion of the premium under § 2610.25 or the date that portion is paid, the plan's contributing sponsor or contributing sponsors made contributions to the plan for the plan year preceding the premium payment year in an amount not less than the full funding limitation for such preceding plan year under section 412(c)(7) of the Code (determined in accordance with paragraphs (a)(5)(i) and (a)(5)(ii) below). In order for a plan to qualify for this exemption, an enrolled actuary must certify that the plan has met the requirements of this paragraph.

(i) *Determination of full funding limitation.* The determination of whether contributions for the preceding plan year were in an amount not less than the full funding limitation under section 412(c)(7) of the Code for such preceding plan year shall be based on the methods of computing the full funding limitation, including actuarial assumptions and funding methods, used by the plan (provided such assumptions and methods met all requirements, including the requirements for reasonableness, under section 412 of the Code) with respect to such preceding plan year.

(ii) *Rounding of de minimis amounts.* Any contribution that is rounded down to no less than the next lower multiple of one hundred dollars (in the case of full funding limitations up to one hundred thousand dollars) or to no less than the next lower multiple of one thousand dollars (in the case of full funding limitations above one hundred thousand dollars) shall be deemed for purposes of this paragraph to be in an amount equal to the full funding limitation.

(iii) *Special rule for 1988 and 1989 premium payment years.* With respect to premium payment years beginning prior to January 1, 1990, the determination of whether a plan is described in paragraph (a)(5) of this section shall be made by taking into account all contributions for the plan year preceding the premium payment year that are made within the time permitted for the prior plan year under section 412(c)(10) of the Code.

* * * * *

(c) * * *

(3) The value of vested benefits entered in line 6d(ii) of the Schedule B (if the 1987 or 1988 Schedule B is used) or the value of the sum of the vested benefits entered in lines 6d(ii) and 6d(iii) of the Schedule B (if the 1989 or later Schedule B is used) shall be adjusted (in lieu of the adjustment required by § 2610.23(c)(1)) by multiplying that value by the sum of 1 plus the product of .07 and the number of years (rounded to the nearest hundreth of a year) between the date of the Schedule B data and (in the case of a distress termination) the proposed termination date or (in the case of an involuntary termination) the termination date sought by the PBGC; and

* * * * *

(d) *Special rule for small plans paying maximum variable rate premium.* With respect to premium payment years beginning on or after January 1, 1990, a plan described in this paragraph is not required to determine its unfunded vested benefits under § 2610.23. A plan is described in this paragraph if the plan had fewer than 500 participants on the last day of the plan year preceding the premium payment year and the plan pays a per participant variable rate amount equal to the lesser of $34 or the reduced cap on the variable rate amount determined in accordance with § 2610.22(a)(3).

(e) *New and newly covered plans.* In the case of a new plan or a newly covered plan, all references in paragraphs (a), (b), (d), (f) or (g) of this section to the last day of the plan year preceding the premium payment year shall be deemed to refer to the first day of the premium payment year or, if later, the date on which the plan became effective for benefit accruals for future service.

* * * * *

Issued in Washington, DC this 20th day of June, 1990.

Elizabeth Dole,

Chairman, Board of Directors, Pension Benefit Guaranty Corporation.

Issued on the date set forth pursuant to a resolution of the Board of Directors authorizing its chairman to issue this final rule.

Carol Connor Flowe,

Secretary, Board of Directors, Pension Benefit Guaranty Corporation.

[FR Doc. 90-15736 Filed 7-5-90; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Missouri Permanent Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Final rule; approval of amendment.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) is announcing approval of a proposed amendment, with certain exceptions, submitted by the State of Missouri as a modification to its permanent regulatory program (hereinafter referred to as the Missouri program) approved under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was submitted to OSM on June 5, 1989, and pertains to prime farmland, historic places, surface and underground mining permit application requirements for geology and hydrology, permit conditions, fish and wildlife information, general requirements for underground mining subsidence control plans, and penalty assessments. The amendment revises the Missouri program to be consistent with the corresponding Federal standards.

EFFECTIVE DATE: July 6, 1990.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 934 Wyandotte Street, rm. 500, Kansas City, Missouri 64105, Telephone: (816) 374-6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program

On November 21, 1980, the Secretary of Interior conditionally approved the Missouri program. General background information on the Missouri program, including the Secretary's findings, the disposition of comments, and the program can be found in the November 21, 1980, **Federal Register** (45 FR 77017). Subsequent actions concerning Missouri's program and program amendments can be found at 30 CFR 925.10, 925.12, 925.15, and 925.16.

II. Submission of Amendment

On June 5, 1989, Missouri submitted to OSM a proposed program amendment (Administrative Record No. MO-436). The proposed amendment consists of revisions to: 10 CSR 40-2.110(1)(B), Prime Farmland Performance Requirements; 10 CSR 40-5.010(2)(C), Prohibitions and Limitations on Mining in Certain Areas; 10 CSR 40-6.040(5)(A) and (5)(B)1, Surface Mining Permit Applications—Minimum Requirements For Information on Environmental Resources; 10 CSR 40-6.050(5)(C) and (9)(A) through (E), Surface Mining Permit Application—Minimum Requirements for Reclamation and Operation Plan; 10 CSR 40-6.060(4)(A), Requirements for Permits for Special Categories of Surface Coal Mining and Reclamation Operations; 10 CSR 40-6.070(12)(D), Review, Public Participation and Approval of Permit Applications and Permit Terms and Conditions; 10 CSR 40-6.110 (11) (A) and (B), Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources; 10 CSR 40-6.120(2)(B)3, (5) (A) through (E), (11)(A)1, (11)(E), and (14)(C), Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan; and 10 CSR 40-8.040(8)(K), Penalty Assessment.

The amendment currently proposed by Missouri responds to a June 11, 1986, letter (Administrative Record No. MO-295) sent by OSM in accordance with 30 CFR 732.17(d)(1), a July 18, 1988, letter (Administrative Record No. MO-396) sent by OSM that identified deficiencies in a previous rulemaking action, a November 29, 1988, letter (Administrative Record No. MO-427) sent by OSM that also identified deficiencies in a previous rulemaking action, and a required program amendment at 30 CFR 925.16(k).

The Director announced receipt of the currently proposed amendment in the June 19, 1989, **Federal Register** (54 FR 25732), and in the same notice opened the public comment period and provided opportunity for a public hearing on the substantive adequacy of the amendment (Administrative Record No. MO-436). The public comment period closed on July 19, 1989. A public hearing was not held because no one requested an opportunity to testify.

On August 23, 1989, following a thorough review of the currently proposed amendment, OSM notified Missouri that its proposed regulations regarding prime farmland, geology, fish and wildlife, hydrologic information, cultural resources, and penalty assessments appeared to be less effective than the counterpart Federal regulations (Administrative Record No. MO-464). On August 30, 1989, Missouri responded to the letter and informed OSM that it would address OSM's concerns in a future rulemaking effort (Administrative Record No. MO-468).

In a March 13, 1990, letter, Missouri requested that OSM withdraw from further consideration any previously-submitted program submissions concerning interim regulations. Therefore, in the currently proposed amendment submittal, proposed changes to the Missouri regulations at 10 CSR 40-2.110(1)(B) regarding the interim program prime farmland performance standards have been withdrawn from consideration.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.15 and 732.17, that the amendment, with certain exceptions, submitted by Missouri on June 5, 1989, meets the requirements of SMCRA and 30 CFR chapter VII as discussed below.

1. Prime Farmland Performance Requirements

On July 8, 1988, Missouri submitted to OSM an amendment that proposed changes to its regulations at 10 CSR 40-6.060(4)(A) concerning prime farmland. Prior to the submission of this amendment, Missouri's regulations had in pertinent part provided as follows: "This Section applies to any person who conducts surface coal mining and reclamation operations on prime farmlands historically used for cropland. *Until December 31, 1985,* nothing in this section shall apply to any permit issued prior to August 3, 1977, any revisions or renewals thereof or any continuous and existing strip mining operation for which a permit was issued prior to August 3, 1977." (Emphasis supplied). Missouri proposed to remove the December 31, 1985, cut-off date. On November 29, 1988 (Administrative Record No. MO-427), following a thorough review of the proposed amendment, OSM notified Missouri that while the proposed deletion of the December 31, 1985, date appeared to be acceptable, other areas of the prime farmland regulations appeared to be less effective than the Federal counterpart regulations. More particularly, OSM notified Missouri that its criteria of a continuous and existing operation did not specifically require the permittee to have a legal right to mine the lands prior to August 3, 1977, and did not require that the lands contain part of a continuous recoverable coal seam being mined in a single continuous pit begun under a permit issued prior to August 3, 1977, per the Federal regulations at 30 CFR 785.17(a). Also, Missouri's proposed regulations did not describe what constituted a single continuous surface coal mining operation per the Federal regulations at 30 CFR 785.17(a)(4)(iii).

On December 30, 1988, Missouri informed OSM of its decision not to address the concerns OSM expressed in its November 29, 1988, letter during the rulemaking action then under consideration. Instead, Missouri stated that it would resubmit the regulations at a future date (Administrative Record No. MO-411). As a result of Missouri's December 30, 1988, letter, OSM elected to (1) defer action on the proposed prime farmland regulations that Missouri submitted on July 8, 1988, and (2) review them upon receipt of the future submittal. The prime farmland regulation deficiencies addressed in OSM's November 29, 1988, letter have now been submitted by Missouri as a part of the program amendment package now before OSM.

In the current rulemaking effort, Missouri proposes to recodify and amend its prime farmland regulations at 10 CSR 40-6.060(4)(A). At 10 CSR 40-6.060(4)(A)2 Missouri regulations currently require, "Proof that the leases with the landowners were not totally or partially based on agreements to mine and reclaim land according to the special performance standards for prime farmland." Missouri proposes to delete its current language and to amend it by requiring proof that the permittee had a legal right to mine the lands prior to August 3, 1977, through ownership, contract or lease, but not including an option to buy, lease or contract. Missouri also proposes to add an additional provision at (4)(A)3 that requires proof that the lands contain part of a continuous recoverable coal seam that was being mined in a single continuous mining pit (or multiple pits if the lands are proven to be part of a single continuous surface coal mining operation) begun under a permit issued prior to August 3, 1977.

As previously discussed, OSM is also considering in this rulemaking its previous deferral of Missouri's July 8, 1988, proposal to delete the December 31, 1985, date. Missouri's proposed deletion of the December 31, 1985 cut-off date is not in conflict with the Federal regulation at 30 CFR 785.17(a) in that the Federal regulation does not specify or require such a cut-off date.

Missouri's other proposed changes place the same program requirements as those specified in the Federal regulations at 30 CFR 785.17(a). However, the Federal regulations provide additional criteria not contained in Missouri's program. More particularly, the Federal regulations identify: (1) What constitutes "renewal" and "revision" of permits, (2) what is deemed to be a single continuous mining pit, and (3) what constitutes a single continuous surface coal mining operation.

The Director finds that, to the extent submitted, Missouri's proposed regulations at 10 CSR 40-6.060(4)(A) are no less effective than the counterpart Federal regulations at 30 CFR 785.17(a). The Director is therefore approving the proposed regulation changes. However, to achieve total consistency with the Federal regulations the Director is also requiring Missouri to further amend its regulations at 10 CSR 40-6.060(4) to include the Federal regulation requirements at 30 CFR 785.17(a)(4) regarding permit revision and renewal, single continuous pits, and single continuous coal mining operations.

2. Prohibitions and Limitations on Mining in Certain Areas

Missouri's present regulations at 10 CSR 40-5.010(2)(C) provide that subject to valid existing rights, no surface coal mining operation shall be conducted after September 28, 1979, (unless those operations existed on that date), on any lands which will adversely affect any publicly owned park or any places included on the National Register of Historic Places, unless approved in the permit and plan and by the Federal, State, or local agency with jurisdiction over the park or places. Missouri proposes to revise this regulation by deleting the word, "any" before the phrase "places included on the National Register of Historic Places".

Prior to February 10, 1987, the counterpart Federal regulation at 30 CFR 761.11(c) provided that "subject to valid existing rights, no surface coal mining operations shall be conducted after August 3, 1977, unless those operations existed on the date of enactment on any lands where mining will adversely affect any publicly owned park or any publicly owned places included in the National Register of Historic Places, unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or place." On February 10, 1987, OSM revised this regulation by deleting the words, "publicly owned" before the phrase "places included in the National Register of Historic Places" (52 FR 4244, 4254). This change was necessary to assure consistency with other Federal regulations, and to clarify that privately-owned, as well as, publicly-owned National Registry listed properties are covered by these provisions.

The intent of this Federal regulation change directly relates to Missouri's proposed deletion of the word "any" at 10 CSR 40-5.010(2)(C). By deleting the

word "any" prior to places listed on the National Registry of Historic Places, Missouri's regulation does not assure that the protection for privately-owned places listed on the National Registry of Historic Places will be achieved.

The Director finds that Missouri's proposed regulation at 10 CSR 40-5.010(2)(C) is less effective than the Federal regulation requirements at 30 CFR 761.11(c) and is not approving the proposed change. The Director is requiring Missouri to amend its regulation by reinstating the word "any" in order to be no less effective than the counterpart Federal regulation.

3. Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources

Missouri proposes to revise section 10 CSR 40-6.040 (5)(A) and (5)(B)1, by expanding the general geologic description and test boring requirements.

a. At 10 CSR 40-6.040(5)(A), Missouri now requires the geology description to include "a general statement of the geology within the proposed mine plan area down to and including the first aquifer to be affected below the lowest coal seam to be mined." Missouri proposes to modify this regulation by requiring that the geology description include "a general statement of the geology within the proposed mine plan and adjacent areas down to and including the deeper of either the stratum immediately below the lowest coal seam to be mined or any aquifer to be affected below the lowest coal seam to be mined."

The Federal regulation at 30 CFR 780.22(b)(1) places these same requirements, but also requires the description to include the areal and structural geology of the permit and adjacent areas, and other parameters which influence the required reclamation and the occurrence, availability, movement, quantity, and quality of potentially impacted surface and ground waters.

Accordingly, the Director finds that, as submitted, Missouri's proposed changes at 10 CSR 40-6.040(5)(A) are no less effective than the Federal regulations, and is approving these changes. However, Missouri fails to require an areal and structural geology description for the permit and adjacent areas, as well as the other required parameters discussed above.

The Director is requiring Missouri to further amend its regulations at 10 CSR 40-6.040(5)(A) to be no less effective than the counterpart Federal regulations.

b. At 10 CSR 40-6.040(5)(B)1, Missouri requires that "test borings or core samples from the proposed permit areas shall be collected and analyzed down to and including the stratum immediately below the lowest coal seam to be mined to provide the following data in the description * * *." Missouri proposes to amend this regulation by adding the following language between the words, "mined" and "to provide": ", or any aquifer below the lowest coal seam which may be adversely affected,". The Federal regulation at 30 CFR 780.22(b)(2) places this identical requirement. The Director is, therefore, approving Missouri's proposed amendment at 10 CSR 40-6.040(5)(B)1 as being no less effective than the corresponding Federal regulation.

c. The Federal regulations at 30 CFR 784.22(b) address geologic information requirements for underground mining operations and place the same substantive requirements as those discussed above for surface mining operations. Missouri has not proposed any revisions to its underground mining regulations at 10 CSR 40-6.110 to make them consistent with the counterpart Federal regulations at 30 CFR 784.22(b). Missouri's geologic information regulations at 10 CSR 40-6.110 pertaining to underground mining operations therefore continue to be less effective than the Federal regulations.

The Director is requiring Missouri to amend its program at 10 CSR 40-6.110 to be no less effective than the Federal regulations at 30 CFR 784.22(b).

4. Surface and Underground Mining Permit Application—Minimum Requirements for Reclamation and Operation Plan

Missouri proposes to revise its surface and underground mining permit application regulations at (1) 10 CSR 40-6.050(5)(C) and 10 CSR 40-6.120(14)(C), concerning the design and construction of impoundments, and (2) 10 CSR 40-6.050(9) (A) through (E) and 10 CSR 40-6.120(5) (A) through (E), concerning water quality sampling and analysis, plans addressing potential adverse impacts identified in the probable hydrologic consequences (PHC) determination, criteria for the PHC determination, and requirements for the director to assess the probable cumulative hydrologic impacts (CHIA).

a. At 10 CSR 40-6.050(5)(C) and 10 CSR 40-6.120(14)(C), Missouri requires that various maps, plans and cross-sections be prepared by or under the direction of and certified by a qualified registered professional engineer or professional geologist. Missouri proposes to add qualifying language that such engineers or geologists must be experienced in the design and construction of impoundments. The counterpart Federal regulations at 30 CFR 780.14(c) and 784.23(c) do not require that such engineers or geologists be experienced in the design or construction of impoundments. Missouri's proposed language provides additional assurance regarding the professional qualifications of the people preparing the various maps, plans and cross-sections. The Director therefore finds that Missouri's proposed amendment is no less effective than the corresponding Federal regulations, and is approving the proposed changes.

b. At newly codified sections 10 CSR 40-6.050(9)(A) and 10 CSR 40-6.120(5)(A), Missouri proposes to add a requirement that all water quality analyses be conducted according to the methodology in the fifteenth edition of Standard Methods for the Examination of Waste and Wastewater, or the methodology set forth in 40 CFR parts 136 and 434. This proposal is identical to the requirements for water sampling and analysis that are set forth in the counterpart Federal regulations at 30 CFR 780.21(a) and 784.14(a). The Director finds that Missouri's proposed regulations are no less effective than the Federal regulation requirements and is approving the proposed changes.

c. At newly codified sections 10 CSR 40-6.050(9)(C)5 and 10 CSR 40-6.120(5)(A)2 and (C)4, Missouri proposes to add a requirement that reclamation plans contain the description of a plan specifically addressing any potential adverse impacts identified in the PHC determination and include preventive and remedial measures that may occur based on the determination of the PHC required by 10 CSR 40-6.050(9)(D). In this same regulation, Missouri further proposes that information supplemental to that required by recodified 10 CSR 40-6.050(9)(D) shall be provided to evaluate the PHC, and that such supplemental information may be based upon drilling, aquifer tests, hydrogeologic analysis of the water-bearing strata, flood flows, or analysis of other water quality or quantity characteristics. The Federal regulation requirements at 30 CFR 780.21(b)(3) and 784.14(b)(3) that generally provide that if the PHC determination indicates that adverse impacts on or off the proposed permit area may occur to the hydrologic balance, or that acid-forming or toxic-forming material is present that may result in the contamination of ground-water or surface-water supplies, then supplemental information shall be provided to evaluate such probable

hydrologic consequences and to plan remedial reclamation activities. Missouri's proposed changes are consistent with the Federal regulation with one exception. The exception is that Missouri does not require such supplemental information if acid-forming or toxic-forming materials are present that may result in the contamination of ground-water or surface-water supplies for the permit and adjacent areas.

The Director finds that, to the extent submitted, Missouri's proposed changes to its regulations at 10 CSR 40-6.050(9)(C)5 and 10 CSR 40-6.120(5) (A)2 and (C)4 are no less effective than the Federal regulation requirements. However, to achieve total consistency with the Federal regulations, the Director is requiring Missouri to further amend its regulations to require that supplemental hydrologic information be submitted when acid-forming and toxic-forming materials are present that may result in the contamination of ground water or surface water supplies.

d. At newly codified sections 10 CSR 40-6.050(9)(D) and 6.120(5)(D), Missouri proposes criteria on which the PHC must be based. These criteria are substantively the same as those required by the Federal regulations at 30 CFR 780.21(f)(2) and 784.14(e). The Director, therefore, finds that Missouri's proposed changes are no less effective than the Federal regulation requirements, and is approving the proposed changes.

e. At 10 CSR 40-6.050(9)(E) and 6.120(5)(E), Missouri proposes regulations that require the director to provide a CHIA for the proposed operation and all anticipated mining upon surface and ground water systems in the cumulative impact area. The proposed regulation would further provide (1) that the CHIA be sufficient to determine, for purposes of permit approval, whether the proposed operation has been designed to prevent material damage to the hydrologic balance outside the permit area, (2) that the director may allow the applicant to submit data and analyses relevant to the CHIA with the permit application, and (3) that applications for permit revisions must be reviewed by the director to determine whether a new or updated CHIA is required. Missouri's proposed regulations at 10 CSR 40-6.050(9)(E) and 10 CSR 40-6.120(5)(E) are substantively the same as the Federal regulation counterparts at 30 CFR 780.21(g) and 784.14(f). The Director therefore finds that Missouri's proposed regulation changes at 10 CSR 40-6.050(9)(E) and 10 CSR 40-6.120(5)(E), are no less effective than Federal regulation requirements, and is approving the proposed changes.

5. Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources

Missouri proposes to revise the requirements for fish and wildlife resources information at 10 CSR 40-6.110(11)(A) and 11(B).

a. The proposed revision to subsection (11)(A) includes new language that would require the Director to "provide the U.S. Fish and Wildlife Service [USFWS], within ten (10) days of their request, a copy of the information submitted by the applicant pursuant to section [sic]."

The Federal regulations at 30 CFR 784.21(c) provide for the same substantive requirement for fish and wildlife resource information to be provided to the USFWS upon its request. However, Missouri's proposed language "information submitted by the applicant pursuant to section" appears to be incomplete and makes it unclear as to what resource information will be provided and whether such information will be the same as that required by the Federal regulations at 30 CFR 784.21(c). The Director finds that Missouri's proposed change is less effective than the Federal regulation and is requiring Missouri to clarify its regulation with regard to what information will be made available to the USFWS.

b. Missouri's current regulation at 10 CSR 40-6.110 (11)(B) requires each permit application to "include information on fish and wildlife and their habitats within the proposed mine plan area and the portions of the adjacent areas where effects on such resources may reasonably be expected to occur." Missouri proposes to delete the phrase "effects on" from its regulation. In doing so, Missouri will require information on resources that may reasonably be expected to occur regardless of whether such resources may be affected or not. The counterpart Federal regulation at 30 CFR 784.21(a), requires permit applications to "include fish and wildlife resource information for the permit area and adjacent areas." Missouri's proposed regulation thus places as broad and environmentally sound informational requirements as those required by the Federal regulations.

The Director finds that, as submitted, Missouri's proposed deletion at 10 CSR 40-6.110(11)(B) is no less effective than the Federal regulation requirements at 30 CFR 784.21(a), and is approving the proposed changes.

c. Missouri's proposed revisions to the fish and wildlife resource information regulations at 10 CSR 40-6.110(11) (A) and (B) apply only to underground mining permit applications. Missouri has not proposed any similar changes or revisions to its counterpart surface mining permit application requirements at 10 CSR 40-6.040(11). Therefore, the surface mining permit application regulations continue to remain less effective than the Federal regulations at 30 CFR 780.16. The Director is requiring Missouri to further amend its program at 10 CSR 40-6.040(11) to be no less effective than the Federal regulations at 30 CFR 780.16.

6. Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan

With respect to underground mining permit applications, Missouri proposes revisions to its regulations at 10 CSR 40-6.120 that are substantively identical to counterpart revisions Missouri proposes at 10 CSR 40-6.050 addressing surface mining permit applications. These revisions have been identified and jointly discussed in finding number 4 of this notice. However, proposed changes to Missouri's underground mining permit application regulation requirements at 10 CSR 40-6.120 that are not discussed in finding number 4 are as follows:

a. At 10 CSR 40-6.120(2)(B), Missouri currently requires that each application shall contain a narrative explaining the construction, modification, use, maintenance and removal of certain facilities including at subsection (B)3, "coal removal, handling, storage, cleaning and transportation areas and structures." Missouri proposes to modify the requirement at subsection (B)3 by inserting the following between "coal removal" and "handling": ", including the size, sequence and timing for the development of underground workings,".

The additional requirement to include the size, sequence and timing for the development of underground workings did not appear to fit the intended informational requirements for the specified facilities. OSM notified Missouri of the apparent problem. Missouri, in turn, agreed that the proposed language at subsection (B)3 was in error, and requested that it be withdrawn from consideration.

The Director concurs with Missouri's request and finds that with the removal of the phrase ", including the size, sequence and timing for the development of underground workings," Missouri's regulation at 10 CSR 40-6.120(2)(B)3 remains no less effective

than the counterpart Federal regulation at 30 CFR 784.11(b)(3).

b. At 10 CSR 40-6.120(11)(A), Missouri currently requires a detailed description of the method and other measures taken which may affect subsidence including "the techniques of coal removal such as long wall mining, room and pillar with pillar removal, hydraulic mining or other methods." Missouri proposes to eliminate the period at the end of the above sentence and to add "including the size, sequence and timing for the development of underground workings;". The addition of this proposed language makes Missouri's regulation substantively the same as the Federal regulation at 30 CFR 784.20(a). The Director therefore finds that Missouri's proposed regulation at 10 CSR 40-6.120(11)(A) is no less effective than the Federal regulation requirements, and is approving the proposed changes.

c. At 10 CSR 40-6.120(11)(E), Missouri proposes to add a requirement to provide a description of the measures to be taken to mitigate or remedy any subsidence-related material damage to or diminution in value or reasonably foreseeable use of the land or structures and facilities to the extent required under State law.

The Federal regulation at 30 CFR 784.20(g) provides for these same requirements. However, in the case of *National Wildlife Fed'n* v. *Lujan*, Nos. 87-1051, 87-8714, and 88-2788 (D.D.C. February 12, 1990), the court held that the Federal regulations may not limit, by making reference to State law, the duty of an underground operator to correct material damage to structures caused by subsidence. More specifically, the court held that 30 CFR 817.121(c)(2) is inconsistent with sections 102(b) and 516(b)(1) of SMCRA which generally provide, respectively, that rights of surface landowners and other persons with a legal interest in land be fully protected from surface coal mining operations, and that operators be required to adopt measures in order to (1) prevent subsidence to the extent technologically and economically feasible, (2) maximize mine stability, and (3) maintain the value and reasonably foreseeable use of the surface lands. The court reasoned that in enacting these provisions, Congress did not differentiate, based on State law, between the duties of underground operators with respect to subsidence damage to land or structures. (*Id.*, mem. op. at 12). Accordingly the court remanded "this rule to the Secretary to be revised by striking the reference to State law." (*Id.*, mem. op. at 20). Although the court specifically remanded 30 CFR 817.121(c)(2), the Director notes that 30 CFR 784.20(g) (the Federal counterpart to Missouri's proposed regulation at 10 CSR 40-6.120(11)(E)), requires that permit applications contain a description of measures to be taken in accordance with 30 CFR 817.121(c) to mitigate or remedy any subsidence-related damage to, or diminution in value or reasonably foreseeable use of, structures or facilities *to the extent required under State law* (emphasis supplied). In other words, this permitting requirement contains a "State-law limitation" identical to that remanded by the court in 30 CFR 817.121(c)(2). Although the court did not specifically make a ruling with regard to 30 CFR 784.20(g)(2), the Director finds that the remand of 30 CFR 817.121(c)(2) also affects 30 CFR 784.20(g)(2).

Therefore, consistent with the court's interpretation of SMCRA and 30 CFR 817.121(c)(2), the Director finds that to the extent that Missouri's proposed regulation at subsection 10 CSR 40-6.120(11)(E) references requirements under State law, the regulation is less stringent than subsections 102(b) and 516(b)(1) of SMCRA. Consequently, the Director is not approving Missouri's proposed regulation at subsection 10 CSR 40-6.120(11)(E) to the extent that it references requirements under State law.

The Director, pursuant to the Federal regulations at 30 CFR 732.17(d), informed Missouri of the regulatory changes needed to amend the above regulations in a June 22, 1990 letter.

7. Review, Public Participation and Approval of Permit Applications and Permit Terms and Conditions

Missouri proposes to modify 10 CSR 40-6.070, by adding a new subsection (12)(D) that requires the operator to pay all reclamation fees required by subchapter R of chapter 30 of the Code of Federal Regulations for the coal produced under the permit for sale, transfer or use in the manner required by that subchapter.

The Federal regulations at 30 CFR 773.17(g) also require that operators pay all reclamation fees required by subchapter R of chapter 30 of the Code of Federal Regulations for coal produced under the permit for sale, transfer or use, in the manner required by subchapter R.

The Director finds that the proposed State regulation at 10 CSR 40-6.070(12)(D) is no less effective than the Federal regulations at 30 CFR 773.17(g), and is approving the proposed changes.

8. Penalty Assessment

Section 10 CSR 40-8.040(8)(K) of Missouri's regulations currently reads as follows: "If the settlement agreement is disapproved, or if payment is not made within thirty (30) days, the assessment, as determined by the penalty point system, shall be proposed to the commission." Missouri proposes to revise this section by eliminating the period at the end of the above sentence and adding the following language: "At the next regularly scheduled commission meeting." Missouri's proposed language is in response to a concern that OSM raised in a December 9, 1988 letter to the State (Administrative Record No. MO-414). In that letter OSM stated that Missouri did not provide a definite time frame for the commission to take action: (1) If the agreement is disapproved; or (2) if payment is not made within 30 days, as required by Federal regulation at 30 CFR 845.18(d)(2). Missouri replied to OSM's concern in a December 29, 1988 letter (Administrative Record No. MO-012). In that letter Missouri stated that the addition of the phrase "at the next regularly scheduled commission meeting", provides the time frame required by the Federal regulation since the commission holds its regularly scheduled meetings every two months. The Director finds that with the addition of this action by the commission, Missouri has satisfied the intent of the Federal regulation at 30 CFR 845.18(d)(2) in that action will be taken within a reasonable time. The Director is therefore approving Missouri's proposed regulation at 10 CSR 40-8.040(8)(K).

The Director is also removing the required program amendment placed on the Missouri program at 30 CFR 926.16(k) regarding this program inadequacy.

IV. Public and Agency Comments

OSM solicited public comment and provided opportunity for a public hearing on the proposed amendment. No public comments were received, and since no one requested an opportunity to testify at a public hearing, no hearing was held.

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11), comments were also solicited from various State and Federal agencies with an actual or potential interest in the Missouri program. The Missouri Division of Parks, Recreation, and Historic Preservation responded by stating that it had no objection to the proposed amendment (Administrative Record No. MO-445). The U.S. Environmental Protection Agency responded by stating

that it had no comment (Administrative Record No. MO-453). The U.S. Soil Conservation Service also responded by stating that it had no comment (Administrative Record No. MO-451). No other State or Federal agencies offered any comments.

V. Director's Decision

Except for those provisions discussed in findings 2 and 5a of this rule, the Director approves Missouri's June 5, 1989, proposed amendment.

As discussed in finding 1 of this rule, the Director is requiring a program amendment at 30 CFR 925.16(c)(1) concerning additional criteria for prime farmland regulation requirements. As discussed in finding 2 of this rule, the Director is not approving the removal of the word "any" concerning the protection of places listed on the National Register of Historic Places and is requiring a program amendment at 30 CFR 925.16(c)(2). As discussed in finding 3a of this rule, the Director is requiring a program amendment at 30 CFR 925.16(c)(3) concerning the additional need for a description of the areal and structural geology of the permit and adjacent area and other parameters. As discussed in finding 3c of this rule, the Director is requiring a program amendment at 30 CFR 925.16(c)(4) concerning the additional need for a geologic description and test boring requirements for underground mining operations. As discussed in finding 4c, the Director is requiring a program amendment at 30 CFR 926.16(c)(5) concerning the additional need for supplemental hydrologic information on acid-forming and toxic-forming materials. As discussed in finding 5a of this rule, the Director is requiring a program amendment at 30 CFR 925.16(c)(6) concerning information to be made available to the U.S. Fish and Wildlife Service. As discussed in finding 5c of this rule, the Director is requiring a program amendment at 30 CFR 925.16(c)(7) concerning fish and wildlife resource information requirements for surface mining permit applications. And as discussed in finding 6c of this rule, the Director is not approving the State law limitation in correcting subsidence related damage and has informed the State of needed program changes pursuant to 30 CFR 732.17(d).

The Federal regulations at 30 CFR part 925 codifying decisions concerning the Missouri program are amended to implement this decision. With the exception of typographical errors, this approval is contingent upon the State's promulgation of the proposed revisions in the identical form submitted for OSM's review and approval. This final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformity with the Federal standards without undue delay. Consistency between State and Federal standards is required by SMCRA.

VI. Effects of the Director's Decision

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary of Interior. The Federal regulations at 30 CFR 732.17(a) require that any alteration of an approved State program must be submitted to the Director as a program amendment. The Federal regulations at 30 CFR 732.17(g) prohibit any unilateral changes to approved State programs. Thus, any changes to an approved program are not enforceable by the State until approved by the Director. In his oversight of the Missouri program, the Director will recognize only statutes, regulations, and other materials approved by him, together with any consistent implementating policies, directives, and other materials, and will require the enforcement by Missouri of only such provisions.

VII. Procedural Determinations

1. Compliance With the National Environmental Policy Act

The Secretary of the Interior has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

2. Compliance With Executive Order No. 12291 and the Regulatory Flexibility Act

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order No. 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, for this action OSM is exempt from the requirement to prepare a regulatory impact analysis, and this action does not require regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements; rather, it will ensure that existing requirements established by SMCRA and the Federal rules will be met by the State.

3. Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by OMB under 44 U.S.C. 3507.

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: June 27, 1990.

Raymond L. Lowrie,

Assistant Director, Western Field Operations.

For the reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulations is amended as set forth below:

PART 925—MISSOURI

1. The authority citation for part 925 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. Section 925.15 is amended by adding paragraph (k) to read:

§ 925.15 Approval of regulatory program amendments.

* * * * *

(k) With the exceptions of 10 CSR 40-5.010(2)(C), concerning places listed on the National Register of Historic Places; 10 CSR 40-6.110(11)(A), concerning U.S. Fish and Wildlife Information; and 10 CSR 40-6.120(11)(E), concerning State law limitation in correcting subsidence related damage; the following provisions of the Missouri Code of State Regulations (CSR) as submitted to OSM on June 5, 1989, are approved effective July 6, 1990: 10 CSR 40-6.040(5) (A) and (B)1, Minimum Requirements for Environmental Resources; 10 CSR 40-6.050 (5)(C) and (9) (A), (B), (C), (D) and (E), Minimum Requirements for Reclamation and Operations Plan; 10 CSR 40-6.060(4)(A), Requirements for Permits on Prime Farmland; 10 CSR 40-6.070(12)(D), Permit Terms and Conditions; 10 CSR 40-6.110(11)(B), Minimum Requirements for Information on Environmental Resources; 10 CSR 40-6.120 (2)(B)3, (5)(A), (5)(C), (5)(D), (5)(E), (11)(A) and (14)(C), Minimum Requirements for Reclamation and Operation Plan; and 10 CSR 40-8.040(8)(K), Penalty Assessment.

3. Section 925.16 is amended by adding paragraph (c) and removing and reserving paragragh (k) to read as follows:

§ 925.16 Required program amendments.

* * * * *

(c) By September 4, 1990, Missouri shall amend its program as follows:

(1) At 10 CSR 40-6.060(4) by adding criteria for permit revision and renewal,

single continuous mining pit, and single continuous surface coal mining operation to make this regulation no less effective than the Federal regulations at 30 CFR 716.7(a)(3) and 785.17(a)(4).

(2) At 10 CSR 40-5.010(2)(C) by adding the word "any" prior to "places listed" to assure the protection of both public and privately-owned places listed on the National Register of Historic Places to make this regulation no less effective than the Federal regulations at 30 CFR 761.11(b).

(3) At 10 CSR 40-6.040(5)(A) by requiring the submittal of areal and structure geology descriptions and other parameters for the permit and adjacent areas to make this regulation no less effective than the Federal regulations at 30 CFR 780.22(b)(1).

(4) At 10 CSR 40-6.110 by adding requirements for underground mining operations that address general geology description and test boring requirements to make this regulation no less effective than the Federal regulations at 30 CFR 784.22 (b)(1) and (b)(2).

(5) At 10 CSR 40-6.050(9)(C)5 and 10 CSR 40-6.120(5)(C)(4) by requiring that supplemental hydrology information be required to evaluate the probable hydrologic consequences and to plan remedial reclamation activities if acid-forming and toxic-forming materials exist in the permit or adjacent areas to make this regulation no less effective than the Federal regulations at 30 CFR 780.21(b)(3) and 784.14(b)(3).

(6) At 10 CSR 40-6.110(11)(A) by adding the proper citation or identification of information to make this regulation made available to the U.S. Fish and Wildlife Service to make this regulation no less effective than the Federal regulations at 30 CFR 780.16(c).

(7) At 10 CSR 40-6.040(11) by requiring fish and wildlife information for surface mining permit applications to make this regulation no less effective than the Federal regulations at 30 CFR 780.16.

* * * * *

(k) [Reserved]

* * * * *

[FR Doc. 90-15606 Filed 7-5-90; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collision at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has (1) determined that USS CHAMPION (MCM-4) and USS DEVASTATOR (MCM-6) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with their special functions as mine countermeasures ships; (2) directed that certain naval ships be deleted from the tables in the existing part 706; and (3) directed that certain corrections and deletions be made one of the tables in the existing part 706. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: June 21, 1990.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332. Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS CHAMPION (MCM-4) and USS DEVASTATOR (MCM-6) are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS, Annex 1, section 3(a), pertaining to the placement of the after masthead light and the horizontal distance between the forward and after masthead lights, without interfering with their special functions as Navy ships. The Judge Advocate General of the Navy has also certified that the aforementioned lights are located in closest possible compliance with applicable 72 COLREGS requirements.

Notice is also provided that the Judge Advocate General of the Navy has determined that certain naval ships listed in the existing tables of 32 CFR part 706 may be deleted from those tables because those ships have been stricken from the Naval Vessel Register.

Notice is also provided that the Judge Advocate General of the Navy has determined that the existing Table One of 32 CFR 706.3 should be revised to correct errors contained therein, to remove information that is no longer required, and to delete certain naval ships that have been stricken from the Naval Vessel Register.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on USS CHAMPION (MCM-4) and USS DEVASTATOR (MCM-6) in a manner differently from that prescribed herein will adversely affect the ships' ability to perform their military function.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table One of § 706.2 is amended by removing the following ships:

USS HENRY B. WILSON (DDG-7)
USS FIDELITY (MSO-443)
USS DARTER (SS-576)
USS SWORDFISH (SSN-579)
USS ANDREW JACKSON (SSBN-619)
USS SAM RAYBURN (SSBN-635)

3. Table Two of section 706.2 is amended by removing the following ship:

USS CORAL SEA (CV-43)

4. Table Three of § 706.2 is amended by removing the following ships:

USS DARTER (SS-576)
USS BARBEL (SS-580)
USS SWORDFISH (SSN-579)
USS ANDREW JACKSON (SSBN-619)
USS SAM RAYBURN (SSBN-635)

5. Table Four of § 706.2 is amended by removing from the existing paragraph 4 the following ship:

USS FIDELITY (MSO-443)

6. Table Four of § 706.2 is amended by removing from the existing paragraph 5 the following ship:

USS HIGH POINT (PCH-1)

7. Table Five of § 706.2 is amended by removing the following ships:

USS CORAL SEA (CV-43)
USS SPIEGEL GROVE (LSD-32)

8. Table Five of § 706.2 is amended by adding the following ships:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	Aft masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
*	*	*	*	*	*	*			
USS CHAMPION	MCM-4							X	64
*	*	*	*	*	*	*			
USS DEVASTATOR	MCM-6							X	64

§ 706.3 [Amended]

9. Table One of § 706.3 is revised to read as follows:

TABLE ONE

[The following vessels and classes of vessels, less than 150 meters in length, are permanently exempted pursuant to rule 38(d)(i) from repositioning of masthead lights resulting from the prescriptions of Annex I, section 3(a)]

Vessel or class	Vessel or class	Vessel or class
USNS HAYES (T-AG-195)	ATF-96 Class	PG-92 Class.
USNS RANGE SENTINEL (T-AGM-22)	ATF-148 Class	USS DOLPHIN (AGSS-555).
T-AGOR-3 Class	ATS-1 Class	SS-580 Class.
T-AGS-26 Class	DD-931 Class	SSN-585 Class.
T-AGS-29 Class	DDG-2 Class	SSN-594 Class.
T-AGS-33 Class	DDG-31 Class	SSN-637 Class.
USNS MIRFAK (T-AK-271)	FF-1037 Class	USS NARWHAL (SSN-671).
USNS FURMAN (T-AK-280)	FF-1040 Class	USS GLENARD P. LIPSCOMB (SSN-685).
USNS MARSHFIELD (T-AK-282)	FF-1052 Class	
T-AOG-77 Class	USS GLOVER (FF-1098)	SSN-688 Class.
USNS NEPTUNE (T-ARC-2)	FFG-1 Class	SSBN-608 Class.
USNS ALBERT J. MYER (T-ARC-6)	FFG-7 Class	SSBN-616 Class.
T-ATF-166 Class	LCU-1610 Class	SSBN-627 Class.
ARS-6 Class	LCU-1648 Class	SSBN-640 Class.
ARS-38 Class	MSB Class	SSBN-726 Class.
ASR-7 Class	MSO-422 Class	YFU (Ex-LCU-1466 Class).
ASR-21 Class	MSO-508 Class	
ATF-81 Class	PG-84 Class	

10. The foregoing amendment of 32 CFR part 706 is approved.

Dated: June 21, 1990.

E.D. Stumbaugh,

Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.

[FR Doc. 90-15667 Filed 7-5-90; 8:45 am]

BILLING CODE 3810-AE-M

---

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972

AGENCY: Department of the Navy, DOD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Judge Advocate General of the Navy has (1) determined that USS COWPENS (CG-63) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with certain provisions of the 72 COLREGS without interfering with its special functions as a naval cruiser, and (2) has directed that certain corrections be made to the tables in the existing part 706. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: June 22, 1990.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR part 706. This amendment provides notice that the Judge Advocate General of the Navy, under authority delegated by the Secretary of the Navy, has certified that USS COWPENS (CG-63) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS, Annex 1, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, the placement of the after masthead light, and the horizontal distance between the forward and after masthead lights, without interfering with its special functions as a naval cruiser. The Judge Advocate General of the Navy has also

certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Notice is also provided that the Judge Advocate General of the Navy has determined that the existing tables of 32 CFR 706.2 should be revised to correct certain errors contained therein.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on USS COWPENS (CG-63) in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), and vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR part 706 is amended as follows:

1. The authority citation for 32 CFR part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

2. Table Two of § 706.2 is amended by removing the following ships:

SLWT-1
SLWT-2
SLWT-3

3. Table Two of § 706.2 is amended by adding the following ships:

Vessel	Number	Masthead lights, distance to stbd of keel in meters; rule 21(a)	Forward anchor light, distance below flight dk in meters; sec. 2(k), Annex I	Forward anchor, light, number of; rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; rule 21(e), rule 30(a)(ii)	AFT anchor light, number of; rule 30(a)(ii)	Side lights, distance below flight dk in meters; sec. 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; sec. 3(b), Annex I	Side lights, distance inboard of ship's sides in meters; sec. 3(b), Annex I
*	*	*	*	*	*	*			
SLWT (class)	SLWT-1	1.62							[5] 3.93
SLWT (class)	SLWT-2	1.62							[5] 3.93
SLWT (class)	SLWT-3	1.62							[5] 3.93

[5] Port sidelight only.

4. Table Five of § 706.2 is amended by removing the following ships:

USS ENGLAND CC 22
USS BELKNAP CC 26
USS MOBILE BAY CC 53
USS BELKNAP CG 26
USS TRUXTON CGN 35
USS POINT LOMA CGS 2
USS STUMP D 978
USS MOSSBRUGGER DD 980
USS PREBLE DOG 36
USS OGDEN LDP 5
USS NASHVILLE LDP 13
USS TRENTON LDP 15
USS WHIDBEY ISLAND LSD 41
USS BARNSTABLE COUNTY LST 1198
USS DALE OG 19
USS JOUETT OG 29
USS KILAUEA TAE 26

5. Table Five of § 706.2 is amended by adding the following ships:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
*	*	*	*	*	*			*	
USS DALE	CG 19						X	X	30
*	*	*	*	*	*			*	
USS ENGLAND	CG 22						X	X	30
*	*	*	*	*	*			*	
USS BELKNAP	CG 26						X	X	30
*	*	*	*	*	*			*	
USS JOUETT	CG 29						X	X	31
*	*	*	*	*	*			*	
USS MOBILE BAY	CG 53						X	X	38
*	*	*	*	*	*			*	
USS COWPENS	CG-63						X	X	38
*	*	*	*	*	*			*	
USS TRUXTUN	CGN 35						X	X	21
*	*	*	*	*	*			*	
USS STUMP	DD 978						X	X	46
*	*	*	*	*	*			*	
USS MOOSBRUGGER	DD 980						X	X	46

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
*	*	*	*	*	*		*		
USS PREBLE	DDG 46						X	X	24
*	*	*	*	*	*			*	
USS OGDEN	LPD 5							X	51
*	*	*	*	*	*			*	
USS NASHVILLE	LPD 13							X	48
USS TRENTON	LPD 14							X	41
*	*	*	*	*	*			*	
USS WHIDBEY ISLAND	LSD 41							X	65
*	*	*	*	*	*			*	
USS BARNSTABLE COUNTY	LST 1197							X	88
*	*	*	*	*	*			*	
USNS KILAUEA	T-AE 26							X	94.1
USNS POINT LOMA	T-AGDS 2			X				X	61

Dated: June 22, 1990.

Approved:

E. D. Stumbaugh,

Rear Admiral, JAGC, U.S. Navy, Judge Advocate General.

[FR Doc. 90-15666 Filed 7-5-90; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD 09-90-04]

Special Local Regulations: Unlimited Hydroplane Race, Milwaukee Harbor, Milwaukee, WI

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: Special Local Regulations are being adopted for the Unlimited Hydroplane Race. This event will be held on the Milwaukee Harbor on 23, 24, 25, and 26 August 1990 from 9 a.m. (CDST) until 5 p.m. (CDST), each day. The regulations are needed to provide for the safety of life and property on navigable waters during the event.

EFFECTIVE DATES: These regulations become effective at 9 a.m. (CDST) and terminate at 5 p.m. (CDST), each day, on the 23rd, 24th, 25th, and 26th of August 1990.

FOR FURTHER INFORMATION CONTACT: Corey A. Bennett, Marine Science Technician First Class, U.S. Coast Guard, Search and Rescue Branch, Ninth Coast Guard District, 1240 East 9th Street, Cleveland, OH 44199, (216) 522-4420.

SUPPLEMENTARY INFORMATION: On 12 April 1990, the Coast Guard published a Notice of Proposed Rule Making in the **Federal Register** for these regulations (55 FR 13808). Interested persons were requested to submit comments and no comments were received.

Drafting Information

The drafters of this regulation are Corey A. Bennett, Marine Science Technician First Class, U.S. Coast Guard, project officer, Search and Rescue Branch and M. Eric Reeves, Lieutenant Commander, U.S. Coast Guard, project attorney, Ninth Coast Guard District Legal Office.

Discussion of Regulations

The Unlimited Hydroplane Race will be conducted on the Milwaukee Harbor on 23 August 1990 until 26 August 1990. This event will have approximately 12 to 16, thirty foot hydroplane boats which could pose hazards to navigation in the area. Any vessel desiring to transit the regulated area may do so only with prior approval of the Patrol Commander (Officer in Charge, U.S. Coast Guard Station Milwaukee, WI). There will be periodic breaks throughout the day to allow marine traffic to transit the area.

Economic Assessment and Certification

This regulation is 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 has been found to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large number of spectator craft into the area for the duration of the event. This should have a favorable impact on commercial facilities providing services to the spectators. Any impact on commercial traffic in the area will be negligible.

Since the impact of this regulation is expected to be minimal, the Coast Guard certifies that it will not have a significant economic impact on a substantial number of small entities.

Federalism

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Final Regulations

In consideration of the foregoing, part 100 of title 33, Code of Federal Regulations, is amended 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. Part 100 is amended to add a temporary § 100.35-0904 to read as follows:

§ 100.35-0904 Unlimited Hydroplane Race, Milwaukee Harbor, Milwaukee, Wi.

(a) Regulated area. That portion of Lake Michigan-Milwaukee Harbor bounded by these points starting from the southwest corner, at the North Pierhead Light (LLNR 19513), in position 43 degrees 01 minutes and 33 seconds North, 087 degrees 53 minutes and 43 seconds West; then in a southeasterly direction to the breakwater corner in position 43 degrees 01 minutes 24.8 seconds North, 087 degrees 53 minutes 04 seconds West. The area then continues northeasterly along the breakwater to the southern point of the Main Gap marked by the Breakwater Entrance South Side Light (LLNR 19500); thence north across the Main Gap marked by the Breakwater Entrance North Side Light (LLNR 19495); then follow the outer breakwater to the North Entrance Light Number 1 (LLNR 19510); thence due west to the shoreline of Juneau Park in position 43 degrees 02 minutes 36.8 seconds North, 087 degrees 53 minutes 14 seconds West.

(b) Special local regulations. (1) The above area will be closed to navigation and anchorage, except when expressly authorized by the Coast Guard Patrol Commander, from 9 a.m (CDST) until 5 p.m. (CDST), each day, on 23, 24, 25, and 26 August 1990.

(2) The Coast Guard will patrol the regulated area under the direction of a designated Coast Guard Patrol Commander. The Patrol Commander may be contacted on channel 16 (156.8 MHZ) by the call sign "Coast Guard Patrol Commander". Any vessel, not authorized to participate in the event, desiring to transit the regulated area may do so only with prior approval of the Patrol Commander and when so directed by that officer. Transiting vessels will be operated at bear steerageway, and will exercise a high degree of caution in the area.

(3) The Patrol Commander may direct the anchoring, mooring, or movement of any boat or vessel within the regulated area. A succession of sharp, short signals by whistle or horn from vessels patrolling the area under the direction of the U.S. Coast Guard Patrol Commander shall serve as a signal to stop. Any vessel so signaled shall stop and shall comply with the orders of the Patrol Commander. Failure to do so may result in expulsion from the area, citation for failure to comply, or both.

(4) The Patrol Commander may establish vessel size and speed limitations and operating conditions.

(5) The Patrol Commander may restrict vessel operation within the regulated area to vessels having particular operating characteristics.

(6) The Patrol Commander may terminate the marine event or the operation of any vessel at any time it is deemed necessary for the protection of life and property.

(7) This section is effective from 9 a.m. (CDST) until 5 p.m. (CDST), each day, on the 23rd, 24th, 25th, and 26th of August 1990.

Dated: June 22, 1990.

G.A. Penington,

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

[FR Doc. 90-15613 Filed 7-5-90; 8:45 am]

BILLING CODE 4910-14-M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 325

Processing of Department of the Army Permits; Procedures for the Protection of Historic Properties

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

ACTION: Notice of correction of effective date of final rule.

SUMMARY: The June 29, 1990, publication of the Corps of Engineers final rule providing procedures for the protection of historic properties had an incorrect effective date. This notice provides the correct effective date.

EFFECTIVE DATE: July 30, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Sam Collinson at (202) 272-1782.

SUPPLEMENTARY INFORMATION: On June 29, 1990, the Corps of Engineers published a final rule in the **Federal Register** establishing the procedures to be followed by the Corps of Engineers in its regulatory program in order to comply with the National Historic Preservation Act and other laws dealing with historic properties (appendix C to 33 CFR part 325). This final rule included an incorrect effective date of June 29, 1990. Pursuant to 5 U.S.C. 553(d), 30 days are required before a published final rule can become effective. Therefore, the Corps of Engineers final rule published on June 29, 1990, will become effective on July 30, 1990.

The rule will apply to any permit application which is determined by the Corps of Engineers to be complete on or after July 30, 1990. For permit applications that are in process as of July 30, 1990, the Corps of Engineers will apply the new rule to procedural steps which have not been completed. The Corps of Engineers will not repeat procedural steps under the new rule if the step has been completed.

* * * * *

Dated: July 3, 1990.

Approved.

Wilbur T. Gregory, Jr.,

Colonel, Corps of Engineers, Executive Director of Civil Works.

The following correction is made to the final rule published on June 29, 1990 (55 FR 27000-27007). The effective date on page 27000 is listed as June 29, 1990. The effective date is corrected to be July 30, 1990.

* * * * *

[FR Doc. 90-15774 Filed 7-5-90; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AC73

Training Outside the United States

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: The Department of Veterans Affairs (VA) is clarifying the range of services which may be furnished to a veteran pursuing a vocational rehabilitation program outside the United States and the factors which must be considered in authorizing these services. The effect of the change is to help assure that necessary services are furnished in a manner which is in the veteran's and the government's best interest.

EFFECTIVE DATE: July 6, 1990.

FOR FURTHER INFORMATION CONTACT: Morris Triestman, Rehabilitation Consultant, Vocational Rehabilitation and Education Service (226), Veterans Benefits Administration, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-6496.

SUPPLEMENTARY INFORMATION: On pages 48645 and 48646 of the **Federal Register** of November 24, 1989, VA published proposed regulations providing that all necessary supportive services including employment services may be provided veterans pursuing a vocational rehabilitation program outside the United States under certain conditions. Interested persons were given 30 days in which to submit their comments, suggestions or objections to the proposed regulatory amendments. Since no comments, suggestions or objections were received these

regulatory amendments are adopted as final.

The regulations contained herein will better acquaint eligible veterans, vocational training and rehabilitation facilities, and the public at large with the way these provisions will be implemented.

These amendments do not meet the criteria for major rules as contained in Executive Order 12291, Federal Regulation. This final rule will not have a $100 million annual effect on the economy, will not cause a major increase in costs or prices, and will not have any other significant adverse effects on the economy.

The Secretary certifies that these regulatory amendments will not, if promulgated, 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. 601–612. Pursuant to 5 U.S.C. 605(b), this final rule is therefore exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604. The reason for this certification is that the rule implements and interprets statutory provisions. This amendment only concerns the eligibility and participation of individual veterans under this program.

(The Catalog of Federal Domestic Assistance Number is 64.116)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 7, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

PART 21—[AMENDED]

38 CFR part 21, Vocational Rehabilitation and Education, is amended by revising § 21.130(b)(3) to read as follows:

§ 21.130 Educational and vocational courses outside the United States.

* * * * *

(b) * * *

(3) All necessary supportive and follow-up services, including medical care and treatment and employment services, reasonably can be provided by or through VA, considering such factors as the availability, accessibility and cost of such services.

(Authority: 38 U.S.C. 1514)

[FR Doc. 90-15718 Filed 7-5-90; 8:45 am]

BILLING CODE 8320-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6785

[CO-930-00-4214-10; C-48691]

Withdrawal of National Forest System Land for Protection of Recreational Values; CO

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order withdraws approximately 8,340 acres of National Forest System land from mining for a period of 20 years for the protection of existing and planned recreational facilities at the Vail Ski Area. The land has been and remains open to such forms of disposition as may by law be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: July 6, 1990.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–236–1752.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land, which is under the jurisdiction of the Secretary of Agriculture, is hereby withdrawn from location and entry under the United States mining laws (30 U.S.C. ch. 2), to protect existing and planned recreational facilities which are a part of the Vail Ski Area:

Sixth Principal Meridian

White River National Forest

T. 5 S., R. 80 W.,
Sec. 7, lot 2, S½NE¼, SE¼NW¼, and S½;
Sec. 8, lots 1, 3, and S½;
Sec. 13, SW¼SW¼
Sec. 14, S½NW¼ and S¼;
Sec. 15;
Sec. 16;
Sec. 17;
Sec. 18, lots 1 to 4, inclusive, E½W½, and E½;
Sec. 19, lots 1 and 2, N½NE¼, SE¼NE¼, NE¼NW¼, and SE¼;
Sec. 20;
Sec. 21;
Sec. 22;
Sec. 23;
Sec. 24, W½W½;
Sec. 25, NW¼;
Sec. 26, N½;
Sec. 27;
Sec. 28, N½;
Sec. 29, N½;
Sec. 30, NE¼NE¼.
T. 5 S., R. 81 W.,
Sec. 12, lots 1 and 2.

The areas described aggregate approximately 8,340.58 acres of National Forest System land in Eagle County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of National Forest System land under lease, license, or permit, or governing the disposal of its mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 20 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

Dated: June 27, 1990.

Dave O'Neal,

Assistant Secretary of the Interior.

[FR Doc. 90-15618 Filed 7-5-90; 8:45 am]

BILLING CODE 4310-JB-M

43 CFR Public Land Order 6786

[AK-932-00-4214-10; F-035286]

Partial Revocation of Public Land Order No. 4176 for Selection of Lands by the State of Alaska; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a public land order insofar as it affects 1,215 acres of public lands withdrawn for recreation purposes along the Steese Highway, Alaska. The lands are no longer needed for the purpose for which they were withdrawn. This action also opens the lands for selection by the State of Alaska, if such lands are otherwise available. Any lands described herein that are not conveyed to the State will be subject to the terms and conditions of withdrawals of record.

EFFECTIVE DATE: July 6, 1990.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), and by section 17(d)(1) of the Alaska Native Claims Settlement Act, 43

U.S.C. 1616(d)(1) (1988), it is ordered as follows:

1. Public Land Order No. 4176 which withdrew public lands for recreation sites along the Steese Highway is hereby revoked insofar as it affects the following described lands:

Fairbanks Meridian

Moose Creek

T. 5 N., R. 4 E., partly unsurveyed,
Sec. 28, S½;
Sec. 33, N½N½.

Grouse Creek

T. 5 N., R. 4 E., partly unsurveyed,
Sec. 26, SW¼NE¼, S½NW¼, N½SW¼, SW¼SW¼, and NW¼SE¼;
Sec. 27, SE¼NE¼, and E½SE¼.

U.S. Creek

T. 5 N., R. 5 E., partly unsurveyed,
Sec. 9, that portion of the S½SE¼ lying south of the northern boundary of the Steese Highway right-of-way (BLM case file F-80108);
Sec. 16, NE¼, SW¼, N½SE¼, that portion of the NE¼ lying south of the northern boundary of the Steese Highway right-of-way, and that portion of the E½NW¼ lying south of the northern boundary of the Steese Highway right-of-way.

The areas described aggregate approximately 1,215 acres.

2. Subject to valid existing rights, the lands described above are hereby opened to selection by the State of Alaska under either the Alaska Statehood Act of July 7, 1958, 48 U.S.C. prec. 21 (1988), or section 906(b) of the Alaska National Interest Lands Conservation Act, 43 U.S.C. 1635(b) (1988).

3. The State of Alaska selection made under section 906(e) of the Alaska National Interest Lands Conservation Act, 43 U.S.C 1635(e) (1988), becomes effective without further action by the State upon publication of this public land order in the **Federal Register**. Lands not conveyed to the State will be subject to the terms and conditions of withdrawals of record.

Dated: June 27, 1990.

Dave O'Neal,

Assistant, Secretary of the Interior.

[FR Doc. 90-15619 Filed 7-5-90; 8:45 am]

BILLING CODE 4310-JA-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 675

[Docket No. 91046-0006]

Groundfish of the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of closure; request for comments.

SUMMARY: The Director, Alaska Region, NMFS (Regional Director), has determined that the joint venture flatfish fisheries have attained their allowance of prohibited species catch (PSC) allowance of Pacific halibut (800 metric tons) in the Bering Sea and Aleutian Islands Management Area (BSAI). Therefore, the Secretary of Commerce (Secretary) is prohibiting any further receipt by permitted foreign fishing vessels of groundfish caught from the entire BSAI area that is composed of 20 percent or more yellowfin sole, "other flatfish," and rock sole in the aggregate. This action is necessary to prevent excessive bycatch of Pacific halibut in the trawl fishery for groundfish in an area of particular importance to the Pacific halibut stock. This action is intended to carry out the objective to control the bycatch of prohibited species in the trawl fishery for groundfish.

DATES: This notice is effective from 1200 Alaska Daylight Time, July 1, 1990, through December 31, 1990. Comments will be accepted through July 16, 1990.

ADDRESSES: Comments should be addressed to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668.

FOR FURTHER INFORMATION CONTACT: Patsy A. Bearden, Resource Management Specialist, NMFS, Alaska Region, P.O. Box 21668, Juneau, Alaska 99802-1668, telephone 907-586-7229.

SUPPLEMENTARY INFORMATION: The Secretary approved, on July 7, 1989, Amendment 12A to the Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP) under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Amendment 12A was implemented by the Secretary with a final rule published August 9, 1989, (54 FR 32842) and effective September 3, 1989 through December 31, 1990.

The purpose of amendment 12A is to limit incidental catches of the prohibited species Tanner crab *(Chionocetes bairdi)*, red king crab, and Pacific halibut by the groundfish fisheries in the BSAI area. Such incidental catches are referred to as bycatches in fisheries targeting other species. The amendment establishes five PSC limits, each of which are apportioned among four fisheries: the "domestic annual processing (DAP) flatfish fishery," the "DAP other fishery," the "joint venture processing (JVP) flatfish fishery" and the "JVP other fishery."

Each of the 20 PSC allowances prescribed for the 1990 groundfish fisheries appears in the initial specifications notice for 1990 for the BSAI area published on January 16, 1990 (55 FR 1434). The PSC allowances were based on the anticipated bycatch of prohibited species derived by a mathematical prediction procedure, which used statistical information derived from fishery performance in previous years and projected performance for the 1990 fishing year. JVP quotas for species in the "other fisheries" categories were insufficient to allow directed fishing for those species. As a result, at the beginning of the 1990 season, the only JVP directed fisheries allowed were for yellowfin sole and "other flatfish," and PSC allowances for the "other fisheries" were all set at zero. The primary PSC allowance for Pacific halibut in the BSAI area for the JVP flatfish fisheries is 660 metric tons (mt) for Zones 1 and 2H. The secondary PSC allowance for Pacific halibut in the entire BSAI area for the JVP flatfish fishery is 800 mt. Zones 1 and 2H of the BSAI were closed to JVP flatfish fisheries earlier this year (55 FR 3229, January 31, 1990, and 55 FR 7337, March 1, 1990). The entire BSAI was subsequently closed to JVP flatfish fisheries on March 5, 1990, when their secondary halibut allowance was reached (55 FR 8954, March 9, 1990). The area outside of Zones 1 and 2H was reopened to joint venture directed fisheries on June 24, 1990, as published

on June 27, 1990, after it was determined by the Regional Director that 24 mt of the secondary PSC allowance for Pacific halibut remained for the flatfish fisheries.

Closure

The Regional Director has determined that the JVP flatfish secondary allowance for Pacific halibut in BSAI area has been reached. Therefore, the Secretary, by this notice and under authority of § 675.21(c)(3)(iv), prohibits for the remainder of the fishing year the receipt by foreign vessels of groundfish caught from the entire BSAI area that is composed of 20 percent or more of yellowfin sole, "other flatfish" and rock sole in the aggregate. Because no other groundfish species have been allocated to JVP, the effect of this action is to prohibit receipt by foreign vessels of any groundfish caught from the entire BSAI area.

In order to prevent the excessive bycatch of Pacific halibut in JVP fisheries, NOAA finds for good cause that prior opportunity for public comment on this notice is contrary to the public interest and its effective date should not be delayed. Comments on this notice of closure may be submitted to the Regional Director at the address above until July 16, 1990.

Classification

These actions are taken under §§ 675.20 and 675.21 and they comply with Executive Order 12291.

List of Subjects in 50 CFR Part 675

Fisheries, Reporting and recordkeeping requirements.

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

Dated: July 2, 1990.

David S. Crestin,

Acting Director, Office of Fishery Conservation and Management, National Marine Fisheries Service.

[FR Doc. 90-15699 Filed 7-2-90; 1:21 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 55, No. 130
Friday, July 6, 1990

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 958

[Docket No. FV-90-165]

Onions Grown in Certain Designated Counties in Idaho and Malheur County, Oregon; Change in the Definition of Pearl Onions and Revision of Reporting Requirements for Pearl Onion Shipments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule proposes changing the definition of pearl onions, which are exempt from regulation under the Idaho-Eastern Oregon onion marketing order. Such onions would be defined as those equal to or less than 1¾ inches rather than 1½ inches in diameter. The change in the definition is to recognize that there is an expanding market for pearl onions which can be up to 1¾ inches in diameter, and should facilitate the marketing of pearl onions. This rule would also revise the reporting requirements with respect to pearl onions to require handlers to report shipments of such onions on a monthly basis rather than subsequent to each individual shipment of lots of such onions. Requiring less frequent reporting of pearl onion shipments would reduce reporting requirements imposed on handlers in view of the fact that individual shipments of lots of pearl onions contain relatively small volumes, and it is unnecessary to require each of those shipments to be reported separately.

DATES: Comments must be received by August 6, 1990.

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

FOR FURTHER INFORMATION CONTACT: Caroline C. Thorpe, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, Room 2525-S, Washington, DC 20090-6456, telephone (202) 475-5610.

SUPPLEMENTARY INFORMATION: This rule is proposed under Marketing Agreement No. 130 and Marketing Order No. 958 (7 CFR part 958), regulating the handling of onions grown in certain designated counties in Idaho and Malheur County, Oregon. The marketing agreement and order are authorized under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the Act.

This rule has been reviewed by the Department in accordance with Department Regulation 1512-1 and the criteria contained in Executive Order 12291 and has been determined to be a "non-major" rule.

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

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

There are approximately 30 handlers of Idaho-Eastern Oregon onions subject to regulation under the marketing order, and approximately 450 onion producers in the production area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual receipts of less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $3,500,000. The majority of the handlers and producers of Idaho-Eastern Oregon onions may be classified as small entities.

Under the terms of the marketing order, fresh market shipments of onions grown in Idaho-Eastern Oregon are required to be inspected and are subject to grade, size, maturity, pack and container requirements. Handling requirements for fresh shipments of Idaho-Eastern Oregon onions are specified in 7 CFR 958.328. That regulation establishes grade and size requirements for each of the three types of onions grown in the production area—white, red and other varieties, the last consisting of mostly yellow varieties. Each of the three types of onions must grade at least U.S. No. 2. White onions are required to be at least 1 inch in diameter and red and other varieties are subject to a minimum size requirement of 1½ inches in diameter Exemptions from these requirements are provided for certain types of onions (*e.g.*, braided red onions) and onions used for certain specified purposes (*e.g.*, dehydration).

At a meeting held on April 24, 1990, the Idaho-Eastern Oregon Onion Committee (committee), the agency responsible for local administration of the marketing order, recommended two changes in the current handling regulation. In accordance with the committee's recommendation, this rule proposes changing the definition of pearl onions, which are exempt from regulation, to include onions equal to or less than 1¾ inches in diameter, rather than 1½ inches in diameter. This rule also proposes revising safeguard requirements to provide that handlers must report shipments of pearl onions on a monthly basis rather that subsequent to each individual shipment of lots of pearl onions. These actions are designed to facilitate the marketing of pearl onions, which are sold as a specialty item and do not compete directly with other onions grown in the production area.

Pearl onions have been exempt from quality, size, inspection and assessment requirements since 1985. Pearl onions are grown using specific cultural practices to limit growth. For example, irrigation and planting techniques differ from those used in growing other onions. Pearl onions are grown and sold as a specialty item, and comprise a small percentage of the total volume of onions grown in the Idaho-Eastern Oregon

production area. The committee believed, in recommending an exemption for pearl onions, that it was not necessary to regulate this small volume of pearl onions, and that producers and handlers of other onions would not be adversely affected because their onions were not competing directly with the exempt pearl onions. The committee also believed that the exemption for pearl onions would facilitate development of a new market for production area onions.

For purposes of the exemption, pearl onions are currently defined as onions grown using specific cultural practices to limit growth to a general size of less than 1½ inches in diameter. According to information submitted by the committee, pearl onions are typically less than 1½ inches in diameter. However, a pearl onion crop will often contain some larger onions. Buyers of pearl onions are willing to purchase these somewhat larger pearl onions to reduce the additional costs associated with sorting the various sizes. For these reasons, the committee recommended changing the definition to include onions up to 1¾ inches in diameter. Since pearl onions are sold as a specialty item distinct from other onions grown in the production area, it is not expected that this action would adversely affect the marketing of such other onions. In addition, the order in which definitions appear in § 958.328(g) would also be changed for clarity.

Currently, handlers of pearl onions must apply to the committee for a Certificate of Privilege to be permitted to ship pearl onions exempt from marketing order requirements. Once receiving a Certificate of Privilege, handlers report each individual shipment of lots of pearl onions to the committee. Since pearl onions shipments are typically of relatively low volumes, the committee does not believe that it is necessary that each such shipment be reported separately as it occurs. The committee therefore recommended that the current reporting requirements be revised to require pearl onion handlers to report shipments on a monthly basis. This would reduce the reporting requirements imposed on handlers, while still ensuring that the committee receives information it needs relative to the volumes of pearl onions being marketed.

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. 3507), the information collection requirements included in this proposed rule have been submitted to the Office of Management and Budget (OMB) and have been approved under OMB No. 0581-0087.

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

A 30-day comment period is allowed to receive written comments either supporting or opposing this proposal. All written comments received within the comment period will be considered before a final determination is made on this matter.

List of Subjects in 7 CFR Part 958

Marketing agreements, onions, reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR part 958 be amended as follows:

PART 958—ONIONS GROWN IN CERTAIN DESIGNATED COUNTIES IN IDAHO AND MALHEUR COUNTY, OREGON

1. The authority citation for 7 CFR part 958 continues to read as follows:

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

2. Section 958.328 is amended by revising paragraphs (e)(2) and (g) to read as follows:

§ 958.328 Handling regulation.

* * * * *

(e) * * *

(2) Prepare, on forms furnished by the committee, a report in quadruplicate on each individual shipment to such outlets authorized in paragraph (c) of this section; except that shipment of pearl onions shall be reported to the committee on a monthly basis on forms furnished by the committee;

* * * * *

(g) *Definitions.* The terms "U.S. No. 1," "U.S. Commercial," and "U.S. No. 2" have the same meaning as defined in the United States Standards for Grades of Onions (Other than Bermuda-Granex-Grano and Creole Types), as amended (7 CFR 51.2830-2854), or the United States Standards for Grades of Bermuda-Granex-Grano Type Onions (7 CFR 51.3195-51.3209), whichever is applicable to the particular variety, or variations thereof specified in this section. The term "braided red onions" means onion of red varieties with top braided (interlaced). "Pearl onions" means onion produced using specific cultural practices that limit growth to the same general size as boilers and picklers, measuring 1¾ inches in diameter or less. The term "moderately cured" means the onion are mature and are more nearly well cured than fairly well cured. Other terms used in this section have the same meaning as when used in Marketing Agreement No. 130 and this part.

* * * * *

Dated: June 29, 1990.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 90-15695 Filed 7-5-90; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 90-ANE-14]

Airworthiness Directives: Aviatech Inc., TSO-C39a Pilot/Co-Pilot Seats Model 394 Series

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to adopt an airworthiness directive (AD), that would require Aviatech Inc., TSO-C39a, pilot/co-pilot flightcrew seats Model 394 series be modified to include rollers in the shoulder harness guide and the installation of modified backrest cushion covers. The proposed AD is needed to prevent excessive wear and fraying of the shoulder harness installed on the cockpit seats. This condition, if not corrected, could result in failure of the shoulder harness.

DATES: Comments must be received no later than September 4, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, New England Region, Office of the Assistant Chief Counsel, Attention: Rules Docket No. 90-ANE-14, 12 New England Executive Park, Burlington, Massachusetts 01803, or delivered in duplicate to room 311 at the above address.

Comments must be marked: Docket No. 90-ANE-14.

Comments may be inspected at the above location in room 311, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

The applicable service bulletin may be obtained from Aviatech Inc., 2400 rue Guenette, Ville Saint Laurent, Quebec, Canada, Tel. (514) 335-0166, or may be examined in the Regional Rules Docket.

FOR FURTHER INFORMATION CONTACT: Mr. C. Kallis, New York Aircraft Certification Office, ANE-173, Federal Aviation Administration, Engine and Propeller Directorate, Aircraft Certification Service, 181 South Franklin Avenue, room, Valley Stream, New York, 11581; telephone (516) 791-6427.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Regional Rules Docket, New England Region, Office of the Assistant Chief Counsel, room 311 Burlington, Massachusetts 01803, for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: Comments to Docket No. 90-ANE-14. The postcard will be date/time stamped and returned to the commenter.

Discussion

The FAA has determined that an unsafe condition exists on Aviatech Inc., TSO-C39a, pilot/co-pilot seats Model 394 Series. There have been two reports which reveal that pilot and co-pilot shoulder harnesses were worn and frayed beyond acceptable limits. Tensile strength tests performed on the harness of one airplane revealed that the pilot's and first officer's harnesses failed at 29 percent and 40 percent of their design rating.

Investigation by the National Transportation Safety Board (NTSB) and the FAA disclosed that the cause for this premature wear is that the harness rubs on the shoulder harness guide, which is on top of the seat-back of the crew seats.

Aviatech Inc. has issued Service Bulletin No. 2, Model 394, Revision A dated March 1, 1990. This service bulletin delineates modification procedure for the seats. A kit is available from Aviatech Inc. for incorporation to accomplish the required modifications which consist of adding a pair of rollers to the redesigned harness guide so that the belt webbing rolls through these rollers diminishing wear and chafing of the web material. Additionally anti-chafe material has been incorporated in the new backrest seat covers, included in the kit, which further reduces wear and chafing where the harness contacts the backrest.

These seats, Model 394 series, are manufactured in Canada by Aviatech Inc. under the Technical Standard Order (TSO) provisions of § 21.617 of the Federal Aviation Regulations.

Since this condition is likely to exist or develop on other crew seats of this same type design, used in the United States, an AD is proposed which would require the modification of the crew seats in accordance with the service bulletin previously described.

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

The FAA has determined that this proposed regulation involves approximately 350 seats. It will take an estimated 2½ manhours per seat to accomplish the required modifications and the average labor cost would be $40 per manhour. The modification kits are available from the manufacturer at a cost of $834.11 per seat. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $326,938.50. Therefore, I certify that this action (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Aviatech Inc.: Applies to Aviatech Inc., TSO-C39a Pilot and Co-Pilot seats, Model 394 series as listed below: Affected Pilot and Co-Pilot seats part Numbers (P/N's), 394-(000) -01, -02, -03, -04, -05, -06, and 394-(001) -01, -02, -03, -04, -05, -06, installed on, but not limited to Boeing of Canada, Ltd., deHavilland Division, Model DHC-8.

Compliance required within the next three months after the effective date of this AD, unless already accomplished.

To prevent the pilot and co-pilot shoulder harness from becoming excessively worn and frayed, thereby reducing the restraining capability, accomplish the following:

(a) Inspect the pilot and co-pilot seats to determine if any of the above P/N's are inscribed on the FAA—TSO-C39a tag.

(b) Modify all seats with any of the above P/N's by incorporating the Aviatech Inc. Kit No. 394-25-002, installing new backrest cushion-covers and a roller-guide for the shoulder harness, in accordance with Aviatech Service Bulletin No. 2, Model 394, Revision A, dated March 1, 1990, (Paragraph 2, Accomplishment Instructions).

(c) Aircraft may be ferried in accordance with the provisions of FAR 21.197 and 21.199 to a base where the AD can be accomplished.

(d) Upon submission of substantiating data by an owner or operator through an FAA Airworthiness Inspector, an alternate method of compliance with the requirements of this AD or adjustment to the compliance schedule specified in this AD may be approved by the Manager, New York Aircraft Certification Office, Federal Aviation Administration, Engine and Propeller Directorate, Aircraft Certification Service, 181 South Franklin Avenue, Valley Stream, New York 11581.

Issued in Burlington, Massachusetts, on June 26, 1990.

Arthur J. Pidgeon,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. 90-15652 Filed 07-05-90; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 39

[Docket No. 90-NM-107-AD]

Airworthiness Directives; Boeing Model 747 and 767 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to adopt a new airworthiness directive (AD), applicable to certain Boeing Model 747 and 767 series airplanes, which would require additional fire resistant cargo compartment liner panels to be installed on airplanes that do not have complete cargo compartment floors. This proposal is prompted by an investigation into the service history of cargo compartment fires and full-scale fire testing, which revealed that, without such additional panels, fire could migrate up behind the cargo liner and cause major structural damage.

DATES: Comments must be received no later than August 27, 1990.

ADDRESSES: Send comments on the proposal in duplicate to the Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM-103, Attention: Airworthiness Rules Docket No. 90-NM-107-AD, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

FOR FURTHER INFORMATION CONTACT: Mr. Jayson B. Claar, Airframe Branch, ANM-120S; telephone (206) 431-1932. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-107-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

All Boeing Models 747 and 767 series airplanes have class "C" lower lobe cargo compartments. Class "C" cargo compartments are required to have a cargo liner and a fire extinguishing system. The cargo liner material varies from ceiling and sidewall, which have glass fiber reinforced resin or "kevlar" liner panels, to sloping sidewalls with insulation blankets only. Some airplanes also have liner panels on the sloping sidewalls.

Cargo floors on the Model 747 in the doorway area are ball mats and cargo power drive units which make almost a complete floor. The remaining areas of the cargo compartments have roller tracks and power drive units. In these areas, the floor has large open areas that allow debris to collect in the bilge area on top of the insulation blankets.

The cargo floors in the Model 767 are of two configurations. One configuration is similar to that of the Model 747, and the other configuration has an essentially complete floor throughout the cargo compartment.

The insulation blankets on the Model 747 and 767 sloping sidewalls and below the floors are used as the cargo liners and meet the flammability requirements of Federal Aviation Regulations (FAR) § 25.855 prior to Amendment 25-60.

The FAA conducted a series of full-scale fire tests at its Technical Center to investigate cargo compartment liner materials used in Class C and D compartments. Based on these tests, FAR part 25 was amended (Amendment 25-60, 51 FR 18236, May 16, 1986) to require that the ceiling and sidewall panels of Class C cargo compartments on later airplane models meet a more severe fire resistance test. These tests demonstrated that it was not necessary for the floor panels to meet the improved standards. The cargo compartments tested had complete floors; the testing did not address cargo compartments without floors. As a result of this testing, the FAA amended FAR part 121 to include regulations regarding cargo compartment liners to achieve the same level of safety in older airplanes as that required in later models. FAR 121.314, Amendment 121-202, effective March 20, 1989 (54 FR 7384, February 17, 1989), requires that after March 20, 1991, each Class C and D cargo compartment must have ceiling and sidewall liner panels which are constructed of one of the following materials:

(1) Glass fiber reinforced resin;

(2) Materials which meet the test requirements of FAR part 25, appendix F, part III; or

(3) Aluminum, in the case of liner installations approved prior to March 20, 1989.

FAR 121.314 requires installation of glass reinforced resin panels on the sloping sidewall as well as replacement of "kevlar" ceiling and sidewall panels. The sidewall panels must meet the floor and be sealed at that intersection, thus enclosing the cargo compartment on airplanes which have a complete floor.

Investigation of two recent cargo fires demonstrated the need for additional fire resistant cargo compartment liner panels to be installed on airplanes that do not have a complete cargo compartment floor. One of the cargo fires started below the cargo floor in debris and oily insulation blankets. The fire was detected by the cargo fire detection system and the pilot fired the fire extinguishing system, thereby extinguishing the fire. Post-fire investigation revealed that the insulation blanket behind the sloping sidewall panel had signs of fire damage.

The second fire occurred while the airplane was on the ground and the cargo door open. The fire started below the cargo floor and spread up the sidewall and into the passenger cabin. This airplane had neither slopping sidewall panels nor a complete cargo floor, and only had insulation blankets in these areas.

These two in-service cargo fires demonstrate that insulation blankets are not adequate for containing a fire in the cargo compartment.

The FAA has determined that, for airplanes without complete floors, additional fire block panels are necessary between the fuselage and the sloping sidewall panel at the bottom of the panel, to contain a fire within the cargo compartment. Without such panels, a fire could migrate up behind the cargo liner and cause major structural damage.

Since this condition is likely to exist on other airplanes of this same type design, an AD is proposed which would require installation of additional fire resistant cargo compartment liner panels (fire blocks), in accordance with a method approved by the FAA, within

the next two years after the effective date of the final rule.

There are approximately 1,300 Model 747 and Model 767 series airplanes of the affected design in the worldwide fleet. It is estimated that 300 airplanes of U.S. registry would be affected by this AD, that it would take approximately 50 manhours per airplane to accomplish the required actions, and that the average labor cost would be $40 per manhour. Required material costs per airplane is approximately $1,500. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $1,050,000.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Boeing: Applies to Model 747 and 767 series airplanes, equipped with Class "C" lower lobe cargo compartments that do not have complete cargo compartment floors, certificated in any category. Compliance is required within 2 years after the effective date of this AD, unless previously accomplished; except that, for airplanes that are subject to the requirements of Federal Aviation Regulation (FAR) 121.314, the modifications required by this AD shall not be accomplished prior to the accomplishment of the modifications required by FAR 121.314.

To prevent a cargo compartment fire from migrating up behind the cargo liner, accomplish the following:

A. Install a fire stop near the bottom of the sloping sidewall cargo compartment liner, in accordance with a method approved by the Manager, Seattle Aircraft Certification Office, FAA, Transport Airplane Directorate. Fire stop material must meet the requirements of FAR part 25, appendix F, part III.

B. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded directly to the Manager, Seattle ACO, and a copy sent to the cognizant FAA Principal Maintenance Inspector (PMI). The PMI will then forward comments or concurrence to the Seattle ACO.

C. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

Issued in Seattle, Washington, on June 27, 1990.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90–15653 Filed 7–5–90; 8:45 am]

BILLING CODE 4910–13–M

---

14 CFR Part 39

[Docket No. 90–NM–111–AD]

Airworthiness Directives; SAAB-Scania Model SF-340A Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to supersede an existing airworthiness directive (AD), applicable to certain SAAB–Scania Model SF–340A series airplanes, which currently requires installation of modified electrical engine control units (ECU). This action would add a requirement to remove certain relays and wiring that may be installed on certain modified airplanes. This proposal is prompted by analysis and field experience which indicates certain modifications accomplished on those airplanes may inhibit failure detection of the Engine Control Unit (ECU) or may cause propeller pitch disturbances on the good engine if the other engine is shut down. This condition, if not corrected, could result in loss of climb performance during single engine operation (i.e. one engine failed), and latent failures in the engine control unit.

DATES: Comments must be received no later than August 27, 1990.

ADDRESSES: Send comments on the proposal in duplicate to Federal Aviation Administration, Northwest Mountain Region, Transport Airplane Directorate, ANM–103, Attention: Airworthiness Rules Docket No. 90–NM–111–AD, 17900 Pacific Highway South, C–68966, Seattle, Washington 98168. The applicable service information may be obtained from SAAB–Scania AB, Product Support, S–581.88, Linködping, Sweden. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Mark Quam, Standardization Branch, ANM–113; telephone (206) 431–1978. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, C–68996, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments specified above will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this Notice may be changed in light of the comments received.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA/public contact, concerned with the substance of this

proposal, will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this Notice must submit a self-addressed, stamped post card on which the following statement is made: "Comments to Docket Number 90-NM-111-AD." The post card will be date/time stamped and returned to the commenter.

Discussion

On October 5, 1989, the FAA issued AD 89-22-08, Amendment 39-6361 (54 FR 42292, October 16, 1989), to require installation of a modified ECU on SAAB-Scania AB Model SF-340A series airplanes, in accordance with General Electric Service Bulletin 74-16, dated March 22, 1989. That action was prompted by two reports of engine failure during takeoff and the subsequent failure of the autocoarsen system to coarsen the propeller on the failed engine due to torque spikes from the ECU. This condition, if not corrected, could result in high propeller drag on the failed engine side of the airplane and loss of climb performance.

Prior to the availability of the new ECU required to be installed by AD 89-22-08, SAAB issued, as an interim measure, two service bulletins, as follows:

1. SAAB-Scania Service Bulletin SAAB SF340-61-020, dated October 13, 1988, and Revision 2, dated December 19, 1988, which describe procedures for installation of Modification 1931. This modification involves the installation of two relays and associated wiring to prevent spurious signals from adversely affecting the ECU. With this modification installed, the autocoarsen system will not uncoarsen when the power lever is retarded after engine failure; the autocoarsen system will operate as if both power levers are above 64° power lever angle, regardless of the actual power lever position.

2. Service Bulletin SAAB SF340-77-003, dated April 7, 1988, and Revision 1, dated February 16, 1989, which describe procedures for installation of Modification 1343. This modification involves the installation of two relays and associated wiring to avoid fluctuating torque indication during engine start and feather modes. With this modification installed, the torque signals from the engines are disconnected when the Condition Levers (CL) are in feather mode.

Recent analysis and field experience indicates that these modifications will inhibit detection of certain failures of the new ECU (required to be installed by AD 89-22-08) during low power lever settings or may cause propeller pitch disturbances on the good engine if the other engine is shut down. In light of this, these modifications must be removed.

SAAB also issued a series of "Information To Operators" bulletins, which recommend restricting the autocoarsen system to be "on" for takeoff and go-around only. Subsequent changes were also made to the Airplane Flight Manual to accommodate the autocoarsen "off" operation, and to provide modified instructions for engine failure in go-around conditions.

Since issuance of AD 89-22-08, SAAB has issued Service Bulletin SAAB SF340-77-006, dated March 9, 1990, which provides instructions to install a new ECU in accordance with Service Bulletin GE 74-16, and to remove any relays and associated wiring that were installed in accordance with Service Bulletins SAAB SF340-61-020 and SAAB SF340-77-003.

The Luftfartsverket (LFV), which is the airworthiness authority of Sweden, has classified Service Bulletin SAAB SF340-77-006 as mandatory, and has issued Swedish Airworthiness Directive (SAD) Number 1-037, dated March 16, 1990 addressing this subject. The LFV SAD further requires that the airplane shall be operated in accordance with "Mod 1931 not installed."

This airplane model is manufactured in Sweden and type certificated in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, an AD is proposed which would supersede AD 89-22-08 with a new airworthiness directive that would (1) continue to require the installation of the new ECU in accordance with General Electric Service Bulletin 74-16, dated March 22, 1989; (2) require the removal of any previously-installed relays and associate wiring associated with the autocoarsen system and engine torque indicating system (installed in accordance with SAAB Scania Service Bulletins SAAB SF340-61-020 and SAAB SF340-77-003); and (3) require operation in accordance with the section of the AFM applicable to "operation with Mod 1931 not installed."

It is estimated that 89 airplanes of U.S. registry would be affected by this AD, that it would take approximately 6 manhours per airplane to accomplish the proposed actions related to the removal of the relays and wiring, and that the average labor cost would be $40 per manhour. Based on these figures, the total cost impact of the new proposed requirements on U.S. operators is estimated to be $21,360.

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

For the reasons discussed above, I certify that this proposed regulation (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft evaluation prepared for this action is contained in the regulatory docket. A copy of it may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by superseding Amendment 39-6361 (54 FR 42292, October 16, 1989), AD 89-22-08, with the following new airworthiness directive:

Saab-Scania: Applies to Model SF-340A series airplanes, Serial Numbers 004 through 159, certificated in any category. Compliance is required as indicated, unless previously accomplished.

To prevent loss of climb performance during single engine operation (i.e. one engine failed), and latent failures in the engine control unit, accomplish the following:

A. Within 60 days after November 20, 1989 (the effective date of Amendment 39-6361, AD 89-22-08), install modified electrical control units (ECU) in accordance with

General Electric Service Bulletin 74-16, dated March 22, 1989.

B. Within 60 days after the effective date of this amendment, remove any relays and associated wiring previously installed in accordance with SAAB-Scania Service Bulletins SAAB SF340-61-020 and SAAB SF340-77-003, in accordance with the procedures specified in SAAB-SCANIA Service Bulletin SF340-77-006, dated March 9, 1990.

C. After completion of paragraphs A. and B., above, delete steps referencing "Applicable With Mod. No. 1931" in the Emergency Procedures Section and Normal Procedures Expanded Checklist of the FAA-approved Airplane Flight Manual (AFM).

D. An alternate means of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be submitted directly to the Manager, Standardization Branch, ANM-113, and a copy sent to the cognizant FAA Principal Inspector (PI). The PI will then forward comments or concurrence to the Manager, Standardization Branch, ANM-113.

E. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

All persons affected by this directive who have not already received the appropriate service documents from the manufacturer may obtain copies upon request to SAAB-SCANIA, Aircraft Division, S.58188, Linköping, Sweden. These documents may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 17900 Pacific Highway South, Seattle, Washington, or the Standardization Branch, 9010 East Marginal Way South, Seattle, Washington.

Issued in Seattle, Washington, on June 27, 1990.

Steven B. Wallace,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 90-15654 Filed 07-05-90; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 103

[Docket No. 89N-0469]

Quality Standards for Foods with No Identity Standards; Bottled Water

AGENCY: Food and Drug Administration, HHS.

ACTION: Proposed rule.

SUMMARY: The Food and Drug Administration (FDA) is proposing to establish quality standards for seven volatile synthetic organic chemicals (VOC's) in bottled drinking water. This action follows a rulemaking by the Environmental Protection Agency (EPA) promulgating new regulations for maximum contaminant levels (MCL's) in public drinking water systems for the following VOC's: Benzene, carbon tetrachloride, *para*-dichlorobenzene, 1,2-dichloroethane, 1,1-dichloroethylene, 1,1,1-trichloroethane, trichloroethylene, and vinyl chloride. Except for *para*-dichlorobenzene, (where FDA is not initiating rulemaking), FDA is proposing to adopt as quality standards for bottled water the MCL's that EPA has established for these VOC's in public drinking water.

DATES: Written comments by September 4, 1990.

ADDRESSES: Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Terry Troxell, Center for Food Safety and Applied Nutrition (HFF-312), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-485-0229.

SUPPLEMENTARY INFORMATION:

I. Background

National Primary Drinking Water Regulations (NPDWR's) are promulgated by EPA to protect the public from adverse health effects from contaminants in drinking water. In the Federal Register of July 8, 1987 (52 FR 25690), and corrected July 1, 1988 (53 FR 25108), EPA published a final rule promulgating NPDWR's that established MCL's for eight VOC's, as follows: Benzene—0.005 milligram per liter (mg/L); carbon tetrachloride—0.005 mg/L; *para*-dichlorobenzene—0.075 mg/L; 1,2-dichloroethane—0.005 mg/L; 1,1-dichloroethylene—0.007 mg/L; 1,1,1-trichloroethane—0.20 mg/L; trichloroethylene—0.005 mg/L; and vinyl chloride—0.002 mg/L.

Under section 410 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 349), whenever EPA prescribes interim or revised NPDWR's under section 1412 of title XIV of the Public Health Service Act (The Safe Drinking Water Act), FDA is required to consult with EPA and, within 180 days after EPA promulgates the drinking water regulations, FDA is required to "either promulgate amendments to regulations under this chapter applicable to bottled drinking water or publish in the Federal Register * * * reasons for not making such amendments." In accordance with section 410 of the act, FDA has consulted with EPA and is proposing to adopt as quality standards for bottled water the MCL's that EPA has established for seven of these VOC's in public drinking water.

FDA is not, at this time, proposing a quality standard for *para*-dichlorobenzene because EPA is in the midst of further rulemaking proceedings for this chemical. In the Federal Register of May 22, 1989 (54 FR 22062 at 22138), EPA proposed national primary and secondary drinking water regulations to establish, in part, a secondary maximum contaminant level (SMCL) of 0.005 mg/L for *para*-dichlorobenzene because of a reported odor detection level of 0.003 mg/L. Because FDA believes a quality standard for bottled water should be based upon the SMCL that will prevent the presence of unpleasant odor, and in light of the fact that FDA is aware of no current health problems with this contaminant in bottled water, FDA is postponing action on this contaminant until completion of EPA's rulemaking on the SMCL.

II. EPA Standards

EPA sets MCL's for contaminants in public water supplies as close as is feasible to the level at which no known or anticipated adverse health effects occur and that provides an adequate margin of safety. EPA stated in the final rule (52 FR 25690 at 25700) that it considers the selected MCL's "to be safe levels and protective of the public health." The following is a summary of the evidence on which EPA based the MCL's that FDA is proposing to adopt as bottled water quality standards.

(1) Benzene. EPA set the MCL for benzene at 0.005 mg/L. EPA based this MCL in part on the association of benzene exposure: (a) With significantly increased risks of leukemia among certain industrial workers who were exposed to relatively large amounts of this chemical during their working careers; and (b) with carcinogenic effects in animals.

(2) Carbon tetrachloride. EPA established an MCL at 0.005 mg/L for carbon tetrachloride. EPA based this MCL in part on studies showing that carbon tetrachloride causes liver cancer in mice, rats, and hamsters when administered orally at high doses over the lifetime of the animals.

(3) 1,2-Dichloroethane. EPA set the MCL for 1,2-dichloroethane at 0.005 mg/L. EPA based this MCL in part on the carcinogenic effects seen in rat forestomach, circulatory, and mammary tissues, and mouse mammary and lung

tissues, in oral lifetime feeding studies at high doses.

(4) 1,1-Dichloroethylene. EPA adopted an MCL of 0.007 mg/L for 1,1-dichloroethylene. 1,1-Dichloroethylene has been shown to cause liver and kidney damage and other adverse effects in animals when exposed at high doses. EPA based this MCL on the adverse effects observed in the liver in rat and mouse drinking water studies. The lowest observed adverse effect level (LOAEL) in these studies was 10 milligrams per kilogram per day (mg/kg/day). EPA incorporated an extra safety factor of 10 in setting the standard to account for the limited, but insufficient evidence on the carcinogenicity of the compound.

(5) 1,1,1-Trichloroethane. EPA set the MCL at 0.20 mg/L for 1,1,1-trichloroethane. 1,1,1-Trichloroethane causes adverse effects in the liver, the central nervous system, and the circulatory system of laboratory animals and humans exposed to high levels. An LOAEL of 35 mg/kg/day was used to calculate this MCL, based on liver toxicity observed in an inhalation study with mice.

(6) Trichloroethylene. EPA adopted an MCL of 0.005 mg/L for trichloroethylene. EPA based this MCL in part on studies showing that trichloroethylene causes liver tumors in mice when administered orally at high doses over the lifetime of the animals.

(7) Vinyl chloride. EPA established an MCL for vinyl chloride at 0.002 mg/L. EPA based this MCL in part on the carcinogenic effects produced by vinyl chloride. Vinyl chloride has been shown to cause cancer, including liver tumors, in industrial workers who were exposed to relatively large amounts of this chemical over their working careers. Vinyl chloride also has been shown to cause cancer, including liver, ling, and mammary tumors, in laboratory animals that were exposed, by both ingestion and inhalation exposure, to relatively high levels over their lifetime.

For the compounds that EPA considered to be carcinogens (benzene, carbon tetrachloride, 1,2-dichloroethane, trichlorethylene, and vinyl chloride), EPA used a quantitative risk assessment procedure to estimate the upper bound potential health risk for humans. EPA's procedure employs a linearized multistage nonthreshold method to extrapolate from the high doses at which the carcinogenic effects were observed to the low potential exposure for humans from water complying with the MCL. Complete discussions of all scientific factors pertaining to establishment of MCL's for these VOC's by EPA can be found in the preambles of the final and proposed rules for the MCL's (July 8, 1987 (52 FR 25690), corrected July 1, 1988 (53 FR 25108), and November 13, 1985 (50 FR 46902), corrected February 6, 1986 (51 FR 4618)); and in the preambles of the final and proposed rules for the maximum contaminant level goals, previously called recommended maximum contaminant levels (November 13, 1985 (50 FR 46880), corrected February 3, 1986 (51 FR 4165), and June 12, 1984 (49 FR 24330)).

III. FDA Proposal

FDA has traditionally fulfilled its mandate under section 410 of the act to respond to EPA's issuance of NPDWR's by reviewing and revising the quality standards for bottled water introduced or delivered for introduction into interstate commerce to maintain compatibility with EPA's drinking water regulations. FDA believes that, with few exceptions, the EPA standards for drinking water are appropriate as standards for the quality of bottled water. Except for the MCL for *para*-dichlorobenzene (as discussed above) FDA has evaluated the MCL's that EPA has established for VOC's in public drinking water and has tentatively determined that these levels are appropriate as quality standards for bottled water [1] and are adequate to protect the public health pursuant to 21 U.S.C. 342(a)(1). Therefore, to assure that the minimum quality of bottled water remains comparable with the quality of public drinking water meeting EPA standards, FDA is proposing to establish quality standards for these seven VOC's in bottled water subject to 21 CFR 103.35 at the same levels as EPA's MCL's for these VOC's in drinking water.

On the basis of available survey information, FDA believes that bottlers are generally using sources of water that are free of significant contamination by VOC's. The most extensive survey on VOC's in bottled water was done in New York State in 1986. In that survey, samples of 93 bottled water products were analyzed for VOC's, including the seven VOC's that are the subject of this proposal. "Survey of Volatile Organic Chemical Compounds in Bottled Water Products Distributed in New York State," New York State Department of Health, Bureau of Public Water Supply Protection, Richard Bonczek and Kenneth Markussen, January 1987." (Copy on file with the Dockets Management Branch (address above).) The bottled water products surveyed were from 68 water bottling companies that distribute products in New York State and represented products bottled in 12 states and a number of foreign countries. Of the 7 VOC's that are the subject of this proposal, three (benzene, carbon tetrachloride, and 1,1,1-trichloroethane) were detected in 10 products bottled by 8 of the surveyed companies (including 1 mineral water product that would not be subject to the proposed regulation). The concentrations of the detected VOC's were well below the limits that are proposed in this rulemaking.

These findings, along with findings by EPA of VOC's (including, in some cases, levels in excess of the MCL's) in ground water and surface water supplies for public systems (49 FR 24330, June 12, 1984; 50 FR 46880, November 13, 1985; and 51 FR 4165, February 3, 1986), indicate the need for issuance of standards to ensure a continuing supply of quality bottled water. Although the proposed quality standards for VOC's are not safety regulations, they will protect the public health with respect to these contaminants.

Water bottlers are responsible for assuring, through appropriate manufacturing techniques and sufficient quality control procedures, that all bottled water products introduced or delivered for introduction into interstate commerce comply with the quality standard regulations set forth in § 103.35. Bottled water that is of a quality that is below the prescribed standard is required to be labeled with a statement of substandard quality (21 CFR 103.35(f)). Moreover, any bottled water containing a substance at a level considered injurious to health is deemed adulterated under section 402(a)(1) of the act, and therefore subject to regulatory action, even if the bottled water bears a label statement of substandard quality (21 CFR 103.35(g)).

FDA has established current good manufacturing practice (CGMP) regulations for bottled water, including mineral water, in 21 CFR part 129. The CGMP regulations require sampling and analysis for source water and each bottled water product for chemical contaminants at least once each year. The CGMP regulations also provide for the sampling and analysis, as often as necessary, of water taken after processing but before bottling, to assure uniformity and effectiveness of the processing performed by the plant.

[1] Bottled water is defined in the quality standard (21 CFR 103.35(a)(1)) as water that is sealed in bottles or other containers and is intended for human consumption. Bottled water does not include mineral water or any type of soft drink commonly known as soda water, which is made by adding carbon dioxide to potable water.

These CGMP regulations will also apply to the seven VOC's that FDA is proposing to add to the list of chemical contaminants in 21 CFR 103.35. However, compliance with CGMP requirements of 21 CFR part 129 does not exempt a firm from regulatory action if its bottled water products do not meet the quality standards for bottled water.

EPA regulations for these VOC's provide for sampling at intervals that vary from 3 months to 5 years, as appropriate to individual situations. The EPA regulations also provide for exemption from VOC testing at state discretion, when appropriate. While FDA has generally adopted EPA's MCL's as quality standards for bottled water, FDA has not adopted EPA's variable sampling schedule for contaminants. In order to determine if manufacture is in accord with CGMP, FDA will continue to rely upon its schedule of sampling and analysis at least once each year for chemical contaminants.

FDA has not adopted, and does not propose to adopt, EPA's variable sampling schedule because the regulatory context in which the two agencies operate with respect to drinking water and bottled water is quite different. EPA's regulations are designed so that states have primary enforcement responsibility to deal with the approximately 60,000 widely diverse public water systems that operate within the confines of local water resources. In this regulatory context, EPA considered a variable sampling schedule for VOC's to be appropriate because scheduling depends on several complex, interacting criteria. These criteria include the number of service connections, chemical history of water samples, geological source of the water, and assessment by the State of vulnerability of the water to VOC contamination.

Unlike municipal drinking water, bottled water, which is bottled at approximately 475 plants in the United States, is a food product under the act. Like other food products, bottled water is manufactured on a lot basis and may be shipped in interstate commerce. In order to assure consumers nationwide that bottled drinking water has been processed, bottled, held, and transported under sanitary conditions, uniform standards and procedures, including sampling intervals that apply nationally, are necessary components of the CGMP regulations in 21 CFR part 129. Accordingly, FDA continues to believe that a CGMP requirement of at least annual sampling and analysis for chemical contaminants is appropriate for the water source and each bottled water product.

This annual analysis is a minimum requirement. Individual bottlers may need to analyze for VOC's more frequently to assure continuous compliance with the quality standard and the safety of the bottled water. If one or more of the VOC's are found, and the level is not well below the limit set in the quality standards, FDA recommends that the bottler monitor bottled water products for VOC's at least quarterly until it is established that the VOC levels are consistently below limits set in the quality standard for bottled water. (For drinking water systems where VOC's are detected, EPA requires 3 consecutive years of quarterly sampling that show VOC levels below the MCL's before States may reduce the monitoring frequency to once per year.)

EPA's regulations (40 CFR 141.24(g)(6)) do not require analysis for vinyl chloride unless a ground water source contains one or more of the seven following 2-carbon chlorinated compounds: 1,2-dichloroethane; 1,1-dichloroethylene; 1,1,1-trichloroethane; trichloroethylene; *cis*-1,2-dichloroethylene; *trans*-1,2-dichloroethylene; and tetrachloroethylene. Although EPA regulations do not require surface water systems to analyze for vinyl chloride, the regulations provide for vinyl chloride analysis at the discretion of the State. EPA has taken this approach to vinyl chloride for several reasons. First, it is difficult to analyze for vinyl chloride to determine compliance with the MCL (0.002 mg/L). Second, EPA does not expect vinyl chloride to be found in drinking water from surface water sources because of the high volatility of vinyl chloride. Third, studies indicate that the presence of vinyl chloride in ground water is most likely to result from in situ transformation of the di-, tri-, and tetrachloroethylenes listed above, rather than from direct contamination of the ground water with vinyl chloride. Therefore, it is normally possible to monitor for the presence of vinyl chloride in ground water by analyzing for these halogenated compounds (50 FR 46880 at 46882 and 46902 at 46907 and 46919).

Because FDA is not proposing quality standards for the last three of the seven vinyl chloride-associated 2-carbon chlorinated compounds at this time,[2] bottled water would not need to be tested for these three compounds to assure compliance with the quality standards. However, most of the EPA analytical methods that FDA is proposing to adopt for the seven VOC's that are the subject of this rulemaking are capable of simultaneously detecting *cis*-1,2-dichloroethylene, *trans*-1,2-dichloroethylene and tetrachloroethylene, as well as all seven VOC's, including vinyl chloride.

FDA has considered EPA's approach, including the factors discussed above, and does not believe it is necessary to modify sampling requirements for vinyl chloride in the CGMP regulation for bottled water (21 CFR part 129). This CGMP regulation is intended to outline general CGMP's and is not intended to cover every possible case. Bottlers who use ground water sources may wish to fulfill the CGMP chemical testing requirement by adopting EPA's approach to analyzing for the seven cited halogenated compounds as an alternative to analyzing for vinyl chloride. FDA has no objection to this approach as long as the analyses are sufficiently sensitive, and the source of bottled water is not considered vulnerable to direct vinyl chloride contamination.

For bottled water derived from surface waters, however, FDA believes that the CGMP requirement for chemical analysis at a minimum frequency of once each year for source water and each type of bottled water product is appropriate for vinyl chloride. Although the presence of the vinyl chloride above the proposed quality standard may be rare in surface water, FDA believes that testing is appropriate because periodic monitoring is the only means to quantitatively verify that the quality standard is being met. FDA wishes to emphasize that, irrespective of the sampling requirements of the CGMP regulation, all bottled water products must be in compliance with § 103.35, including the proposed quality standard for vinyl chloride if it is adopted.

In conjunction with its proposed new quality standards for VOC's in bottled water, FDA is proposing to incorporate by reference appropriate analytical methodology to be used in determining compliance with the quality standards for VOC's in bottled water. FDA has reviewed the methods acceptable to EPA for analysis of VOC's in drinking water that are contained in "Methods for the Determination of Organic Compounds in Finished Drinking Water and Raw Source Water," September 1986 (copy on file with the Dockets Management Branch (address above)).

[2] In its May 22, 1989 (54 FR 22062), proposed rule, EPA proposed NPDWR's for 38 chemicals including MCL's for *cis*-1,2-dichloroethylene at 0.07 mg/L, *trans*-1,2-dichloroethylene at 0.1 mg/L and tetrachloroethylene at 0.005 mg/L. FDA will consider proposing quality standards for these chemicals when EPA issues a final rule.

The agency is proposing to adopt the following methods:

1. EPA Method 502.1—"Volatile Halogenated Organic Compounds in Water by Purge and Trap Gas Chromatography."

2. EPA Method 502.2—"Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series."

3. EPA Method 503.1—"Volatile Aromatic and Unsaturated Organic Compounds in Water by Purge and Trap Gas Chromatography."

4. EPA Method 524.1—"Volatile Organic Compounds in Water by Purge and Trap Gas Chromatography/Mass Spectrometry."

5. EPA Method 524.2—"Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography/Mass Spectrometry."

IV. Environmental Impact

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

V. Economic Impact

FDA believes that most bottled water will meet the proposed VOC quality standards without further processing. The agency believes that most of the bottled water industry currently complies with the regulations because: (1) Approximately 70 percent of bottled water is derived from private water sources that are believed to contain no detectible VOC's because such sources are protected and unlikely to have contact with industrial waste; (2) bottled water derived from municipal sources that are in compliance with EPA's MCL's for the seven VOC's will be in compliance with the proposed quality standards; and (3) some States have already promulgated standards, action levels, or guidelines on certain VOC's in bottled water.

If one or more bottlers are using water from a municipal system that does not comply with the proposed VOC quality standards, it may be necessary for the bottler to temporarily use an alternative water source or to treat the water to reduce VOC's until the municipal system fully implements procedures to reduce VOC's. FDA estimates that the bottled drinking water industry will incur testing and associated costs of approximately $170,000 as a result of this regulation as proposed. In light of these considerations, FDA certifies, in accordance with Executive Order 12291, that this is not a major rule as defined by that Order.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this regulation as proposed would have on small entities, including small businesses, and has concluded that the testing and associated costs resulting from this regulation as proposed should have a minimal impact on any individual firm. It is also unlikely that small firms will bear an excessive or unreasonable burden as a result of this regulation as proposed. Therefore, FDA certifies, in accordance with section 605(b) of the Regulatory Flexibility Act, that no significant economic impact on a substantial number of small entities will derive from this rule as proposed. The agency's economic assessment and threshold assessment on the proposed regulation may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

VI. Comments

Interested persons may, on or before September 4, 1990, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. to 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 103

Beverages, Bottled water, Food grades and standards, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, it is proposed that 21 CFR part 103 be amended as follows:

PART 103—QUALITY STANDARDS FOR FOODS WITH NO IDENTITY STANDARDS

1. The authority citation for 21 CFR part 103 continues to read as follows:

Authority: Secs. 201, 401, 403, 409, 410, 701, 706, of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321, 341, 343, 348, 349, 371, 376).

2. Section 103.35 is amended by adding new paragraph (d)(3) to read as follows:

§ 103.35 Bottled water.

* * * * *

(d) * * *

(3)(i) Bottled water, when a composite of analytical units of equal volume from a sample is examined by the methods described in paragraph (d)(3)(ii) of this section, shall not contain the following volatile organic chemical substances in excess of the concentrations specified below:

Volatile organic chemical substances	Concentration in milligrams per liter	CAS Reg. No.
Benzene	0.005	71-43-2
Carbon tetrachloride	0.005	56-23-5
1,2-Dichloroethane	0.005	107-06-2
1,1-Dichloroethylene	0.007	75-35-4
1,1,1-Trichloroethane	0.20	71-55-6
Trichloroethylene	0.005	79-01-6
Vinyl chloride	0.002	75-01-4

(ii) Analyses conducted to determine compliance with paragraph (d)(3)(i) of this section shall be made in accordance with the relevant following methods:

(A) Method 501.1—"Volatile Halogenated Organic Compounds in Water by Purge and Trap Gas Chromatography."

(B) Method 502.2—"Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography with Photoionization and Electrolytic Conductivity Detectors in Series."

(C) Method 503.1—"Volatile Aromatic and Unsaturated Organic Compounds in Water by Purge and Trap Gas Chromatography."

(D) Method 524.1—"Volatile Organic Compounds in Water by Purge and Trap Gas Chromatography/Mass Spectrometry."

(E) Method 524.2—"Volatile Organic Compounds in Water by Purge and Trap Capillary Column Gas Chromatography/Mass Spectrometry."

(iii) The methods contained in paragraphs (d)(3)(ii)(A), (d)(3)(ii)(B), (d)(3)(ii)(C),(d)(3)(ii)(D), and (d)(3)(ii)(E) of this section are contained in "Methods for the Determination of Organic Compounds in Finished Drinking Water and Raw Source Water," September 1986, which is incorporated by reference in accordance with 5 U.S.C. 552(a). The availability of these incorporations by reference are given in paragraph (b) of this section.

* * * * *

Dated: April 2, 1990.

Alan L. Hoeting,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 90-15687 Filed 7-5-90; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF DEFENSE

National Security Agency/Central Security Service

32 CFR Part 299a

[NSA Reg. No. 10-35]

Privacy Act Systems of Records—Disclosures and Amendment Procedures—Specific Exemptions, National Security Agency

AGENCY: National Security Agency/Central Security Service (NSA/CSS) DOD.

ACTION: Proposed exemption rules.

SUMMARY: The National Security Agency/Central Security Service (NSA/CSS) proposes to add four new specific exemption rules for four new record systems subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The record systems are identified as GNSA14, "NSA/CSS Library Patron File Control System"; GNSA15, "NSA/CSS Computer Users Control System"; GNSA16, "NSA/CSS Drug Testing Program", and GNSA17, "Employee Assistance Service (EAS) Case Record System".

DATES: Comments must be received on or before August 6, 1990, unless comments are received which result in contrary determinations.

ADDRESSES: Forward any comments to Ms. Pat Schuyler, Office of Policy, National Security Agency, Ft. George G. Meade, MD 20755-6000. Telephone (301) 688-6527.

SUPPLEMENTARY INFORMATION: The four new exempt record systems have been created and are maintained within the National Security Agency/Central Security Service. The specific exemptions are required to protect the information contained therein from certain disclosures. These proposed specific exemption rules are to be added to existing NSA/CSS exemption rules found at 32 CFR 299a.10.

List of Subjects in 32 CFR part 299a

Privacy Act systems of records—Disclosures and amendment procedures—Specific exemptions, National security

Accordingly, NSA/CSS proposes to add four new exemption rules to 32 CFR part 299a as follows:

PART 299a—PRIVACY ACT SYSTEMS OF RECORDS—DISCLOSURES AND AMENDMENT PROCEDURES—SPECIFIC EXEMPTIONS, NATIONAL SECURITY AGENCY

1. Authority citation for 32 CFR part 299a continues to read as follows:

Authority: Pub. L. 93-579, 88 Stat 1896 (5 U.S.C. 552a).

2. Section 299a.10 is proposed to be amended by adding paragraphs (b)(14) through (b)(17) as follows:

§ 299a.10 Specific exemptions.

* * * * *

(b) * * *

(14) *System Identification and Name*—GNSA14, entitled "NSA/CSS Library Patron File Control System".

Exemption—Portions of this system which fall within 5 U.S.C. 552a(k)(1) and (k)(4) are exempt from the following provisions of 5 U.S.C. 552a, sections (c)(3), (d)(1)-(5), (e)(1), (e)(4)(G)-(I), and (f)(1)-(5).

Authority—5 U.S.C. 552a(k)(1) and (k)(4).

Reasons—This record system is exempted from all subsections pursuant to exemption (k)(1) to protect from unauthorized disclosure classified information which may be contained in records and files making up the system. The Exemption does not limit access to that portion of the records in the system which are not classified or otherwise protected from unauthorized disclosure.

This record system is exempted from all subsections pursuant to exemption (k)(4) to protect from unauthorized disclosure records maintained for statistical research or program evaluation. The exemption does not limit access to that portion of the records in the system which are not classified or otherwise protected from unauthorized disclosure.

(15) *System Identification and Name*—GNSA15, entitled "NSA/CSS Computer Users Control System".

Exemption—Portions of this system which fall within 5 U.S.C. 552a(k)(1) and (k)(2) are exempt fromt he following provisions of 5 U.S.C. 552a, sections (c)(3), (d)(1)-(5), (e)(1), (e)(4)(G)-(I), and (f)(1)-(5).

Authority—5 U.S.C. 552a(k)(1) and (k)(2).

Reasons—This sytem of records is exempted from all subsections pursuant to exemption (k)(1) to protect from unauthorized disclosure classified information which may be contained in records and files making up the system. The exemption does not limit access to that portion of the records in the system which are not classified or otherwise protected from unauthorized disclosure.

This system of records is exempted from all subsections cited pursuant to exemption (k)(2) to the extent that individual records and files are related to investigations to enforce the provisions of Pub. L. 92-261 and consistent with the provisions of that statute with respect to individual access to such records. The purpose of the exemption is to protect the integrity of investigations conducted pursuant to Pub. L. 92-261.

(16) *System Identification and Name*—GNSA16, entitled "NSA/CSS Drug Testing Program".

Exemption—Portions of this system which fall within 5 U.S.C. 552a(k)(1) are exempt from the following provisions of 5 U.S.C. 552a, sections (c)(3), (d)(1)-(5), (e)(1), (e)(4)(G)-(I), and (f)(1)-(5).

Authority—5 U.S.C. 552a(k)(1)

Reasons—This system of records is exempted from all subsections cited pursuant to exemption (k)(1) to protect from unauthorized disclosure classified information which may be contained in records and files making up the system.

(17) *System Identification and Name*—GNSA17, entitled "Employee Assistance Service (EAS) Case Record System".

Exemption—Portions of this system which fall within 5 U.S.C. 552a(k)(1), (k)(2), (k)(4) and (k)(5) are exempt from the following provisions of 5 U.S.C. 552a, sections (c)(3), (d)(1)-(5), (e)(1), (e)(4)(G)-(I), and (f)(1)-(5).

Authority—5 U.S.C. 552a(k)(1), (k)(2), (k)(4), and (k)(5).

Reasons—This system of records is exempted from all subsections cited pursuant to exemption (k)(1) to protect from unauthorized disclosure classified information which may be contained in records and files making up the system.

This system of records is exempted from all subsections cited pursuant to exemption (k)(2) to the extent that individual records and files are related to investigations to enforce the provisions of Pub. L. 92-261 and consistent with the provisions of that statute with respect to individual access to such records. The purpose of the exemption is to protect the integrity of investigations conducted pursuant to Pub. L. 92-261.

This record system is exempted from all subsections pursuant to exemption (k)(4) to protect from unauthorized disclosure records maintained for statistical research or program evaluation. The exemption does not limit access to that portion of the records in the system which are not classified or otherwise protected from unauthorized disclosure.

This system of records is also exempted from all subsections cited pursuant to exemption (k)(5) to protect the identity of confidential sources of information constituting investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, federal contracts, or access to classified information. The exemption does not limit access to that portion of the records in the system which are not exempted or otherwise protected from unauthorized disclosure.

* * * * *

Dated: July 2, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-15704 Filed 7-5-90; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AE54

Permanent Program of Independent Living Services and Assistance

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulatory amendments.

SUMMARY: The Veterans' Benefits Amendments of 1989 eliminated the termination date of provisions under which VA furnished programs of independent living services and assistance to veterans for whom a program of vocational rehabilitation services is not currently reasonably feasible. As a result the program of independent living services and assistance is a permanent part of the vocational rehabilitation program. The proposed regulatory amendment implements the legislative change.

DATES: Comments must be received on or before August 6, 1990. It is proposed that this amendment become effective December 18, 1989, the date on which the law was enacted.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections to the 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 at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except holidays) until August 15, 1990.

FOR FURTHER INFORMATION CONTACT: Morris Triestman, Rehabilitation Consultant, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Ave. NW., Washington DC 20420, (202) 233-6496.

SUPPLEMENTARY INFORMATION: Statutory authority under which VA staff in the vocational rehabilitation program could authorize independent living services as the whole of a rehabilitation program was first established under the provisions of Public Law 96-466 as a pilot program expiring on September 30, 1985. The program was extended by Public Law 99-576 through September 30, 1989. Subsequently, VA reviewed the pilot program and in its report to Congress recommended that the pilot program of independent living should be made a permanent part of the vocational rehabilitation program in Public Law 102-237 Congress amended section 1520, title 38, United States Code to make the pilot program permanent.

VA has determined that these proposed regulations do not contain a major rule as that term is defined in Executive Order 12291, Federal Regulations. The proposal will not have a $100 million annual effect on the economy, will not cause a major increase in costs of prices, and will not have any other significant adverse effects on the economy.

These regulatory amendments are retroactively effective to December 18, 1989, the date of enactment. These are interpretive rules which implement statutory provisions. Moreover, VA finds that good cause exists for making these rules, like the section of the law which it implements, retroactively effective to the date of enactment. A delayed effective date would be contrary to statutory design; would complicate implementation of this provision of law; and might result in a denial of a benefit to a veteran who is entitled by law to that benefit.

The Secretary certifies that these amendments will not, if promulgated 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. 601-612. Pursuant to 5 U.S.C. 605(b), these rules are therefore exempt from the initial and final flexibility analyses requirements of sections 603 and 604. The reasons for this certification are that the amendments only affect the rights of individual beneficiaries. No new regulatory burdens are imposed on small entities by these amendments.

(The Catalog of Federal Domestic Assistance number is 64-116.)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs, Loan programs, Reporting requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 13, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 21, Vocational Rehabilitation and Education is proposed to be amended as follows:

PART 21—[AMENDED]

§ 21.162 [Amended]

In § 21.162 paragraph (c) is removed.

[FR Doc. 90-15719 Filed 7-5-90; 8:45 am]

BILLING CODE 8320-01-M

38 CFR Part 21

RIN 2900-AE69

Veterans Education; Implementation of the Department of Defense Authorization Act for Fiscal Years 1990 and 1991

AGENCY: Department of Veterans Affairs.

ACTION: Proposed regulations.

SUMMARY: The Department of Defense Authorization Act for Fiscal Years 1990 and 1991 increases the "kicker" to the basic educational allowance payable to certain individuals training under the Montgomery GI Bill—Active Duty. This regulation will acquaint the public with the way in which the Department of Veterans Affairs (VA) intends to implement this provision of law.

DATES: Comments must be received on or before August 6, 1990. Comments will be available for public inspection until August 15, 1990. It is proposed to make this amended regulation effective on November 29, 1989, the same date as the effective date of the provision of law it implements.

ADDRESSES: Send written comments to: Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, room 132 of the above address between the hours of 8 a.m. to 4:30 p.m., Monday through Friday (except holidays) until August 15, 1990.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer, Assistant Director for Education Policy and Program Administration, Vocational Rehabilitation and Education Service, Veterans Benefits Administration, (202) 233-2092.

SUPPLEMENTARY INFORMATION: The Department of Defense Authorization Act for Fiscal Years 1990 and 1991 (Pub. L. 101-189) increases the maximum amount of "kicker" to the basic educational assistance allowance payable to some individuals training under the Montgomery GI Bill—Active Duty. This new maximum is applicable only to those eligible veterans and service members who first become members of the Armed Forces after November 28, 1989. 38 CFR 21.7136 is amended to reflect this provision of law.

The Department of Veterans Affairs has determined that this amended regulation does not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The

regulation will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. It will have no signficiant 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 Secretary of Veterans Affairs has certified that this amended regulation, if promulgated, 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. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulation, therefore, is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

This certification can be made because the regulation affects only individuals. It will have no significant economic impact on small entities, *i.e.*, small businesses, small private and nonprofit organizations and small governmental jurisdictions.

VA finds that good cause exists for making this amendment to 38 CFR 21.7136, like the section of the law it implements, retroactively effective on November 29, 1989. To achieve the maximum benefit of this legislation for the affected individuals, it is necessary to implement this provision of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of this provision of law; and might result in awarding a smaller benefit to a veteran or servicemember than he or she is entitled by law to receive.

(The Catalog of Federal Domestic Assistance number for the program affected by this regulation is 64.124.)

List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs-education, Loan programs-education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: June 6, 1990.

Edward J. Derwinski,

Secretary of Veterans Affairs.

38 CFR part 21 is proposed to be amended as follows:

PART 21—[AMENDED]

In § 21.7136 paragraph (c)(1) through (c)(4) are revised, (c)(5) and (c)(6) are added and the authority line is revised to read as follows:

§ 21.7136 Rates for payment of basic educational assistance.

* * * * *

(c) * * *

(1) For individuals who first become members of the Armed Forces before November 29, 1989, (other than those pursuing cooperative training, an apprenticeship or other on-job training), it may not exceed—

(i) $400 per month for full-time training,

(ii) $300 per month for three-quarter-time training,

(iii) $200 per month for one-half-time training or for training which is less than one-half, but more than one-quarter-time, or

(iv) $100 per month for one-quarter-time training or less.

(2) For individuals who first become members of the Armed Forces after November 28, 1989, (other than those pursuing cooperative training, an apprenticeship or other or-job training), it may not exceed—

(i) $700 per month for full-time training,

(ii) $525 per month for three-quarter-time training,

(iii) $350 per month for one-half-time training or for training which is less than one-half, but more than one-quarter-time, or

(iv) $175 per month for one-quarter-time training or less.

(3) For individuals who first become members of the Armed Forces before November 29, 1989, and who are pursuing an apprenticeship or other on-job training, it may not exceed—

(i) $300 per month during the first six months of training,

(ii) $220 per month during the second six months of training, and

(iii) $140 per month during the remaining months of training

(4) For individuals who first become members of the Armed Forces before November 28, 1989, and who are pursuing an apprenticeship or other on-job training, it may not exceed—

(i) $525 per month during the first six months of training,

(ii) $385 per month during the second six months of training, and

(iii) $245 per month during the remaining months of training

(5) For individuals who first become members of the Armed Forces before November 29, 1989, and who pursuing cooperative training, it may not exceed $320 per month.

(6) For individuals who first become members of the Armed Forces before November 28, 1989, and who are pursuing cooperative training, it may not exceed $560 per month.

(Authority: 38 U.S.C. 1432(d); Pub. L. 101–189)

[FR Doc. 90–15720 Filed 7–5–90; 8:45 am]

BILLING CODE 8320–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 280 and 281

[FRL-3791-8]

Underground Storage Tanks Containing Petroleum; Financial Responsibility Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is today publishing a proposed rule to amend the financial responsibility requirements for underground storage tanks (USTs) containing petroleum that appeared in the **Federal Register** on October 26, 1988 (53 FR 43322). Specifically, EPA proposes to modify the compliance dates under 40 CFR 280.91(d). Under the modification, all petroleum marketing firms owning 1–12 USTs (or less than 100 USTs at one facility), local government entities, and non-marketers whose net worth is less than 20 million dollars will be required to comply with the requirements of 40 CFR part 280 subpart H—Financial Responsibility—as of October 26, 1991. This proposed rule would extend the deadline from the previous date of October 26, 1990. The amendments published today will provide additional time for the development of financial assurance mechanisms (especially, state assurance funds) to enable this group to comply. The Agency is also proposing to modify 40 CFR part 281.37(b) to allow approved State programs a comparable amount of time during which they must phase in their financial responsibility requirements.

DATES: The Agency will consider all comments received by August 6, 1990 before taking final action on the proposed rule.

ADDRESSES: Comments may be mailed to the Docket Clerk (Docket No. UST-3), Office of Underground Storage Tanks (OS-400), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Comments received by EPA may be inspected in the public docket, located in room 2427 (Mall), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, from 9 a.m. to 4 p.m., Monday through Friday, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: The RCRA/Superfund Hotline at (800) 424-9346 (toll free) or (202) 382-3000 in Washington, DC.

SUPPLEMENTARY INFORMATION: On October 26, 1988, EPA promulgated financial responsibility requirements applicable to owners and operators of underground storage tanks (USTs) containing petroleum (53 FR 43322). In the final rule, EPA established a phased schedule of compliance for owners and operators of petroleum USTs. Petroleum marketing firms with 1-12 USTs (or less than 100 USTs at one facility), local government entities, and non-marketers whose net worth is less than 20 million dollars were required to comply with the financial responsibility requirements by October 26, 1990. The principal reason for adopting the phased compliance approach was to provide the time necessary for providers (including private insurance companies and states intending to establish state assurance funds) of financial assurance mechanisms to develop new policies and programs or conform their policies and programs with EPA requirements. (See 53 FR 43324.)

Since October 1988, EPA has monitored the development of financial assurance markets, especially (1) insurance for corrective action and third party liability and (2) state assurance funds, to determine whether financial assurance mechanisms were becoming available to satisfy the needs of the regulated community. Based on this on-going review, EPA believes that tank owners required to comply by October 26, 1990 need additional time to meet insurers' standards for coverage. Also, states need additional time to develop state assurance funds, to submit them to EPA for review and approval as financial assurance mechanisms, and to make any modifications necessary for approval. Therefore, EPA is proposing to extend the compliance date for owners and operators of 1-12 USTs, or less than 100 USTs at one facility, local government entities and non-marketers whose net worth is less than 20 million dollars October 26, 1990 to October 26, 1991. The Agency is hopeful that this one year extension will provide adequate time for tank owners and operators to obtain assurance.

I. Authority

These regulations are issued under the authority of sections, 2002, 9001, 9002, 9003, 9004, 9005, 9006, 9007, 9009 of the Solid Waste Disposal Act, as amended. The principal amendments of this Act have been under the Resource Conservation and Recovery Act of 1976, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616) and the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. 99-499) (42 U.S.C. 6921, 6991, 6991(a), 6991(b), 6991(c), 6991(d), 6991(e), 6991(f), and 6991(h)).

II. Background

When devising the phased compliance approach, the Agency wanted to achieve the best balance between the need to ensure financial capability for cleaning up or redressing UST releases and the necessary time for owners and operators to obtain assurance mechanisms. The Agency attempted to establish compliance dates which were as early as possible, considering the type of assurance different types of facilities were likely to obtain. Petroleum marketers owning or operating 1,000 or more USTs and non-marketers with more than $20 million in tangible net worth were required to comply by January 24, 1989, based primarily on their ability to qualify for self-insurance. Petroleum marketers with 100-999 USTs were required to comply by October 26, 1989. These marketers were estimated to be relatively more likely to be able to obtain insurance; some of them were also expected to qualify as self-insurers. Petroleum marketers owning 13-99 USTs at more than one facility were originally required to comply by April 26, 1990. However, on May 2, 1990, the Agency published an Interim Final Rule (40 FR 18566) extending the compliance date to April 26, 1991. These marketers were estimated to be less likely to be able to obtain insurance than members of the October 26, 1989 compliance group. Petroleum marketers owning or operating fewer than 13 USTs (or owning or operating a single facility with fewer than 100 USTs), and UST owners and operators that were not petroleum marketers (including local government entities) were required to comply by October 26, 1990. This group was expected to rely primarily on state assurance funds for compliance.

Through monitoring the development of financial assurance mechanisms, and as the Agency has learned more about the way insurers operate in the UST insurance market, EPA now believes that the original compliance date for this group (marketers owning 1-12 USTs, or less than 100 USTs at one facility, local governments and non-marketers whose net worth is less than 20 million dollars), did not allow adequate time for compliance. When devising the original phased compliance schedule, the Agency expected that members of this compliance group would rely on insurance and state funds. The Agency had believed that 24 months from promulgation of the final financial responsibility rule would provide adequate time for owners and operators to upgrade their USTs to meet insurers' requirements, for states to develop and submit funds to EPA, and for EPA to approve those funds meeting its criteria. Since promulgation of the final rule, however, we have learned that tank owners and operators require additional time to comply with conditions imposed by the insurance industry. Some of these conditions include having tanks younger than 15 years of age, a clean site, a reliable method of leak detection, etc. For example, some insurers have informed EPA that they have rejected UST coverage applications because of existing contamination, poor tank management, and inadequate leak detection monitoring. Many members of this compliance group may not be able to meet these standards by October 26, 1990 and thus would be required to seek an alternative financial assurance mechanism.

Consequently, the Agency believes that more members of this compliance group than the Agency had originally projected must rely on state assurance funds, rather than on insurance, to demonstrate compliance with the financial responsibility requirements. In order for owners and operators to rely on state assurance funds as compliance mechanisms, states must submit their funds to EPA. Although owners and operators are deemed to be in compliance when the state funds are submitted, the Agency has not considered submitted funds when determining availability, since the funds ultimately could be disapproved. To date, thirteen state assurance funds have been approved by EPA to serve as compliance mechanisms. Many more states have submitted funds and are in the process of making any modifications necessary for approval. The remaining states either have not submitted their funds to EPA or have not yet developed assurance funds. Since many of the members of this compliance group must rely on state assurance funds to comply with the requirements, additional time is needed to allow states to develop, submit, and receive approval for the funds.

EPA has also proposed on June 18, 1990 (40 FR 24692), several new mechanisms, including a self-insurance test, that could be used by local governments to meet the financial responsibility requirements. The Agency has determined that it needs additional time to develop and solicit comments on

these financial responsibility mechanisms, so that they can be available to local governments by the time they are required to comply.

By extending the compliance date for this group to October 26, 1991, owners and operators will have additional time to meet insurers' standards, states will have additional time to submit their state assurance funds to EPA for approval, and the Agency will have adequate time to complete work on alternative compliance mechanisms for local governments. Thus owners and operators will be able to make much greater use of all these mechanisms to comply with the financial responsibility requirements.

The Agency reviews state UST programs based on criteria established in 40 CFR part 281 and may approve them to operate in lieu of the federal program if the state program is no less stringent than the requirements set out at 9004(a)(1–8) and the program provides for adequate enforcement of compliance with the requirements. Under 40 CFR 281.37 (b), state programs must phase in their financial responsibility requirements within 21 months of the effective date of the federal financial responsibility requirements which is considered to be October 26, 1988. Without amending part 281, the effect of the proposed one year extension of the final compliance date would be to require that state programs be more stringent than the federal rules by requiring compliance with financial responsibility requirements sooner than the amended federal regulations. Therefore the Agency is also proposing to amend 40 CFR 281.37 so that approved state programs may phase in their financial responsibility requirements on a schedule comparable to the federal phase-in, as proposed under today's amendment to 40 CFR 280.91. This change will not require states to change any existing compliance schedule, because states may have more stringent requirements.

The Regulatory Flexibility Act requires all Federal agencies to review the impact of their regulations to determine whether the regulations will have a significant economic impact on a substantial number of small entities. If so, the Agency must prepare a Regulatory Flexibility Analysis. EPA believes that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The proposed extension of the compliance date will provide relief to members of this compliance group by allowing them additional time to comply with the financial responsibility requirements. Accordingly, the Agency has concluded that the law does not require a Regulatory Flexibility Analysis, and certifies that this rule, if promulgated, will not have a significant economic impact on a substantial number of small entities.

The Agency is soliciting comments on today's regulatory amendments. Comments may be submitted on or before August 6, 1990.

List of Subjects in 40 CFR Part 280

Administrative practice and procedure, Environmental protection, Hazardous materials insurance, Oil pollution, Penalties, Petroleum, Reporting and recordkeeping requirements, State program approval, Surety bonds, Underground storage tanks, Water pollution control.

Dated: June 20, 1990.

William Reilly,

Administrator.

For the reasons set out in our preamble, parts 280 and 281 of title 40 of the Code of Federal Regulations are amended as set forth below.

PART 280—TECHNICAL STANDARDS AND CORRECTIVE TRANSACTION REQUIREMENTS FOR OWNERS AND OPERATORS OF UNDERGROUND STORAGE TANKS (UST)

1. The authority citation for part 280 continues to read as follows:

Authority: 42 U.S.C. 6912, 6991, 6991(a), 6991(b), 6991(c), 6991(e), 6991(f), and 6991(h).

2. Section 280.91(d) is revised to read as follows:

§ 280.91 Compliance dates.

* * * * *

(d) All petroleum UST owners not described in paragraphs (a), (b), or (c) of this section including local government entities; October 26, 1991.

* * * * *

PART 281—APPROVAL OF STATE UNDERGROUND STORAGE TANK PROGRAMS

3. The authority citation for part 281 continues to read as follows:

Authority: Secs. 2002, 9004, 9006 of the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C 6912, 6991 (c), (d), (e)).

4. Section 281.37(b) is revised to read as follows:

§ 281.37 Financial responsibility for UST systems containing petroleum.

* * * * *

(b) Phase-in of requirements. Financial responsibility requirements for petroleum UST systems must, at a minimum, be scheduled to be applied at all UST systems on an orderly schedule that completes a phase-in of the financial responsibility requirements within the time allowed in the federal regulations under 40 CFR 280.91

[FR Doc. 90–15609 Filed 7–5–90; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 523, 546, and 552

[GSAR Notice 5–296]

General Services Administration Acquisition Regulation; Hazardous Material Data, Inspection of Supplies

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Proposed rule.

SUMMARY: This notice invites written comments on a proposed change to the General Services Administration Acquisition Regulation (GSAR) that would revise section 523.303 to designate the existing text as paragraph (a) and add paragraph (b) prescribing a Nonconforming Hazardous Substances clause at 552.223–72; revise section 546.710 to redesignate the existing text as subparagraphs (a)(1) and (a)(2), respectively, and add subparagraphs (a)(3) and (a)(4) prescribing two additional alternates to the basic warranty clause; add section 552.223–72 to provide the text of the Nonconforming Hazardous Substances clause; revise section 552.242–70 to permit contractors to submit information required on GSA Form 1678, Status Report of Orders and Shipments, by electronic data interchange; revise section 552.246–17 to clarify the contractor's responsibility for removing nonconforming supplies during the warranty period, the remedies available to the Government, and provide the text for Alternates II and III of the basic clause; revise section 552.246–70 to amend the contractor's record retention period for certain production records to conform to FAR, permit submission of computer formatted equivalents to the DD Form 250, provide for alternative reporting mechanisms to the DD Form 250 for shipments to civilian agencies, and clarify the contractor's responsibility for removing nonconforming supplies; and revise section 552.246–72 to make the contractor's record retention period for certain production records conform to

FAR, permit submission of computer formatted equivalents to the DD Form 250, and clarify the remedies available to the Government when the contractor fails to remove or provide instructions for the removal of rejected supplies.

DATES: Comments are due in writing on or before August 6, 1990.

ADDRESSES: Comments should be addressed to Ms. Marjorie Ashby, Office of GSA Acquisition Policy (VP), 18th & F Streets NW., Room 4026, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Paul L. Linfield, Office of GSA Acquisition Policy, (202) 501-1224.

SUPPLEMENTARY INFORMATION: The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this proposed rule.

The proposed revisions regarding the use of various clauses and the requirements of the clauses are not expected to have a significant impact on a substantial number of small entities as defined under the Regulatory Flexibility Act since the current reporting and certification requirements in the clauses have been made more flexible. As indicated in GSAR Notice 5-173 (53 FR 47551) and in the final rule (54 FR 11954), initial and final regulatory flexibility analyses were prepared and made available for public comment. No comments were received on the impact of either the proposed or final rule. The other revisions in the proposed rule also clarify existing requirements. Accordingly, no new initial regulatory flexibility analysis has been prepared.

The Status Report of Orders and Shipments clause at 552.242-70, the Source Inspection by Quality Approved Manufacturer clause at 552.246-70, and the Source Inspection by Government clause at 552.246-72 contain information collection requirements which have been approved by OMB under 3504(h) of the Paperwork Reduction Act and assigned OMB Control No. 3090-0027. Since the mechanism for collecting the information is being revised, this proposed rule also is being submitted to OMB for review and approval.

Comments on the information collection requirements in this proposed rule may be directed to the Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Washington, DC 20503.

The title of the first collection in this rule is "Status Report of Orders and Shipments." The clause, requiring contractors to submit a monthly report showing the status of processing of orders received under the contract, is being revised to permit contractors to report the information via electronic data interchange. The contracting officer responsible for administering the contract uses the information to ensure that orders are shipped in accordance with the delivery terms established in the contract and to initiate appropriate action when orders are delinquent. The respondents are contractors awarded indefinite delivery or requirements contracts for stock replenishment items by GSA. The estimated annual burden for this collection is 3,900 hours. This is based on an estimated average burden hour per response of .083, a proposed frequency of 12 responses per respondent, and an estimated number of likely respondents of 3,900.

The title of the second collection in this rule is "Material Inspection and Receiving Report (DD Form 250 and GSA Form 308.)" The clause at 552.246-70, Source Inspection by Quality Approved Manufacturer, currently requires the contractor to prepare, sign and distribute a DD Form 250 for each shipment under the contract. Under this revision, shipments to military facilities will still require a DD Form 250 or computer formatted equivalent. For shipments made to civilian facilities, a contractor will have the additional alternatives of providing the requisite information on its company letterhead or invoice document.

The clause at 552.246-72, Source Inspection, requiring the contractor to prepare for signature by a Government inspector the DD Form 250 for deliveries to military agencies or the GSA Form 308 for deliveries to civilian agencies, is being revised to permit computer formatted equivalents for the DD Form 250. The contractor distributes the forms after signature by the Government inspector. The information contained on the DD Form 250 or GSA Form 308 is used by various contract administration and other support offices to document contract quality assurance, acceptance of supplies, shipments, and to support payments. The information is essential to effective contract administration. The respondents are contractors awarded supply contracts by GSA that provide for source inspection. The estimated total annual burden for this collection is 13,400 hours. This is based on an estimated average burden hour per response of .05, an average proposed frequency of 64 responses per respondent, and an estimated number of likely respondents of 4,200.

List of Subjects in 48 CFR Parts 523, 546, and 552

Government procurement.

1. The authority citation for 48 CFR parts 523, 546 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

PART 523—[AMENDED]

2. Section 523.303 is amended by designating the existing text as paragraph (a) and adding paragraph (b) to read as follows:

§ 523.303 Contract clause.

* * * * *

(b) The contracting officer shall insert the clause at 552.223-72, Nonconforming Hazardous Substances, in solicitations and contracts requiring contractors to submit hazardous material data.

PART 546—[AMENDED]

3. Section 546.710 is amended by revising paragraph (a) to read as follows:

§ 546.710 Contract clauses.

(a)(1) The contracting officer shall insert the clause at 552.246-17, Warranty of Supplies of a Noncomplex Nature, in solicitations and contracts instead of FAR 52.246-17.

(2) If commercial items, i.e., specified by brand name or equal, are to be acquired, the clause at 552.246-17 must be used with Alternate I instead of FAR 52.246-17 with its Alternate I. The term "commercial items" in the clause is not to be used in conjunction with Commercial Item Descriptions (CIDs) or specifications.

(3) If the acquisition is for Class 8010 items, the clause at 552.246-17 must be used with its Alternate II.

(4) If the acquisition is for Class 8030 or 8040 items, the clause at 552.246-17 must be used with its Alternate III.

* * * * *

PART 552—[AMENDED]

4. Section 552.223-72 is added to read as follows:

552.223-72 Nonconforming hazardous substances.

As prescribed in 523.303(b), insert the following clause:

Nonconforming Hazardous Substances (XXX 1990)

(a) Nonconforming supplies requiring replacement under the inspection and/or warranty clauses of this contract shall be reshipped to the Contractor at the Contractor's expense. The Contractor agrees to accept return of these nonconforming supplies and to pay all costs occasioned by their return.

(b) If the Contractor fails to provide acceptable disposition instructions for the

nonconforming supplies within 10 days from the date of the Government's request (or such longer period as may be agreed to between the Contracting Officer and the Contractor), or fails to accept return of the reshipped nonconforming supplies, such failure (1) may be interpreted as a willful failure to perform, (2) may result in termination of the contract for default and (3) shall be considered by the Contracting Officer in determining the responsibility of the Contractor for any future award (see FAR 9.104-3(c) and 9.406-2).

(c) Pending final resolution of any dispute, the Contractor shall promptly comply with the decision of the Contracting Officer.

(End of Clause.)

5. Section 552.242-70 is revised to read as follows:

552.242-70 Status report of orders and shipments.

As prescribed in 542.1107, insert the following clause:

Status Report of Orders and Shipments (Apr 1990)

(a) The Contractor shall furnish to the Administrative Contracting Officer (ACO) a report covering orders received and shipments made during each calendar month of contract performance. The information required by the Government shall be reported on GSA Form 1678, Status Report of Orders and Shipments, in accordance with instruction on the form, or in an automated printout form as an attachment to the GSA Form 1678 when authorized by the ACO. Blocks 1 through 5 of the GSA Form 1678 must be completed and attached as a cover page to the automated report. Alternatively, the required information may be reported by electronic data interchange using ANSI standards. For further information, contact GSA, Contract Administration Division [Contracting Officer insert appropriate telephone number]. Reports shall be forwarded to the ACO not later than the seventh workday of the succeeding month.

(b) An initial supply of GSA Form 1678 will be forwarded to the Contractor with the contract. Additional copies of the form, if needed, may be obtained from the ACO or reproduced by the Contractor.

(End of Clause.)

6. Section 552.246-17, 552.246-70 and 552.246-72 are revised to read as follows:

552.246-17 Warranty of supplies of a noncomplex nature.

As prescribed in 546.710(a)(1), insert the following clause:

Warranty of Supplies of a Noncomplex Nature (XXX 1990) (Deviation FAR 52.246-17)

(a) *Definitions.* "Acceptance," as used in this clause, means the act of an authorized representative of the Government by which the Government assumes for itself, or as an agent of another, ownership of existing supplies, or approves specific services as partial or complete performance of the contract.

"Correction," as used in this clause, means the elimination of a defect.

"Supplies," as used in this clause, means the end item furnished by the Contractor and related services required under the contract. The word does not include "data."

(b) *Contractor's obligations.*

(1) Notwithstanding inspection and acceptance by the Government of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Contractor warrants that for *

(i) All supplies furnished under this contract will be free from defects in material or workmanship and will conform with the requirements of this contract; and

(ii) The preservation, packaging, packing, and marking, and the preparation for, and method of, shipment of such supplies will conform with the requirements of this contract.

(2) When return, correction, or replacement is required, the Contractor shall be responsible for all costs attendant with the return, correction or replacement of the nonconforming supplies. Any removal in connection with the above shall be done by the Contractor at its expense. However, the Contractor's liability for the transportation charges shall not exceed an amount equal to the cost of transportation by the usual commercial method of shipment between the place of delivery specified in the contract and the Contractor's plant, and return.

(3) Any supplies or parts thereof, corrected or furnished in replacement under this clause, shall also be subject to the terms of this clause to the same extent as supplies initially delivered. The warranty, with respect to supplies or parts thereof, shall be equal in duration to that in paragraph (b)(1) of this clause and shall run from the date of delivery of the corrected or replaced supplies.

(4) All implied warranties of merchantability and "fitness for a particular purpose" are excluded from any obligation contained in this contract.

(c) *Remedies available to the Government.* (1) The Contracting Officer shall give written notice to the Contractor of any breach of warranties in paragraph (b)(1) of this clause within **. This notice shall contain information concerning the deficiencies found, the location of the nonconforming supplies, and the quantity involved.

(2) Within a reasonable time after the notice, the Contracting Officer may either—

(i) Require, by written notice, the prompt correction or replacement of any supplies or parts thereof (including preservation, packaging, packing, and marking) that do not conform with the requirements of this contract within the meaning of paragraph (b)(1) of this clause; or

(ii) Retain such supplies and reduce the contract price by an amount equitable under the circumstances. When the nature of the defect in the nonconforming item is such that the defect affects an entire batch or lot of material, then the equitable price adjustment shall apply to the entire batch or lot of material from which the nonconforming item was taken.

(3)(i) If the contract provides for inspection of supplies by sampling procedures, conformance of supplies or components subject to warranty action shall be determined by the applicable sampling procedures in the contract. The Contracting Officer—

(A) May, for sampling purposes, group any supplies delivered under this contract;

(B) Shall require the size of the sample to be that required by sampling procedures specified in the contract for the quantity of supplies on which warranty action is proposed;

(C) May project warranty sampling results over supplies in the same shipment or other supplies contained in other shipments even though all of such supplies are not present at the point of reinspection; *Provided,* that the supplies remaining are reasonably representative of the quantity on which warranty action is proposed; and

(D) Need not use the same lot size as on original inspection or reconstitute the original inspection lots.

(ii) Within a reasonable time after notice of any breach of the warranties specified in paragraph (b)(1) of this clause, the Contracting Officer may exercise one or more of the following options:

(A) Require an equitable adjustment in the contract price for any group of supplies.

(B) Screen the supplies grouped for warranty action under this clause at the Contractor's expense and return all nonconforming supplies to the Contractor for correction or replacement.

(C) Require the Contractor to screen the supplies at locations designated by the Government within the continental United States and to correct or replace all nonconforming supplies.

(D) Return the supplies grouped for warranty action under this clause to the Contractor (irrespective of the f.o.b. point or the point of acceptance) for screening and correction or replacement. All costs incurred by the Government in returning the nonconforming supplies, including costs to the freight carrier resulting from the Contractor's refusal to accept their return, shall be for the Contractor's account.

(4)(i) The Contracting Officer may, by contract or otherwise, correct or replace the nonconforming supplies with similar supplies from another source and charge to the Contractor the cost occasioned to the Government thereby if the Contractor—

(A) Fails to make redelivery of the corrected or replaced supplies within the time established for their return; or

(B) Fails either to accept return of the nonconforming supplies or fails to make progress after their return to correct or replace them so as to endanger performance of the delivery schedule, and in either of these circumstances does not cure such failure within a period of 10 days (or such longer period as the Contracting Office may authorize in writing) after receipt of notice from the Contracting Officer specifying such failure.

(ii) Instead of correction or replacement by the Government, the Contracting Officer may require an equitable adjustment of the contract price for all nonconforming supplies, including batch or lot materials which either

have been consumed or other disposition has been made. In addition, if the Contractor fails to furnish timely disposition instructions, the Contracting Officer, in addition to the remedy in subparagraph (c)(3)(ii)(D) may—

(A) Store the nonconforming supplies for the Contractor's account;

(B) Sell the nonconforming supplies to the highest bidder on the open market and apply the proceeds against the accumulated storage and other costs, including the cost of the sale; or

(C) Otherwise dispose of the nonconforming supplies for the Contractor's account in a reasonable manner. The Government is entitled to reimbursement from the Contractor, or from the proceeds of such disposal, for the reasonable expenses of the care and disposition of the nonconforming supplies, as well as for excess costs incurred or to be incurred.

(5) The rights and remedies of the Government provided in this clause are in addition to and do not limit any rights afforded to the Government by any other clause of this contract.

(6) Unless otherwise provided, this warranty is applicable both within and outside the continental limits of the United States.

(7) In addition to other marking requirements of this contract, the Contractor shall stamp or mark the supplies delivered or otherwise furnish notice with the supplies of the existence of the warranty. The marking should briefly include (i) a statement that the warranty exists, (ii) the substance of the warranty, (iii) its duration, and (iv) whom to notify if the supplies are found to be defective.

(End of Clause.)

*Contracting Officer shall state the specific period of time after delivery or the specified event whose occurrence will terminate the warranty period; e.g., the number of miles or hours of use, or combination of any applicable event or periods of time.

**Contracting Officer shall insert specific period of time; e.g., "45 days from the last delivery under this contract," or "45 days after discovery of the defect." The number of days specified shall be no less than 30.

Alternate I (May 1989)

As prescribed in 546.710(a)(2), substitute the following for paragraph (b)(1) of the basic clause and delete paragraph (b)(4) of the basic clause.

(1) Notwithstanding inspection and acceptance by the Government of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Contractor warrants that for * all supplies furnished—

(i) Are of a quality to pass without objection in the trade under the contract description;

(ii) Are fit for the ordinary purposes for which the supplies are used;

(iii) Are within the variations permitted by the contract, and are of an even kind, quality, and quantity within each unit and among all units;

(iv) Are adequately contained, packaged, and marked as the contract may require; and

(v) Conform to the promises or affirmations of fact made on the container.

Alternate II (XXX 1990)

As prescribed in 546.710(a)(3), substitute the following paragraph for paragraph (b)(1) of the basic clause and delete paragraph (b)(4) of the basic clause:

(1) Notwithstanding inspection and acceptance by the Government of supplies furnished under this contract, or any condition of this contract concerning the conclusiveness thereof, the Contractor warrants that for * all supplies furnished—

(i) Conform to the specifications except, in the case of solvent systems, the viscosity may exceed the specified maximum by 10 Kreb Units, unless otherwise specified; and

(ii) Are suitable for their intended purpose.

Alternate III (XXX 1990)

As prescribed in 546.710(a)(4), substitute the following for paragraph (b)(1) of the basic clause, delete paragraph (b)(4) of the basic clause, redesignate paragraph (c) of the basic clause as paragraph (d), and add the following as paragraph (c) in the basic clause:

(1) Notwithstanding inspection and acceptance by the Government of supplies furnished under this contract, or any condition of the contract concerning the conclusiveness thereof, the Contractor warrants that for * beginning with the first month following the month of manufacture marked on the container, all supplies furnished retain their original characteristics to the extent that the supplies remain suitable for the intended use (i) under actual application conditions or (ii) when tested in accordance with this clause.

(c) *Government surveillance and testing.*

(1) During this period, surveillance will be maintained on supplies warehoused in Government facilities; and the supplies will be tested periodically to determine their suitability for intended use. Sampling for surveillance testing will be in accordance with Military Standard No. 105, and such testing will be made after NORMAL MIXING, STIRRING, OR SHAKING, in accordance with directions either furnished with the supplies or as shown in the applicable specifications.

(2) Surveillance testing will be based on storage stability requirements set forth in the basic product specification, or in the absence of such requirements, in a specification or purchase description, on the basis of salient characteristics (e.g., viscosity or sag flow, curing time, strip adhesion or tensile shear, etc.) established by GSA as appropriate to determine suitability for intended use. In the case of brand name items not covered by detailed purchase descriptions, surveillance testing may be based on salient characteristics included in the manufacturer's data sheets. If storage stability requirements showing allowable variations are not included in applicable specifications or elsewhere in the contract, material will be considered suitable for intended use if the salient characteristics vary not more than 20 percent from the originally specified values (i.e., those applicable to acceptance testing of the supplies) for noncritical end-use items, and not more then 10 percent for critical end-use items.

552.246-70 Source inspection by quality approved manufacturer.

As prescribed in 546.302-70, insert the following clause:

Source Inspection by Quality Approved Manufacturer (XXX 1990)

(a) *Inspection system and inspection facilities.* (1) The inspection system maintained by the Contractor under the Inspection of Supplies—Fixed Price clause (FAR 52.246-2) of this contract shall be maintained throughout the contract period and shall comply with all requirements of Federal Standard 368, edition in effect on the date of the solicitation. A written description of the inspection system shall be made available to the Government before contract award. The Contractor shall immediately notify the Contracting Officer and the designated GSA quality assurance office of any changes made in the inspection system during the contract period. As used herein, the term "inspection system" means the Contractor's own facility or any other facility acceptable to the Government that will be used to perform inspections or tests of materials and components before incorporation into end articles and for inspection of such end articles before shipment. When the manufacturing plant is located outside of the United States, the Contractor shall arrange delivery of the items from a plant or warehouse located in the United States (including Puerto Rico and the Virgin Islands) equipped to perform all inspections and tests required by the contract or specifications to evidence conformance therewith, or shall arrange with a testing laboratory or other facility in the United States, acceptable to the Government, to perform the required inspections and tests.

(2) In addition to the requirements in Federal Standard 368, records shall include the date when inspection and testing were performed. These records shall be available for (i) 3 years after final payment; or (ii) 4 years from the end of the Contractor's fiscal year in which the record was created, whichever period expires first.

(3) Offerors are required to specify, in the space provided elsewhere in this solicitation, the name and address of each manufacturing plant or other facility where supplies will be available for inspection, indicating the item number(s) to which each applies.

(4) Within 10 calendar days after receipt of the written notice of award, the Contractor shall provide the Contracting Officer with the name of the individual and an alternate that will be responsible for inspecting each shipment under this contract.

(b) *Inspection and receiving reports.* (1) For each shipment released, one of the officials named by the Contractor under paragraph (a)(4) above shall sign a Quality Approved Manufacturer Certificate certifying that supplies have been inspected and found to comply with contract requirements.

The certification shall read as follows:

"I certify that the shipment of the items listed has been inspected and found to comply with all requirements of the contract."

Signature of Certifying Official

(i) For shipments made to military facilities, the Contractor shall prepare and distribute the DD Form 250, Material Inspection and Receiving Report, or computer formatted equivalent of the form not later than the close of business the workday following shipment. The certification above shall be placed in block 16 on this form. The Contractor will be provided a supply of the DD Form 250 with complete instructions for preparation and distribution.

(ii) For shipments made to civilian facilities only, the Contractor shall prepare and distribute not later than the close of business the workday following shipment a certification of inspection and conformance for the identified items, in accordance with instructions furnished at the time of award. The Contractor may furnish the requisite information on the DD Form 250 or computer formatted equivalent, company letterhead, or invoice document.

(c) *Inspection by Government personnel.* (1) Although the Government will normally rely upon the Contractor's certification as to the quality of supplies shipped, it reserves the right under the Inspection of Supplies—Fixed Price clause to inspect and test all supplies called for by this contract, before acceptance, at all times and places, including the point of manufacture. When the Government notifies the Contractor of its intent to inspect supplies before shipment, the Contractor shall notify or arrange for subcontractors to notify the designated GSA quality assurance office 7 workdays before the date when supplies will be ready for inspection. Shipment shall not be made until inspection by the Government is completed and shipment is authorized by the Government.

(2) Government inspection responsibility will be assigned to the GSA quality assurance office which has jurisdiction over the State in which the Contractor's or subcontractor's plant or other designated point for inspection is located.

(3) During the contract period, a Government representative may periodically select samples of supplies produced under this contract for Government verification inspection and testing. Samples sent to a Government testing facility will be disposed of as follows: Samples from an accepted lot, not damaged in the testing process, will be returned promptly to the Contractor after completion of tests. Samples damaged in the testing process will be disposed of as requested by the Contractor. Samples from a rejected lot will be returned to the Contractor or disposed of in a time and manner agreeable to both the Contractor and the Government.

(d) *Quality deficiencies.* (1) Notwithstanding any other clause of this contract concerning the conclusiveness of acceptance by the Government, any supplies or production lots shipped under this contract found to be defective in material or workmanship, or otherwise not in conformity with the requirements of this contract within a period of * months after acceptance shall, at the Government's option, be replaced, repaired or otherwise corrected by the Contractor at no cost to the Government within 30 calendar days (or such longer period as the Government may authorize in writing) after receipt of notice to replace or correct. The Contractor shall remove, at its expense, supplies rejected or required to be replaced, repaired or corrected. When the nature of the defect affects an entire batch or lot of supplies, and the Contracting Officer determines that correction can best be accomplished by retaining the nonconforming supplies and reducing the contract price by an amount equitable under the circumstances, then the equitable price adjustment shall apply to the entire batch or lot of supplies from which the nonconforming item was taken.

(2) If supplies in process, shipped, or awaiting shipment to fill Government orders are found not to comply with contract requirements, or if deficiencies in either plant quality or process controls are found, the Contractor may be issued a Quality Deficiency Notice (QDN). Upon receipt of a QDN, the Contractor shall take immediate corrective action and shall suspend shipment of the supplies covered by the QDN until such time as corrective action has been completed. The Contractor shall notify the GSA quality assurance office, within 5 workdays, of corrective action taken or to be taken to permit onsite verification by a Government representative. Shipments of nonconforming supplies will be returned at the Contractor's expense and may constitute cause for termination. Delays due to the issuance of a QDN do not constitute excusable delay under the Default clause. Failure to complete corrective action in a timely manner may result in termination of this contract.

(3) This contract may be terminated for default if subsequent Government inspection discloses that plant quality or process controls are not being maintained, supplies which do not meet the requirements of the specification are being shipped, or there is failure to comply with any other requirement of this clause.

(e) *Additional cost for inspection and testing.* The Contractor will be charged for any additional cost of inspection/testing or reinspecting/retesting supplies for the reasons stated in paragraph (e) of FAR 52.246-2, Inspection of Supplies—Fixed Price. When inspection or testing is performed by or under the direction of GSA, charges will be at the rate of $** per man-hour or fraction thereof if the inspection is at a GSA distribution center; $** per man-hour or fraction thereof, plus travel costs incurred, if the inspection is at any other location; and $** per man-hour or fraction thereof for laboratory testing, except that when a testing facility other than a GSA laboratory performs all or part of the required tests, the Contractor shall be assessed the actual cost incurred by the Government as a result of testing at such facility. When inspection is performed by or under the direction of any agency other than GSA, the charges indicated above may be used, or the agency may assess the actual cost of performing the inspection and testing.

(f) *Responsibility for rejected supplies.* When the Contractor fails to remove or provide instructions for the removal of rejected supplies under paragraph (d) above, pursuant to the Contracting Officer's instructions, the Contractor shall be liable for all costs incurred by the Government in taking such measures as are expedient to avoid unnecessary loss to the Contractor. In addition to the remedies provided in FAR 52.246-2, supplies may be—

(1) Stored for the Contractor's account;

(2) Reshipped to the Contractor at its expense (any additional expense incurred by the Government or the freight carrier caused by the refusal of the Contractor to accept their return also shall be for the Contractor's account); or

(3) Sold to the highest bidder on the open market and the proceeds applied against the accumulated storage and other costs, including the cost of the sale.

(g) *Subcontracting requirements.* the Contractor shall insert in any subcontracts the inspection or testing provisions set forth in paragraphs (a) through (d) of this clause and the Inspection of Supplies—Fixed Price clause of this contract. The Contractor shall be responsible for compliance by any subcontractor with the provisions set forth in paragraphs (a) through (d) of this clause and the Inspection of Supplies—Fixed Price clause.

(End of Clause)

* The Contracting Officer shall normally insert 12 months as the period during which defective or otherwise nonconforming supplies must be replaced. However, when the supplies being bought have a shelf life of less than 1 year, the shelf-life period should be used, or in the instance where a longer period may reasonably be expected to be available, the longer period should be used.

** The rates to be inserted are established by the Commissioner of the Federal Supply Service or a designee.

552.246-72 Source inspection by government.

As prescribed in 546.302-71, insert the following clause:

Source Inspection by Government (XXX 1990)

(a) *Inspection by Government personnel.* (1) Supplies to be furnished under this contract will be inspected at source by the Government before shipment from the manufacturing plant or other facility designated by the Contractor, unless the Contractor is otherwise notified in writing by the Contracting Officer, or a designated representative. Notwithstanding the foregoing, the Government may perform any or all tests contained in the contract specifications at a Government facility without prior written notice by the Contracting Officer before release of the supplies for shipment. Samples sent to a Government Officer testing facility will be disposed of as follows: Samples from an accepted lot, not damaged in the testing process, will be returned promptly to the Contractor after completion of tests. Samples damaged in the testing process will be disposed of as requested by the Contractor. Samples from a rejected lot will be returned to the Contractor or disposed of in a time and

manner agreeable to both the Contractor and the Government.

(2) Government inspection responsibility will be assigned to the GSA quality assurance office which has jurisdiction over the State in which the Contractor's or subcontractor's plant or other designated point for inspection is located. The Contractor shall notify or arrange for subcontractors to notify the designated GSA quality assurance office 7 workdays before the date when supplies will be ready for inspection. Shipment shall not be made until after inspection by the Government is completed and shipment is authorized by the Government.

(b) *Inspection and receiving reports.* For each shipment, the Contractor shall be responsible for preparation and distribution of inspection documents as follows: (1) DD Form 250, Material Inspection and Receiving Report, or computer formatted equivalent for deliveries to military agencies; or (2) GSA Form 308, Notice of Inspection for deliveries to GSA or other civilian agencies. When required, the Contractor will be furnished a supply of GSA Form 308 and/or DD Form 250, and complete instructions for their preparation and distribution.

(c) *Inspection facilities.* (1) The inspection system required to be maintained by the Contractor in accordance with FAR 52.246-2, Inspection of Supplies—Fixed Price, may be the Contractor's own facilities or any other facilities acceptable to the Government. These facilities shall be utilized to perform all inspections and tests of materials and components before incorporation into end articles, and for the inspection of such end articles before shipment. The Government reserves the right to evaluate the acceptability and effectiveness of the Contractor's inspection system before award and periodically during the contract period.

(2) Offerors are required to specify, in the spaces provided elsewhere in the solicitation, the name and address of each manufacturing plant or other facility where supplies will be available for inspection, indicating the item number(s) to which each applies.

(3) The Contractor shall deliver the items specified in this contract from a plant or warehouse located within the United States (including Puerto Rico and the Virgin Islands) that is equipped to perform all inspections and tests required by this contract or specifications to evidence conformance therewith, or shall arrange with a testing laboratory or other facility in the United States, acceptable to the Government, to perform the required inspections and tests.

(d) *Availability of records.* (1) In addition to any other requirement of this contract, the Contractor shall maintain records showing the following information for each order received under the contract: (i) order number; (ii) date order received by the Contractor; (iii) quantity ordered; (iv) date scheduled into production; (v) batch or lot number, if applicable; (vi) date inspected and/or tested; (vii) date available for shipment; (viii) date shipped or date service completed; and (ix) National Stock Number (NSN), or if none is provided in the contract, the applicable item number or other contractual identification.

(2) These records should be maintained at the point of source inspection and shall be available to the Contracting Officer, or an authorized representative, for (i) 3 years after final payment; or (ii) 4 years from the end of the Contractor's fiscal year in which the record was created, whichever period expires first.

(e) *Additional cost for inspection and testing.* The Contractor will be charged for any additional cost for inspecting/testing or reinspection/retesting supplies for the reasons stated in paragraph (e) of FAR 52.246-2, Inspection of Supplies—Fixed Price. When inspection or testing is performed by or under the direction of GSA, charges will be at the rate of $* per man-hour or fraction thereof if the inspection is at a GSA distribution center; $* per man-hour or fraction thereof, plus travel costs incurred, if the inspection is at any other location; and $* per man-hour or fraction thereof for laboratory testing, except that when a testing facility other than a GSA laboratory performs all or part of the required tests, the Contractor shall be assessed the actual cost incurred by the Government as a result of testing at such facility. When inspection is performed by or under the direction of an agency other than GSA, the charges indicated above may be used, or the agency may assess the actual cost of performing the inspection and testing.

(f) *Responsibility for rejected supplies.* When the Contractor fails to remove or provide instructions for the removal of rejected supplies under FAR 52.246-2(h) pursuant to the Contracting Officer's instructions, the Contractor shall be liable for all costs incurred by the Government in taking such measures as are expedient to avoid unnecessary loss to the Contractor. In addition to the remedies provided in FAR 52.246-2, supplies may be—

(1) Stored for the Contractor's account;

(2) Reshipped to the Contractor at its expense (any additional expense incurred by the Government or the freight carrier caused by the refusal of the Contractor to accept their return also shall be for the Contractor's account);

(3) Sold to the highest bidder on the open market and the proceeds applied against the accumulated storage and other costs, including the cost of the sale.

(End of Clause.)

* The rates to be inserted are established by the Commissioner of the Federal Supply Service or a designee.

Dated: June 25, 1990.

Richard H. Hopf III,

Associate Administrator for Acquistion Policy.

[FR Doc. 90-15615 Filed 7-5-90; 8:45 am]

BILLING CODE 6820-01-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 395

[FHWA Docket No. 88-12]

RIN 2125-AC43

Hours of Service of Drivers; Emergency Tow Truck Operations

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FHWA is seeking comments on a proposal to amend Part 395, Hours of Service of Drivers, of the Federal Motor Carrier Safety Regulations (FMCSRs) to include an exemption for tow truck operators responding to an emergency situation at the request of a law enforcement or emergency response official. The FHWA is addressing this issue as a result of a petition submitted by the Towing and Recovery Association of America, Inc., (TRAA) which requested relief from the hours of service requirements of Part 395 for tow truck operators responding to an emergency situation at the request of a law enforcement or emergency response official. This proposal, if promulgated, would provide needed flexibility to tow truck operators responding to highway emergencies. This rule also proposes to add a definition of the term "on call" to § 395.2 and add new § 395.6.

DATES: Written comments must be received on or before August 20, 1990.

ADDRESSES: All signed, written comments should refer to the docket number that appears at the top of this document and should be submitted to the Office of the Chief Counsel, Room 4232, HCC-10, 400 Seventh Street, SW., Washington, DC 20590. Commenters may, in addition to submitting "hard copies" of their comments, submit a floppy disk (either 1.2Mb or 360Kb density) in a format that is compatible with either word processing programs, Word Perfect or WordStar. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m. ET, Monday through Friday, except legal holidays. Commenters who want to be notified that the FHWA received their comments should include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Neill Thomas, Office of Motor Carrier Standards, (202) 366-2983; or Mr. Charles E. Medalen, Office of the Chief Counsel, HCC-20, (202) 366-1354, Federal Highway Administration,

Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION:

Background

The FHWA requested comments from interested parties on the petition submitted by the TRAA. This request was published in the **Federal Register** on August 11, 1988 (53 FR 30369, Docket No. MC-88-12). Specifically, the TRAA requested "an allowance provision within the FMCSRs which would permit a tow truck operator to respond to any emergency situation during his (her) off-duty time, even though he (she) may not yet have accumulated eight (8) consecutive off-duty hours; provided however, that the driver accumulate at least eight (8) total hours off-duty time before and after the emergency incident(s) before returning to work for his (her) regular workshift."

Section 395.3, Maximum driving and on-duty time, generally prohibits a driver from driving more than 10 hours following 8 consecutive hours off duty. This section also prohibits a driver from driving for any period after having been on duty 15 hours following 8 consecutive hours off duty. Drivers using a sleeper berth equipment as defined in § 395.2, or who are off duty at a natural gas or oil well location, may cumulate the required 8 consecutive hours off duty resting in a sleeper berth in no more than two separate periods totaling 8 hours, neither period to be less than 2 hours. Also, drivers may not drive for any period after having been on duty a total of 60 hours in any 7 consecutive days or 70 hours in 8 consecutive days.

Response to Notice

The FHWA received six comments in response to the **Federal Register** notice. All of the comments favored the relief from the hours of service requirements sought by TRAA. The commenters noted that tow truck operators are needed to provide essential services without fear of being prosecuted for violations of the hours of service regulations. Further, tow truck service is almost always provided on a "call and demand" basis, often under emergency conditions.

The FHWA recognizes the importance of the concerns articulated by the TRAA and concludes that specific relief is warranted. The number, severity, and location of motor vehicle accidents cannot be predicted. Clearing the highways of wrecked or disabled vehicles that impede the flow of traffic clearly enhances public safety on those highways. Such action should be completed in the shortest time possible and should not be inhibited unnecessarily. The FHWA is, therefore, granting the petition by instituting this rulemaking action and is proposing to revise part 395 by establishing an exemption from the requirements of § 395.3 for emergency tow truck operators under the following conditions:

(1) The driver must be on call;

(2) There are no other drivers with unused driving time available;

(3) The request for emergency towing is made by a law enforcement or emergency response official; and

(4) Upon completion of the emergency towing operations, the driver must go off duty until sufficient time has accrued for the driver to meet the requirements of § 395.3, but in no case, shall the time be less than 8 consecutive hours.

Comments are specifically requested for the above mentioned conditions by all interested and/or affected parties.

The fourth condition the FHWA is proposing is included to ensure that drivers who have had their rest period interrrupted by a request for emergency service will be afforded ample time to recuperate from that interruption and be rested enough to operate a commercial motor vehicle safely when they return to driving status.

The FHWA proposes that tow truck operators who meet the criteria will be temporarily exempted from the following hours-of-service limitations:

(1) The 10-hour rule (§ 395.3(a)(1));

(2) The 15-hour rule (§ 395.3(a)(2)); and

(3) The 60- or 70-hour rule (§ 395.3(b)).

This provision would not exempt the driver or the motor carrier from any other requirements of the FMCSRs, including the requirement to record his/her duty status (§ 395.8). In addition, drivers of tow trucks would remain subject to the commercial driver's license regulations (49 CFR part 383) if their vehicles have a gross vehicle weight rating of 26,001 pounds or more.

Furthermore, drivers who have their rest time interrupted by such emergency calls must be "on-call" and may be used only if there are no other available drivers, with unused driver driving time, currently working at the time of the emergency. Therefore, the FHWA is proposing to amend § 395.2. Definitions, to add a new definition, "on call." As used in part 395, "on call" would be defined as the duty status of a tow truck operator in which the operator is:

(a) On-duty as defined in § 395.2; or

(b) Off-duty and has advised the employer of his/her whereabouts.

A tow truck driver would be required to accumulate 8 consecutive hours off-duty time after the emergency incident(s) and otherwise be in conformance with the requirements of § 395.3, before returning to his/her regular workshift. Following completion of an emergency response, a driver would be restricted to traveling from wherever the emergency transportation ended to the nearest location where the driver can go off-duty (*e.g.*, place of residence, workplace, premises of owner or operator of towing vehicle). If the driver has exceeded the 60- or 70-hour maximum, the driver would be required to go off duty until enough time has been accrued for the driver to again legally drive a commercial motor vehicle.

In a comment submitted to the docket, the American Automobile Association (AAA) argued that the relief requested by the TRAA should be expanded to include tow truck operators responding to emergency road service calls from stranded motorists. The FHWA believes that, in the interest of public safety, relief is warranted for tow truck operators who respond to an emergency situation at the request of a law enforcement or emergency response official. Public safety officials have the expertise to determine whether an emergency situation exists and the authority to take action to remove or eliminate such a situation. Some of the emergencies in which a tow truck operator is summoned by law enforcement or emergency response officials, will, in all likelihood, involve stranded motorists. However, the FHWA proposes that tow truck operators responding to routine road-service calls from private parties will not be covered by the exemption contained in § 395.6(f). The FHWA is proposing to grant relief from certain sections of part 395 to tow truck operators under certain, specified conditions. No other groups or situations are being considered.

Economic Impact Evaluation

The impact of this proposal, if promulgated, will not result in an annual effect on the economy of $100 million, a major increase in costs or prices, or have a significant adverse effect on the nation's economy. The FHWA has determined that this document does not contain a major rule under Executive Order 12291. It is not considered a significant regulation under the regulatory policies and procedures of the Department of Transportation.

It is anticipated that the economic impact of this rulemaking will be minimal. Therefore, a full regulatory evaluation is not required. For this reason and under the criteria of the Regulatory Flexibility Act, the FHWA

hereby certifies that this action will not have a significant economic impact on a substantial number of small entities. This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that the final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

A regulatory information number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

(Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety)

List of Subjects in 49 CFR Part 395

Highways and roads, Highway safety, Motor carriers, Driver's hours of service, Reporting and recordkeeping requirements.

Issued on: June 27, 1990.

T. D. Larson,

Administrator.

In consideration of the foregoing, the FHWA proposes to amend title 49, Code of Federal Regulations, subtitle B, chapter III, part 395 as follows:

PART 395—[AMENDED]

1. The authority citation for 49 CFR part 395 continues to read as follows:

Authority: 49 U.S.C. 3102; 49 U.S.C. App. 2505; and 49 CFR 1.48.

2. Section 395.2 is amended by adding the definition of "on call" to read as follows:

§ 395.2 Definitions.

* * * * *

(j) *On call.* The duty status of a tow truck operator in which the operator is:

(1) On-duty as defined in § 395.2; or

(2) Off-duty and has advised the employer of his/her whereabouts.

3. Section 395.6 is added to read as follows:

§ 395.6 General exemptions or exceptions.

The requirements of this part apply to the following exemption only to the extent indicated:

Tow Truck Operations. A motor carrier and driver are exempt from the requirements of § 395.3 if:

(a) The driver is on call;

(b) There are not other drivers with unused driving time available;

(c) The request for emergency towing is made by a law enforcement or emergency reponse official; and

(d) Upon completion of the emergency towing operations, the driver goes off duty until sufficient time has accrued for the driver to meet the requirements of § 395.3, but in no case shall the time be less than 8 consecutive hours.

[FR Doc. 90-15614 Filed 7-5-90; 8:45 am]

BILLING CODE 4910-22-M

Notices

Federal Register
Vol. 55, No. 130
Friday, July 6, 1990

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.

ACTION

Information Collection Request Under Review

AGENCY: ACTION.

ACTION: Information collection request under review.

SUMMARY: This notice sets forth certain information about an information collection proposal by ACTION, the Federal Domestic volunteer Agency.

BACKGROUND: Under the Paperwork Reduction Act (44 U.S.C., chapter 35), the Office of Management and Budget (OMB) reviews and acts upon proposals to collect information from the public or to impose recordkeeping requirements. ACTION has submitted two copies of the attached information collection proposal to OMB. OMB and ACTION will consider comments on the proposed collection of information and recordkeeping requirements. ACTION is requesting an expedited review by OMB with final action by July 31, 1990. Comments may be directed to: ACTION Clearance Officer, Janet Smith, ACTION, 1100 Vermont Ave. NW., Washington, DC 20525, Tel: (202) 634-9245.

OFFICE OF ACTION ISSUING PROPOSAL: Program Analysis and Evaluation Division.

TITLE OF FORM: VISTA College Volunteer Marketing Research.

NEED AND USE: VISTA must increase the number of college graduate volunteers. Little is known about this market. VISTA will study college juniors and seniors, those who volunteer their time, and current and past VISTA volunteers to better understand the decision-making process. This information will aid in developing a marketing plan.

Type of Request: New.

Respondent's Obligation to Reply: Voluntary.

Frequency of Collection. Nonrecurring.

Estimated Number of Annual Responses: 1750.

Average Burden Hours per Response: .42 hrs.

Estimated Annual Reporting of Disclosure Burden: 729.2 hrs.

Person responsible for OMB Review: Joseph Lackey, Desk Officer for ACTION, Office of Management Budget, 3002 New Executive Office Bldg., Washington, DC 20503, Tel: (202) 395-7316.

Janet Smith,

Clearance Officer, ACTION.

SURVEY 1

CURRENT AND FORMER VISTA VOLUNTEERS

Survey Serial #: _____
1 2 3

Interviewer #: _____
4 5 6

Date: _____

Telephone # Called: _____-_____

Hello, my name is _____ and I am calling on behalf of ACTION, the Federal Domestic Volunteer Agency. I am helping with a survey of VISTA volunteers. This survey will take about 20 minutes. Would you have the time now to help me complete the survey? (NOTE: IF THE TIME IS NOT CONVENIENT, THEN SET A TIME WITH THE RESPONDENT TO CALL BACK.) Thank you!

The answers you furnish will provide research data to help VISTA increase the number of volunteers who are recent college graduates. Your answers to our questions are strictly confidential. No one will ever be able to associate you with your responses. All reporting of the results of our research will deal with summary information and any reports will contain no information that could identify you.

In addition, the information you furnish is voluntary and will not affect your participation in any volunteer program. You are under no obligation to answer any of my questions, and if you wish to end this interview now, you may do so.

DO YOU WISH TO CONTINUE WITH THE INTERVIEW?

1. Yes→ Continue with the interview.
2. No→ Thank you very much for your time.

SECTION A: VOLUNTEER EXPERIENCE PRIOR TO VISTA We want to know what kinds of volunteer experience precede VISTA service. So to begin, I have a few questions about any volunteer work you did before joining VISTA.

1. Did you perform volunteer work during your college years?
   1. Yes . . . . . TO Q #2
   2. No . . . . . SKIP TO Q #7, PAGE 4
2. Was that during the school year, the summer, or during other vacation periods? CIRCLE ALL THAT APPLY:
   1. School year
   2. Summer
   3. Vacations other than summer
   4. Other: _____
3. On average, how many hours a week did you volunteer? ENTER PERIOD OF VOLUNTEER WORK FROM #2 AND HOURS VOLUNTEERED PER WEEK FOR EACH:

PERIOD	HOURS PER WEEK
_____	_____
_____	_____
_____	_____

4. What social problem (problems) did your volunteer efforts concern? CIRCLE ALL THAT APPLY:
   01. Child/spouse abuse
   02. Church related
   03. Disabled
   04. Environment/ecology
   05. Health care/hospital
   06. Homelessness/housing/shelter
   07. Hunger/food distribution
   08. Illiteracy
   09. Poverty
   10. Rehabilation
   11. Rural Co-ops
   12. Senior health care
   13. Substance/drug abuse
   14. Unemployment/job search counseling
   15. Youth counseling/tutoring/role modeling
   16. Other: _____
   17. Don't Know
5. Through which organization(s) did you perform this volunteer service?
   1. Wasn't through an organization
   2. _____
   3. _____
   4. _____

6. Which age group did you spend most of your time serving through your volunteer efforts?
   1. Young children
   2. Teenagers/youth
   3. Adults
   4. Older Americans
   5. Other _____

SECTION B: LEARNING ABOUT VISTA Our aim in this research is to develop a plan to market VISTA more effectively to recent college graduates. To help us with this, we would like to learn more about how you came to know about VISTA.

7. Did you learn about VISTA while in college?
   1. Yes
   2. No
8. Do you remember from what source you first learned about VISTA?
   01. Advertisement (where?) _____
   02. Article
   03. Church group
   04. Faculty member
   05. Former VISTA or Peace Corps volunteer
   06. Friend/family member who was past volunteer
   07. Friend/family member who was not a past volunteer
   08. Local volunteer organization
   09. Phone book
   10. Poster
   11. Volunteer office
   12. Other: _____
   13. Don't know

9a. When did you first think about volunteering for VISTA?
   01. Before college
   02. Freshman year
   03. Sophomore year
   04. Junior year
   05. Senior year
   06. After graduation
   07. In graduate school
   08. While job hunting
   09. After starting a job
   10. Other: _____
   11. Don't know

9b. Where did you first find information about VISTA?
   01. Campus Newspaper
   02. Campus Radio
   03. Church organization
   04. Library
   05. Local newspaper
   06. Local radio
   07. Placement office
   08. Student union
   09. Television
   10. Volunteer Office
   11. Other: _____
   12. Don't know—SKIP TO Q #13.

10. What was the primary message you recall seeing or hearing from this information? (RECORD VERBATIM) IF DON'T KNOW, SKIP TO Q #13.
11. I am interested in knowing if that first message inspired you to look further into VISTA service. On a scale of one to seven, where one means "it did not inspire me at all" and seven means "it inspired me a lot," how much did that first information source inspire you to look further into VISTA?
   1 2 3 4 5 6 7 DK
12. I woulod also like to know if that information helped you to decide to apply for VISTA service. On a scale of one to seven, where one means it did not help at all and seven means it helped me a lot, how helpful were this source's facts in your decision to apply to VISTA?
   1 2 3 4 5 6 7 DK

SECTION C: THE INQUIRY PROCESS An important part of the recruitment process is how we handle inquiries and applications from potential volunteers. These next few questions are about your experiences and opinions on the process of applying to VISTA.

13. Do you remember when in your life you made your first inquiry to VISTA for information?

01. Before college	SKIP TO Q #14
02. Freshman year	Do.
03. Sophomore year	Do.
04. Junior year	Do.
05. Senior year	TO Q #13a
06. After graduation	Do.
07. In graduate school	Do.
08. While job hunting	Do.
09. After starting a job ..	Do.
10. Other: _____	_____

13a. At that time in your life, how were you going about deciding what to do with your life after college? Did you try any of the following strategies? [CIRCLE ALL THAT APPLY.]
   1. Visiting the campus placement office
   2. Attending a job fair
   3. Reading books or periodicals on job hunting
   4. Discussing with my teachers or faculty advisor
   5. Discussing with my friends
   6. Other: _____
14. What method did you use to first inquire to VISTA to get information or an application?
   1. Letter
   2. Personal visit to ACTION office
   3. Return postcard
   4. Telephone
   5. Other: _____
15. How long did it take to receive the information or application?
   1. Less than two weeks
   2. Two weeks to four weeks
   3. More than four weeks
   4. Can't recall . . . . . SKIP TO Q #17
   5. Does not apply . . . . . SKIP TO Q #17
   6. Did not receive any information in response to first inquiry . . . . . SKIP TO Q #18
16. Was that response time too short, too long, or satisfactory?
   1. Too short
   2. Too long
   3. Satisfactory
17. What did you receive from VISTA in response to your first inquiry? [Circle all that apply]—prompt: Anything else?
   1. Application
   2. Brochure
   3. Letter
   4. No response
   5. Other: _____
18. Did you have to inquire a second time before you received enough information to decide to apply to VISTA?
   1. Yes
   2. No

18a. Did you have to inquire further before you knew how to apply?
   1. Yes . . . . . TO Q #19
   2. No . . . . . SKIP TO Q #20
19. What method did you use to contact VISTA the second time?
   1. Letter
   2. Personal visit
   3. Telephone call
   4. Other: _____
20. Could VISTA have improved the information you received to make your decision to join easier?
   1. Yes
   2. No . . . . . SKIP TO Q #21

20a. How could VISTA have improved the information you received? (RECORD VERBATIM)

21a. What convinced you to apply?

21b. How much time passed between sending in your application and receiving a reply?
   1. Less than two weeks
   2. Two weeks to four weeks
   3. More than four weeks
   4. Can't recall . . . . . SKIP TO Q #23
   5. Does not apply . . . . . SKIP TO Q #23
   6. Did not receive a response the 1st time I applied . . . . . SKIP TO Q #23

22. Was that response time too short, too long, or was it satisfactory?
   1. Too short
   2. Too long
   3. Satisfactory
23. Besides VISTA, did you consider any other postgraduate full-time volunteer organizations?
   1. Yes . . . . . TO Q #24
   2. NO . . . . . SKIP TO Q #26
24. Which ones? [Circle]
   1. Peace Corps
   2. Other 1: _____
   3. Other 2: _____
25. What did VISTA offer you that the other organizations did not? (CIRCLE ALL THAT APPLY)
   1. VISTA made me a better financial offer.
   2. VISTA offered a better location.
   3. VISTA offered me a better service choice.
   4. VISTA offered me a local service opportunity.
   5. VISTA offered me a domestic versus an overseas opportunity.
   6. VISTA had a shorter service time.
   7. VISTA (RECORD VERBATIM)
26. I would like to know how much a desire to serve influenced your decision to join VISTA. On a one to seven scale, where one means not important at all and seven means very important.

A. How important was a desire to serve your country in your decision to join VISTA?	1 2 3 4 5 6 7 DK
B. How important was a desire to serve a community in your decision to join VISTA?	1 2 3 4 5 6 7 DK
C. How important was a desire to work on a specific social problem in your decision to join VISTA?	1 2 3 4 5 6 7 DK

SECTION D: KNOWLEDGE AND ATTITUDES ABOUT VISTA We would like to know how accurate an understanding you had of VISTA service before you actually began your period of service. These next questions relate to that knowledge.

IF YES, ASK: Did this increase, decrease, or not influence your likelihood of becoming a VISTA volunteer? (1=Increased, 2=decreased, 3=did not influence)

YES	NO		
1	2	27. From the information you first received about VISTA, did you clearly understand that volunteers receive a stipend of about $6,000 per year?	1 2 3
1	2	28. From the information you first received about VISTA, did you clearly understand that volunteers only need make a one year commitment to VISTA?	1 2 3
1	2	29. Did you clearly understand that volunteer opportunities are with local sponsors, not national ones?	1 2 3
1	2	30. Did you clearly understand that volunteer opportunities exist throughout the country?	1 2 3
1	2	31. Did you clearly understand that volunteering with VISTA means you can defer payment on some student loans?	1 2 3
1	2	32. Did you clearly understand that volunteers receive training for their assignment?	1 2 3

IF RESPONDENT IS A CURRENT VISTA VOLUNTEER, GO TO Q #33
IF RESPONDENT IS A FORMER VISTA VOLUNTEER, SKIP TO Q #34

CURRENT VISTA VOLUNTEERS

33. I am going to read a series of statements concerning your attitudes about your VISTA experience. Please tell me the extent to which you agree or disagree with the following statements using a one to seven scale. One means you *disagree* strongly and seven means you *agree* strongly. The first is:

A. My VISTA experience is allowing me to have a positive impact on the people my sponsor serves.	1 2 3 4 5 6 7 DK
B. I am able to have more of an impact on the community I serve than I expected before I started.	1 2 3 4 5 6 7 DK
C. I am gaining self-confidence through my VISTA experience.	1 2 3 4 5 6 7 DK
D. VISTA offers me a high level of responsibility.	1 2 3 4 5 6 7 DK
E. VISTA offers me the opportunity to be creative.	1 2 3 4 5 6 7 DK
F. VISTA offers me a high level of independence.	1 2 3 4 5 6 7 DK
G. My VISTA experience is helping me clarify my life goals.	1 2 3 4 5 6 7 DK
H. I am learning work skills from VISTA which will help me in my future career.	1 2 3 4 5 6 7 DK
I. I am learning people skills from VISTA that will help me in my future career.	1 2 3 4 5 6 7 DK
J. I am satisfied with my VISTA experience.	1 2 3 4 5 6 7 DK

SKIP NOW TO QUESTION Q #35

PAST VISTA VOLUNTEERS

34. I am going to read a series of statements concerning your attitudes about your VISTA experience. Please tell me the extent to which you agree or disagree with the following statements using a one to seven scale. One means you disagree

strongly and seven means you agree strongly. The first is:

A. My VISTA experience allowed me to have a positive impact on the people my sponsor serves. 1 2 3 4 5 6 7 DK
B. I was able to have more of an impact on the community I served than I expected before I started. 1 2 3 4 5 6 7 DK
C. I gained self-confidence through my VISTA experience. 1 2 3 4 5 6 7 DK
D. VISTA offers me a high level of responsibility. 1 2 3 4 5 6 7 DK
E. VISTA offers me the opportunity to be creative. 1 2 3 4 5 6 7 DK
F. VISTA offers me a high level of independence. 1 2 3 4 5 6 7 DK
G. My VISTA experience has helped me clarify my life goals. 1 2 3 4 5 6 7 DK
H. I learned work skills from VISTA that helped me in my career. 1 2 3 4 5 6 7 DK
I. I learned people skills from VISTA that helped me in my career. 1 2 3 4 5 6 7 DK
J. I am satisfied with my overall VISTA experience. 1 2 3 4 5 6 7 DK

SKIP TO Q #41

SECTION E: VISTA'S RELATIONSHIP TO CAREER CHOICES

35. Did you attend graduate school before you decided to become a VISTA volunteer?
1. Yes. SKIP TO Q #37
2. No.

36. Do you plan to attend graduate school after completing your VISTA service?
1. Yes
2. No . . . . . SKIP TO Q #39

37. Did you deliberately choose VISTA volunteer service as a break between undergraduate and graduate school?
1. Yes
2. No

38. Do you plan for your graduate studies to be a continuation of career interests developed during your volunteer experience?
1. Yes
2. No . . . . . SKIP TO Q #40

39. Do you plan to take full-time employment after VISTA volunteer service?
1. Yes
2. No . . . . . SKIP TO Q #53

40. Do you plan for your job to be a continuation of career interests developed during your volunteer experience?
1. Yes
2. No

GO TO Q #53

IF FORMER VOLUNTEER We know that choosing or beginning a career is a critical process for many college students and recent college graduates. We are interested in learning how your VISTA volunteer experience has influenced your career decision.

First, before discussing careers directly, we would like to explore the timing of volunteer service, graduate school, and beginning full-time employment.

41. Did you attend graduate school before deciding to become a VISTA volunteer?
1. Yes
2. No

42. Did you attend graduate school after completing your VISTA service?
1. Yes
2. No

43. Did you deliberately choose VISTA volunteer service as a break between undergraduate and graduate school?
1. Yes
2. No

44. Were your graduate studies a continuation of career interests developed during yoiur volunteer experience?
1. Yes
2. No

45. Did you go to work full-time after VISTA volunteer service?
1. Yes
2. No . . . . . SKIP TO Q #47

46. Was your job an outgrowth of your VISTA experience?
1. Yes
2. No

47. What is your occupation? (RECORD VERBATIM)
1. Refused

48. Was your VISTA experience helpful to you in obtaining a job?
1. Yes
2. No. . . . . SKIP to Q #50

49. How was it helpful? (GET THEM TO BE AS SPECIFIC AS THEY CAN . . . . . RECORD VERBATIM)

50. Do you think you were able to obtain a better job because of your VISTA experience than you would have without it?
1. Yes
2. No
3. Not sure

51. Has your VISTA experience been helpful to you in performing your job today?
1. Yes
2. No

52. How many years have passed since you were a VISTA volunteer?
_____ Number of Years

53. What are your career plans? (RECORD VERBATIM)

SECTION F: WAYS TO INCREASE COLLEGE GRADUATE VOLUNTEERS

VISTA is committed to increasing the number of VISTA volunteers who are recent college graduates. This is a major challenge to the program, and we would like to have your advice on several issues.

54. Would you recommend the VISTA program to others?
1. Yes
2. No.

55. Complete this sentence: "More students do not become VISTA volunteers because . . . . ." (RECORD VERBATIM)

56. Complete this sentence: "The greatest benefit I received (or expect to receive) from volunteering for VISTA is . . . . ." (RECORD VERBATIM)

57. Thinking about advertising messages, what message do you think would motivate more college graduates to consider VISTA as a volunteer opportunity? (RECORD VERBATIM)

58. In your opinion, what could VISTA do to increase the number of college graduate volunteers? (RECORD VERBATIM)

SECTION G: DEMOGRAPHICS So that we can determine how representative of current students our sample of respondents is, we have a few questions to ask about your background.

59. What college or university did you attend?
Name _____

60. What was your major in college?
00 Anthropology
01. Business
02. Biology

03. Chemistry
04. Computer Science
05. Economics
06. Education
07. Engineering
08. English
09. Foreign Language
10. Geology
11. History
12. Music
13. Physical Education
14. Political Science
15. Psychology
16. Sociology
17. Other: _____

61. We want to be sure all races and ethnic groups are represented among our respondents. To help us, are you willing to tell us your race or ethnic background?
1. No . . . . . SKIP to Q #63
2. Yes . . . . . CONTINUE

62. What is your race?
1. White . . . . . Go to Q #62a
2. Black . . . . . Go to Q #63
3. American Indian, Eskimo, and Aleut . . . . . Go to Q #62a
4. Asian American . . . . . Go to Q #63
5. Pacific Islander . . . . . Go to Q #63
6. Other: _____ Go to Q #63
7. Non response . . . . . Go to Q #63

62a. Are you of Hispanic origin?
1. Yes . . . . . SKIP to #65
2. No

63. That was the last formal question in the interview. Thank you very much for taking the time to share with us your experiences as a VISTA volunteer. Is there anything else that you think might help us to recruit recent college graduates to VISTA?

This concludes our interview. Thank you very much for your time. You have been very helpful!

SURVEY 2

GENERAL COLLEGE POPULATION AND CURRENT COLLEGE VOLUNTEERS

Survey Serial #: _____
1 2 3

Interviewer #: _____
4 5 6

Date: _____

Telephone # Called: _____ - _____ - _____

Hello, my name is _____ and I am calling on behalf of ACTION, the Federal Domestic Volunteer Agency. I am helping with a national survey of college students on volunteerism. This survey will take about 30 minutes. Would you have the time now to help me complete the survey? (NOTE: IF THE TIME IS NOT CONVENIENT, THEN SET A TIME WITH THE RESPONDENT TO CALL BACK.) Thank you!

Information you furnish will provide research data to learn about college students' attitudes toward volunteering. Your answers are strictly confidential. All reporting will deal with summary data and contain no information that could identify you.

In addition, the information you furnish is voluntary and will not affect your participation in any program offered by the Federal government. You are under no obligation to answer any of my questions, and if you wish to end this interview now, you may do so.

DO YOU WISH TO CONTINUE THE INTERVIEW?

1. Yes →Continue with the interview.
2. NO → Thank you very much for your time.

DO NOT PROMPT ANSWERS UNLESS QUESTIONS SPECIFICALLY SAY TO DO SO.

SECTION A: GENERAL VIEW OF VOLUNTEERING We want to better understand the views college students have about volunteer service. To do so, I want to ask you a few questions about how you view volunteering.

1. How big a difference can you make in the world as a volunteer? Would you say you could make a big difference, some difference, or very little difference?
1. A big difference
2. Some difference
3. Very little difference
4. Don't know/no answer

2. Are there social issues or causes that you feel strongly about? If so, please name them.

3. Have you ever considered working as a full-time volunteer sometime in the first three years after you graduate?
1. Yes . . . . . TO Q #4
2. No . . . . . SKIP TO Q #6
3. Don't know/no answer . . . . . SKIP TO Q #6

4. When thinking about organized volunteer opportunities after college, which ones, if any, come to mind? CIRCLE ALL THAT APPLY:
1. None
2. VISTA-(Code on Q #18)
3. Peace Corps
4. United Way
5. Church related
6. Junior League
7. Civic Club (Kiwanis, Lions, etc.)
8. Conservation Corps
9. Other: _____

5. If you were to volunteer, would you like to work at the local, regional, national, or international level? CIRCLE ALL THAT APPLY:
1. Local
2. Regional
3. National
4. International
5. Not sure/no answer

6. Which of the following best describes your plans concerning volunteer service the first three years after college:
1. I plan to volunteer part time . . . . . SKIP TO Q #8
2. I plan to volunteer more than part time . . . . . SKIP TO Q #8
3. I plan to volunteer for VISTA . . . . . SKIP TO Q #8
4. I don't plan to volunteer . . . . . ASK Q #7

7. What are the main reasons you would not consider volunteering? (RECORD VERBATIM)

Go to Section B

8. What are the main reasons you would consider volunteering? (RECORD VERBATIM)

SECTION B: CURRENT VOLUNTEER ACTIVITY We want to learn more about the extent of volunteering among college students. I am going to ask you a series of questions about your current level of volunteer activity.

9. In an average week during the past school year, how many hours did you spend volunteering? By volunteering, I mean provide a service to the less fortunate for little or no pay.

Number of hours:_____ (IF 0, SKIP TO SECTION C)

10. In your volunteer service, what social problem areas did you address? CIRCLE ALL THAT APPLY:
01. Child/spouse abuse
02. Church related
03. Disabled
04. Environment/ecology
05. Health care/hospital
06. Homelessness/housing/shelter
07. Hunger/food distribution
08. Illiteracy
09. Poverty
10. Rehabilitation
11. Rural Co-ops
12. Senior Healthcare
13. Substance Abuse
14. Unemployment/job search counseling
15. Youth Counseling/tutoring/role modeling
16. Other: _____
17. Don't Know

11. Through which organization(s) did you perform these volunteer services?
1. _____
2. _____

3. _____

12. Which age group did yhou spend *most* of your time serving through your volunteer efforts? CIRCLE ALL THAT APPLY:
    1. Young Children
    2. Teen-age/Youth
    3. Adults
    4. Older Americans
    5. Other: _____
    6. Doesn't apply

SECTION C: KNOWLEDGE OF VOLUNTEER OPPORTUNITIES We have a simple goal. Our goal is to more effectively communicate with college students about volunteer openings that are available through Federal government programs upon graduation. These next few questions are about your knowledge of volunteer opportunities.

13. Have you seen or heard information about post-graduate volunteer opportunities while in college?
    1. Yes . . . . . TO Q #14
    2. No . . . . . SKIP TO SECTION D
14. For which organizations have you seen or heard information? CIRCLE ALL THAT APPLY:
    1. VISTA—(IF MENTIONED, ASK Q #15, OTHERWISE SKIP TO 16)
    2. Peace Corps
    3. Conservation Corps
    4. Other 1: _____
    5. Other 2: _____
    6. Can't recall (SKIP TO SECTION D)
15. Where did you see the advertising for VISTA?
    1. Class Act (A recent publication)
    2. College newspaper
    3. Volunteer office
    4. Student Union
    5. College Placement Office
    6. Church organization
    7. Don't know
    8. Other: _____
16. Can you recall any part of the information or message you saw or heard from _____ (from Q #14 above)?
    1. Yes to first mentioned, # _____ in Q #14 above
    2. Yes to second mentioned,# _____ in Q #14 above
    3. Yes to third mentioned, # _____ in Q #14 above
    4. No . . . . . SKIP TO SECTION D
17. What message can you recall from the information you saw for _____? (READ FOR EACH RESPONSE THAT RECEIVED A "YES IN Q #16 ABOVE)

Response to Q #14	Information recalled
1.	
2.	
3.	

SECTION D: KNOWLEDGE ABOUT VISTA One of the major Federal volunteer programs offered to recent college graduates is VISTA. Now I have some questions specifically about your knowledge of this program.

18. (IF THE RESPONDENT MENTIONED VISTA IN Q #14 ABOVE, CIRCLE #1 AND PROCEED, OTHERWISE, ASK:) Have you ever heard of VISTA before today?
    1. Yes
    2. No . . . . . SKIP TO Q#32
19. On a scale of one to seven, where one means "not at all knowledgeable" and seven means "very knowledgeable", how knowledgeable are you about VISTA?
    1 2 3 4 5 6 7 DK
20a. Are there any VISTA projects in your home community?
    1. Yes
    2. No
    3. Not sure/no answser
20b. Are there any VISTA projects in your college community?
    1. Yes
    2. No
    3. Not sure/no answer
21. What do you think the word VISTA stands for?
    1. Volunteers in Service to America
    2. Other: _____
    3. Other/don't know

IF THE RESPONDENT DOES NOT KNOW WHAT VISTA STANDS FOR: VISTA is a government program that provides volunteer opportunities. VISTA stands for Volunteers in Service To America.

22. What social issues or problems do you think VISTA volunteers work on? CIRCLE ALL THAT APPLY:
    01. Child/spouse abuse
    02. Church related
    03. Disabled
    04. Environmental/ecology
    05. Health care/hospital
    06. Homelessness/housing/shelter
    07. Hunger/food distribution
    08. Illiteracy
    09. Poverty
    10. Rehabilitation
    11. Rural Co-ops
    12. Senior Healthcare
    13. Substance Abuse
    14. Unemployment/job search counseling
    15. Youth Counseling/tutoring/role modeling
    16. Other: _____
    17. Don't Know
23. I would like to know how likely you are to consider becoming a VISTA volunteer. On a scale of one to seven, one meaning "very unlikely" and seven meaning "very likely," how likely are you to consider a VISTA volunteer?
    1 2 3 4 5 6 7 8 (Don't know)
24. I am going to read you a series of statements concerning your attitudes about VISTA volunteer service. Please tell me the extent to which you disagree or agree with the following statements using a seven point scale. One on the scale means you "disagree strongly" and seven means you "agree strongly."

1. Becoming a VISTA volunteer would help me make contacts that would be important in my professional career.	1 2 3 4 5 6 7 I
2. Becoming a VISTA volunteer would help me decide what career I want to pursue.	1 2 3 4 5 6 7 I
3. Becoming a VISTA volunteer would help me gain self-confidence.	1 2 3 4 5 6 7 I
4. Becoming a VISTA volunteer allow me to make an important contribution to my community.	1 2 3 4 5 6 7 I
5. Becoming a VISTA volunteer would allow me to make an important contribution to my country.	1 2 3 4 5 6 7 I
6. Becoming a VISTA volunteer is for someone else, not me.	1 2 3 4 5 6 7 I

25. What would stop you from becoming a VISTA volunteer? (RECORD VERBATIM)

SECTION E: FACTS ABOUT VISTA I am going to read you some facts about VISTA. After each one, please tell me whether or not you already knew that about VISTA.

ASK EACH QUESTION, THEN ASK: Does this fact increase, decrease, or not influence your interest in volunteering for VISTA? (1=Increase, 2=Decrease, 3=Not

Influence)

YES	NO		
1.	2	26. Did you know that volunteers receive a living allowance of about $6,000 per year?	1 2 3
1.	2	27. Did you know that volunteers need only make a one year commitment to VISTA	1 2 3
1.	2	28. Did you know that volunteer opportunities are with local agencies, not national?	1 2 3
1.	2	29. Did you know that volunteer opportunities exist throughout the country?	1 2 3
1.	2	30. Did you know that volunteering with VISTA means you can defer payment on some student loans?	1 2 3
1.	2	31. Did you know you receive training for your volunteer assignment?	1 2 3

CONTINUE FROM Q #18
FOR THOSE WHO DID NOT KNOW ABOUT VISTA—NO TO QUESTION 18

VISTA is a government program that provides volunteer opportunities. VISTA stands for Volunteers In Service To America. VISTA is interested in recruiting college graduates. I would like to read you some facts about VISTA and ask your opinion about each fact.

READ EACH STATEMENT, THEN ASK: Does this fact increase, decrease, or not influence your interest in volunteering for VISTA? (1=Increase, 2=Decrease, 3=Not Influence)

32. Volunteers receive a living allowance of about $6,000 per year. 1 2 3
33. Volunteers need only make a one year commitment to VISTA. 1 2 3
34. Volunteer opportunities are with local agencies, not national. 1 2 3
35. Volunteer opportunities exist throughout the country. 1 2 3
36. Volunteering with VISTA means you can defer payment on some student loans. 1 2 3
37. VISTA volunteers receive training for their volunteer assignments. 1 2 3

CONTINUE FROM PREVIOUS QUESTION (Q #37) OR FROM Q #31

38. I would like to know how likely you are to consider becoming a VISTA volunteer. On a scale of one to seven, where one means "not at all likely" and seven means "very likely", how likely are you to consider becoming a VISTA volunteer?
1 2 3 4 5 6 7 DK

39. I am going to read you a list of some of the programs available through VISTA. After each, please tell me how important you thnk each program is on a scale of one to seven, with one meaning "not at all important," and seven meaning "very important."

Name	Importance
01 At-risk street youth	1 2 3 4 5 6 7 DK
02 Battered women	1 2 3 4 5 6 7 DK
03 Day care	1 2 3 4 5 6 7 DK
04 Drug free youth/ substance abuse	1 2 3 4 5 6 7 DK
05 Elderly services	1 2 3 4 5 6 7 DK
06 Food distribution	1 2 3 4 5 6 7 DK
07 Gang violence	1 2 3 4 5 6 7 DK
08 Homeless shelter, food & clothing	1 2 3 4 5 6 7 DK
09 Job counseling	1 2 3 4 5 6 7 DK
10 Literacy projects	1 2 3 4 5 6 7 DK
11 Rehabilitation	1 2 3 4 5 6 7 DK

SECTION F: SOURCES OF INFORMATION It is important for us to learn how you might go about deciding what to do after college.

40. How are you going about deciding what to do with your life after college? Are you trying any of the following strategies? READ CHOICES AND CIRCLE ALL THAT APPLY
1. Attending job fairs
2. Discussions with my friends, teachers or faculty advisors
3. Job hunting references books or magazines
4. Visiting the campus placement office
5. Other (please specify): _____

41a. Which of the following describes your plans following graduation from college? (Read choices)
1. Volunteer full-time. . . . .GO TO Q #41a
2. Volunteer part-time. . . . .GO TO Q #41a
3. Attend graduate school. . . . .GO TO Q #41a
4. No definite plans. . . . .GO TO Q #41a
5. Travel. . . . .GO TO A #42
6. Take a break in my studies. . . . .GO TO A #42
7. Work full-time. . . . .GO TO A #42
8. Work part-time. . . . .GO TO A #42
9. Other (Please specify): _____

41b. Are you or would you consider volunteer service as a break between undergraduate and graduate study?
1. Yes
2. No
3. Don't Know

42. Where on campus would you expect to find information on VISTA? (PROBE FOR DETAIL)
01. Church
02. Class Act (a recent publication)
03. College newspaper
04. Library
05. Placement Office
06. Student Union
07. Volunteer office
08. Wouldn't expect to find it on campus
09. Don't know
10. Other: _____

43. Thinking about the media you usually read or listen to, where are you most likely to read about or hear about VISTA? (PROBE FOR DETAIL)
1. Campus newspaper
2. Campus radio
3. Local newspaper
4. Local radio (commercial)
5. Mail
6. Nowhere
7. Television
8. Other: _____
9.Don't know

44. What questions would you need answered before you could decide to apply to VISTA? (RECORD VERBATIM)

SECTION G: DEMOGRAPHICS So we can determine how representative our sample of respondents is, we have a few questions to ask about your background.

45. What college or university do you attend?
Name: _____

46. Are you a junior or senior in college?

1. Junior
2. Senior

47. What is your major?
01. Anthropology
02. Biology
03. Business
04. Chemistry
05. Computer Science
06. Economics
07. Education
08. Engineering
09. English
10. Foreign Language
11. Geology
12. History
13. Music
14. Psychology
15. Physical Education
16. Political Science
17. Sociology
18. Other: _____

48. We want to be sure that our sample represents all races and ethnic groups. Will you tell us your race or ethnic background?
1. No. . . . .SKIP TO Q #50
2. Yes

48. What is your race?
1. White. . . . .GO TO Q #49
2. Black. . . . .GO TO Q #49
3. American Indian, Eskimo, or Aleut. . . . .GO TO Q #49
4. Asian American. . . . .GO TO Q #49
5. Pacific Islander. . . . .GO TO Q #50
6. Other: _____. . . . .GO TO Q #50
7. Refused/No answer. . . . .GO TO Q #50

49. Are you of Hispanic origin?
1. Yes
2. No

50. (IF NOT CLEAR FROM CONTEXT OF INTERVIEW) What is your sex?
1. Male
2. Female

51. That was the last formal question in the interview. Thank you very much for taking the time to share with us your ideas about volunteering and VISTA service. Is there anything else that you want to share with regard to this interview?

This concludes our interview. You have been very helpful!

TO BE COMPLETED AFTER CONCLUSION OF THE INTERVIEW:

52. Type of institution
1. Public
2. Private

53. Size of institution
1. Less than 1,000 students
2. 1,000 to 6,000 students
3. More than 6,000 students

[FR Doc. 90-15521 Filed 7-5-90; 8:45 am]

BILLING CODE 6050-28

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

June 29, 1990.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reintstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Public Law 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg., Washington, DC 20250, (202) 447-2118.

Revision

• Farmers Home Administration
7 CFR 1948-C Intermediary Relending Program FmHA 1948-1
Recordkeeping; On occasion
State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations; 520 responses; 6,867 hours; not applicable under 3504(h)
Jack Holston (202) 382-9736

• Farmers Home Administration
7 CFR 1944-1, Self-Help Technical Assistance Grants
Recordkeeping; On occasion
State or local governments; Non-profit institutions; 3,155 responses; 3,764 hours; not applicable under 3405(h)
Jack Holston (202) 382-9736

• Farmers Home Administration
7 CFR 1951-E, Servicing of Community and Insured Business Programs-Loans and Grants
1951-15, -33
On occasion
State or local governments; Non-profit institutions; 200 responses; 130 hours; not applicable under 3504(h)
Jack Holston (202) 382-9736

Revision

• Food and Nutrition Service
7 CFR Part 225—Summer Food Service Program FNS 19-1, 19-2, 80, 81, 81-1, 189 and 418
Recordkeeping; On occasion; Monthly; Quarterly
Small businesses or organizations; 282,979 responses, 145,230 hours; not applicable under 3504(h)
Marian Stroud (703) 756-3607

Extension

• Food Safety and Inspection Service
Questionnaire for Hotline Callers
Quarterly
Individuals or households; State or local govenments; Farms; Businesses or other for-profit; Non-profit institutions; 400 responses; 33 hours; not applicable under 3504(h)
Roy Purdie, Jr. (202) 447-5372

Reinstatement

• Farmers Home Administration
7 CFR 1924-F, Complaints and Compensation for Construction Defects
FmHA 1924-4
On occasion
Individuals or households; 5,300 responses; 1,500 hours; not applicable under 3504(h)
Jack Holston (202) 382-9736

New Collection

• Food and Nutrition Service
WIC Child Impact Study—Field Test
One-time survey
Individuals or households; State or local governments; 6,800 responses; 2,667 hours; not applicable under 3504(h)
Dr. Joan McLaughlin (703) 756-3115

• Food and Nutrition Service
Child Nutrition Meal Cost Methodology Study
One-time data collection
State or local governments; 2,960 responses; 538 hours; not applicable under 3504(h)
Susan Batten (703) 756-3115

Donald E. Hulcher,
Acting Departmental Clearance Officer.

[FR Doc. 90-15693 Filed 7-5-90; 8:45 am]

BILLING CODE 3410-01-M

Federal Grain Inspection Service

Soybean Oil and Protein Testing: A Review of Program Operations

AGENCY: Federal Grain Inspection Service, USDA.

ACTION: Notice.

SUMMARY: The Federal Grain Inspection Service (FGIS) performs soybean oil and

protein testing as official criteria under the United Grain Standards Act (7 U.S.C. 71 *et seq.*). A public meeting is scheduled for July 17, 1990, to discuss the soybean oil and protein program, monitoring data, and other information related to the program's operations.

FOR FURTHER INFORMATION CONTACT: Paul D. Marsden, FGIS, USDA, Room 0628-S, Box 96454, Washington, DC 20090-6454; telephone (202) 475-3428.

SUPPLEMENTARY INFORMATION: On September 4, 1989, FGIS began offering soybean oil and protein testing as official criteria. Since that date, FGIS has collected sybean oil and protein monitoring data and other information related to the program's operations. The focus of the public meeting with industry and interested parties will be on a review of the statistical analyses of the program's data with special emphasis on the comparison of near-infrared spectroscopy (NIRS) instrumentation and standard reference method measurements.

The meeting will be held on July 17, 1990, from 10 a.m. to 2 p.m. at the Airport Hilton Plaza Inn, 8801 NW 112th Street, Kansas City, Missouri 64195; telephone (816) 891-8900. The meeting is open to the public and public participation is invited. Persons who plan on presenting data and/or other information during the meeting should contact Paul D. Marsden, telephone (202) 475-3428.

Authority: Pub. L. 94-582, 90 Stat. 2867, as amended, (7 U.S.C. 71 *et seq.*).

Dated: July 2, 1990.

D.R. Galliant,

Acting Administrator.

[FR Doc. 90-15716 Filed 7-5-90; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Moyer Salt Timber Sale and Salt Creek Timber Sale, Salmon National Forest, Lemhi County, Idaho

AGENCY: Forest Service.

ACTION: Notice; intent to prepare environmental impact statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of proposed actions to harvest timber, build roads, and regenerate new stands of trees in portions of Moyer Creek, Salt Creek, Woodtick Creek, Good Luck Creek, and Petes Gulch. These actions have a proposed implementation date of 1991 (Moyer Salt Timber Sale) and 1993 (Salt Creek Timber Sale), and designed to emphasize aquatic habitat management for anadromous fish species and produce short-term and long-term timber outputs through timber management. The project area is located approximately 22 air miles southwest of Salmon, Idaho. Portions of the proposed actions are located within the 63,220 acre Taylor Mountain Roadless Area. This area is now listed as No. 13-902 on the Salmon National Forest and as No. 06-902 on the Challis National Forest. The area was formerly listed as RARE II No. 4-502.

DATES: Written comments concerning the scope of the analysis described in this Notice should be received by August 20, 1990.

ADDRESSES: Send written comments to Salmon National Forest, P.O. Box 729, Salmon, Idaho 83467.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed action and EIS should be directed to Lynn Bennett, Environmental Coordinator, Salmon National Forest, phone: (208) 756-2215.

SUPPLEMENTARY INFORMATION: This EIS will tier to the Salmon National Forest Plan (approved January 11, 1988), which provides the overall guidance (Goals, Objectives, Standards, and Management Area direction) to achieve the Desired Future Condition for the area being analyzed. This proposed action is designed to emphasize aquatic habitat management for anadromous fish species and produce short-term and long-term timber outputs through timber management. The Salmon National Forest Land and Resource Management Plan assigned the potentially affected areas the following Management Area prescriptions: 3A-4A, 3A-5A, 3A-5B, and 3A-5C. For a detailed description of the above Management Area prescriptions, refer to Salmon National Forest Land and Resource Management Plan pages IV-95, IV-107, IV-110, and IV-116 through IV-139.

The proposed actions will occur primarily in Management Areas 3A-5A, 3A-5B, and 3A-5C. The emphases for the proposed actions in these management areas are:

Management Area 3A-5A

Aquatic habitat management for anadromous fish species, and long-term timber outputs through high investments in forest regeneration and thinning.

Management Area 3A-5B

Aquatic habitat management for anadromous fish species, and long-term timber outputs through moderate investments in forest regeneration and thinning.

Management Area 3A-5C

Acquatic habitat management for anadromous fish species, and long-term timber outputs through low investments in forest regeneration and thinning.

An environmental analysis for this proposal was begun in 1982. As a result of that analysis and extensive scoping, the Salmon National Forest concluded the proposal may have a significant effect on the quality of the human environment and decided to prepare this EIS. The previous scoping and analysis also identified the following potential issues related to the proposed action:

*What will be the effects of the proposal on big game habitat?

*What will be the impacts on water quality?

*How will the proposal affect the roadless character of the area?

*How will the proposal contribute to a healthy, productive forest that will economically provide timber for the market place on a sustainable basis for the present and the future?

*What will be the economics of the proposed action?

The Forest Service is seeking information and comments from Federal, State and local agencies as well as individuals and organizations who may be interested in, or affected by, the proposed action. The Forest Service invites written comments and suggestions on the issues related to the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS and Final EIS. For most effective use, comments should be submitted to the Forest Service within 45 days from the date of publication of this Notice in the **Federal Register**. An open-house meeting will be held for the purpose of identifying issues. The date, time, and location of this meeting will be published in *The Recorder-Herald* (Salmon, Idaho).

Preparation of the EIS will include the following steps.

1. Define the purpose of and need for action.
2. Identify potential issues.
3. Eliminate issues of minor importance or those that have been covered by previous and relevant environmental analysis.
4. Select issues to be analyzed in depth.
5. Identfy reasonable alternatives to the proposed action.
6. Describe the affected environment.
7. Identify the potential environmental effects of the alternatives.

Steps 2 and 3 will be completed through the scoping process.

Step 5 will describe a range of alternatives developed in response to the key issues. One of these will be the "No Action" alternative, in which the roadless character of the Taylor Mountain Roadless Area would be maintained. Other alternatives will be developed based on scoping.

Step 7 will analyze the environmental effects of each alternative. This analysis will be consistent with management direction outlined in the Forest Plan. The direct, indirect, and cumulative effects of each alternative will be analyzed and documented. In addition, the site specific mitigation measures for each alternative will be identified and the effectiveness of these mitigation measures will be disclosed.

The approximate boundary of the area used for this analysis is as follows: The north boundary is Woodtick Creek. The west boundary starts at the confluence of Woodtick Creek and Panther Creek, then runs south along Panther Creek to the confluence of Moyer Creek, and continues south along Moyer Creek. The south boundary starts at the intersection of Moyer Creek and an un-named ridge in the northwest quarter of section 30, T 19 N, R 19 E. The south boundary travels east along this ridge, over Moyer Peak, to another un-named ridge located in the east portion of section 14, T 19 N, R 19 E. From this point the boundary meanders northward until intersecting Woodtick Creek, forming the east boundary.

Of the approximately 14,000 acres in this analysis area, an estimated 8,000 acres are within the Taylor Mountain Roadless Area boundary on the Salmon National Forest. These 8,000 acres are in the northern portion of the Taylor Mountain Roadless Area. In addition to the boundaries defined above, the scope of analysis for the issue "effects on roadless character" will be the entire 63,220 acre Taylor Mountain Roadless Area.

The proposed management activities would be adminstered by the Cobalt Ranger District of the Salmon National Forest in Lemhi County, Idaho.

Agency representatives and other interested people are invited to visit with Forest Service officials at any time during the EIS process. Two specific time periods are identified for the receipt of formal comments on the analysis. The two comment periods are, (1) during the scoping process (the next 45 days following publication of this Notice in the **Federal Register**) and, (2) during the formal review period of the Draft EIS.

The Draft EIS is estimated to be filed with the Environmental Protection Agency (EPA) and available for public review in March, 1991. At that time the EPA will publish an availability notice of the Draft EIS in the **Federal Register.** The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency publishes the availability notice in the **Federal Register.**

The Forest Service believes it is important to alert reviewers of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and so that it alerts an agency to the reviewer's position and contentions.

Vermont Yankee Nuclear Power Corp. v. *NRDC, 435 U.S. 519, 553 (1978).* Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980).* Because of these court rulings, it is important that those interested in this proposed action participate by the close of the 45 day comment period, so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns related to the proposed action, comments on the Draft EIS should be as specific as possible. Referring to specific pages or chapters of the Draft EIS is most helpful. Comments may also address the adequacy of the Draft EIS or the merits of the alternatives formulated and discussed in the statement. (Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act, 40 CFR 1503.3, in addressing these points.)

The final EIS is expected to be released in May, 1991. The Forest Supervisor for the Salmon National Forest, who is the responsible official for the EIS, will then make a decision regarding this proposal, after considering the comments, responses, and environmental consequences discussed in the Final Environmental Impact Statement, and applicable laws, regulations, and policies. The reasons for the decision will be documented in a Record of Decision, also made available in May, 1991. An availability notice of the Final Environmental Impact Statement and Record of Decision will be published by the EPA in the **Federal Register.**

Dated: June 25, 1990.

John E. Burns,

Forest Supervisor, Salmon National Forest.

[FR Doc. 90-15664 Filed 7-5-90; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Agency Information Collection 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: National Oceanic and Atmospheric Administration, Commerce.

Title: Fish Tagging Report.

Form Number: NOAA Form 88-162; OMB-0648-0009.

Type of Request: Request for extension of OMB approval of a currently cleared collection.

Burden: 1,400 respondents; 42 reporting hours; average hours per response—.03 hours.

Needs and Uses: Data are needed to determine growth rates and migratory patterns of billfish. Anglers volunteer to participate in the program. Resulting analyses are used to develop fishery management plans.

Affected Public: Individuals.

Frequency: On occassion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ronald Minsk, 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230. Written comments and recommendations for the proposed information collection should be sent to Ronald Minsk, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: June 22, 1990.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 90-15621 Filed 7-5-90; 8:45 am]

BILLING CODE 3510-CW-M

Bureau of Export Administration

[Docket No. 900660-0160]

Foreign Availability Assessment, Diamond Turning Machines

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of initiation of an assessment and request for comments.

SUMMARY: Pursuant to section 5(f) of the Export Administration Act of 1979, as amended (EAA), the Office of Foreign Availability (OFA) is initiating an assessment of foreign availability of certain Two Axes Diamond Turning Machines to controlled countries. OFA is seeking public comments on the foreign availability of these items worldwide.

DATES: The period for submission of information will close August 6, 1990.

ADDRESSES: Submit information relating to this foreign availability assessment to: Toli Welihozkiy, Office of Foreign Availability, Bureau of Export Administration, U.S. Department of Commerce, Room SB-701, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

The public record concerning this notice will be maintained in the Bureau of Export Administration's Freedom of Information Record Inspection Facility, Room 4525, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Frank Carvalho, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-5953.

SUPPLEMENTARY INFORMATION: Under sections 5(f) and 5(h) of the EAA, OFA assesses the foreign availability of goods and technology whose export is controlled for national security reasons. Part 791 of the Export Administration Regulations (EAR) (15 CFR part 730 *et seq.*) establishes the foreign availability procedures and criteria. OFA is publishing this notice pursuant to sections 5(f)(3) and 5(f)(9) of the EAA.

On March 20, 1990, OFA accepted for filing a foreign availability submission pursuant to section 5(f) of the EAA relating to the decontrol of Two Axes Diamond Turning Machines using a single point cutting tool with incremental slide positioning accuracy not better (finer) than plus or minus 25 microinches in 10 inches of slide travel (or plus or minus 0.635 microns per 254 mm of slide travel) to controlled countries. These items are controlled for national security reasons under 1370A(a): Machine Tools for generating optical quality surfaces, and 1091A(b)(iii)(2)(i)(6): numerically controlled machine tools of the Commodity Control List (CCL) (15 CFR 799.1, Supp. 1).

Upon acceptance of the submission, OFA initiated a foreign availability assessment of the item. By August 20, 1990, consistent with the requirements of the EAA, the Department intends to submit for publication in the **Federal Register** its determination of the foreign availability of the item.

To assist OFA in assessing such foreign availability, any person may submit relevant information to OFA at the above address.

The following information would be specially useful:

—Product names and model designations of the U.S. and non-U.S. items;

—Names and locations of non-U.S. sources;

—Key performance elements, attributes, and characteristics of the items on which quality comparisons may be made;

—Non-U.S. sources' production quantities and/or sales of any allegedly comparable item;

—An estimate of market demand and the potential economic impact of the control on the U.S. item;

—Extent to which any allegedly comparable item is based on U.S. technology;

Product names, model designations, and value of U.S. controlled parts and components incorporated in any allegedly comparable item; and

—Information supporting the proposition that the foreign item is in fact available to the country or countries for which foreign availability is certified.

Evidence supporting such relevant information may include, but is not limited to: foreign manufacturers' catalogs, brochures, or operations or maintenance manuals; articles from reputable trade publications; photographs; and depositions based upon eyewitness accounts. Supplement No. 1 to part 791 of the EAR provides additional examples of evidence that would be helpful to the investigation.

OFA will also accept comments or information accompanied by a request that part or all of the material be treated confidentially because of its proprietary nature or for any other reason. The information for which confidential treatment is requested should be submitted to OFA separately from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information." OFA either will accept the submission in confidence or, if the submission fails to meet the standards for confidential treatment, return it. A non-confidiential summary must accompany sucn submissions of confidential information. The summary will be made available for public inspection.

Information OFA accepts as privileged under section (b)(3) or (4) of the Freedom of Information Act (5 U.S.C. 522) will be kept confidential and will not be available for public inspection, except as authorized by law. Communications from agencies of the United States Government and foreign governments will not be made available for public inspection.

All other information received in response to this notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires written comments. Oral comments must be followed by written memoranda, which also will be a matter of public record and will be available for public review and copying.

The public record of information received in response to this notice will be maintained in the Bureau of Export Administration's Freedom of Information Records Inspection Facility, Room 4518, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations.

Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration, Freedom of Information Officer, at the above address or by calling (202) 377-2593.

Because of the strict statutory time limitations in which Commerce must make its determination, the period for submission or relevant information will close August 6, 1990. The Department will consider all information received before the close of the comment period in developing the assessment. Information received after the end of the period will be considered if possible, but its consideration cannot be assured. Accordingly, the Department encourages person who wish to provide information related to this foreign availability submission to do so at the earliest possible time to permit the Department

the fullest consideration of the information.

Dated: June 28, 1990.

Michael P. Galvin,

Assistant Secretary for Export Administration.

[FR Doc. 90-15683 Filed 7-5-90; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 900662-0162]

Foreign Availability Assessment: Gallium Arsenide

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of initiation of an assessment and request for comments.

SUMMARY: Pursuant to section 5(f) of the Export Administration Act of 1979, as amended (EAA), the Office of Foreign Availability (OFA) is initiating an assessment of the foreign availability of gallium arsenide to non-controlled countries (western destinations). OFA is seeking public comments on the foreign availability of these items worldwide.

DATES: The period for submission of information will close August 6, 1990.

ADDRESSES: Submit information relating to this foreign availability assessment to: Mr. Anatoli Welihozkiy, Office of Foreign Availability, Bureau of Export Administration, U.S. Department of Commerce, Room SB-701, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

The public record concerning this notice will be maintained in the Bureau of Export Administration's Freedom of Information Record Inspection Facility, Room 4513, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Dr. Jo-Anne A. Jackson, Office of Foreign Availability, Department of Commerce, Washington, DC 20230, Telephone: (202) 377-5953.

SUPPLEMENTARY INFORMATION: Under sections 5(f) and 5(h) of the EAA, OFA assesses the foreign availability of goods and technology whose export is controlled for national security reasons. Part 791 of the Export Administration Regulations (EAR) (15 CFR 730 part *et seq.*) establishes the foreign availability procedures and criteria. OFA is publishing this notice pursuant to sections 5(f)(3) and 5(f)(9) of the EAA.

On 15 May 1990, OFA accepted for filing a foreign availability submissions pursuant to section 5(f) of the EAA relating to the decontrol of gallium arsenide materials to non-controlled countries (western destinations). These materials are controlled for national security reasons under paragraph (b) of Export Control Commodity Number (ECCN) 1757A (Compounds and Materials) of the Commodity Control List (CCL) (15 CFR 799.1, Supp. 1).

Upon acceptance of the submission, OFA initiated a foreign availability assessment of the material. Consistent with the requirements of the EAA, the Department intends to submit its foreign availability determination for publication in the **Federal Register** by 15 October 1990.

To assist OFA in assessing such foreign availability, any person may submit relevant information to OFA at the above address.

The following information would be specially useful:

—Product names and designations of the U.S. and non-U.S. items;
—Names and locations of non-U.S. sources;
—Key performance elements, attributes, and characteristics of the items on which quality comparisons may be made;
—Non-U.S. sources' production quantities and/or sales of any allegedly comparable item;
—An estimate of market demand and the potential economic impact of the control on the U.S. item;
—Extent to which any allegedly comparable item is based on U.S. technology;
—Information supporting the proposition that the foreign item is in fact available to the country or countries for which foreign availability is certified.

Evidence supporting such relevant information may include, but is not limited to: foreign manufacturers' catalogs, brochures, or operations or maintenance manuals; articles from reputable trade publications; photographs; and depositions based upon eyewitness accounts. Supplement No. 1 to part 791 of the EAR provides additional examples of evidence that would be helpful to the investigation.

OFA will also accept comments or information accompanied by a request that part or all of the material be treated confidentially because of its proprietary nature or for any other reason. The information for which confidential treatment is requested should be submitted to OFA separately from any non-confidential information submitted. The top of each page should be marked with the term "Confidential Information." OFA either will accept the submission in confidence or, if the submission fails to meet the standards for confidential treatment, return it. A non-confidential summary must accompany such submissions of confidential information. The summary will be made available for public inspection.

Information OFA accepts as privileged under section (b) (3) or (4) of the Freedom of Information Act (5 U.S.C. 522) will be kept confidential and will not be available for public inspection, except as authorized by law. Communications from agencies of the United States Government and foreign governments will not be made available for public inspection.

All other information received in response to this notice will be a matter of public record and will be available for public inspection and copying. In the interest of accuracy and completeness, the Department requires written comments. Oral comments must be followed by written memoranda, which also will be a matter of public record and will be available for public review and copying.

The public record of information received in response to this notice will be maintained in the Bureau of Export Administration's Freedom of Information Records Inspection Facility, Room 4518, Department of Commerce, 14th Street and Pennsylvania Avenue NW., Washington, DC 20230. Records in this facility, including written public comments and memoranda summarizing the substance of oral communications, may be inspected and copied in accordance with regulations published in part 4 of title 15 of the Code of Federal Regulations. Information about the inspection and copying of records at the facility may be obtained from Margaret Cornejo, Bureau of Export Administration, Freedom of Information Officer, at the above address or by calling (202) 377-2593.

Because of the strict statutory time limitations in which Commerce must make its determination, the period for submission of relevant information will close August 6, 1990. The Department will consider all information received before the close of the comment period in developing the assessment. Information received after the end of the period will be considered if possible, but its consideration cannot be assured. Accordingly, the Department encourages anyone who wishes to provide information related to this foreign availability submission to do so at the earliest possible time to permit the Department the fullest consideration of the information.

Dated: July 2, 1990.

Michael P. Galvin,

Assistant Secretary for Export Administration.

[FR Doc. 90-15684 Filed 7-5-90; 8:45 am]

BILLING CODE 3510-DT-M

[Docket No. 900670-0170]

Foreign Availability Determination: 12 MFLOPS Array Processors

AGENCY: Office of Foreign Availability, Bureau of Export Administration, Commerce.

ACTION: Notice of positive determination.

SUMMARY: Under the authority of the Export Administration Act of 1979, as amended (EAA), the Department of Commerce has determined that foreign availability of certain array processors controlled under ECCN 1565A(h)(1) of the Commodity Control List (CCL) (15 CFR 799.1, Supp. 1), exists to controlled countries. The Commerce Department has initiated action to amend the CCL and to submit the determination for multilateral review.

FOR FURTHER INFORMATION CONTACT: Anatoli Welihozkiy, Acting Director, Office of Foreign Availability, Room SB-097, Department of Commerce, Washington, DC 20230; Telephone: (202) 377-8074.

SUPPLEMENTARY INFORMATION:

Background

Sections 5 (f) and (h) of the EAA require the Department of Commerce to review claims of foreign availability of items controlled for national security purposes. Part 791 of the Export Administration Regulations (EAR) (15 CFR Part 730 *et seq.*) implements these sections and establishes foreign availability procedures and criteria. The Secretary of Commerce or his designee determines whether foreign availability exists within the meaning of the EAA.

With limited exceptions, the Department of Commerce may not maintain national security controls on exports of an item to affected countries if the Secretary or his designee determines that items of comparable quality are available in fact to such countries from a foreign source in quantities sufficient to render the controls ineffective.

On February 1, 1990, OFA initiated a foreign availability assessment of 12 MFLOPS array processors to controlled countries. These items are controlled under ECCN 1565A(h)(1) of the CCL. The Department published a notice of the initiation of this assessment in the **Federal Register** on March 21, 1990 (55 FR 10478).

OFA provided its assessment and recommendation to the Deputy Assistant Secretrary for Export Administration. The Deputy Assistant Secretary has considered the assessment and other relevant information and has determined that foreign availability to controlled countries exists within the meaning of section 5 of the EAA for attached array processors capable of 12 million floating point operations per second (MFLOPS), with an equivalent multiply rate (EMR) of 6 million operations per second and 1,024-point complex Fast Fourier Transform (FFT) of 4.1 milliseconds. This determination does not apply to single-board, "plug-in" array processors. All interested government agencies, including the Departments of State and Defense, were provided an opportunity to review and comment on the assessment and determination.

The Department has initiated action to submit this determination for multilateral review in accordance with the agreement of the Coordinating Committee for Multilateral Export Controls (COCOM). Within four months beginning on the date of the publication of this notice, the Department will take appropriate action under section 5(f)(3)(B) of the EAA. The Department intends to amend the EAR by removing national security controls from exports of these items to noncontrolled countries as soon as possible. Until such time, current export controls will remain in effect.

If OFA receives new evidence affecting this foreign availability determination, OFA may reevaluate its assessment. Inquiries concerning the scope of this assessment should be sent to the Director of the Office of Foreign Availability at the above address.

Dated: July 2, 1990.

Joan McEntee,

Deputy Under Secretary for Export Administration.

[FR Doc. 90-15685 Filed 7-5-90; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: July 6, 1990.

FOR FURTHER INFORMATION CONTACT: Richard W. Moreland or David P. Mueller, Office of Antidumping Compliance or Office of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2104/2786.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce ("the Department") has received timely requests, in accordance with §§ 353.22(a)(1), (a)(2), (a)(3), and 355.22 (a)(1) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders and findings.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews no later than May 31, 1991.

Antidumping duty proceedings and firms	Periods to be reviewed
Brazil:	
Frozen concentrated orange juice (A. 351 605)—	
Citrosuco Paulista S.A.	5/1/89-4/30/90
Cargill Citrus Limitada	5/1/89-4/30/90
Montecitrus Trading S.A.	5/1/89-4/30/90
Coopercitrus Industrial Frutesp S.A.	5/1/89-4/30/90
Frutropic, S.A.	5/1/89-4/30/90

Antidumping duty proceedings and firms	Periods to be reviewed
Branco Peres Citrus, S.A.	5/1/89–4/30/90
Citro-Pectina, S.A.	5/1/89–4/30/90
People's Republic of China:	
Certain iron construction castings (A-570-502)—	
China National Metals and Minerals Import and Export Corporation, including the Beijing, Guangdong, Liaoning (Dalian), Jilin, and Anhui Branches	5/1/89–4/30/90
China National Machinery and Equipment Import and Export Corporation (CMEC)	5/1/89–4/30/90
China National Light Industrial Products Import and Export Corporation	5/1/89–4/30/90
India:	
Iron construction castings (A-533-501)—	
Agarwalla, Calcutta Iron, Carnation Enterprises, Crescent Foundry, Govind Steel, Iron & Steel Works, Kejriwal, Overseas Iron, Prudential, Select Steel, Super Castings, Tirupati International, Uma Iron & Steel	5/1/89–4/30/90
Certain welded carbon steel pipes and tubes (A-533-502)—	
Tata Iron and Steel (TISCO)	5/1/89–4/30/90
Japan:	
Portable electric typewriters (A-588-087)—	
Brother, Canon, Matsushita, Nakajima, Sharp, Silver, Towa Sankiden, Fujitsu, Tokyo Electric, Tokyo Juki	5/1/89–4/30/90
Countervailing duty proceedings	
Mexico:	
Ceramic tile (C-201-003)	1/1/89–12/31/89
Singapore:	
Antifriction bearings (other than tapered Roller bearings (C-559-802)	9/6/88–12/31/89
Sweden:	
Viscose rayon staple fiber (C-401-056)	1/1/89–12/31/89

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) and 335.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930 (19 U.S.C. 1675(a)) and 19 CFR 353.22(c) (1989) and § 355.22(c) (1988).

Dated: June 28, 1990.

Joseph A. Spetrini,

Deputy Assistant Secretary for Compliance

[FR Doc. 90-15622 Filed 7-5-90; 1:21 pm]

BILLING CODE 3510-05-M

Export Trade Certificates of Review

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice of application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: Douglas J. Aller, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001-21) authorizes the Secretry of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage, antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a Certificate should be issued. An original and five (5) copies should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, room 1223H, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 90-00009." A summary of the application follows.

Summary of the Application

Applicant: The Port Authority of New York & New Jersey ("XPORT"), One World Trade Center, New York, New York 10048, Contact: Herbert Ouida, General Manager Export Development, Telephone: 212/466-8499.

Application No.: 90-00009.

Date Deemed Submitted: June 26, 1990.

Members (in addition to the applicant): None.

Export Trade:

1. *Products and Services.* All products and services.

2. *Export Trade Facilitation Services (as they relate to the export of Products and Services):* Export related services, including, but not limited to, consulting, international market research, advertising, marketing, insurance, product research and design, legal assistance, transportation, trade documentation, freight forwarding, communication and processing of foreign orders, warehousing, foreign exchange and financing.

Export Markets: The Export Markets include all parts of the world except the United States (the fifty states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Amercian Samoa, Guam, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands).

Export Trade Activities and Methods of Operation: XPORT seeks certification to:

1. Require a Supplier using XPORT's Export Trade Facilitation Services to enter into an exclusive agreement that would allow XPORT to be the sole Export Intermediary for the Supplier's Products and/or Services for sale in specified Export Markets and to export

such Products and/or Services through the Port of New York/New Jersey.

2. Enter into exclusive agreements with individual Export Intermediaries that would require the Export Intermediary not to handle competing Products and/or Services.

3. Enter into exclusive agreements with individual Suppliers that would require XPORT not to represent competing Suppliers.

Definitions: 1. *Supplier* means a person who produces, provides or sells Products and/or Services.

2. An *Export Intermediary* means a person who acts as a distributor, representative, sales or marketing agent, or broker, or who performs similar functions, including providing or arranging for the provision of Export Trade Facilitation Services.

Dated: June 29, 1990.

George Muller,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 90-15263 Filed 7-5-90; 8:45 am]

BILLING CODE 3510-DR-M

Minority Business Development Agency

Business Development Center Applications: Louisiana

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a three-year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $173,400 in Federal funds and a minimum of $30,600 in non-Federal contributions for the budget period November 1, 1990 to October 31, 1991. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Shreveport Standard Metropolitan Statistical Area (SMSA).

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes, and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms, offer a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDC's shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate after the initial competitive year for up to two additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as a MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is August 15, 1990. Applicants should mail the completed applications to the office specified in the project announcement. MBDA will accept only those applications (1) which are received by the closing date or (2) which show acceptable evidence of mailing on or before the closing date. Acceptable evidence consists of (1) a legible U.S. Postal Service postmark or (2) a legible mail or courier service receipt dated on or before the closing date. Applications must be post marked on or before August 15, 1990. Anticipated processing time of this award is 120 days.

ADDRESSES: Dallas Regional Office, 1100 Commerce Street, Suite 7B23, Dallas, Texas 75242-0790 (214) 767-8001.

FOR FURTHER INFORMATION CONTACT: Yvonne Guevara, Dallas Regional Office.

SUPPLEMENTARY INFORMATION: Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address. A pre-bid conference will be held. Please call Ms. Guevara to be advised of date, time and place.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Notice: Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of are made to pay the debt.

Notice: Section 319 of Public Law 101-121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans, and Cooperative Agreements" and the SF-LLL, "Disclosure of Lobbying Activities" (if applicable), is required.

Notice: Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.

Notice: Awards under this program shall be subject to all Federal and Departmental regulations, policies, and, procedures applicable to Federal assistance awards.

Notice: A false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Dated: June 29, 1990.

Melda Cabrera,

Regional Director, Dallas Regional Office.

Section B—Project Specifications

(To be completed by the Regional Offices)

Project Identification

1. Program Number and Title: 11.800 Minority Business Development
2. Project Name: Shreveport MBDC, Louisiana MBDC

(Geographic Area or SMSA)

3. Project Identification Number: 06-10-91005-01

Budget Period Duration

1. Budget Period (Check One): First X Second _____ Third _____
2. Start Date: November 1, 1990
3. End Date: October 31, 1991
4. Budget Period Duration (Months): Twelve

Project Cost

1. Required Federal Funding Level: $173,400
2. Minimum Non-Federal Contribution: $30,600
3. Total Project Cost: $204,000

Project Minimum Performance Goal Levels

1. Combined Financial Package and Procurement Minimum Goal Level: $5,647,000
2. Billable $M&TA Minimum Goal Level: $113,000
3. Number of Clients Minimum Goal Level: 106

Other Project Specifications

1. Closing Date for Submission of this Application: August 15, 1990
2. *Geographic Specification:* The Minority Business Development Center shall offer assistance in the geographic area of: Shreveport
3. *Eligibility Criteria:* There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.
4. *Budget Period:* The competitive award period will be for approximately three (3) years consisting of three (3) separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three (3) budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance and Agency priorities.

[FR Doc. 90-15661 Filed 7-5-90; 8:45 am]

BILLING CODE 3510-21-M

Business Development Center Applications; Texas

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a three-year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $231,200 in Federal funds and a minimum of $40,800 in non-Federal contributions for the budget period January 1, 1991 to December 31, 1991. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Houston Standard Metropolitan Statistical Area (SMSA).

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes, and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms, offer a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDC's shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate after the initial competitive year for up to two additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as a MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is August 15, 1990. Applicants should mail the completed applications to the office specified in the project announcement. MBDA will accept only those applications (1) which are received by the closing date *or* (2) which show acceptable evidence of mailing on or before the closing date. Acceptable evidence consists of (1) a legible U.S. Postal Service postmark or (2) a legible mail or courier service receipt dated on or before the closing date. Applications must be postmarked on or before August 15, 1990. Anticipated processing time of this award is 120 days.

ADDRESSES: Dallas Regional Office, 1100 Commerce Street, Suite 7B23, Dallas, Texas 75242-0790, (214) 767-8001.

FOR FURTHER INFORMATION CONTACT: Yvonne Guevara, Dallas Regional Office.

SUPPLEMENTARY INFORMATION: Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address. A pre-bid conference will be held. Please call Ms. Guevara to be advised of date, time and place.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Notice: Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department are made to pay the debt.

Notice: Section 319 of Public Law 101-121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans, and Cooperative

Agreements" and the SF-LLL, "Disclosure of Lobbying Activities" (if applicable), is required.

Notice: Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.

Notice: Awards under this program shall be subject to all Federal and Departmental regulations, policies, and procedures applicable to Federal assistance awards.

Notice: A false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Dated: June 29, 1990.

Melda Cabrera,

Regional Director, Dallas Regional Office.

Section B—Project Specifications

(To be completed by the Regional Offices)

Project Identification

1. Program Number and Title: 11.800 Minority Business Development
2. Project Name: McAllen, Texas MBDC (Geographic Area or SMSA)
3. Project Identification Number: 06-10-91004-01

Budget Period Duration

1. Budget Period (Check One): First X Second _____ Third _____
2. Start Date: January 1, 1991
3. End Date: December 31, 1991
4. Budget Period Duration (Months): Twelve

Project Cost

1. Required Federal Funding Level: $231,200
2. Minimum Non-Federal Contribution: $40,800
3. Total Project Cost: $272,000

Project Minimum Performance Goal Levels

1. Combined Financial Package and Procurement Minimum Goal Level: $7,531,000
2. Billable $M&TA Minimum Goal Level: $151,000
3. Number of Clients Minimum Goal Level: 141

Other Project Specifications

1. Closing Date for Submission of this Application: August 15, 1990
2. *Geographic Specification:* The Minority Business Development Center shall offer assistance in the geographic area of: McAllen
3. *Eligibility Criteria:* There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.
4. *Budget Period:* The competitive award period will be for approximately three (3) years consisting of three (3) separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three (3) budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance and Agency priorities.

[FR Doc. 90-15659 Filed 7-5-90; 8:45 am]

BILLING CODE 3510-21-M

Business Development Center Applications: Texas

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a three-year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $520,200 in Federal funds and a minimum of $91,800 in non-Federal contributions for the budget period January 1, 1991 to December 31, 1991. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Houston Standard Metropolitan Statistical Area (SMSA).

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes, and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms, offer a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDC's shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate after the initial competitive year for up to two additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as an MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is August 15, 1990. Applicants should mail the completed applications to the office specified in the project announcement. MBDA will accept only those applications (1) which are received by the closing date *or* (2) which show acceptable evidence of mailing on or before the closing date. Acceptable evidence consists of (1) a legible U.S. Postal Service postmark or (2) a legible mail or courier service receipt dated on or before the closing date. Applications must be post marked on or before August 15, 1990. Anticipated processing time of this award is 120 days.

ADDRESSES: Dallas Regional Office, 1100 Commerce Street, Suite 7B23, Dallas, Texas 75242-7090, (214) 767-8001.

FOR FURTHER INFORMATION CONTACT: Yvonne Guevara, Dallas Regional Office.

SUPPLEMENTARY INFORMATION: Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above

address. A pre-bid conference will be held. Please call Ms. Guevara to be advised of date, time and place.

11.800 Minority Business Development (Catalog of Federal Domestic Assistance)

Notice: Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department or are made to pay the debt.

Notice: Section 319 of Public Law 101-121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with specific contract, grant, or loan. A "Certification for Contracts, Grants Loans, and Cooperative Agreements" and the SF-LLL, "Disclosure of Lobbying Activities" (if applicable), is required.

Notice: Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.

Notice: Awards under this program shall be subject to all Federal and Departmental regulations, policies, and, procedures applicable to Federal assistance awards.

Notice: A false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Dated: June 29, 1990.

Melda Cabrera,

Regional Director, Dallas Regional Office.

Section B—Project Specifications

(To be completed by the Regional Offices)

Project Identification

1. Program Number and Title: 11.800 Minority Business Development
2. Project Name: Houston, Texas MBDC (Geographic Area or SMSA)
3. Project Identification Number: 06-10-91003-01

Budget Period Duration

1. Budget Period (Check One): First X Second _____ Third _____
2. Start Date: January 1, 1991
3. End Date: December 31, 1991
4. Budget Period Duration (Months): Twelve

Project Cost

1. Required Federal Funding Level: $520,200
2. Minimum Non-Federal Contribution: $91,800
3. Total Project Cost: $612,000

Project Minimum Performance Goal Levels

1. Combined Financial Package and Procurement Minimum Goal Level: $16,960,000
2. Billable SM&TA Minimum Goal Level: $339,000
3. Number of Clients Minimum Goal Level: 318

Other Project Specifications

1. Closing Date for Submission of this Application: August 15, 1990
2. *Geographic Specification:* The Minority Business Development Center shall offer assistance in the geographic area of: Houston
3. *Eligibility Criteria:* There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.
4. *Budget Period:* The competitive award period will be for approximately three (3) years consisting of three (3) separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three (3) budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon availability of funds, the MBDC's performance and gency priorities.

[FR Doc. 90-15660 Filed 7-5-90; 8:45am]

BILLING CODE 3510-21-M

Business Development Center Applications: Texas

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a three-year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $173,400 in Federal funds and a minimum of $30,600 in non-Federal contributions for the budget period January 1, 1991 to December 31, 1991. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Beaumont Standard Metropolitan Statistical Area (SMSA).

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes, and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms, offer a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: The experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques ad methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDC's shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50 per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate after the initial competitive year for up to two additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as a MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is August 15, 1990. Applicants should mail the completed applications to the office specified in the project announcement. MBDA will accept only those applications (1) which are received by the closing date or (2) which show acceptable evidence of mailing on or before the closing date. Acceptable evidence consists of (1) a legible U.S. Postal Service postmark or (2) a legible mail or courier service receipt dated on or before the closing

date. Applications must be post marked on or before August 15, 1990. Anticipated processing time of this award is 120 days.

ADDRESSES: Dallas Regional Office, 1100 Commerce Street, suite 7B23, Dallas, Texas 75242–0790, (214) 767–8001.

FOR FURTHER INFORMATION CONTACT: Yvonne Guevara, Dallas Regional Office.

SUPPLEMENTARY INFORMATION: Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address. A pre-bid conference will be held. Please call Ms. Guevara to be advised of date, time and place.

11.800 Minority Business Development.
(Catalog of Federal Domestic Assistance)

Notice: Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of are made to pay the debt.

Notice: Section 319 of Public Law 101–121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans, and Cooperative Agreements" and the SF–LLL, "Disclosure of Lobbying Activities" (if applicable), is required.

Notice: Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.

Notice: Awards under this program shall be subject to all Federal and Departmental regulations, policies, and, procedures applicable to Federal assistance awards.

Notice: A false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Dated: June 29, 1990.

Melda Cabrera,

Regional Director, Dallas Regional Office.

Section B—Project Specifications

(To be completed by the Regional Offices)

Project Identification

1. Program Number and Title: 11,800 Minority Business Development.
2. Project Name (Geographic Area or SMSA): Beaumont, Texas MBDC.
3. Project Identification Number: 06–10–91001–01.

Budget Period Duration

1. Budget Period (Check One): First _____ Second _____ Third _____.
2. Start Date: January 1, 1991.
3. End Date: December 31, 1991.
4. Budget Period Duration (Months): Twelve.

Project Cost

1. Required Federal Funding Level: $173,400.
2. Minimum Non-Federal Contribution: $30,600.
3. Total Project Cost: $204,000.

Project Minimum Performance Goal Levels

1. Combined Financial Package and Procurement Minimum Goal Level: $5,647,000.
2. Billable $M&TA Minimum Goal Level: $113,000.
3. Number of Clients Minimum Goal Level: 106.

Other Project Specifications

1. Closing Date for Submission of this Application: August 15, 1990.
2. *Geographic Specification:* The Minority Business Development Center shall offer assistance in the geographic area of Beaumont, Texas.
3. *Eligibility Criteria:* There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.
4. *Budget Period:* The competitive award period will be for approximately three (3) years consisting of three (3) separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three (3) budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance and Agency priorities.

[FR Doc. 90–15662 Filed 7–5–90; 8:45 am]
BILLING CODE 3510–21–M

Business Development Center Applications: Texas

AGENCY: Minority Business Development Agency, Commerce.

ACTION: Notice.

SUMMARY: The Minority Business Development Agency (MBDA) announces that it is soliciting competitive applications under its Minority Business Development Center (MBDC) Program to operate an MBDC for approximately a three-year period, subject to the availability of funds. The cost of performance for the first 12 months is estimated at $404,600 in Federal funds and a minimum of $71,400 in non-Federal contributions for the budget period January 1, 1991 to December 31, 1991. Cost-sharing contributions may be in the form of cash contributions, client fees for services, in-kind contributions, or combinations thereof. The MBDC will operate in the Dallas/Ft. Worth Standard Metropolitan Statistical Area (SMSA).

The funding instrument for the MBDC will be a cooperative agreement. Competition is open to individuals, non-profit and for-profit organizations, local and state governments, American Indian tribes, and educational institutions.

The MBDC program is designed to provide business development services to the minority business community for the establishment and operation of viable minority businesses. To this end, MBDA funds organizations that can coordinate and broker public and private resources on behalf of minority individuals and firms, offer a full range of management and technical assistance, and serve as a conduit of information and assistance regarding minority business.

Applications will be evaluated on the following criteria: the experience and capabilities of the firm and its staff in addressing the needs of the business community in general and, specifically, the special needs of minority businesses, individuals and organizations (50 points); the resources available to the firm in providing business development services (10 points); the firm's approach (techniques and methodology) to performing the work requirements included in the application (20 points); and the firm's estimated cost for providing such assistance (20 points). An application must receive at least 70% of the points assigned to any one evaluation criteria category to be considered programmatically acceptable and responsive.

MBDC's shall be required to contribute at least 15% of the total project cost through non-Federal contributions. Client fees for billable management and technical assistance (M&TA) rendered must be charged by MBDCs. Based on a standard rate of $50

per hour, MBDCs will charge client fees at 20% of the total cost for firms with gross sales of $500,000 or less and 35% of the total cost for firms with gross sales of over $500,000.

The MBDC may continue to operate after the initial competitive year for up to two additional budget periods. Periodic reviews culminating in year-to-date quantitative and qualitative evaluations will be conducted to determine if funding for the project should continue. Continued funding will be at the discretion of MBDA based on such factors as a MBDC's satisfactory performance, the availability of funds and Agency priorities.

CLOSING DATE: The closing date for applications is August 15, 1990. Applicants should mail the completed applications to the office specified in the project announcement. MBDA will accept only those applications (1) which are received by the closing date or (2) which show acceptable evidence of mailing on or before the closing date. Acceptable evidence consists of (1) a legible U.S. Postal Service postmark or (2) a legible mail or courier service receipt dated on or before the closing date. Applications must be postmarked on or before August 15, 1990. Anticipated processing time of this award is 120 days.

ADDRESSES: Dallas Regional Office, 1100 Commerce Street, suite 7B23, Dallas, Texas 75242–0790, (214) 767–8001.

FOR FURTHER INFORMATION CONTACT: Yvonne Guevara, Dallas Regional Office.

SUPPLEMENTARY INFORMATION: Executive Order 12372 "Intergovernmental Review of Federal Programs" is not applicable to this program. Questions concerning the preceding information, copies of application kits and applicable regulations can be obtained at the above address. A pre-bid conference will be held. Please call Ms. Guevara to be advised of date, time and place.

11.800 Minority Business Development
(Catalog of Federal Domestic Assistance)

Notice: Applicants who have an outstanding account receivable with the Federal Government may not be considered for funding until these debts have been paid or arrangements satisfactory to the Department of are made to pay the debt.

Notice: Section 319 of Public Law 101–121 generally prohibits recipients of Federal contracts, grants, and loans from using appropriated funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with specific contract, grant, or loan. A "Certification for Contracts, Grants, Loans, and Cooperative Agreements" and the SF-LLL, "Disclosure of Lobbying Activities" (if applicable), is required.

Notice: Applicants are subject to Governmentwide Debarment and Suspension (Nonprocurement) requirements as stated in 15 CFR part 26. In accordance with the Drug-Free Workplace Act of 1988, each applicant must make the appropriate certification as a "prior condition" to receiving a grant or cooperative agreement.

Notice: Awards under this program shall be subject to all Federal and Departmental regulations, policies, and, procedures applicable to Federal assistance awards.

Notice: A false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment.

Dated: June 29, 1990.

Melda Cabrera,

Regional Director, Dallas Regional Office, Regional Office.

Section B—Project Specifications

(To be completed by the Regional Offices)
Project Identification

1. Program Number and Title: 11.800 Minority Business Development.
2. Project Name (Geographic Area or SMSA): Dallas/Ft. Worth, Texas MBDC.
3. Project Identification Number: 06–10–91002–01.

Budget Period Duration

1. Budget Period (Check One): First _____ Second _____ Third _____
2. Start Date: January 1, 1991.
3. End Date: December 31, 1991.
4. Budget Period Duration (Months): Twelve.

Project Cost

1. Required Federal Funding Level: $404,600.
2. Minimum Non-Federal Contribution: $71,400.
3. Total Project Cost: $476,000.

Project Minimum Performance Goal Levels

1. Combined Financial Package and Procedure Minimum Goal Level: $13,180,000.
2. Billable SM&TA Minimum Goal Level: $264,000.
3. Number of Clients Minimum Goal Level: 247.

Other Project Specifications

1. Closing Date for Submission of this Application: August 15, 1990.
2. *Geographic Specification:* The Minority Business Development Center shall offer assistance in the geographic area of: Dallas/Ft. Worth SMSA.
3. *Eligibility Criteria:* There are no eligibility restrictions for this project. Eligible applicants may include individuals, non-profit organizations, for-profit firms, local and state governments, American Indian tribes and educational institutions.
4. *Budget Period:* The competitive award period will be for approximately three (3) years consisting of three (3) separate budget periods. Performance evaluations will be conducted, and funding levels will be established for each of three (3) budget periods. The MBDC will receive continued funding, after the initial competitive year, at the discretion of MBDA based upon the availability of funds, the MBDC's performance and Agency priorities.

[FR Doc. 90–15663 Filed 7–5–90; 8:45 am]
BILLING CODE 3510-21-M

National Telecommunications and Information Administration

Committees; Establishment, Renewal, Termination, etc.: Frequency Management Advisory Council

AGENCY: National Telecommunications and Information Administration, Commerce.

ACTION: Notice to establish a subcommittee of the Frequency Management Advisory Council and subcommittee meeting schedule.

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. 2 and the Department of Commerce Committee Management Handbook, the Secretary of Commerce, Robert A Mosbacher, approved establishing a subcommittee of the Frequency Management Advisory Council on June 27, 1990 to assist United States in preparation for the VIth InterAmerican Telecommunications Conference (CITEL VI) to be held in mid-1991. Major goals of United States participation in this conference are to strengthen the interAmerican alliance, create additional market opportunities for U.S. industry in Latin America, and provide opportunities to further U.S. goals of privatization while assisting Latin American countries in improving their telecommunication infrastructures.

Meeting Schedule

The FMAC Subcommittee on Preparations for CITEL VI will meet on the following dates:

July 20, 1990,
September 6, 1990,

October 18, 1990,
November 29, 1990.

All Subcommittee meetings will be held in room 4630 from 10 a.m. to 1 p.m. at the United States Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC. Public entrance to the building is on 14th Street between Pennsylvania Avenue and Constitution Avenue.

Notice of Meeting

The agenda for the first meeting of the FMAC Subcommittee on Preparations for CITEL VI to be held on July 20, 1990, will be as follows:

I. Approval of the Agenda
II. Discussion of the Terms of Reference for the Subcommittee
III. Distribution of reference materials
(a) "Basic Instrument" of CITEL
(b) Segal's Report on the future of CITEL
(c) Comments on Segal's report
IV. Discussion on the "Agenda" for CITEL VI
V. Work schedule and assignments for the subcommittee

Public Participation

All CITEL VI Subcommittee Meetings will be held in accordance with the Federal Advisory Committee Act and will be open to public observations. A period will be set aside for oral comments or questions by the public. More extensive questions or comments should be submitted in writing before July 18, 1990. Other public statements regarding CITEL VI Subcommittee activities may be submitted at any time before or after the meeting. Approximately 25 seats will be available for the public on a first-come, first-served basis. Copies of the minutes will be available on request 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Inquiries or comments concerning the CITEL VI Subcommittee may be addressed to the Designated Federal Official, Mr. William Moran, National Telecommunications and Information Administration, room 4701, U.S. Department of Commerce, 14th Street and Pennsylvania Avenue, NW., Washington, DC 20230, telephone (202) 377-1866.

Dated: June 29, 1990.

Michael W. Allen,

Executive Secretary, Frequency Management Advisory Council, National Telecommunications and Information Administration.

[FR Doc. 15624 Filed 7-5-90; 8:45 am]

BILLING CODE 3510-60-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amendment of Import Limits and Guaranteed Access Levels for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Jamaica

July 2, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: July 10, 1990.

FOR FURTHER INFORMATION CONTACT: Naomi Freeman, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Government of the United States agreed to increase the current designated consultation levels and guaranteed access levels for certain cotton and man-made fiber textile products.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (See **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 51218, published on December 13, 1989.

The letter to the Commission of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 2, 1990.

Commissioner of Customs,
Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 6, 1989. That directive concerns imports into the United States of certain cotton, wool, man-made fiber and other vegetable fiber textiles and textile products, produced or manufactured in Jamaica and exported during the twelve-month period which began on January 1, 1990 and extends through December 31, 1990.

Effective on July 10, 1990, the directive of December 6, 1989 is being amended to increase the import restraint limits and guaranteed access levels for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Jamaica:

Category	Adjusted 12-month limit [1]
336/636	118,000 dozen.
352/652	600,000 dozen.
	Adjusted guaranted access level
352/652	3,250,000 dozen.
632	3,300,000 dozen pairs.

[1] The limits have not been adjusted to account for any imports exported after May 31, 1989.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 15681 Filed 7-5-90; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of an Import Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in the United Mexican States

July 2, 1990.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: July 10, 1990.

FOR FURTHER INFORMATION CONTACT: Jerome Turtola, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For more information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-9481. For more information

on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limit for Category 604-A is being increased for swing and carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 54 FR 50797, published on December 11, 1989). Also see 54 FR 51446, published on December 15, 1989.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 2, 1990.

Commissioner of Customs,
Department of the Treasury,
Washington, D.C. 20229

Dear Commissioner: This directive amends, but does not cancel, the directive of December 11, 1989 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports into the United States of certain cotton, wool and man-made fiber textile products, produced or manufactured in Mexico and exported during the twelve-month period which began on January 1, 1990 and extends through December 31, 1990.

Effective on July 10, 1990, the directive of December 11, 1989 is amended further to increase to 695,188 kilograms [1] the current limit for Category 604-A,[2] as provided under the terms of the current bilateral textile agreement between the Governments of the United States and the United Mexican States.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Auggie D. Tantillo,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 15682 Filed 7-5-90; 8:45 am]

BILLING CODE 3510-DR-M

[1] The limit has not been adjusted to account for any imports exported after December 31, 1989.

[2] Category 604-A: only HTS Number 5509.32.0000.

DEPARTMENT OF DEFENSE

Office of Secretary

Dependents Schools; Special Education List

AGENCY: Department of Defense Dependents Schools (DoDDS), Office of the Secretary of Defense, DOD.

ACTION: To provide a list of special education decisions within DoDDS.

SUMMARY: This list provides an index file of special education administrative decisions in DoDDS with case numbers. An appeal of an administrative decision is identified as a Final Administrative Decision (FAD).

FOR FURTHER INFORMATION CONTACT: Robert P. Terzian, General Counsel, DoD Dependents Schools, 2461 Eisenhower Avenue, Alexandria, Virginia 22331-1100, telephone: (202) 325-0256.

SPECIAL EDUCATION ADMINISTRATIVE DECISIONS FILE, DEPARTMENT OF DEFENSE DEPENDENTS SCHOOLS, INDEX

Subject	Case	FAD
FAPE	No. 82-002-G	(Affirmed by FAD).
	No. 82-002-G	(Appellate Decision).
	No. 83-001-G	
	No. 87-001-G	
	No. 88-003-A	
	No. 88-003-A	(FAD).
Compensatory Services.	No. 88-003-A	
	No. 88-003-A	(FAD).
Hearing Officer	No. 89-001-G	(Denial of Appt/ Hearing).
	No. 90-001-A	
Jurisdiction	No. 82-002-G	(Reversed by FAD).
	No. 82-002-G	(FAD).
Least Restrictive Enrollment.	No. 88-003-A	
	No. 88-003-A	(FAD).
Reimbursement	No. 82-002-G	(Reversed by FAD).
	No. 82-002-G	(FAD).
	No. 88-003-A	
Related Services.	No. 87-001-G	(Transportation).
	No. 88-003-A	(Speech, Adpative PE, OT, Prevocational, Psych Svcs).
	No. 88-003-A	(FAD) (Speech, Adaptive PE, OT, Prevocational, Psych Service).

Dated: July 2, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-15706 Filed 7-5-90; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Defense Science Board Task Force on Strategic Sensors

ACTION: Notice of advisory committee meetings.

SUMMARY: The Defense Science board Task Force on Strategic Sensors will meet in closed session on July 19, 1990 at the U.S. Air force Academy, Colorado Springs, Colorado.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition on scientific and technical matters as they affect the perceived needs of the Department of Defense. At this meeting the Task Force will investigate technologies that are capable of improving strategic surveillance sensor performance.

In accordance with section 10(d) of the Federal Advisory Committee Act, Public Law No. 92-463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this DSB Task Force meeting, concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public.

Dated: July 2, 1990.

Linda M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-15707 Filed 7-5-90; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

Privacy Act of 1974; Addition of a Record System

AGENCY: Department of the Air Force, DoD.

ACTION: The Department of the Air Force proposes to add one record system to the inventory of Department of the Air Force record systems. The proposed action is provided below for public comment.

SUMMARY: The Department of the Air Force proposes to add one record system to its inventory of record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

DATES: The proposed new system addition will become effective on or

before August 6, 1990, unless comments are received which result in a contrary determination.

ADDRESSES: Send any comments to Mrs. Anne Turner, SAF/AAIA, The Pentagon, Washington, DC 20330-1000. Telephone (202) 697-3491 or Autovon 227-3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force record system notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a), have been published in the Federal Register as follows:

50 FR 22332, May 29, 1985 (DoD compilation, changes follow)
50 FR 24672, Jun. 12, 1985
50 FR 25737, Jun. 21, 1985
50 FR 46477, Nov. 8, 1985
50 FR 50337, Dec. 10, 1985
51 FR 4531, Feb. 5, 1986
51 FR 7317, Mar. 3, 1986
51 FR 16735, May 6, 1986
51 FR 18927, May 23, 1986
51 FR 41382, Nov. 14, 1986
51 FR 44332, Dec. 9, 1986
52 FR 11845, Apr. 13, 1987
53 FR 24354, Jun. 28, 1988
53 FR 45800, Nov. 14, 1988
53 FR 50072, Dec. 13, 1988
53 FR 51301, Dec. 21, 1988
54 FR 10034, Mar. 9, 1989
54 FR 43450, Oct. 25, 1989
54 FR 47550, Nov. 15, 1989
55 FR 21770, May 29, 1990
55 FR 21900, May 30, 1990

The new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, was submitted on June 27, 1990, to the Committee on Governmental 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).

Dated: July 2, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Office, Department of Defense.

F050 AU K

SYSTEM NAME:

F050 AU K-Institutional Research Analysis System.

SYSTEM LOCATION:

Headquarters Air University, Curriculum and Research Directorate (HQ AU/XPZ), Maxwell AFB, AL 36112-5001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All students attending any of the following Air University (AU) schools in residence, Air War College; Air Command and Staff College; Squadron Officer School; the USAF Senior Noncommissioned Officer Academy; Ira C. Eaker Center for Professional Development; Center for Aerospace Doctrine, Research and Education, and all faculty and staff of these schools.

CATEGORIES OF RECORDS IN THE SYSTEM:

Education and assignment history, information on school curriculum, facilities, and budgets by organization within AU and manpower data for AU organizations.

Selected demographic data on students, faculty, and staff assigned to AU to include evaluation data, personnel data and school curricula data.

Data on AU facilities, selected budget information and historical data regarding the operations of AU schools.

AUTHORITY FOR MAINTAINING THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force: Powers and Duties; delegation by; as implemented by DOD Instruction 1430.5; AFR 53-8, USAF Officer Professional Military Education System; and Executive Order 9397.

PURPOSE(S):

The system will be used to generate statistical summaries of unclassified data for use by action officers as part of their normal duties, and to enable programming of simple applications for use by other AU organizations and headquarters personnel.

Additional capabilities of the system will consist of word processing and statistical analyses necessary for producing summaries and reports as needed by the Air University Commander and Air Force senior leadership.

The system will be used to support the mission of Air University.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department of the Air Force "Blanket Routine Uses" published at the beginning of the agency's compilation apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEMS:

STORAGE:

Records are maintained on computer in an automated medium.

RETRIEVABILITY:

Records may be retrieved by any of the following, Social Security Number, name, date of birth, specialty or occupation code, rank/grade, aeronautical rating, branch of service, service status, educational level, advanced degrees, professional military education school attended, status (student/faculty/staff), or academic rank (if faculty).

SAFEGUARDS:

The room containing the IRAS computer system and all storage media has two lockable entrances which will be secured after duty hours. A checklist of authorized users will be placed by each entrance. Individual user codes/passwords will be required for access onto the system. Backup copies of all disks will be labeled and placed in a designated location in the room. Tapes and disks will be securely stored when not in use.

The system manager will assign passwords to all users. HQ AU/XPZ will maintain security logs, run logs, and incident reports used to provide audit trails for the system.

RETENTION AND DISPOSAL:

Records are maintained for a period of 10 years and then destroyed. Principal means of destruction of data on magnetic media will be degaussing or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

HQ AU, Chief of Computer Applications or the HQ AU Curriculum Coordinator, Austin Hall, Maxwell AFB, AL 36112-5001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine if records about themselves are contained in this system should address written inquiries to HQ AU, Chief of Computer Applications, or the HQ AU, Curriculum Coordinator, Austin Hall, Maxwell AFB, AL 36112-5001.

The request should contain the full name, current address, phone number, current military/civilian (DoD) status, date(s) of attendance at Air University, Social Security Number, and proof of identity with an Armed Forces identification card or driver's license.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system should address written inquiries to HQ AU Chief of Computer Applications or the HQ AU Curriculum Coordinator, HQ AU/XPZ, Austin Hall, Maxwell AFB, AL 36112-5001.

The request should contain the full name, current address, phone number, current military/civilian (DoD) status, date(s) of attendance at Air University, Social Security Number, and proof of identity.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records and for contesting and appealing initial agency determinations by the individual concerned are contained in Air Force Regulation 12-35; 32 CFR part 806b; or may be obtained from the system managers.

RECORD SOURCE CATEGORIES:

Informaton in the system will be provided by the individual concerned; by each Air University organization; and from local organizational data bases.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 90-15708 Filed 7-5-90; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement (SEIS) for the Houston-Galveston Navigation Channels, Texas Project (Galveston-Chambers-Harris Counties)

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

ACTION: Notice of intent.

SUMMARY: The recommended plan of improvement to the Houston Ship Channel (HSC) consists of deepening to 50 feet and widening to 600 feet from Bolivar Roads to Boggy Bayou; intermittent widening to 400 feet between Boggy Bayou and Clinton Island; selected bend easings; and improvements to navigation aids. Modifications to the Galveston Channel are also recommended and include a channel 50 feet deep and 450 feet wide for a distance of 3.6 miles. The plan would reduce waterborne transportation costs by enabling more efficient use of deep-draft vessels, reduce vessel delays, and improve navigation safety.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed plan of action and SEIS can be answered by: Mr. David J. Petit, (409) 766-3032, Environmental Specialists, Environmental Resources Branch, or Dr. Thomas H. Rennie, (409) 766-6303, Study Manager, Coastal Planning Branch, Planning Division, PO Box 1229, Galveston, Texas 77553-1229.

SUPPLEMENTARY INFORMATION: 1. A Feasibility Study for the proposed channel enlargement plan was prepared in response to resolutions adopted 19 October 1967 and 9 December 1975 by the Committee on Public Works of the United States House of Representatives. A Final Environmental Impact Statement (FEIS) published in July 1988 addressed structural and non-structural plans for improving navigation efficiency on the Houston Ship Channel and Galveston Channel and impacts associated with the alternatives. The local sponsors of the project are the Port of Houston Authority and Galveston Wharves. A Reevaluaton Report and SEIS are being prepared to evaluate modifications recommended by the Chief of Engineers in his report dated 8 January 1990. The modifications call for a two-phased construction sequence of the project. Phase I includes enlargement of the HSC to a depth of 45 feet and a width of 530 feet, and the Galveston Channel to a depth of 45 feet and a width of 450 feet. Phase II includes deepening both channels to 50 feet and widening the HSC to 600 feet. If the Galveston Harbor and Entrance Channels (which provide Galveston Bay access to the Gulf of Mexico) are not enlarged as part of the authorized 50-foot Texas City Channel navigation project, these construction efforts will be assumed by this project. A locally preferred disposal plan is being developed for disposal of all construction and maintenance dredged materials. Other actions to be addressed in the SEIS include a refinement of project-induced impacts using field studies and computer models; the development of adequate, feasible mitigation, if required; and identification of beneficial uses of dredged material. A second SEIS will be prepared prior to Phase II construction.

2. *Scoping:* The scoping process will involve Federal, State, and local agencies, and other interested persons and organizations. Several scoping workshops will be conducted to discuss various issues associated with the project. Issues that are anticipated include bay circulation and salinity regime; project-induced environmental impacts including oysters, shrimp and finfish; water quality; and beneficial uses of dredged material. Any persons or organizations wishing to provide information on issues or concerns should contact the Corps of Engineers at the above address. A final Scope of Studies for the SEIS will be developed with careful consideration of all views submitted by the public and various agencies.

3. *Coordination:* An Interagency Coordination Team (ICT) comprising Federal and State resource agencies has been meeting to discuss various issues associated with this project and to develop appropriate studies for the SEIS. The ICT will continue to meet to assure a full and complete exchange of views associated with this project. Further coordination with environmetnal agencies will be conducted under required laws and regulations, including the Fish and Wildlife Coordination Act, Endangered Species Act, Clean Water Act, and National Historic Preservation Act.

4. *SEIS Preparation:* It is estimated that the draft SEIS will be available to the public in March 1993.

Dated: June 21, 1990.

Brink P. Miller,

Colonel, EN, Commanding.

[FR Doc. 90-15665 Filed 7-5-90; 8:45 am]

BILLING CODE 3710-GK-M

Defense Intelligence Agency

Membership of the DIA Performance Review Committee

AGENCY: Defense Intelligence Agency (DoD).

ACTION: Notice of membership of the DIA performance review committee (PRC).

SUMMARY: This notice announces the appointment of the PRC of the Defense Intelligence Agency. The PRC's jurisdiction includes the entire Defense Intelligence Senior Executive Service (DISES). Publication of the PRC membership is required by 10 U.S.C. 1601(a)(4).

The PRC provides fair and impartial review of Defense Intelligence Senior Executive Service (DISES) performance appraisals and makes recommendations regarding performance and performance awards to the Director, Defense Intelligence Agency.

EFFECTIVE DATE: July 1, 1990.

FOR FURTHER INFORMATION CONTACT: Mr. Michael T. Curriden, Human Resources Manager, Policy and Program Division, Directorate for Human Resources, Defense Intelligence Agency (RHR-5), 3100 Clarendon Boulevard, Arlington, VA 22201-5322, (703) 284-1341.

Primary Members

Mr. Dennis M. Nagy, Executive Director (Chairman)

Mr. John T. Berbrich, Assistant Deputy Director for Scientific and Technical Intelligence

Mr. A. Denis Clift, Deputy Director for External Affairs

Mr. Michael F. Munson, Deputy Director for Resources

Dr. William A. Naughton, Defense Intelligence Officer for Latin America

BG Frank Partlow, Assistant Deputy Director for Estimates

Brig Gen Jon A. Reynolds, Assistant Deputy Director for Attaches

Alternate Members

Mr. C. Patrick Duecy, Assistant Deputy Director for Research
Brig Gen Walter C. Hersman, Deputy Director for Command Support and Plans
Mr. Steven T. Schanzer, Deputy Director for Information Systems
Mr. Daniel J. Spohn, Defense Intelligence Officer for Research and Development
Mr. James S. VanWagenen, Assistant Deputy Director for External Affairs.

Dated: July 2, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 90-15709 Filed 7-5-90; 8:45 am]

BILLING CODE 3810-01-M

National Security Agency/Central Security Service

Privacy Act of 1974; New Record Systems

AGENCY: National Security Agency/Central Security Service.

ACTION: Notice of four new systems of records for public comment.

SUMMARY: The National Security Agency/Central Security Service proposes to add four new record systems to its existing inventory of record systems subject to the Privacy Act of 1974, as amended (5 U.S.C. 522a). These proposed new record system notices are set forth below.

DATES: The proposed actions will be effective without further notice on August 6, 1990, unless comments are received which result in contrary determinations.

ADDRESSES: Send any comments to Ms. Pat Schuyler, Office of Policy, National Security Agency, Ft. George G. Meade, MD 20755-6000. Telephone (301) 688-6527.

SUPPLEMENTARY INFORMATION: The National Security Agency/Central Security Service record systems notices subject to the Privacy Act of 1974, have been published in the Federal Register as follows:

50 FR 22585, May 29, 1985 (DoD compilation, changes follow)
52 FR 36818, Oct. 1, 1987
52 FR 41758, Oct. 30, 1987

The new record systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act was submitted on June 27, 1990, 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).

Dated: July 2, 1990.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

GNSA14

SYSTEM NAME:

NSA/CSS Library Patron File Control System

SYSTEM LOCATION:

National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Borrowers of library materials from NSA/CSS libraries.

CATEGORIES OF RECORDS IN THE SYSTEM:

File consists of borrower's name, work organization, contracting sponsor's name, work telephone number, Social Security Number, and library materials borrowed.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Agency Act of 1959, 50 U.S.C. 402 note (Pub. L. 86-36); 50 U.S.C. 831-835 (Pub. L. 88-290); 18 U.S.C. 798; and Executive Orders 9397 and 12333.

PURPOSE(S):

To track and administer the use of NSA/CSS library materials.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

NSA/CSS "Blanket Routine Uses" published at the beginning of the Agency's compilation apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer database (floppy or hard drive or magnetic tape) or paper printout of stored information.

RETRIEVABILITY:

Records are retrieved by the borrower's name, Social Security Number, or the title of the library material borrowed.

SAFEGUARDS:

Only the library staff has access to the retrieval system and to the passwords for operating this system. The system is logged off at the close of business.

RETENTION AND DISPOSAL:

Once a borrower has registered with the library, the borrower remains registered until he/she leaves the Agency. Disposal of records is accomplished by deletion from the database.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000. Inquiries should contain full name, Social Security Number, and mailing address.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000. The inquiry should include the individual's full name, Social Security Number and mailing address.

CONTESTING RECORD PROCEDURE:

NSA/CSS rules for contesting record contents and appealing any adverse initial Agency determinations are contained in NSA/CSS Regulation No. 10-35; 32 CFR part 299a, or may be obtained by writing to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

RECORD SOURCE CATEGORIES:

Contents of the record are obtained from the individual borrower and library staff.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this file may be exempt under 5 U.S.C. 552a (k)(1) and (k)(4).

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553 (b)(1), (2) and (3), (c) and (e) and is published in NSA/CSS Regulation No. 10-35 and the Code of Federal Regulations at 32 CFR part 299a.

GNSA15

SYSTEM NAME:

NSA/CSS Computer Users Control System

SYSTEM LOCATION:

National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Users of National Security Agency/Central Security Service computers and software.

CATEGORIES OF RECORDS IN THE SYSTEM:

The user's name, Social Security Number, an assigned identification (ID) code, organization, work phone number, terminal identification, system name, programs accessed or attempted to access, data files used, date and time logged onto and off the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

National Security Agency Act of 1959, 50 U.S.C. 402 note (Pub. L. 86-36); 50 U.S.C. 831-835, (Pub. L. 88-290); 18 U.S.C. 798; and Executive Orders 9397 and 12333.

PURPOSE(S):

To administer and monitor use of NSA/CSS computers, software, and data bases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

NSA/CSS "Blanket Routine Uses" set forth at the beginning of the Agency's compilation of record systems apply to this record system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer data base (floppy or hard drive or magnetic tape) or paper printout of stored information.

RETRIEVABILITY:

Records are retrieved by the user's name, Social Security Number, or assigned identification (ID) code.

SAFEGUARDS:

Records are kept in a secured and guarded area. Only authorized individuals have access to the retrieval system and to the passwords for operating the system.

RETENTION AND DISPOSAL:

Records are retained in the computer system as long as the individual has access to the materials. Computer records are disposed of by deleting the information from the data base; paper records may be disposed of by destruction.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

Inquiries should contain the individual's full name, Social Security Number, and mailing addrdess.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

Inquiries should contain the individual's full name, Social Security Number and mailing address.

CONTESTING RECORD PROCEDURE:

NSA/CSS rules for contesting record contents and appealing any adverse initial Agency determinations are contained in NSA/CSS Regulation No. 10-35; 32 CFR part 299a; or may be obtained by writing to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

RECORD SOURCE CATEGORIES:

Contents of the record are obtained from the individual about whom the record pertains, from administrative personnel and computer system administrators, and a self-generated computer program.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this file may be exempt pursuant to 5 U.S.C. 552a (k)(1) and (k)(2).

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553 (b)(1), (2) and (3), (c) and (e) and is published in NSA/CSS Regulation No. 10-35 and 32 CFR part 299a.

GNSA16

SYSTEM NAME:

NSA/CSS Drug Testing Program.

SYSTEM LOCATION:

National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSA/CSS applicants for employment and employees tested for the use of illegal drugs.

CATEGORIES OF RECORDS IN THE SYSTEM:

The user's name, Social Security Number, an assigned identification (ID) code, organization, work phone number, and records relating to the selection, notification, and testing of covered individuals as well as urine specimens and drug test results and other related information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 7301 and 7361; Executive Orders 12564, "Drug-Free Federal Workplace" and 9397.

PURPOSE(S):

The system is used to maintain NSA/CSS Drug Program Coordinator records on the selection, notification, and testing (i.e., urine specimens, drug test results, chain of custody records, etc.) of employees and applicants for employment for illegal drug use.

Records contained in this system are also used by the employee's Medical Review Offical; the administrator of any Employee Assistance Program in which the employee is receiving counseling or treatment or is otherwise participating; and supervisory or management officials within the employee's Agency having authority to take adverse personnel action against such employee.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In order to comply with provisions of 5 U.S.C. 7301, NSA/CSS "Blanket Routine Uses" do not apply to this system of records.

To a court of competent jurisdiction where required by the United States Government to defend against any challenge against any adverse personnel action.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computer database (floppy or hard drive or magnetic tape) or paper printout of stored information, microflim or microfiche.

RETRIEVABILITY:

Records are retrieved by the user's name, Social Security Number, or assigned identification (ID) code.

SAFEGUARDS:

For paper computer printouts and microflim/microfiche-secured limited access facilities, within those facilities secure limited access rooms and within those rooms lockable containers. Access to information is limited to those individuals specifically authorized and granted access by the Deputy Director for Administration. For records on the computer system, access is controlled by a password and limited to authorized personnel only.

RETENTION AND DISPOSAL:

Records are retained for two years and then destroyed by shredding, burning or erasure in the case of magnetic media.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

The inquiry should contain the individual's full name, Social Security Number and mailing address.

RECORD ACCESS PROCEDURE:

Individuals seeking access to information about themselves contained in this system of records should address written inquiries to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

The inquiry should include the individual's full name, Social Security Number and mailing address.

CONTESTING RECORD PROCEDURE:

NSA/CSS rules for accessing records and for contesting record contents and appealing any adverse initial NSA/CSS determinations are contained in NSA/CSS Regulation No. 10-35; 32 CFR part 299a; or may be obtained from the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

RECORD SOURCE CATEGORIES:

Contents of the record are obtained from the individual about whom the record pertains, from laboratories that test urine specimens for the presence of illegal drugs, from supervisors and managers and other NSA/CSS employees, from confidential sources, and from other sources as appropriate and required.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this file may be exempt pursuant to 5 U.S.C. 552a(k)(1).

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553(b) (1), (2) and (3), (c) and (e) and is published in NSA/CSS Regulation No. 10-35 and 32 CFR part 299a.

GNSA17

SYSTEM NAME:

NSA/CSS Employee Assistance Service (EAS) Case Records.

SYSTEM LOCATION:

National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NSA/CSS civilian employees, military assignees, applicants, retirees, and family members who are referred, or voluntarily request counselling assistance. Civilian counselors to whom cases are referred.

CATEGORIES OF RECORDS IN THE SYSTEM:

Files consist of the case records compiled by counselors, questionnaires completed by patients, questionnaires completed by private counselors to whom clients are referred, the records of medical treatment and services, correspondence with personal physicians, NSA/CSS Medical Center reports, results of psychological assessment testing and interviews, psychiatric examination results and related reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12333; Pub. L. 86-36; 5 U.S.C. 7901; and Executive Order 9397.

PURPOSE(S):

Used by counselors to facilitate and record treatment, referral and follow-up on behalf of employees.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

NSA/CSS's "Blanket Routine Uses" do not apply to this system of records.

To law enforcement agencies to carry out their functions when a record indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, state, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

To a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

To a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigtion of an employee, the letting of a contact, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

To a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

To the Office of Personnel Management concerning information on pay and leave, benefits, retirement deductions, and any other information necessary for the Office of Personnel Management to carry out its legally authorized, Government-wide personnel management functions and studies.

To any component of the Department of Justice for the purpose of representing the Department of Defense, or any office, employee or member of the Department in pending or potential litigation to which the record is pertinent.

To the Merit Systems Protection Board, including the Office of the Special Counsel for the purpose of litigation, including administrative proceeding, appeals, special studies of the civil service and other merit systems, review of OPM or component rules and regulations, investigation of alleged or possible prohibited personnel practices; including administrative proceedings involving any individual subject of a DoD investigation, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, magnetic tape, disk, or other computer storage media, computer listings and data bases.

RETRIEVABILITY:

Records are retrieved by the user's name, Social Security Number, assigned identification (ID) code or specific subject matter data element.

SAFEGUARDS:

Secure limited access facilities and within these facilities lockable containers. Records are accessible only to authorized personnel. For machine records stored on magnetic tape, disk, or other computer storage, terminals are secured and require passwords only available to authorized users.

RETENTION AND DISPOSAL:

Records of clients will be retained at the Employee Assistance Service facility for three years after case closure, retained for five additional years in the Agency storage facility, then destroyed.

Records of clients who retire or separate within three years of case closing will be retained at the Employee Assistance Service facility for a year after the date of separation or retirement, then stored for five years in the Agency storage facility, then destroyed.

Records of counselors to whom cases are referred will be destroyed at the same time that the counselors are removed from the referral list.

SYSTEM MANAGER(S) AND ADDRESS:

Director, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

The inquiry should contain the individual's full name, Social Security Number and mailing address.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

The inquiry should include the individual's full name, Social Security Number, and mailing address.

CONTESTING RECORD PROCEDURES:

NSA/CSS rules for accessing and for contesting record contents and appealing any adverse initial NSA/CSS determinations are contained in NSA/CSS Regulation No. 10-35; 32 CFR part 299a; or may be obtained from the Chief, Office of Policy, National Security Agency/Central Security Service, Ft. George G. Meade, MD 20755-6000.

RECORD SOURCE CATEGORIES:

Primary sources are EAS counselors, the client and the client's family. Other sources include other counselors, and other individuals within NSA/CSS.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Portions of this system may be exempt under 5 U.S.C. 552a (k)(1), (k)(2), (k)(4) and (k)(5).

An exemption rule for this record system has been promulgated in accordance with the requirements of 5 U.S.C. 553 (b) (1), (2) and (3), (c) and (e) and is published in NSA/CSS Regulation No. 10-35 and 32 CFR part 299a.

[FR Doc. 90-15705 Filed 7-5-90 8:45 am]
BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before August 6, 1990.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Jim Houser, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to George P. Sotos, Department of Education, 400 Maryland Avenue, SW., Room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: George P. Sotos (202) 732-2174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of view requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from George Sotos at the address specified above.

Dated: June 29, 1990.

George P. Sotos,

Acting Director for Office of Information Resources Management.

Office of Elementary and Secondary Education

Type of Review: Extension.

Title: Application for Grant under the High School Equivalency Program.

Frequency: Annually.

Affected Public: State or local governments; Non-profit institutions.

Reporting Burden:

Responses: 45.

Burden Hours: 900.

Recordkeeping Burden:

Recordkeepers: 0.

Burden Hours: 0.

Abstract: This form will be used by State Educational agencies to apply for funding under the High School Equivalency Program (HEP). The Department uses the information to make grant awards.

[FR Doc. 90-15692 Filed 7-5-90; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 10806-000]

City of Holyoke, Economic Development and Industrial Corp.; Availability of Environmental Assessment

June 28, 1990.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission's) regulations, 18 CFR part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a minor license for the Station No. 5 Hydropower Project, on the second level of the Holyoke canal system, in the City of Holyoke, Hampden County, Massachusetts, and has prepared an Environmental Assessment (EA) for the proposed project. In the EA, the Commission's staff has analyzed the potential environmental impacts of the proposed project and has concluded that approval of the proposed project, with appropriate mitigative measures, would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Public Reference Branch, room 3308, of the Commission's offices at 941 North Capitol Street, NE., Washington, DC 20426.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15631 Filed 7-5-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-1568-000, et al.]

Northwest Pipeline Corporation, et al.; Natural Gas Certificate Filings

June 27, 1990.

Take notice that the following filings have been made with the Commission:

1. Northwest Pipeline Corp.

[Docket No. CP90-1568-000]

Take notice that on June 18, 1990, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP90-1568-000 an application pursuant to section 7(c) of the Natural Gas Act for authorization which would permit Northwest to make periodic adjustments in its cushion gas inventory in Questar Pipeline Company's (Questar) Clay Basin storage field as appropriate to support its annual projections of necessary firm storage withdrawals from Clay Basin, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest states that in Docket No. CP76-389-000 it requested and received Commission authorization to, inter alia, own the cushion gas inventory in Clay Basin needed to support its contemplated maximum daily withdrawal of 150 MMcf and 20,000 MMcf of working gas inventory under Questar's storage service Rate Schedule S-1. Northwest states that it currently owns 35,713 MMcf of cushion gas in Clay Basin valued at approximately $64.9 million.

Northwest states that for the forthcoming 1990-91 withdrawal season it has projected that it will need to use a maximum of 10,200 MMcf of working gas inventory and 85 MMcf per day of its withdrawal capacity under Rate Schedule S-1 in order to serve its projected firm sales requirements and maintain its flexibility to utilize storage to compensate for most transportation imbalances on its system. For subsequent withdrawal seasons, it is said, Northwest may determine that it requires either more or less Clay Basin storage service than it has projected utilizing for the 1990-91 season. Northwest intends to make an annual determination of its storage needs before the date of July 15 preceding each heating season.

Further, it is said that in response to Northwest's determination of its 1990-91 requirements under Rate Schedule S-1 and Questar's similar determination of requirements for service under Rate Schedule S-3, Questar has calculated the levels of cushion gas required by each party to support their respective storage withdrawal requirements during the 1990-91 withdrawal season and has notified Northwest that Northwest's necessary level of cushion gas inventory will be 25,530 MMcf. Therefore, Northwest states that it presently has 10,183 MMcf of cushion gas inventory in Clay Basin which is in excess of the quantity needed to support its projected 1990-91 firm storage service requirements. Northwest states that as Northwest's and Questar's requirements for firm storage service at Clay Basin change in succeeding years, Northwest's required cushion gas inventory may further change, either up or down.

Northwest requests the Commission to issue an order, amending existing authorization for the ownership and use of cushion gas in the Clay Basin storage field, to grant blanket approval for Northwest to periodically change its cushion gas inventory volume to the level appropriate to support its annual projections of firm storage withdrawal requirements at Clay Basin under Questar's Rate Schedule S-1 or any superseding agreement.

It is said that the first of the proposed periodic changes in cushion gas inventory levels would be a reduction of cushion gas inventory by 10,183 MMcf on or before November 1, 1990, the start of the 1990-91 withdrawal season, which would be effected by transferring 10,183 MMcf of gas in place from Northwest's cushion gas account to its working gas account. For subsequent withdrawal seasons, based upon Questar's notification of the level of cushion gas required by Northwest to support its projected withdrawal requirements, Northwest proposes to adjust its cushion gas inventory in a similar manner. That is, on or before November 1, any excess cushion gas would be transferred in place to Northwest's working gas account. On the other hand, if additional cushion gas was required, Northwest either would accommodate the necessary additional injections by purchase from its existing system gas supply sources (if the required volumes were small) or would proceed to contract for the purchase of sufficient spot-market supplies during the injection season to allow the requisite cushion gas volumes to be injected prior to November 1.

Comment date: July 27, 1990, in accordance with Standard Paragraph F at the end of this notice.

2. Colorado Interstate Gas Co.

[Docket No. CP90-1614-000]

Take notice that on June 25, 1990, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP90-1614-000 a request pursuant to Sections 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas for Universal Resources Corporation, d/b/a Questar Energy Company (Questar), under CIG's blanket certificate issued in Docket No. CP86-589-000, pursuant to section 7(c) of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

CIG proposes to transport up to 25,000 Mcf of natural gas per day for Questar pursuant to a transportation agreement dated April 1, 1990, between CIG and Questar. CIG would receive gas from an existing point of receipt on its system in Wyoming, and redeliver the subject gas, less fuel gas and lost and unaccounted-

for gas, for the account of Questar in Finney County, Kansas.

CIG further states that the estimated average daily and annual quantities would be 10,000 Mcf and 3,500,000 Mcf, respectively. Service under § 284.233(a) commenced on April 6, 1990, as reported in Docket No. ST90-2774-000, it is stated.

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

3. Northern Natural Gas Co.

[Docket No. CP90-1611-000]

Take notice that on June 25, 1990, Northern Natural Gas Company (Northern), 1400 Smith Street, P.O. Box 1188, Houston, Texas 77251-1188, filed in Docket No. CP90-1611-000 a request pursuant to § 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on an interruptible basis on behalf of Continental Natural Gas, Inc. (Continental), a marketer of natural gas, under its blanket certificate issued in Docket No. CP86-435-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

Northern states that it proposes to transport natural gas on behalf of Continental between points of receipt in Oklahoma, Kansas, Texas, Iowa, New Mexico, Wisconsin, Nebraska, Minnesota, South Dakota, and Illinois, and delivery points located in Oklahoma, Kansas, Texas, Iowa, Wisconsin, Nebraska, Minnesota, South Dakota, and Illinois.

Northern further states that the maximum daily, average daily and annual quantities that it would transport of behalf of Continental would be 100,000 MMBtu equivalent of natural gas, 75,000 MMBtu equivalent of natural gas and 36,500,000 MMBtu equivalent of natural gas, respectively.

Northern indicates that in Docket No. ST90-2941, filed with the Commission on May 7, 1990, it reported that transportation service on behalf of Continental commenced on April 21, 1990 under the 120-day automatic authorization provisions of § 284.223(a).

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

4. El Paso Natural Gas Co.

[Docket No. CP90-1600-000]

Take notice that on June 21, 1990, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP90-1600-000 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon from interstate service by conveyance to Western Gas Processors, Ltd. and Chuska Energy Company (hereinafter referred to as Western Gas) certain existing certificated compression, pipeline and processing plant facilities, with appurtenances, hereinafter referred to as the San Juan River Gathering Systems, being located primarily in San Juan County, New Mexico,[1] and the related service, all as more fully set forth in the application which is on file with the Commission and open to the public inspection.

It is stated that the San Juan River Gathering Systems include both the Barker Dome System and the Boundary Butte System. El Paso states that the Barker Dome System was initially constructed by El Paso in 1951 to gather and process natural gas from the Barker Dome Field in Northwestern New Mexico and was comprised of both the Barker Dome gathering system and the San Juan River Processing Plant. According to El Paso, the gathering system, which is now comprised of approximately 24.5 miles of non-jurisdictional, non-certificated pipeline ranging in size from 2⅜-inches to 24-inches in diameter, was designed and constructed with field compression located at the San Juan River Plant to pull gas through the gathering system for delivery to the processing facilities. El Paso states that after the gas was processed (purification, dehydration and sulfur removal) to pipeline quality, it entered El Paso's mainline compression facilities for further compression prior to entry into El Paso's mainline system and transmission to various delivery points on its system.

El Paso states that it constructed the Boundary Butte Gathering System in 1958 to gather gas from the Boundary Butte, East Boundary Butte and Aneth production fields, to the San Juan River Plant for processing to pipeline quality and mainline transmission to various delivery points. In addition, El Paso states that it has subsequently constructed and integrated into such system certain non-jurisdictional gathering facilities.

El Paso submits that it is continuing its transition from being primarily a gas merchant to being a major gas transporter. Similarly, El Paso states that many of the producers with gas in the Barker Dome and Boundary Butte Systems are in a transition period and no longer make sales to El Paso. Rather, sales are made directly to others and El Paso states that it provides the transportation service to various delivery points on its system. El Paso states that it originally constructed the Barker Dome and Boundary Butte Systems to gather and process up to 170 MMcf per day (MMcfd) of natural gas for its own system supply. Pursuant to the Commission's order approving a settlement in Docket No. CP74-314-014, 31 FERC ¶ 61,370 (1985), El Paso states that it agreed to redirect certain volumes of natural gas from its own processing plants in the San Juan Basin to the new Blanco Plant to be jointly owned by Conoco Inc. and Tenneco Oil Company.[2] To effectuate this agreement, El Paso states that it redirected the flow of gas in its Blanco-Fruitland Line (approximately 87 MMcfd) away from the San Juan River Plant to the new Blanco Processing Plant. According to El Paso, the Blanco-Fruitland Line, which El Paso will retain, presently serves as the primary line receiving gas from the Blanco-Fruitland gathering systems and delivering the gas to the new Blanco Processing Plant. El Paso states that approximately 32 MMcfd is now gathered and delivered to the Blanco Plant.

As a result of this agreement and the precipitous decline in gas sources from these gathering systems and changes in El Paso's marketing environment, El Paso states that only approximately 28.0 MMcfd of gas is now received at the inlet of the San Juan River Plant; of this volume, a maximum of up to 15.5 MMcfd is system supply gas. As such, El Paso submits that it is using only a small fraction of the designed gathering and processing capacity of the San Juan River Gathering Systems, while incurring significant operating and maintenance costs.

El Paso states that its market environment no longer justifies its continued retention of the San Juan River Gathering Systems. Moreover, due to the present and projected low demand for El Paso's system supply gas, El Paso no longer requires the assured access to gas supply provided by the San Juan River Gathering Systems. El Paso states that considering these conditions, it believes the continued operation of the San Juan River Gathering Systems by El Paso would frustrate its goal of optimizing system operations. Accordingly, El Paso states

[1] The subject facilities are predominantly located in San Juan County, New Mexico; however, minor facilities extend into Apache County, Arizona and San Juan County, Utah.

[2] El Paso states that Amoco Production Compar y has succeeded to the interests of Tenneco Oil Company

that it decided to sell the systems to Western Gas.

El Paso states that Western Gas is already engaged in production and processing activities and would bring its experience in such activities to the San Juan River area with its acquisition and operation of the Barker Dome and Boundary Butte Systems. El Paso states that it conducted arms length negotiations with Western Gas concerning all conditions of sale. Although the sale of these gathering systems will result in a book loss to El Paso, El Paso states that the sale will allow it to: achieve significant yearly operating and maintenance savings, further its goal of optimizing the use of all facilities on its system, and permit a new owner to assume operations and focus on increasing throughput and providing additional services to producers using the system.

El Paso submits that it has entered into an Agreement of Sale dated July 26, 1989, with Western Gas covering the sale of both the Barker Dome and Boundary Butte Systems. However, El Paso states that it will retain the 3,830 horsepower Solar Centaur Turbine Field Compressor Unit located in the San Juan River Plant yard for emergency standby service. If the new Blanco Processing Plant is temporarily shut down, El Paso states that it will operate its compressor unit to pull gas otherwise destined for the Blanco Plant through its Blanco-Fruitland Line for ultimate delivery to its mainline facilities.

El Paso reports that Western Gas intends to operate the San Juan River Gathering Systems as an integrated, non-jurisdictional gathering and processing system and will file a petition of declaratory order requesting that the Commission disclaim jurisdiction over the San Juan River Gathering Systems as described herein. El Paso states that it will continue to own and operate its three mainline compressor units, totaling 3,450 horsepower, located downstream of the San Juan River Plant.

According to El Paso, Western Gas' operation of the Barker Dome and Boundary Butte facilities as non-jurisdictional gathering systems will greatly benefit producers in the Four Corners production area, El Paso's mainline transportation customers and end-users of gas produced from the Four Corners Area. It is averred that producers in the area will benefit by having an additional competitor experienced in gathering and processing activities offering services kin that area. El Paso believes that is mainline transportation customsers will benefit from alternative gathering and processing services and from greater supply diversity. El Paso further states that Western Gas will encourage further development of gas supply and throughput in the general area served by these systems.

El Paso states that after abandonment of the San Juan River Gathering Systems, it will have minor purchase obligations for approximately 15.5 MMcfd of natural gas located in the Four Corners area, including company owned production of 2.6 MMcfd of natural gas subject to the Natural Gas Act (NGA). According to El Paso, the related gas purchase agreements have various expiration dates, ranging from October 1991 to December 1999. El Paso states that, to date, it has released approximately 3.2 MMcfd of gas production from the San Juan River area. El Paso states taht the sale of the San Juan River Gathering Systems will not prevent it from honoring its remaining contractual obligations in the San Juan River Production area. El Paso reports that Western Gas has agreed to provide gathering and processing services for El Paso's remaining gas in the San Juan River production area. It is further stated that Western Gas has also indicated to El Paso that it is endeavoring to enter into contracts for gathering and processing services for all producers with supplies located in the San Juan River area.

El Paso states that it will abandon no gas supply as a direct result of the abandonment of the San Juan River Gathering Systems; therefore, El Paso's ability to render existing sale for resale service to its customers will not be impaired (El Paso states that it makes no direct sales from any of the facilities proposed to be abandoned herein). Furthermore, El Paso submits that its open-access contractual obligations for transportation service will not be affected by the proposed transfer of facilities, and Western Gas has represented to El Paso its commitment to non-discriminatory access and operation of the gathering and processing facilities following its acquisition of such. Additionally, El Paso states that the proposed transfer of facilities will not affect its commitment to provide gas to the new Blanco Processing Plant. Also, El Paso states that the abandonment will require no changes in it's FERC Gas Tariff and no significant change in it's rates will result therefrom.

El Paso states that there will be no adverse environmental effects upon effectuation of the proposed abandonment. Accordingly, El Paso states that it believes the proposed action does not constitute a major federal action significantly effecting the quality of the human environment and thus not subject to the requirements of the National Environmental Policy Act of 1969. In El Paso's judgement, an environmental analysis for the instant proposal is not necessary.

Comment date: July 18, 1990, in accordance with Standard Paragraph F at the end of this notice.

5. Arkla Energy Resources, a Division of Arkla, Inc.

[Docket No. CP90-1596-000]

Take notice that on June 21, 1990, Arkla Energy Resources, a division of Arkla, Inc. (AER), Post Office Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP90-1596-000 a request pursuant to §§ 157.205, 157.211 and 157.212 of the Commission's Regulations for authorization to construct and operate certain facilities under AER's blanket certificate issued in Docket Nos. CP82-384-000 and CP82-384-001 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

AER proposes to construct and operate a one-inch tap on AER's Line BT-14 in Pope County, Arkansas. It is stated that the customer initially requesting service, Jack Jones, would use the gas for both commercial and residential purposes. It is estimated that the initial annual and peak days usage would be 2,000 Mcf and 5 Mcf, respectively. It is estimated that the cost of the proposed facilities would be $3,780, which cost would be financed with internally generated capital.

AER states that the gas required for the proposed service would be delivered from its general system supply which is adequate to provide such service. AER states that during 1989 its system had total sales volumes of approximately 65,800,000 Mcf annually and 809,806 Mcf on a peak day. AER expects that the proposed service would thus have a *de minimis* impact on supply.

It is indicated that the gas sold would be billed at Arkla Louisiana Gas Company's applicable retail rates as

filed and effective with the state regulatory authority.[3]

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

6. Southern Natural Gas Co.

[Docket No. CP90-1597-000]

Take notice that on June 21, 1990, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in Docket No. CP90-1597-000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations for authorization to construct and operate certain facilities under Southern's blanket certificate issued in Docket No. CP82-406-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Southern proposes to construct and operate a new delivery point in Jefferson County, Georgia. It is explained that the City of Wrens, Georgia (Wrens) provides natural gas service in Jefferson County, Georgia through natural gas deliveries it receives from Southern at a point of delivery referred to as Wrens No. 1 in Jefferson County, Georgia. Southern states that Wrens has requested that Southern install an additional delivery point, referred to as Wrens No. 2, so that Wrens may provide service to a new industrial customer.

Southern proposes to construct, install and operate a meter station and appurtenant facilities at approximately mile post 4.7 on Southern's 14-inch Wrens-Savannah Loop Line in Jefferson County, Georgia. Southern indicates that it would deliver the gas at Wrens No. 2 at a contract delivery pressure of 300 psig. Southern estimates that the delivery point would cost $166,880. It is stated that Wrens would reimburse Southern for the total actual cost of constructing and installing the proposed facilities.

Southern indicates that the current contract demand for Wrens is 2,324 Mcf per day. Exhibit D to the application shows that the contract demand for Wrens No. 1 and the proposed Wrens No. 2 would be 1,824 Mcf per day and 500 Mcf per day, respectively. Southern states that in view of this, the total contract demand that would be delivered to Wrens would not change. Southern indicates that upon receipt of the authorization requested herein, it would file a Revised Exhibit A to the Service Agreeement with Wrens to reflect the addition of the delivery point.

Southern states that the proposed delivery point would not result in the termination of service to Wrens and it would have a *de minimis* impact on Southern's peak day and annual deliveries. It is also stated that the proposed delivery point is not prohibited by Southern's FERC Gas Tariff and that Southern has sufficient capacity to accomplish the deliveries proposed by the installation without detriment or disadvantage to its other customers.

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

7. Midwestern Gas Transmission Co.; Texas Eastern Transmission Corp.; Green Canyon Pipe Line Co.

[Docket Nos. CP90-1580-000,[4] CP90-1589-000, CP90-1591-000]

Notice of Requests Under Blanket Authorization

June 27, 1990.

Take notice that on June 20, 1990, the above referenced companies (Applicants) filed in the respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under Applicants blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

Applicants state that each of the proposed services would be provided under an executed transportation agreement and that the Applicants would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

[3] Arkansas Louisiana Gas Company is Arkla, Inc.'s distribution division.

[4] These prior notice requests are not consolidated.

Docket No.	Applicant	Shipper name	Peak day [1] avg, annual	Points of		Start-up date rate schedule	Related [2] dockets
				Receipt	Delivery		
CP90-1580-000	Midwestern Gas Transmission, P.O. Box 2511, Houston, TX 77252.	Phillips Petroleum Company.	50,000 50,000 18,250,000	OFF La Off TX TX LA	TN IL IN KY	5/17/90 (IT)	CP90-174-000 ST90-3406-000
CP90-1589-000	Texas Eastern, Transmission, P.O. Box 2521, Houston, TX 77252-2521.	Continental Natural Gas, Inc.	100,000 100,000 36,500,000	LA AR TX MS	LA TX AR MS KY	4/18/90 (IT-1)	CP88-136-000 ST90-3430-000
CP90-1591-000	Green Canyon, Pipe Line, Company, P.O. Box 1396.	BHP Gas Marketing Company.	30,000 30,000 10,950,000	Off LA y	5-1-90 (IT-GC)	CP89-515-000 ST90-3037-000	

[1] Quantities are shown in dekatherms unless otherwise indicated.

[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

8. Southern Natural Gas Co.

[Docket Nos. CP90-1604-000 and CP90-1605-000]

Take notice that on June 22, 1990, Southern Natural Gas Company (Applicant), Post Office Box 2563, Birmingham, Alabama 35202-2563, filed in the above referenced dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued in Docket No. CP88-316-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the requests that are on file with the Commission and open to public inspection.[5]

Information applicable to each transaction, including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the initiation service dates and related docket numbers of the 120-day transactions under § 284.223 of the Commission's Regulations, has been provided by Applicant and is summarized in the attached appendix.

Applicant states that each of the proposed services would be provided under an executed transportation agreement, and that Applicant would charge the rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

[5] These prior notice requests are not consolidated.

Docket number (date filed)	Shipper name	Peak day [1] average day annual	Receipt points [2]	Delivery points	Start up date rate schedule service type	Related [3] docket contract date
CP90-1604-000 (6-22-90)	NGC Transportation, Inc	100,000 30,000 10,950,000	OTX, TX, OLA, LA, MS, AL.	MS	5-02-90, IT, Interruptible.	DST90-3022-000, 4-24-90.
CP90-1605-000 (6-22-90)	Broklyn Interstate Natural Gas Corporation.	30,000 82 30,000	OTX, TX, OLA, LA, MS, AL.	LA	5-01-90, IT Interruptible.	ST 90-3023-000, 4-24-90.

[1] Quantities are shown in MMBtu.
[2] Offshore Louisiana and offshore Texas are shown as OLA and OTX.
[3] In an ST docket is shown, 120-day transportation service was reported in it.

9. Mississippi River Transmission Corp.

[Docket Nos. CP90-1606-000 [6] and CP90-1607-000]

Take notice that on June 22, 1990, Mississippi River Transmission Corporation (Applicant) filed in the above referenced dockets, prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under its blanket certificate issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection and in the attached appendix.

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicant and is included in the attached appendix.

The Applicant also states that it would provide the service for each shipper under an executed transportation agreement, and that the applicant would charge rates and abide by the terms and conditions of the referenced transportation rate schedule(s).

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

[6] These prior notice requests are not consolidated.

Docket No. (date filed)	Applicant	Shipper Name	Peak day [1] avg. annual	Points of		Start-up date rate schedule	Related [2] dockets
				Receipt	Delivery		
CP90-1606-000 (6-22-90)	Mississippi River Transmission Corporation, 9900 Clayton Road, St. Louis, Missouri 63124.	Mountain Iron & Supply Company.	20,000 2,000 730,000	TX LA, AR, IL	MO	5-1-90 (ITS)	CP89-1121-000 ST90-3245-000
CP90-1607-000 (6-22-90)	Mississippi River Transmission Corporation, 9900 Clayton Road, St. Louis, Missouri 63124.	Big River Zinc Corp	714 714 260,610	LA AR, OK, TX, IL	IL	5-1-90 (FTS)	CP89-1121-000 ST90-3244-000

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

10. Blue Dolphin Pipe Line Co. and Northern Natural Gas Co., Division of Enron Corp.

[Docket Nos. CP90-1592-000 and CP90-1594-000]

Take notice that the above referenced companies (Applicants) filed in respective dockets prior notice requests pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act for authorization to transport natural gas on behalf of various shippers under blanket certificates issued pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the prior notice requests which are on file with the Commission and open to public inspection.[7]

Information applicable to each transaction including the identity of the shipper, the type of transportation service, the appropriate transportation rate schedule, the peak day, average day, and annual volumes, and the docket numbers and initiation dates of the 120-day transactions under § 284.223 of the Commission's Regulations has been provided by the Applicants and is included in the attached appendix.

The Applicants also states that each would provide the service for each shipper under an executed transportation agreement, and that the Applicants would charge rates and abide by the terms and conditions of the referenced transportation rate schedules.

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

[7] These prior notice requests are not consolidated.

Docket number (date filed)	Applicant	Shipper name	Peak Day [1] average annual	Points of		Start up date rate schedule	Related [2] dockets
				Receipt	Delivery		
CP90-1592-000 (6-20-90)	Blue Dolphin Pipeline Company.	Chevron USA, Inc.	20,000 9,100 3,320,000	Off TX, on TX	Brazoria, TX	5-1-90, IT	ST90-3212-000.
CP90-1594-000 (6-20-90)	Northern Natural Gas Company, Division of Enron Corp.	NGC Transportation, Inc.	25,000 18,750 9,125,000	OK	TX	5-1-90, IT-1	ST90-3222-000.

[1] Quantities are shown in MMBtu unless otherwise indicated.
[2] The CP docket corresponds to applicant's blanket transportation certificate. If an ST docket is shown, 120-day transportation service was reported in it.

11. Tennessee Gas Pipeline Co. and Midwestern Gas Transmission Co.

[Docket Nos. CP90-1609-000 and CP90-1610-000]

Take notice that on June 22, 1990, Tennessee Gas Pipeline Company (Tennessee) and Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77252, in Docket Nos. CP90-1609-000 and CP90-1610-000, respectively, filed requests with the Commission pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA), for authorization to transport natural gas on behalf of FMI Hydrocarbon Company (FMI Hydrocarbon), a natural gas producer, and Union Texas Petroleum Corporation (Union Texas), a natural gas producer, under their respective blanket certificates issued in Docket Nos. CP87-115-000 and CP90-174-000 pursuant to section 7 of the NGA, all as more fully set forth in the requests which are open to public inspection.[8]

Tennessee and Midwestern propose interruptible natural gas transportation services for FMI Hydrocarbon and Union Texas under their respective FERC Rate Schedule IT. Tennessee and Midwestern have also provided other information applicable to these transactions, including the peak day, average day, and annual volumes; service initiation dates; and the related docket numbers of the 120-day transactions under § 284.223(a) of the Regulations, as summarized in the attached appendix.

Comment date: August 13, 1990, in accordance with Standard Paragraph G at the end of this notice.

[8] These prior notice requests are not consolidated.

Transporter & docket number	Shipper	Volumes-dth (peak, average annual)	ST docket start up date	Receipt points (state)	Delivery points (state)
Tennessee, CP90-1609-000	FMI Hydrocarbon Company	64,770 64,770 23,641,050	ST90-3272 (5-10-90).	Off LA, LA	IL, IN, MI, OH, TN.
Midwestern, CP90-1610-000	Union Texas Petroleum Corporation.	100,000 100,000 36,500,000	ST90-3421 (5-18-90).	Off LA, LA	AL, AR, CT, IL, IN, IA, KY, LA, MA, MI, MS, NJ, OH, OK, PA, RI, TN, TX, WV, WI.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15632 Filed 7-5-90; 8:45 am]

BILLING CODE 6717-01-M

[Project Nos. 10183-004, et al.]

Skykomish River Hydro et al.; Surrender of Preliminary Permits and Exemptions

June 27, 1990.

Take notice that the following preliminary permits/exemptions have been surrendered effective as described in Standard Paragraph I at the end of this notice.

1. Skykomish River Hydro

[Project No. 10183-004]

Take notice that Skykomish River Hydro, Permittee for the Silver Creek Project No. 10183, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10183 was issued August 18, 1987, and would have expired July 31, 1990. The project would have been located on Silver Creek within the Snoqualmie-Mt. Baker National Forest in Snohomish County, Washington.

The Permittee filed the request on June 20, 1990.

2. Sauk River Hydro

[Project No. 10392-003 Washington]

Take notice that Sauk River Hydro, Permittee for the Falls Creek Project No. 10392, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10392 was issued October 16, 1987, and would have expired September 30, 1990. The project would have been located on Falls Creek within the Snoqualmie-Mt. Baker National Forest in Snohomish County, Washington.

The Permittee filed the request on June 20, 1990.

3. Skykomish River Hydro

[Project No. 10143-002, Washington]

Take notice that Skykomish River Hydro, Permittee for the Proctor Creek Project No. 10143, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10143 was issued August 17, 1987, and would have expired July 31, 1990. The project would have been located on Proctor Creek within the Snoqualmie-Mt. Baker National Forest in Snohomish County, Washington.

The Permittee filed the request on June 20, 1990.

4. Skykomish River Hydro

[Project No. 10182-002, Washington]

Take notice that Skykomish River Hydro, Permittee for the West Fork Miller River Project No. 10182, has requested that its preliminary permit be terminated. The preliminary permit for Project No. 10182 was issued August 17, 1987, and would have expired July 31, 1990. The project would have been located on West Fork Miller River within the Snoqualmie-Mt. Baker National Forest in King County, Washington.

The Permittee filed the request on June 20, 1990.

Standard Paragraphs

I. The preliminary permit/exemption shall remain in effect through the thirtieth day after issuance of this notice unless that day is a Saturday, Sunday or holiday as described in 18 CFR 385.2007 in which case the permit shall remain in effect through the first business day following that day. New applications involving this project site, to the extent provided for under 18 CFR part 4, may be filed on the next business day.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15633 Filed 7-5-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-135-006]

Arkla Energy Resources, Division of Arkla, Inc.; Compliance Filing

June 28, 1990.

Take Notice that on June 25, 1990, Arkla Energy Resources ("AER"), a division of Arkla, Inc., filed the revised tariff sheets listed to the attached filing. AER states that these tariff sheets are being submitted in compliance with the Commission's June 8, 1990 order in this proceeding, which accepted, subject to certain conditions, AER's May 30, 1989 filing providing for the recovery of 50 percent of certain settlement costs pursuant to §2.104 of the Commission's regulations.

AER states that, in compliance with the June 8 order, the revised tariff sheets reflect no recovery of settlement costs by AER. AER also states that the revised tariff sheets provide that AER will adjust each customer's Settlement Cost Allocation for any over-collection or under-collection of carrying charges resulting from differences between the interest rates used each year to project carrying costs and the interest rates actually published by the FERC pursuant to §154.67 of the Commission's regulations.

AER states that the revised sheets also provide that carrying charges on any settlement payment will not begin to accrue until the effective date of a tariff sheet incorporating the payment.

AER states that the "Applicability" portion of the tariff sheets has been revised to clarify that the Settlement Cost Allocation is applicable to the customers described therein whether or not any such customer has converted its firm sales service entitlements to firm transportation service.

Finally, AER states that the revised sheets provide that each customer's Settlement Cost Allocation will be credited with an allocable portion of carrying charges on the amount, if any, by which the principal amounts collected by AER from its customers exceed 50 percent of the amount of the settlement payments actually made by AER to producers as of the date of each annual recomputation of the Settlement Cost Allocation.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989). All such protests should be filed on or before July 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and those portions of the filing for which AER has not sought confidential treatment are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15634 Filed 7-5-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP85-58-031]

El Paso Natural Gas Co.; Compliance Tariff Filing

June 28, 1990.

Take notice that El Paso Natural Gas Company ("El Paso") on June 26, 1990, tendered for filing, pursuant to part 154 of the Federal Energy Regulatory Commission's ("Commission") Regulations under the Natural Gas Act and an agreement resolving all issues in the proceeding reached by the parties at a technical conference held June 21, 1990 in the proceeding at Docket No. RP85-58-030, certain tariff sheets which reflect an increase in commodity and mainline transportation rates effective for the period July 1, 1987 through June 30, 1988.

El Paso states that on April 6, 1990 at Docket No. RP85-58-030 it tendered for filing and acceptance certain tariff sheets reflecting an increase in commodity and mainline transportation rates of $.0006 per dth ($.0003 per dth for backhaul transportation) effective for the period July 1, 1987 through June 30, 1988 in compliance with the Commission's March 8, 1990 order on remand. Such order addressed the August 24, 1989 decision by the United States Court of Appeals for the Fifth Circuit wherein the Court reversed and remanded portions of the Commission's orders issued December 16, 1987 and May 18, 1988 in this proceeding. The Court reversed those portions of the Commission orders disallowing the offset for the changes in the modified accelerated cost recovery system ("MACRS") effected by the 1986 Tax Act. Ordering paragraph (B) of the March 8, 1990 order authorized El Paso to file within thirty (30) days of the order tariff sheets adjusting its rates to reflect $287,000 offset, consistent with Article XII, *Tracking of Changes in Federal Taxes,* of the "Stipulation and Agreement in Settlement of Rate Proceedings" at Docket No. RP85-58-000, *et al.*, for the period July 1, 1987 through June 30, 1988. The $287,000 amount reflects the use of a blended tax rate for calendar year 1987. However, El Paso's calculation in its April 6, 1990 compliance filing adjusted such amount using the 34% tax rate for the twelve-month period July 1, 1987 through June 30, 1988, as required by the Commission, resulting in an offset for the MACRS of $709,852.

El Paso further states that a technical conference held June 21, 1990 the parties resolved all issues and agreed that the offset for the MACRS shall be $346,583 in lieu of the $709,852 stated in the April 6, 1990 filing. Such adjustment results in an increase of $.0003 per dth in El Paso's commodity sales rates and mainline (front haul) transportation rates and an increase of $.0002 per dth in El Paso's back haul transportation rates in effect for the period July 1, 1987 through June 30, 1988. The tendered tariff sheets reflect the instant increase in rates, effective July 1, 1987.

El Paso states that in order to recover the over-refunding, it will make a billing adjustment for each sales and transportation customer in the next regularly scheduled monthly invoice succeeding the date on which the Commission approves this filing.

Because this increase in rates affects tariff sheets with various effective dates, El Paso respectfully requested that the tendered tariff sheets be accepted by the Commission and permitted to become effective on the dates specified on the tendered tariff sheets. El Paso respectfully requested that the proposed plan to recover the above described over-refunded amounts be accepted by the Commission and permitted to become effective thirty (30) days after the date of filing.

Copies of the filing were served upon each person designated on the official service list compiled by the Secretary in Docket No. RP85-58-000, *et al.*, and, otherwise upon all interstate pipeline system sales and transportation customers of El Paso and interested state regulatory commissions.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1989). All such protests should be filed on or before July 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15635 Filed 7-5-90; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP90-135-000]

Valero Interstate Transmission Co.; Tariff Filing

June 28, 1990.

Take notice that on June 26, 1990, Valero Interstate Transmission Company ("Vitco") tendered for filing the following Tariff Sheets as part of its FERC Gas Tariff:

Valero Interstate Transmission Company
FERC Gas Tariff Original Volume No. 2
4th Revised Sheet No. 95

The proposed tariff sheet establishes the mechanism for Vitco to recover under the equitable sharing mechanism of Order No. 500 eligible take-or-pay costs resulting from contracts which were subject to litigation as of December 31, 1988.

Vitco proposes to allocate the take-or-pay costs to the sole jurisdictional sales customer to whom the subject gas purchase contracts were dedicated, El Paso Natural Gas Company ("El Paso"). The total amount that Vitco seeks to recover from El Paso is $11,805,000, exclusive of interest.

Vitco is electing, pursuant to Order No. 500, to absorb twenty-five percent (25%) and to directly bill and collect, in one lump sum, twenty-five percent (25%) of its take-or-pay buy-out and buy-down costs from El Paso. Additionally, Vitco seeks to amortize an additional fifty percent (50%) of such costs through a commodity rate surcharge applicable only to sales to El Paso over no more than three (3) years.

The take-or-pay costs reflected in the filing include (a) amounts actually paid by Vitco under settlements entered into to buy-down Vitco's alleged take-or-pay liability under certain gas purchase contracts in litigation as of December 31, 1988, and (b) take-or-pay buy-out and buy-down costs which Vitco will pay

pursuant to settlement agreements entered into subject to an acceptable FERC order permitting the recovery of the settlement costs as set forth therin.

Vitco also requests waiver of § 154.301 of the Commission's rules and regulations to permit an account 191 surcharge rate amortization period of 36 months which would be coterminous with amortization of the take-or-pay recovery amount. Further, Vitco requests the authorization to reduce the maximum unit sales rate to El Paso by 4¢ per MMBtu to further allocate the take-or-pay costs to be borne directly by Vitco.

In the event El Paso or a state agency elects to contest the prudence of the subject costs, Vitco seeks the right to bill El Paso through a demand surcharge the full amount of the take-or-pay costs required to elect whether or not to contest prudence within thirty (30) days from the effective date of the filing.

Vitco requests a proposed effective date for the proposed tariff sheets of July 27, 1990, and requests waiver of the general rate filing requirements of § 154.63 of the Commission's regulations.

Vitco states that copies of the filing were served on El Paso and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, Union Center Plaza Building, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before July 9, 1990. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of Vitco's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 90-15636 Filed 7-5-90; 8:45 am]

BILLING CODE 6717-01-M

Office of Fossil Energy

[FE Docket No. 90-43-NG]

Southern California Edison Co.; Application for Blanket Authorization to Import Natural Gas From Canada

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import Natural Gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on May 11, 1990, of an application filed by Southern California Edison Company (Edison) requesting blanket authorization to import up to 200 MMcf per day of Canadian natural gas over a two-year period beginning on the date of first delivery. The proposed import would utilize the Pacific Gas Transmission Company (PGT)/Pacific Gas and Electric Company (PG&E) Expansion Project for whch an application for a Certificate of Public Convenience and Necessity (CP89-460) has been filed and is pending at the Federal Energy Regulatory Commission (FERC). Edison agrees to make quarterly reports detailing each import transaction.

The application is 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., August 6, 1990.

ADDRESSES: 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.

FOR FURTHER INFORMATION CONTACT:

Frank Duchaine, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3H-087, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-8233

Michael T. Skinker, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667

SUPPLEMENTARY INFORMATION: Edison, a California corporation with its principal place of business in Rosemead, California, is an electric public utility. Edison is engaged in the business of generating, transmitting, and distributing electric energy in portions of central and southern California.

Edison states that the requested authorization is needed in blanket form in order to allow Edison to import gas for use in its generating plants for the benefit of its electric ratepayers. According to Edison, the proposed import would be transported using: (1) New and existing facilities in Canada belonging to NOVA Corporation, Foothills Pipelines, Ltd., and Alberta Natural Gas Company; (2) the proposed PGT-PGE Expansion Project; and (3) local distribution companies in California. The point of import will be near Kingsgate, British Columbia.

Edison asserts that all of the transactions under the requested authorization will be conducted pursuant to market-responsive contract terms. In addition to this application for blanket authorization, Edison contemplates filing one or more applications for authority to import natural gas from Canada pursuant to gas purchase agreements for periods in excess of two years. These filings will be made promptly upon the final completion of longer term agreements, currently under negotiation.

In support of its application, Edison asserts that the proposed gas imports would be limited to a term of two years and that Canada is a long-term and reliable supply source. Edison further asserts that because of the quarterly filing requirements, FE will be able to assure that Edison's imports remain competitive over the term of its contracts. In addition, Edison states that the FE will be able to assure that Edison's imports remain competitive over the term of its contracts. In addition, Edison states that the contemplated import transactions will be competitive because they will be voluntarily negotiated at arms length with sales prices determined on the basis of competitive factors in the gas market. On the basis of such terms and the availability of competing supplies, Edison will not purchase the gas to import unless it has a need for the gas. Also, Edison maintains that the requested authorization would enhance throughout on U.S. pipelines and will serve the public interest by improving the availability of competitive gas supplies to meet Edison's large demand of gas.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties, especially those that may oppose this application, should comment in their responses on these matters as they relate to the requested import authority. The applicant asserts that this import arrangement will be competitive and in

the public interest. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the 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 decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice to all parties will be provided. 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 Edison's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056, at the above address, (202) 586-9478. 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, June 28, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-15710 Filed 7-5-90; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 90-54-NG]

Trans Marketing Houston, Inc.; Application For Blanket Authorization To Import and Export Natural Gas and Liquefied Natural Gas

AGENCY: Department of Energy, Office of Fossil Energy.

ACTION: Notice of application for blanket authorization to import and export natural gas and liquefied natural gas.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on June 6, and as supplemented on June 21, 1990, of an application filed by Trans Marketing Houston, Inc. (Trans Marketing) for blanket authorization to import and export natural gas from and to Canada and Mexico and to import and export liquefied natural gas (LNG) from and to any foreign country. Trans Marketing seeks DOE authority to import and export up to an aggregate of 100 Bcf of gas in both gaseous and liquid form and requests that no restrictions be placed on the daily volumes that it may import or export over a two-year term beginning on the date of the first natural gas or LNG import/export delivery.

Trans Marketing expects to utilize existing natural gas pipeline and LNG facilities in the United States and states that it will submit quarterly reports detailing the prices and volumes for each natural gas or LNG import/export transaction.

The application is 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., August 6, 1990.

ADDRESSES: 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.

FOR FURTHER INFORMATION CONTACT:

Thomas Dukes, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, Room 3F-094, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-9590

Diane Stubbs, Natural Gas and Mineral Leasing, Office of General Counsel, U.S. Department of Energy, Forrestal Building, Room 6E-042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586-6667

SUPPLEMENTARY INFORMATION: Trans Marketing, a Texas corporation with its principal place of business in Houston, Texas, is a natural gas marketing company that also arranges for the sale of petrochemical by-products both domestically and internationally. The company states that it plans to negotiate spot and short-term sales of natural gas, and LNG for various end-users including but not limited to pipelines, local distribution companies and commercial and industrial facilities. It submits that, if granted, the requested blanket import/export authority would permit the export sale of U.S. gas supplies for which there may be no national or regional need and permit the import of natural gas and LNG produced outside of the U.S.

Trans Marketing anticipates making the proposed blanket import/export sales on a best-efforts basis for periods under two years and would include in its contracts price adjustment provisions to reflect changes in either the availability or prices of competing fuels in the markets sold, including natural gas. Trans Marketing also expects to enter into some firm contract agreements for up to one year that would be determined through arm's length negotiations with its suppliers. In support of its application, Trans Marketing states that its authority to both import and export natural gas and LNG will contribute to the overall

efficiency of the North American gas market.

Finally, the applicant requests that FE grant its requested authority on an expedited basis. An FE decision on Trans Marketing's request will not be made until all responses to this notice have been received and evaluated.

The decision on the application for import authority will be made consistent with the DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing natural gas export applications, the domestic need for the gas to be exported is considered, and any other issues determined to be appropriate in a particular case, including whether the arrangement is consistent with the DOE 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 the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that the proposed imports will make competitively priced gas available to U.S. markets while the short-term nature of the transactions will minimize the potential for undue long-term dependence on foreign sources of energy. Trans Marketing also asserts that the proposed export volumes would result in a reduction of the current excess domestic natural gas supply, generate income and tax revenues, and reduce the U.S. trade deficit. Parties opposing the arrangement bear the burden of overcoming these assertions.

NEPA Compliance

The National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*), requires the DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until the 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 decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order maybe 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 Trans Marketing 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, June 28, 1990.

Clifford P. Tomaszewski,

Acting Deputy Assistant Secretary for Fuels Programs, Office of Fossil Energy.

[FR Doc. 90-15711 Filed 7-5-90; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-3805-9]

Environmental Impact Statements; Availability

Responsible Agency: Office of Federal Activities, General Information, (202) 382-5076 or (202) 382-5073.

Availability of Environmental Impact Statements Filed June 25, 1990 Through June 29, 1990 Pursuant to 40 CFR 1506.9.

EIS No. 900224, Draft, AFS, CO, Elkhead Creek/Slater Creek Vegetation Management Plan, Implementation, Routt National Forest, Bears Ears Ranger District, Routt County, CO, Due: September 1, 1990, Contact: Allan Green, (303) 824-9438.

EIS No. 900225, LDraft, AFS, WA, Upper White Salmon River Wild and Scenic River Study, Possible Designation, National Wild and Scenic Rivers System, Gifford Pinchot National Forest, Yakima Indian Nation, Klickitat County, WA, Due: August 20, 1990, Contact: Steve Miller, (503) 386-2333.

EIS No. 900226, DRevised, AFS, MT, White Stallion Timber Sale and Road Reconstruction Management Plan, Implementation, Additional Information and Changes, Bitterroot National Forest, Ravalli County, MT, Due: August 20, 1990, Contact: Tim Trotter, (406) 821-3913.

EIS No. 900227, Draft, COE, FL, Canaveral Harbor Navigation Improvement, Implementation, Brevard County, FL, Due: August 20, 1990, Contact: A.J. Salem, (904) 791-3453.

EIS No. 900228, FSuppl, COE, NC, Wilmington Harbor Northeast Cape Fear River Navigation Improvements Fourth East Jetty Channel to near Hilton Railroad Bridge, Project Changes and Additional Information, Implementation, New Hanover and Brunswick Counties, NC, Due: August 17, 1990, Contact: William F. Adams, (919) 251-4748.

EIS No. 900229, Final, COE, CA, Batiquitos Lagoon Enhancement Project, Restoration and Improvement, Implementation, City of Carlsbad, San Diego County, CA, Due: August 13,

1990, Contact: Rick Harlacher, (213) 894-2118.

EIS No. 900230, Final, FRC, OR, Salt Caves 80 MW Hydroelectric Project No. 10199, Construction and Operation, License, Klamath River, Klamath County, OR, Due: August 6, 1990, Contact: Frank Karwoski, (202) 357-0782.

EIS No. 900231, Final, FHW, IL, Elgin-O'Hare Highway/FAP Route 426 Improvement, U.S. 20/Lake Street and Lovell Road to the proposed West O'Hare Expressway near York Road and Thorndale Avenue, Funding and COE Section 404 Permit, Cook and DuPage Counties, IL, Due: August 14, 1990, Contact: Jay W. Miller, (217) 492-4600.

EIS No. 900232, DSuppl, EPA, MA, Massachusetts Bay Ocean Dredged Material Disposal Site (ODMDs) Designation, Preferred Site Location, Northern Massachusetts Bay, MA, Due: August 20, 1990, Contact: Kymberlee Keckler, (617) 565-4432.

EIS No. 900233, Final, AFS, CA, Black Panther Fire Recovery Project, Implementation, 1987 King-Titus Wildfire, Klamath National Forest, Ukonom Ranger District, Siskiyou County, CA, Due: August 6, 1990, Contact: Mo Tebbe, (916) 627-3291.

EIS No. 900234, Draft, USN, CA, Naval Weapons Station Concord, Main Gate Intersection Improvement, Across Port Chicago Highway, Implementation, 404 Permit, Contra Costa County, CA, Due: August 20, 1990, Contact: Louis Rivero, (415) 877-7667.

EIS No. 900235, Draft, AFS, AK, Tongass Land Management Plan, Implementation, Tongass National Forest, AK, Due: September 28, 1990, Contact: Steven A. Brink, (907) 789-3567.

EIS No. 900236, Final, FAA, UT, Halls Crossing Airport Facility Replacement, Airport Layout Plan, Construction and Operation, Approval and Funding, San Juan County, UT, Due: August 6, 1990, Contact: Barbara Johnson, (303) 286-5527.

EIS No. 900237, Final, AFS, OR, WA, Umatilla National Forest, Land and Resource Management Plan, Implementation, Baker, Grant, Morrow, Umatilla, Union, Wallowa and Wheeler Counties, OR and Asotin, Columbia, Walla Walla and Garfield Counties, WA, Due: August 6, 1990, Contact: Lyle Jensen, (503) 276-3811.

EIS No. 900238, Final, AFS, CA, King-Titus Fire Recovery Project, Implementation, Klamath National Forest, Siskiyou County, CA, Due: August 6, 1990, Contact: Lynda Karns, (916) 842-6131.

EIS No. 900239, Draft, COE, UT, CO, MT, Fort Douglas Base Closure and Realignment, Relocation to Fort Carson, CO; Tooele Army Depot, UT; Fitzsimmons Medical Center, CO, Implementation, Salt Lake City, UT, CO, MT, Due: August 20, 1990, Contact: Paul Cote, (916) 551-2249.

Amended Notices

EIS No. 900151, Draft, UMT, MA, Old Colony Railroad Rehabilitation Project, Transit Improvements, Braintree to Buzzards Bay and Massachusetts Bay to MA-24, Funding, MA, Due: August 2, 1990, Contact: Donald J. Emerson, (22) (202) 366-0096.

Published FR 5-18-90—Review period extended.

Dated: July 2, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-15721 Filed 7-5-90; 8:45 am]

BILLING CODE 6560-50-01-M

[ER-FRL-3806-1]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared June 18, 1990 through June 22, 1990 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 13, 1990 (55 FR 13949).

Draft EISs

ERP No. D-HUD-G85178-TX, Rating LO, Stonebridge Ranch Development Project, Mortgage Insurance, Section 404 Permit, City of McKinney, Collin County, TX.

Summary

EPA has no objection to the proposed action as described. EPA requests that the final EIS correctly cite the current federal air quality standards. ERP No. D-HUD-G85179-TX, Rating LO, Harris Branch Development Project, Mortgage Insurance, Section 404 Permit, City of Austin, Travis County, TX.

Summary

EPA has no objection to the proposed action as described.

Final EISs

ERP No. F-AFS-L65133-ID, Lowman—North Fire Recovery Project, July thru August 1989 Lowman Complex Fire, Implementation, Boise National Forest, Lowman Ranger District, Boise County, ID.

Summary

EPA completed its review and has no objection to the proposed action as described in the final EIS.

ERP No. F-NPS-L67023-AK, Wrangell-St. Elias National Park and Preserve, Mining Operations Management Plan, Implementation, AK.

Summary

EPA has concerns regarding the actual level of impact under the proposed action due to uncertainties regarding specific acquisition and reclamation procedures, and implementation constraints.

ERP No. F-NPS-L67024-AK, Denali National Park and Preserve, Mining Operations Management Plan, Implementation, AK.

Summary

EPA has concerns regarding the actual level of impact under the proposed action due to uncertainties regarding specific acquisition and reclamation procedures, and implementation constraints.

ERP No. F-NPS-L67025-AK, Yukon-Charley Rivers National Preserve, Mining Operations Management Plan, Implementation, AK.

Summary

EPA has concerns regarding the actual level of impact under the proposed action due to uncertainties regarding specific acquisition and reclamation procedures, and implementation constraints.

Dated: July 2, 1990.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 90-15722 Filed 7-5-90; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL FINANCIAL INSTITUTIONS EXAMINATION COUNCIL

Home Mortgage Disclosure Act; Disclosure Statements and Aggregate MSA Reports; Availability of Data

AGENCY: Federal Financial Institutions Examination Council.

ACTION: Notice.

SUMMARY: The Federal Financial Institutions Examination Council

(FFIEC) is publishing samples of the disclosure statements and aggregate MSA reports that will be produced from data submitted to supervisory agencies under the Home Mortgage Disclosure Act. In addition, notice is hereby given that an edited version of the raw data submitted by reporting institutions will be made available to the public.

FOR FURTHER INFORMATION CONTACT: Thomas J. Noto, Staff Attorney, 202-452-3667, or Glenn B. Canner, Economist, 202-452-2929, Board of Governors of the Federal Reserve System, Washington, DC 20551. For information concerning MSA income data and census tract demographics that will be used to prepare the disclosure statements and aggregate MSA reports, and for information concerning the availability of raw data, contact Barbara Kenlaw, 202-357-0177, Federal Financial Institutions Examination Council, Suite 850B, 1776 G Street NW., Washington, DC 20006. For information concerning the reporting requirements of Regulation C, contact W. Kurt Schumacher, Staff Attorney, 202-452-2412, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) General

In August 1989, the Financial Institutions Reform, Recovery and Enforcement Act (FIRREA) amended the Home Mortgage Disclosure Act (HMDA). On December 15, 1989, the Federal Reserve Board published final revisions to Regulation C, which implements HMDA, to reflect the FIRREA amendments (54 FR 51356). The FIRREA amendments expand the coverage of HMDA to include lenders that are not affiliated with financial institutions or their holding companies. The amendments also require covered institutions to report data on the disposition of applications for home purchase and home improvement loans, and the race or national origin, gender, and income of applicants and borrowers. Finally, the FIRREA amendments require reporting of the type of purchaser of loans that are sold, and permit optional reporting of the reasons for loan denials.

Under revised Regulation C, lenders must use a prescribed Loan/Application Register to record data on an application-by-application basis beginning with the 1990 calendar year. By March 1 of the following year, institutions must submit the registers to their supervisory agency. The FFIEC will take these data and produce disclosure statements that cross-tabulate the data for each institution. These statements will be sent to the institutions, which must then make them available to the public, upon request, within 30 days of receipt. In view of the magnitude of the data that must be processed, the FFIEC anticipates that the disclosure statements will be mailed to institutions in October.

The FFIEC also will prepare aggregate reports that reflect the data of all covered lenders in each Metropolitan Statistical Area (MSA). The aggregate MSA reports will be identical in format to the disclosure statements, but will contain data for all covered lenders in the MSA. The FFIEC will prepare two additional aggregate tables for each MSA showing the disposition of loan applications by age of housing stock, and by central city and noncentral city location. The aggregate reports, along with copies of the individual disclosure statements, will be made available to the public at central data depositories located in each MSA.

(2) HMDA Disclosure Statements

When the Federal Reserve Board published the proposed revisions to Regulation C last fall, the Board sought comment, on behalf of the FFIEC, on the format and content of a set of tables that could comprise the disclosure statements for institutions. (54 FR 41255). The tables have been revised by the FFIEC, in consultation with the Department of Housing and Urban Development, in light of the comments received. The FFIEC is now publishing a sample of the disclosure statements and aggregate MSA reports that will be produced. The public is cautioned, however, that minor editorial and other changes may be made to the tables during software development and that the final disclosure statements and aggregate MSA reports may therefore differ somewhat from those contained in this notice.

Tables 1 through 8 in the Appendix comprise the disclosure statement that will be prepared for each reporting institution. A separate set of tables will be prepared for each MSA in which an institution has a home or branch office.

Table 1 displays the disposition of loan applications by the location of the property and by type of application. In Table 1 and subsequent tables, all dollar amounts will be shown in thousands; $100,000, for example, would be shown as 100.

Section 1 of Table 1 includes data on applications for properties located within the MSA. In most cases, data will be itemized geographically by census tract. The county will be used instead for data relating to property in counties with a 1980 population of 30,000 or less ("small counties") and for areas that were not assigned census tracts in 1980 ("untracted areas"). Certain MSAs contain duplicate census tract numbers. In these cases, both the census tract number and the county will be shown. If invalid census tracts or counties are reported for an MSA, the data relating to them will be grouped in a separate block containing the 5 disposition categories on the form (loans originated, applications approved but not accepted, etc.). Such data will not be included in the totals for the MSA. However, the demographic information included in such entries will be reflected on subsequent tables that show applicant characteristics.

Institutions are not required to provide geographic information for applications relating to property outside of those MSAs in which they have a home or branch office. Section 2 of the table will include data on all such applications received by the institution. Accordingly, if reports for several MSAs are prepared for an institution, each section 2 will be identical.

Table 1 incorporates several changes from the version that was published for comment. A code has been added to the Loan/Application Register for refinancings and a corresponding column has been added to Table 1. Two additional disposition categories—applications approved but not accepted and files closed for incompleteness—have been added to Table 1 (and to the other tables) to correspond to the final set of "action taken" codes on the Loan/Application Register.

Table 2 shows loans purchased by the location of the property; it is unchanged from the current HMDA disclosure format for purchased loans. As in Table 1, section 1 will itemize loan purchases geographically by the census tract or county (for small counties and untracted areas) of the property within the MSA and invalid tracts will be grouped separately and not included in the totals. Section 2 of the table will provide information on all purchases outside MSAs in which the institution has a home or branch office and will be the same on all reports prepared for an institution.

Table 3 identifies, by class of purchaser, loans sold by the institution. The totals will reflect the total number and dollar amount of loans sold to each purchaser. The version of Table 3 published for comment did not reflect the characteristics of borrowers for loans that are sold or the type of census tract in which the property is located. These data have been included in response to comments indicating that

such information is necessary for a fuller analysis of loan sales.

Tables 4 through 7 present various cross-tabulations of loan applicant or census trace characteristics with information regarding the disposition of the application. A set of Tables 4 through 7 will be prepared for each of six loan categories: (1) FHA, FMHA and VA loans, (2) conventional home purchase loans, (3) refinancings of home purchase loans, (4) home improvement loans, (5) loans on multifamily dwellings and (6) nonoccupant loans (see the headings in Table 1). The sample Tables 4–1 through 7–1 contained in this notice reflect data for the first category—FHA, FmHA, and VA home purchase loans; the tables for conventional home purchase loans would be captioned 4–2 through 7–2, and so on.

Tables 4 through 6 group applicants according to their income. The tables published for comment grouped applicants in defined income ranges—for example, $30,000–$49,000. Several commenters objected to this approach, arguing that in relatively high- and relatively low-income MSAs, applicants would tend to be clustered in the higher and lower income ranges and meaningful analysis would be impossible. Accordingly, the tables will group applicants by the percentage that their reported income bears to the median income of the MSA, adjusted annually for inflation. A listing of the adjusted median income and inflation factor that will be used for each MSA can be obtained from the FFIEC.

Table 4 shows the disposition of applications by the race or national origin, gender and income of applicants. It has been expanded considerably from the version that was published for comment in order to provide a more detailed breakdown. The total for each race or national origin category will include male, female and joint applications, as well as cases where information regarding the gender of the applicant was not available.

Tables 5 and 6 show, respectively, application disposition by income and race or national origin, and by income and gender. Apart from the changes to the income groupings and disposition categories discussed above, these tables are substantially similar to those that were published for comment.

Table 7 shows the disposition of applications based on the demographic characteristics of the census tract in which the property is located. Data regarding the demographic characteristics of census tracts can be obtained from the FFIEC. In view of the comments received, the groupings of tracts by minority composition have been expanded.

Table 8 cross-tabulates characteristics of rejected applicants with the various reasons reported for credit denials. Since the reporting of the reasons for denial is optional, Table 8 will be prepared only for institutions that submit the data. As with Tables 4 through 7, a separate Table 8 will be prepared for each of 6 loan categories. The total column will show the total number of reasons for denial reported for each race of national origin, gender or income category and all percentages shown will be of this amount.

(3) MSA Aggregate Reports

Aggregate reports, reflecting data from all institutions reporting in the MSA, will be prepared for each MSA. The aggregate MSA reports will follow a format identical to that portrayed in Tables 1 through 8. Two additional tables, Aggregate Tables 9 and 10, will be prepared to illustrate lending patterns by the age of the housing stock in given census tracts and by central city versus noncentral city locations. These two tables are very similar to tables that are prepared under the current HMDA reporting system, except the tables will include application disposition categories rather than just loans granted.

(4) Availability of the Raw Data

In revising Regulation C, the Federal Reserve Board did not require reporting institutions to make the Loan/Application Register available to the public due to concerns about the privacy of applicants and borrowers. A number of commenters urged the release of the raw data derived from the registers, noting that the disclosure statements will reflect only some of the ways the data could be analyzed. The FFIEC believes that release of the raw data files is consistent with the congressional intent to maximize the utilization of lending data; accordingly, the FFIEC intends to make raw HMDA data available, at cost, upon request. The data will be available after the FFIEC has completed production of the disclosure statements and aggregate MSA reports.

An unedited form of the data would contain information that could be used to identify individual loan applicants. For example, some institutions track applications by the name of the applicant, entering it as the application number on the Loan/Application Register. Similarly, the dates of application and final action could be used to help identify a particular applicant. Accordingly, the FFIEC will edit the data files prior to public release to remove the application identification number, the date of application, and the date of final action.

Several commenters have asked that information concerning the elapsed time between the date of application and the date of final action be computed by the FFIEC and added to the raw data files. Such data, they believe, could show whether lenders unduly delay the processing of minority applications.

The two dates were included on the register primarily for administrative convenience, to facilitate the retrieval of particular files by agency examiners. In addition, a variety of factors will affect the elapsed time; for example, the scheduling of a loan closing will affect the elapsed time for originated loans. The FFIEC believes that these data could not legitimately be used to identify discriminatory practices. Other data on the disposition of applications is provided, and the FFIEC believes that data would more clearly indicate whether minority applicants and non—minority applicants are being treated differently. Accordingly, an elapsed time field will not be included in the raw data.

Dated: June 29, 1990.

Robert J. Lawrence,

Executive Secretary.

Appendix—Disclosure Statements and Aggregate MSA Reports

BILLING CODE 6210-01-M

Home Mortgage Disclosure Act Disclosure Statement

Explanation of Footnotes

Tables 1 and 2

1. All census tract and county definitions and population counts are based on the 1980 Census of Population and Housing.

Tables 3, 4, 5, 6 and 8

1. If two applicants from different minority groups are reported, they are grouped by the race of the first person listed on the application.

2. Joint means white and minority group co-applicants.

3. Not available includes situations where data was not required to be collected or was otherwise not reported.

4. Joint means co-applicants of the opposite gender.

5. Applicants are categorized by the ratio of their reported income to the median income of the MSA. The median MSA income equals the 1980 MSA median family income adjusted for changes over the period between January 1, 1980 and the end of the year preceding the year to which the report relates.

Tables 3 and 7

7. The type of census tract is based on demographic information from the 1980 Census of Population and Housing, not reported applicant characteristics.

8. Minority means all non-white races and whites of hispanic origin.

9. Low and moderate income category consists of census tracts where the median family income is less than 80 percent of the median MSA income, based on the 1980 Census of Population and Housing. The middle income category consists of census tracts where the median family income is between 80 and 120 percent of the median MSA income. The upper income category consists of census tracts where the median family income is greater than 120 percent of the median MSA income.

Table 7

10. Includes census tract numbers that were reported but for which complete demographic information is not available.

Table 8

6. Institutions are not required to report reasons for loan denials. Total includes cases where multiple reasons were reported.

Aggregate Table 9

11. Census tracts are grouped according to median age. Because the census data on housing stock age is categorized in intervals of several years, the median housing stock age for a census tract is determined by calculating the mid-point of the interval in which the median unit falls. The tracts are grouped in this table by the time period in which the median unit was built.

Aggregate Table 10

12. Central City is defined as in the 1980 census. For MSAs with more than one city name, multiple central cities are included.

13. MSA less Central City includes all census tracts outside the central city (or cities) but within the MSA.

Table 1
Loan Applications and Originations

Name of Institution:_____ MSA:_____

Section 1 -- Property located in MSA/PMSA where institution has a home or branch office

Census Tract or County Name and Disposition of Application [1]	Loans on 1-to-4 Family Dwellings								Loans on Multifamily Dwellings for 5 or More Families (home purchase and home improvement) E		Nonoccupant Loans on 1-to-4 Family Dwellings from columns A, B, C and D F	
	Home Purchase Loans				Refinancings of Home Purchase Loans C		Home Improvement Loans D					
	FHA, FmHA, and VA A		Conventional B									
	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)
Tract/County: _____												
Loans originated												
Applications approved but not accepted												
Applications denied												
Applications withdrawn												
Files closed for incompleteness												
Tract/County: _____												
Loans originated												
Applications approved but not accepted												
Applications denied												
Applications withdrawn												
Files closed for incompleteness												
MSA/PMSA TOTAL												
Loans originated												
Applications approved but not accepted												
Applications denied												
Applications withdrawn												
Files closed for incompleteness												

Section 2 -- Property not located in MSAs/PMSAs where institution has home or branch offices

Loans originated												
Applications approved but not accepted												
Applications denied												
Applications withdrawn												
Files closed for incompleteness												

Table 2
Loan Purchases

Name of Institution:_____ MSA:_____

Section 1 -- Property located in MSA/PMSA where institution has a home or branch office

Census Tract or County Name [1]	Loans on 1-to-4 Family Dwellings						Loans on Multifamily Dwellings for 5 or More Families (home purchase and home improvement)		Nonoccupant Loans on 1-to-4 Family Dwellings from columns A, B and C	
	Home Purchase Loans				Home Improvement Loans					
	FHA, FmHA, and VA A		Conventional B		C		D		E	
	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)
MSA/PMSA TOTAL										

Section 2 -- Property not located in MSAs/PMSAs where institution has home or branch offices

Table 3
Loans Sold

Name of Institution: _____ MSA: _____

Applicant or Census Tract Characteristics	Type of Purchaser																	
	FNMA		GNMA		FHLMC		FmHA		Commercial Bank		Savings Bank or S&L		Life Insurance Company		Affiliate of Institution		Other Purchaser	
	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)
Applicant Characteristics																		
Race [1]																		
American Indian/Alaskan Native																		
Asian/Pacific Islander																		
Black																		
Hispanic																		
White																		
Joint (White/Minority) [2]																		
Race not available [3]																		
Gender																		
Male																		
Female																		
Joint (Male/Female) [4]																		
Gender not available [3]																		
Income [5]																		
Less than 80% of MSA median																		
80-99% of MSA median																		
100-120% of MSA median																		
More than 120% of MSA median																		
Income not available [3]																		
Census Tract Characteristics [7]																		
Racial Composition [8]																		
Less than 10% minority																		
10-19% minority																		
20-49% minority																		
50-79% minority																		
80-100% minority																		
Income [9]																		
Low or moderate income																		
Middle income																		
Upper income																		
Total																		

Table 4-1
Disposition of FHA, FmHA & VA Home Purchase Loan Applications

Name of Institution: _____ MSA: _____

Race, Gender and Income [1]	Applications Received		Loans Originated		Apps. Approved but not Accepted		Applications Denied		Applications Withdrawn		Files closed for incompleteness	
	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)
American Indian/Alaskan Native (total)												
Male												
Female												
Joint (Male/Female)[4]												
Asian/Pacific Islander (total)												
Male												
Female												
Joint (Male/Female)[4]												
Black (total)												
Male												
Female												
Joint (Male/Female)[4]												
Hispanic (total)												
Male												
Female												
Joint (Male/Female)[4]												
White (total)												
Male												
Female												
Joint (Male/Female)[4]												
Joint (White/Minority) [2] (total)												
Male												
Female												
Joint (Male/Female)[4]												
Race not available [3] (total)												
Male												
Female												
Joint (Male/Female)[4]												
Income of Applicants [5]												
Less than 80% of MSA median												
80-99% of MSA median												
100-120% of MSA median												
More than 120% of MSA median												
Income not available [5]												

Table 5-1
Disposition of FHA, FmHA & VA Home Purchase Loan Applications

Name of Institution: _____ MSA: _____

Income and Race [1,5]	Applications Received		Loans Originated		Apps. Approved but not Accepted		Applications Denied		Applications Withdrawn		Files closed for incompleteness	
	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)
Less than 80% of MSA median												
American Indian/Alaskan Native												
Asian/Pacific Islander												
Black												
Hispanic												
White												
Joint (White/Minority) [2]												
Race not available [3]												
80-99% of MSA median												
American Indian/Alaskan Native												
Asian/Pacific Islander												
Black												
Hispanic												
White												
Joint (White/Minority) [2]												
Race not available [3]												
100-120% of MSA median												
American Indian/Alaskan Native												
Asian/Pacific Islander												
Black												
Hispanic												
White												
Joint (White/Minority) [2]												
Race not available [3]												
More than 120% of MSA median												
American Indian/Alaskan Native												
Asian/Pacific Islander												
Black												
Hispanic												
White												
Joint (White/Minority) [2]												
Race not available [3]												

Table 6-1
Disposition of FHA, FmHA & VA Home Purchase Loan Applications

Name of Institution: _____ MSA: _____

Income and Gender [5]	Applications Received		Loans Originated		Apps. Approved but not Accepted		Applications Denied		Applications Withdrawn		Files closed for incompleteness	
	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)
Less than 80% of MSA median												
Male												
Female												
Joint (Male/Female) [4]												
Gender not available [3]												
80-99% of MSA median												
Male												
Female												
Joint (Male/Female) [4]												
Gender not available [3]												
100-120% of MSA median												
Male												
Female												
Joint (Male/Female) [4]												
Gender not available [3]												
More than 120% of MSA median												
Male												
Female												
Joint (Male/Female) [4]												
Gender not available [3]												

Table 7-1
Disposition of FHA, FmHA & VA Home Purchase Loan Applications

Name of Institution: _____ MSA: _____

Type of Census Tract [7]	Applications Received		Loans Originated		Apps. Approved but not Accepted		Applications Denied		Applications Withdrawn		Files closed for incompleteness	
	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)	(#)	($)
Racial Composition [8]												
Less than 10% minority												
10-19% minority												
20-49% minority												
50-79% minority												
80-100% minority												
Income Characteristics [9]												
Low or moderate income												
Middle income												
Upper income												
Income and Racial Composition [8,9]												
Low or moderate income												
Less than 10% minority												
10-19% minority												
20-49% minority												
50-79% minority												
80-100% minority												
Middle income												
Less than 10% minority												
10-19% minority												
20-49% minority												
50-79% minority												
80-100% minority												
Upper income												
Less than 10% minority												
10-19% minority												
20-49% minority												
50-79% minority												
80-100% minority												
Small county												
All other tracts [10]												

Table 8-1
Reasons for Denials of FHA, FmHA & VA Home Purchase Loan Applications

Name of Institution: _____ MSA: _____

Applicant Characteristics	Reasons																			
	Debt to Income Ratio		Employment History		Credit History		Collateral		Insufficient Cash		Unverifiable Information		Application Incomplete		Mortgage Insurance Denied		Other		Total [6]	
	(#)	(%)	(#)	(%)	(#)	(%)	(#)	(%)	(#)	(%)	(#)	(%)	(#)	(%)	(#)	(%)	(#)	(%)	(#)	(%)
Race [1]																				
American Indian/Alaskan Native																				
Asian/Pacific Islander																				
Black																				
Hispanic																				
White																				
Joint (White/Minority) [2]																				
Race not available [3]																				
Gender																				
Male																				
Female																				
Joint (Male/Female) [4]																				
Gender not available [3]																				
Income [5]																				
Less than 80% of MSA median																				
80-99% of MSA median																				
100-120% of MSA median																				
More than 120% of MSA median																				
Income not available [3]																				

Aggregate Table 9
Disposition of Loan Applications by Age of Housing Stock

Census Tracts by Age of Housing Stock [11]	Loans on 1-to-4 Family Dwellings								Loans on Multifamily Dwellings for 5 or More Families (home purchase and home improvement) E		Nonoccupant Loans on 1-to-4 Family Dwellings from columns A, B, C and D F	
	Home Purchase Loans				Refinancings of Home Purchase Loans C		Home Improvement Loans D					
	FHA, FmHA, and VA A		Conventional B									
	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)
1970-March 1980												
Loans originated												
Applications approved but not accepted												
Applications denied												
Applications withdrawn												
Files closed for incompleteness												
1960-1969												
Loans originated												
Applications approved but not accepted												
Applications denied												
Applications withdrawn												
Files closed for incompleteness												
1950-1959												
Loans originated												
Applications approved but not accepted												
Applications denied												
Applications withdrawn												
Files closed for incompleteness												
1940-1949												
Loans originated												
Applications approved but not accepted												
Applications denied												
Applications withdrawn												
Files closed for incompleteness												
1939 or earlier												
Loans originated												
Applications approved but not accepted												
Applications denied												
Applications withdrawn												
Files closed for incompleteness												
Total												

Aggregate Table 10
Disposition of Loan Applications by Geographic Location Categories

Location Category	Loans on 1-to-4 Family Dwellings								Loans on Multifamily Dwellings for 5 or More Families (home purchase and home improvement) E		Nonoccupant Loans on 1-to-4 Family Dwellings from columns A, B, C and D F	
	Home Purchase Loans				Refinancings of Home Purchase Loans C		Home Improvement Loans D					
	FHA, FmHA, and VA A		Conventional B									
	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)	No. of Loans	Amount ($000's)
Central City [12]												
Loans originated												
Applications approved but not accepted												
Applications denied												
Applications withdrawn												
Files closed for incompleteness												
MSA less Central City [13]												
Loans originated												
Applications approved but not accepted												
Applications denied												
Applications withdrawn												
Files closed for incompleteness												
Total												

[FR Doc. 90-15657 Filed 7-5-90; 8:45 am]
BILLING CODE 6210-01-C

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

Forms submitted to the Office of Management and Budget for Clearance

The Family Support Administration (FSA) will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following is the package submitted to OMB since the last publication on May 25, 1990.

(For a copy of a package, call the FSA, Report Clearance Officer 202-252-5604)

System Status Report—FSA 1171—0970-0050

The information obtained on this form is used to monitor the States' activities in developing their systems and as an indicator of whether a State is meeting its objectives and therefore entitled to incentive funding. It will also be used as a guide for standard review of system development progress in order to identify schedule slippages and potential problem areas.

Respondents: State or local governments;
Number of Respondents: 23;
Frequency of Response: Quarterly; Average
Burden per Response: 2 hours;
Estimated Annual Burden: 184 hours.
OMB Desk Clearance Officer: Shannah Koss McCallum.

Written comments and recommendations for the proposed information collection 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 3201, 725 17th Street, NW., Washington, DC 20503.

Dated: June 26, 1990.

Sylvia E. Vela,

Acting Associate Administrator, Office of Management & Information Systems.

[FR Doc. 90-15422 Filed 7-5-90; 8:45 am]

BILLING CODE 4150-04-M

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Meeting, National Arthritis Advisory Board

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Arthritis Advisory Board on July 17 and 18, 1990. The meeting will be held at the National Institutes of Health, Building 31C, Conference room 10, Bethesda, Maryland 20892. The subcommittees will meet July 17, 7 p.m. to approximately 10 p.m. and the full board will meet July 18, 8:30 a.m. to approximately 5 p.m. The meetings, which will be open to the public, are being held to discuss the Board's activities and to continue evaluation of the National effort to combat arthritis and musculoskeletal and skin diseases. Attendance by the public will be limited to space available.

Mr. John R. Abbott, Executive Secretary, National Arthritis Advisory Board, 1801 Rockville Pike, suite 500, Rockville, Maryland 20852, (301) 496-0801, will provide on request an agenda and roster of the members. Summaries of the meeting may also be obtained by contacting his office.

Dated: June 27, 1990.

Betty J. Beveridge,

NIH Committee Management Officer.

[FR Doc. 90-15629 Filed 7-5-90; 8:45 am]

BILLING CODE 4140-01-M

Public Health Service

Indian Health Service; Correction; Statement of Organization, Functions and Delegations of Authority

Part H, chapter HG (Indian Health Service) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (52 FR 47053-67, December 11, 1987, as amended recently at 55 FR 9367-68, March 13, 1990; 55 FR 12028-29, March 30, 1990; and 55 FR 14135-39, April 16, 1990), is further amended to correct certain statements that were published in recent **Federal Register** notices.

Indian Health Service

Under Chapter HG, Section HG.20. Functions, make the following corrections:

Under the heading Albuquerque Area Office (HGFD), Albuquerque Area Service Units (HGFDA) through (HGFDE) and (HGFDG) correct the title from Mescalero (HGFDB) to Mescalero Service Unit (HGFDB), and correct the title from Zuni Service Unit (HGFDD) to Zuni-Ramah Service Unit (HGFDD).

Under the heading Oklahoma Area Office (HGFK), Office of Tribal Development and Operations (HGFK6), abolish the Kansas Service Unit (HGFKC) and the Talihina Service Unit (HGFKH); establish the Haskell Service Unit (HGFKM) and the Holton Service Unit (HGFKN); and correct the titles and organizational codes for the Oklahoma Area Service Units (HGFKA), (HGFKB), (HGFKD), (HGFKE), (HGFKG), and (HGFKJ) through (HGFKN), as follows:

Claremore Service Unit (HGFKA);
Clinton Service Unit (HGFKB);
Lawton Service Unit (GHFKD);
Pawnee Service Unit (HGFKE);
Tahlequah Service Unit (HGFKG);
Ada Service Unit (HGFKJ);
Shawnee Service Unit (HGFKK);
Wewoka Service Unit (HGFKL);
Haskell Service Unit (HGFKM); and
Holton Service Unit (HGFKN).

After the statement for the Oklahoma Area Service Units, add the statement:

(The Talihina Service Unit is contracted to a Tribe under Public Law 93-638, The Indian Self-Determination and Education Assistance Act.)

Under the heading Nashville Area Office (HGFH), following the statement for the Office of Administration and Management (HGFH3), correct the organizational code of the Office of Health Programs to (HGFH4), and correct the title office of Health System Support to Office of Health Systems Support (HGFH5).

After the statement for the Office of Information Resources Management (HGFH7), in the list for the Nashville Area Service Units, abolish the Choctaw Service Unit (HGFHB), and retain the Cherokee Service Unit (HGFHA) and the Florida Service Unit (HGFHC).

Delete the title and organizational code, Cherokee Service Unit (HGFHA), from the statement for the Nashville Area Service Units, and following the statement for the Service Units, add the statement:

(The Choctaw Service Unit is contracted to the Tribe under Public Law 93-638, The Indian Self-Determination and Education Assistance Act).

Under the heading Portland Area Office, correct the organizational code for the Portland Area Office to (HGFM).

Under the heading Portland Area Office, Portland Area Service Units, after Yakima Service Unit (HGFMN) insert "and," and change the organizational code for the Klamath Service Unit to (HGFMP) and add a "period." Correct the statement following to:

(The Puyallup Service Unit is contracted to the Tribe under Public Law 93-368, The Indian Self-Determination and Education Assistance Act.)

Under Section HG.30 Order of Succession, California Area, correct item (5) to Associate Director, Office of

Planning, Evaluation, and Information Resources Management.

At the approval line of the **Federal Register** notices cited above relating to the Indian Health Service, correct the title of the approving official to be the Director, Indian Health Service.

Dated: June 27, 1990.

Robert Singyke,

Acting Director, Indian Health Service.

[FR Doc. 90-15688 Filed 7-5-90; 8:45 am]

BILLING CODE 4160-16-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-90-1917; FR-2606N-791]

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: July 6, 1990.

ADDRESSES: 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.)

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 undeutilized 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.

The properties identified in this Notice may ultimately be available for use by the homeless, but they are first subject to review by the landholding agencies pursuant to the court's Memorandum of December 14, 1988 and section 501(b) of the McKinney Act. Section 501(b) requires HUD to notify each Federal agency about any property of such agency that has been identified as suitable. Within 30 days from receipt of such notice from HUD, the agency must transmit 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 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 30 days from the date of this Notice. For complete details concerning the timing and 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).

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:

U.S. Army: HQ-DA, Attn: DAEN-ZCI-P-Robert Conte; Room 1E671 Pentagon, Washington, DC 20360-2600; (202) 693-4583;

GSA: Ronald Rice, Federal Property Resources Services, GSA, 18th and F Streets NW, Washington, DC 20405; (202) 501-0067. (These are not toll-free numbers.)

Dated: June 29, 1990

Paul Roitman Bardack,

Deputy Assistant Secretary for Program Policy Development and Evaluation.

Suitable Land (by State)

New Mexico

Portion of Caballo Reservoir
(See County), NM, Co: Sierra
Location: Located on State Highway 85
Landholding Agency: GSA
Property Number: 549010067
Status: Excess
Comment: 15.84 acres; unused land; portion of land in the special flood hazard area.
GSA NO. 7-GR-NM-451-J

Suitable Buildings (by State)

Florida

Lake Worth Inlet
59th Street Moorings
West Palm Beach, FL, Co: Palm Beach
Location: N. Dixie Highway at 59th Street.
Landholding Agency: GSA
Property Number: 549010068
Status: Excess
Comment: 576 sq. ft.; trailer on 4.40 acres; presence of contamination—will be cleared by 12/90; environmentally protected (endangered species).
GSA NO. 4-U-FL-922

Georgia

Bldg. 1235
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014887
Status: Unutilized
Comment: 9367 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 1236
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014888
Status: Unutilized
Comment: 9367 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 1251
Fort Benning, GA, Co: Muscogee

Landholding Agency: Army
Property Number: 219014889
Status: Unutilized
Comment: 18385 sq. ft.; 1 story building; needs rehab; most recent use—Arms Repair Shop.

Bldg. 1759
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014890
Status: Unutilized
Comment: 3181 sq. ft.; 1 story building; needs rehab; most recent use—Dining Facility.

Bldg. 2035
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014891
Status: Unutilized
Comment: 2798 sq. ft.; 1 story building; needs rehab; most recent use—Administration General Purpose.

Bldg. 2067
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014892
Status: Unutilized
Comment: 2588 sq. ft.; 1 story building; needs rehab; most recent use—Dining Facility.

Bldg. 2068
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014893
Status: Unutilized
Comment: 3960 sq. ft.; 1 story building; needs rehab; most recent use—Recreation building.

Bldg. 2084
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014894
Status: Unutilized
Comment: 6034 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 2085
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014895
Status: Unutilized
Comment: 6034 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 2086
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014896
Status: Unutilized
Comment: 6034 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 2087
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014897
Status: Unutilized
Comment: 6034 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 2089
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014898
Status: Unutilized
Comment: 6034 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 2090
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014899
Status: Unutilized
Comment: 6034 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 9092
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014900
Status: Unutilized
Comment: 2102 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters building.

Bldg. 2095
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014901
Status: Unutilized
Comment: 2101 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters building.

Bldg. 2393
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014902
Status: Unutilized
Comment: 820 sq. ft.; 1 story building; needs rehab; most recent use—Vehicle Maintenance; potential use—storage.

Bldg. 2397
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014903
Status: Unutilized
Comment: 420 sq. ft.; 1 story building; needs rehab; most recent use—Dispatch Building; potential use—storage.

Bldg. 2416
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014904
Status: Unutilized
Comment: 1840 sq. ft.; 1 story building; needs rehab; most recent use—administrative.

Bldg. 2573
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014905
Status: Unutilized
Comment: 3132 sq. ft.; 1 story building; needs rehab; most recent use—Vehicle Maintenance Shop; potential use—storage.

Bldg. 2591
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014906
Status: Unutilized
Comment: 1663 sq. ft.; 1 story building; needs rehab; most recent use—General storehouse.

Bldg. 3005
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014907
Status: Unutilized
Comment: 7688 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3006
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014908
Status: Unutilized
Comment: 7688 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3007
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014909
Status: Unutilized
Comment: 7688 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3008
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014910
Status: Unutilized
Comment: 7688 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3009
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014911
Status: Unutilized
Comment: 7688 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3010
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014912
Status: Unutilized
Comment: 7688 Sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3080
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014913
Status: Unutilized
Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 3081
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014914
Status: Unutilized
Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—Clinic.

Bldg. 4022
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014915
Status: Unutilized
Comment: 1712 sq. ft.; 1 story building; needs rehab; most recent use—Clinic.

Bldg. 4491
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014916
Status: Unutilized
Comment: 18240 sq. ft.; 1 story building; needs rehab; most recent use—Vehicle maintenance shop.

Bldg. 4500
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014917
Status: Unutilized
Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—Arms Building.

Bldg. 4511
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014918
Status: Unutilized
Comment: 4720 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 4633
Fort Benning, GA, Co: Muscogee

Landholding Agency: Army
Property Number: 219014919
Status: Unutilized
Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.

Bldg. 4634
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014920
Status: Unutilized
Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.

Bldg. 4646
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014921
Status: Unutilized
Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 4649
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014922
Status: Unutilized
Comment: 2250 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.

Bldg. 4690
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014923
Status: Unutilized
Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 4751
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014924
Status: Unutilized
Comment: 3960 sq. ft.; 1 story building; needs rehab; most recent use—Recreation Building.

Bldg. 4752
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014925
Status: Unutilized
Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.

Bldg. 5400
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014926
Status: Unutilized
Comment: 2750 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 5401
Fort Benning, GA, Co: Muscogee
Landholding Agency: Army
Property Number: 219014927
Status: Unutilized
Comment: 2956 sq. ft.; 1 story building; needs rehab; most recent use—Dental Clinic.

OKLAHOMA

Bldg. T-4555
Fort Sill
4555 Hartell Blvd.
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014930
Status: Unutilized
Comment: 3893 sq. ft.; 2 story wood frame; needs rehab; possible asbestos; most recent use—Barracks.

Bldg. T-4362
Fort Sill
4362 McKee Street
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014931
Status: Unutilized
Comment: 1947 sq. ft.; 2 story wood frame; needs rehab; possible asbestos; limited utilities; most recent use—Barracks.

Bldg. T-4361
Fort Sill
4361 McKee Street
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014932
Status: Unutilized
Comment: 1513 sq. ft.; 2 story wood frame; needs rehab; limited utilities; possible asbestos; most recent use—Barracks.

Bldg. T-4523
Fort Sill
4523 Wilson Road
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014933
Status: Unutilized
Comment: 1639 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; most recent use—Storage.

Bldg. 4547
Fort Sill
4547 Hartell Blvd.
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014934
Status: Unutilized
Comment: 1062 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; most recent use—Administration.

Bldg. T-4541
Fort Sill
4541 Hartell Blvd.
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014935
Status: Unutilized
Comment: 2340 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; most recent use—Administration.

Bldg. T-4552
Fort Sill
4552 Hartell Blvd.
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014936
Status: Unutilized
Comment: 4071 sq. ft.; 2 story wood frame; needs rehab; possible asbestos; most recent use—Barracks.

Bldg. T-4360
Fort Sill
4360 Wilson Blvd.
Lawton, OK, Co: Comanche
Landholding Agency: Army
Property Number: 219014937
Status: Unutilized
Comment: 2841 sq. ft.; 1 story wood frame; needs rehab; limited utilities; possible asbestos; most recent use—Mess Hall.

Universe of Properties:
Total....55
Suitable....51
Suitable Buildings....50
Suitable Land....1
Unsuitable....4
Unsuitable Buildings....3
Unsuitable Land....1
Number of Resubmissions....0

[FR Doc. 90-15630 Filed 7-5-90; 8:45 am]
BILLING CODE 4210-29-M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Receipt of Petition for Federal Acknowledgment of Existence as an Indian Tribe

June 21, 1990.

This is published in the exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

Pursuant to 25 CFR 83.8(a) (formerly 25 CFR 54.8(a)) notice is hereby given that the Revived Ouachita Indians of Arkansas and America, c/o Mr. John D. Woodall, P.O. Box 34, Story, Arkansas 71970, has filed a petition for acknowledgment by the Secretary of the Interior that the group exists as an Indian tribe. The petition was received by the Bureau of Indian Affairs on April 25, 1990, and was signed by members of the group's governing body.

This is a notice of receipt of petition and does not constitute notice that the petition is under active consideration. Notice of active consideration will be sent by mail to the petitioner and other interested parties at the appropriate time.

Under § 83.8(d) (formerly 54.8(d)) of the Federal regulations, interested parties may submit factual and/or legal arguments in support of or in opposition to the group's petition. Any information submitted will be made available on the same basis as other information in the Bureau of Indian Affairs' files. Such submissions will be provided to the petitioner upon receipt by the Bureau. The petitioner will be provided an opportunity to respond to such submissions prior to a final determination regarding the petitioner's status.

The petition may be examined by appointment in the Department of the Interior, Bureau of Indian Affairs, Branch of Acknowledgment and Research, Mail Stop 4627-MIB, 1849 C

Street NW., Washington, DC 20240, Phone: (202) 208-3592.

Walter R. Mills,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 90-15617 Filed 7-5-90; 8:45 am]

BILLING CODE 4310-02-M

Bureau of Land Management

[AK-967-4230-15; AA-6688-A]

Alaska Native Claims Selection

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that two decisions to issue conveyance under the provisions of Section 14(a) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(a), will be issued to Ouzinkie Native Corporation for lands in the vicinity of Anton Larsen Bay and Ouzinkie, Alaska.

Seward Meridian, Alaska

T. 26 S., R. 21 W.,
Sec. 34.
Containing approximately 5 acres.

Tract D, U.S. Survey No. 4871, Alaska
Containing 313.39 acres.

A notice of the two decisions will be published once a week, for four (4) consecutive weeks, in the Kodiak Daily Mirror. Copies of the decisions may be obtained by contacting the Alaska State Office of the Bureau of Land Management, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513-7599 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by either of the decisions, an agency of the Federal government or regional corporation, shall have until August 6, 1990 to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management at the address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 90-15669 Filed 7-5-90; 8:45 am]

BILLING CODE 4310-JA-M

[UT-050-00-4320-14]

Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: District Grazing Advisory Board meeting.

SUMMARY: The Richfield District Grazing Board will hold a meeting on August 22, 1990. The meeting will start at 10 a.m. in the District Office, 150 East 900 North, Richfield, Utah. The agenda will be:

1. Drought condition update
2. Wild Horse and Burro program update
3. Environmental project concerns
4. Proposed F.Y. 92 projects
5. Status of weed control program
6. Status of predator Control program
7. Program priorities F.Y. 91
8. Funding impacts on district programs (F.Y. 90)
9. Change in class of livestock.

Interested persons may make oral statements to the Board between 1:15 p.m. and 2:15 p.m. or file written comments for the Board's consideration. Anyone wishing to make an oral statement must notify the District Manager, Bureau of Land Management, 150 East 900 North, Richfield, Utah 84701 (801-896-8221). For further information contact: Sheril Slack, District Range Conservationist at the above address.

Dated: June 26, 1990.

Larry Oldroyd,

Associate District Manager.

[FR Doc. 90-15620 Filed 7-5-90; 8:45 am]

BILLING CODE 4310-DQ-M

[NM-060-4211-90]

Roswell District Grazing Advisory Board Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Roswell District Grazing Advisory Board meeting.

SUMMARY: This notice sets forth the schedule and agenda of a forthcoming meeting of the Roswell District Grazing Advisory Board.

DATES: Thursday, August 9, 1990, beginning at 10 a.m. A public comment period will be held following conclusion of the agenda.

LOCATION: BLM Roswell District Office, 1717 West Second St., Roswell, New Mexico 88201.

FOR FURTHER INFORMATION CONTACT: David L. Mari, Associate District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, NM 88202-1397, (505) 622-9042.

SUPPLEMENTARY INFORMATION: The agenda will consist of three issues; (1) Discussion of FY 91 Range Improvement Projects, (2) Quarterly Billings, and (3) Drought Contingency Planning. The meeting is open to the public. Interested persons may make oral statements to the Board during the public comment period or may file written statements. Anyone wishing to make an oral statement should notify the Associate District Manager by August 2, 1990. Summary minutes will be maintained in the District Office and will be available for public inspection during regular business hours, within 30 days following the meeting. Copies will be available for the cost of duplication.

Francis R. Cherry, Jr.,

District Manager.

[FR Doc. 90-15670 Filed 7-5-90; 8:45 am]

BILLING CODE 4310-FB-M

[CA-940-00-4214-10; CAS 0030]

Partial Termination of Proposed Withdrawal and Reservation of Land; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of partial revocation of proposed withdrawal.

SUMMARY: The Bureau of Reclamation, U.S. Department of the Interior, has determined that approximately 270 acres of land in the proposed Auburn-Folsom South Unit of the American River Division of the Central Valley Project, California, are no longer needed. The lands will be open to all forms of appropriations under the public land laws, including the mining laws but have been and will remain open to the mineral leasing laws.

FOR FURTHER INFORMATION CONTACT: Joan Mangold, Bureau of Land Management, California State Office, 2800 Cottage Way, Room E-2845, Federal Office Building, Sacramento, California 95825, (916) 978-4820.

1. The Bureau of Reclamation filed application CAS 0030 for withdrawal and reservation of lands for the construction, operation and maintenance of the planned facilities of the Auburn-Folsom South Unit of the American River Division of the Central Valley Project, California, as published in the **Federal Register** October 13, 1966, page 13248. The applicant agency has determined that certain lands in its application will not be necessary to the project. This amendment will open the following described lands:

Mount Diablo Meridian

T. 14 N., R. 9 E.,
Sec. 24, W½SW¼, W½E½SW¼;

Sec. 25, lots 4 and 5, W½E½NW¼ (portion lots 3 and 6), NW¼SW¼ (excepting those portions lying within the boundaries of unsegregated MS 5816).

The area described contains approximately 270 acres in Placer County.

2. At 10 a.m. on July 26, 1990, the lands will be open to operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, any segregations of record, and the requirements of applicable law. All valid applications received at or prior to 10 a.m. on July 26, 1990, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 10 a.m. on July 26, 1990, the lands will be open to location under the United States mining laws. Appropriations of any of the lands described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determinations in local courts.

Dated: June 26, 1990.

Nancy J. Alex,
Chief, Lands Section.

[FR Doc. 90-15671 Filed 7-5-90; 8:45 am]
BILLING CODE 4310-40-M

Fish and Wildlife Service

Receipt of Applications for Permits

The following applicants have applied for permits to conduct certain activities with endangered species. This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*):

PRT 713497

Applicant: Frank Mazzotti, Davie, Florida.

The applicant requests amendment of a permit for American crocodiles (*Crocodylus acutus*) authorizing research activities in and adjacent to the Everglades National Park, Dade and Monroe Counties, Florida. He requests extension of existing authorization to include all areas statewide where American crocodiles might occur for the following activities to determine the effects of water management practices and human activities upon crocodiles throughout the State: (a) Locate and monitor nests and relocate nests to prevent loss when necessary; (b) capture, sex, weigh, and mark crocodiles and relocate as necessary; (c) attach radio transmitters to no more than 20 hatchlings and 10 juveniles per year; and (d) perform chemical analysis on tissues taken from dead crocodiles and failed eggs.

PRT 750201

Applicant: HQ, Air Force Engineering and Services Center, Tyndall Air Force Base, Florida.

The applicant requests a permit to take (harass, trap, mark and release) Arctic and American peregrine falcons (*Falco peregrinus tundrius* and *F. p. anatum*) for three years along portions of the middle and lower Yukon River, for the purpose of scientific research. Aircraft flights would occur along the middle Yukon River during the establishment of breeding territories, nesting and fledgling and behavior and reproduction efforts would be monitored to assess the impacts of aircraft noise. Additional data from an undisturbed breeding population established along the lower Yukon River will be collected for comparison. Video-audio equipment supplied by the applicant may be installed at some locations to record aircraft noise levels and falcon behavior during the flights. Data collected by this study will provide information for reconsideration of existing U.S. Air Force flight restrictions and establish guidelines for use when determining effects of aircraft flights on other raptor species.

PRT 749782

Applicant: International Animal Exchange, Ferndale, MI.

The applicant requests a permit to purchase one female Asian elephant (*Elephas maximus*) from the Los Angeles Zoo, Los Angeles, California, and sell the elephant to the Hawthorn Corporation of Grayslake, Illinois, for display purposes and possible breeding.

PRT 750264

Applicant: Hawthorn Corporation, Grayslake, IL.

The applicant requests a permit to purchase one female Asian elephant (*Elephas maximus*) from International Animal Exchange, Inc. Ferndale, Michigan for display purposes and possible breeding.

PRT 749784

Applicant: National Zoological Park, Washington, DC.

The applicant requests a permit to export one captive-born male golden lion tamarin (*Leontopithecus rosalia*) to the Bermuda Aquarium & Zoo, Bermuda, for zoological display. The tamarin was imported from the Rio Primate Center, Rio de Janeiro, Brazil, in 1980.

PRT 740819

Applicant: International Animal Exchange, Inc. Ferndale, MI.

The applicant requests a permit to export and sell in foreign commerce two pairs of ring-tailed lemurs (*Lemur catta*) to the Monkey Center Co., Ltd., Taipei, Taiwan for breeding and display purposes

PRT 738738

Applicant: International Animal Exchange, Inc., Ferndale, MI.

The applicant requests a permit to export and sell in foreign commerce one male and three female captive-born gaurs (*Bos gaurus*) to the Singapore Zoological Gardens, Republic of Singapore, for display and breeding purposes.

PRT 717732

Applicant: International Animal Exchange, Inc., Ferndale, MI.

The applicant requests a permit to export and sell in foreign commerce one pair of captive-born Diana monkeys (*Cercopithecus diana*) to the Monkey Center Co., Taipei, Taiwan, for display purposes.

Documents and other information submitted with these applications are available to the public during normal business hours (7:45 am to 4:15 pm) in Room 430, 4401 N. Fairfax Dr., Arlington, VA 22201, or by writing to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 N. Fairfax Drive, Room 430, Arlington, VA 22201.

Interested persons may comment on any of these applications within 30 days of the date of this publication by submitting written views, arguments, or data to the Director at the above address. Please refer to the appropriate PRT number when submitting comments.

Date: July 2, 1990.

Karen Willson,
Acting Chief, Branch of Permits, U.S. Office of Management Authority.

[FR Doc. 90-15697 Filed 7-5-90; 8:45 AM]
BILLING CODE 4310-55-M

Availability of a Draft Recovery Plan for Peters Mountain Mallow for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of a draft recovery plan for Peters Mountain mallow (*Iliamna corei*). The single present and only known historical population occurs on Peters Mountain, above The Narrows of the New River, in Giles County, Virginia. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before August 6, 1990, to receive consideration by the Service in preparation of the final recovery plan.

ADDRESSES: Copies of this draft recovery plan may be obtained from the U.S. Fish and Wildlife Service, Annapolis Field Office, 1825 Virginia Street, Annapolis, Maryland 21401, telephone (301) 269-5448. Written comments and materials regarding the draft plan should be addressed to the Annapolis Field Office. Copies of the plan, comments, and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Ms. Judy Jacobs at the above address, or by telephone (301) 269-5448.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for recognizing the recovery levels for downlisting or delisting them, and provide initial estimates of time and costs for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Since its discovery in 1927, the natural population of Peters Mountain mallow, a member of the mallow family, has declined from an estimated 50 plants to its present level of three individuals. However, this plant is also in cultivation at two horticultural facilities.

Major recovery plan tasks for Peters Mountain mallow include (1) monitoring and management of the natural population, (2) protection of the existing habitat through acquisition, (3) life history studies, (4) continued propagation of the species at plant breeding facilities, and (5) if appropriate, establishment of additional populations on Peters Mountain.

Public Comments Solicited

The Service solicits written comments on recovery plan described. All comments received by the date specified above will be considered prior to approval of the plan.

Authority

The authority of this action is Section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: June 25, 1990.

James F. Gillett,

Acting Regional Director.

[FR Doc. 90-15616 Filed 7-5-90; 8:45 am]

BILLING CODE 4310-55-M

Availability of the Draft Environmental Assessment (EA); Cedar Island National Wildlife Refuge, NC

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability of the Draft Environmental Assessment on Experimental Integrated Marsh Management for Waterfowl and other Wildlife at Cedar Island National Wildlife Refuge.

SUMMARY: This notice advises the public that a draft Environmental Assessment Statement on Integrated Marsh Management at Cedar Island National Wildlife Refuge, Carteret County, and Gull Rock Game Land, Hyde County, North Carolina, is available for public review. Comments and suggestions are requested.

DATES: The draft assessment will be available to the public on June 20, 1990. Written comments must be received no later than July 20, 1990, and requests for copies of the assessment and further information should be addressed to: Refuge Manager, Mattamuskeet National Wildlife Refuge, U.S. Fish and Wildlife Service, Route 1, Box N-2, Swan Quarter, North Carolina 27885.

SUPPLEMENTARY INFORMATION: Donald E. Temple, Refuge Manager, Mattamuskeet refuge, is the primary author of this document. The Fish and Wildlife Service, Department of the Interior, has prepared a draft EA on its proposal to experiment with Integrated Marsh Management for Waterfowl and Other Wildlife (IMM). IMM is a technique which involves the creation of a series of interconnecting ponds and a ditch connection with the adjacent estuary.

The purpose of this action is to experimentally convert a small acreage of irregularly flooded salt marsh to wetlands supporting submerged aquatic vegetation suitable for waterfowl utilization, and to evaluate the effects of the action on waterfowl and other wildlife as well as functions associated with irregularly flooded salt marshes.

The need for this action is to improve waterfowl habitat and enhance waterfowl use in furtherance of the objectives of the Fish and Wildlife Services, North Carolina Wildlife Resources Commission, and the goals of the North American Waterfowl Management Plan.

Beneficial impacts of the proposed action include increased waterfowl use, increased reproductive success in waterfowl, increased habitat for wading birds, increased black duck brood habitat, and increased islation from human disturbance.

Adverse impacts include deposition of spoil in a shallow layer over 40-80 acres of high marsh vegetation by the creation of shallow ponds and an additional 1.6-16 acres of spoil deposition in ditch construction. Limited vegetative changes are expected as a result of this spoil deposition. The major alternatives under consideration that were analyzed and evaluated during planning are:

Alternative 1: No Action

Under this alternative, fish and wildlife management at Cedar Island refuge and Gull Rock Game Land will essentially remain the same with little, if any, direct waterfowl enhancement activities. No beneficial or adverse impacts will result.

Alternative 2: Experimental Integrated Marsh Management for Waterfowl and Other Wildlife—Pond Clusters and Estuarine-Connected Ditch

This is the Service's preferred alternative and consists of excavating 128 shallow (18" or less) ponds with interconnecting ditches at Gull Rock

Game Lands and Cedar Island National Wildlife Refuge.

At Cedar Island National Wildlife Refuge 24 of the ponds will be located adjacent to an estuarine-connected ditch (7,000 feet long × 3 feet wide × 2 feet deep) to determine the impacts and/or benefits a ditch may have on fauna and flora colonization of the newly constructed ponds. Spoil material excavated during construction will be sprayed and/or spread over the adjacent marsh to depths of 2–4 inches. Approximately 14 acres of irregularly flooded salt marsh will be converted to estuarine open water wetlands. Spoil will be deposited in a shallow layer over 40–80 acres of irregularly flooded salt marsh. An evaluation or monitoring effort will be conducted over a 5-year period by the Fish and Wildlife Cooperative Research Unit of North Carolina State University. It is expected this alternative will increase waterfowl use of the two areas, increase reproductive success in waterfowl, increase habitat for wading birds, and increase black duck brood habitat.

Alternative 3: Integrated Marsh Management for Waterfowl and Other Wildlife—Pond Clusters

This alternative is identical to the preferred alternative with the exception that no estuarine connecting ditch will be constructed. Beneficial effects would be similar to the proposed action with some loss of benefits. These benefit losses are associated with the ditch and its expected effect of increasing population densities of aquatic organisms by increasing aquatic habitat in the vicinity of the ditch. Spoil deposition would also be reduced under this alternative.

Alternative 4: Construction of Impoundments

This alternative describes the construction of 400–600 acres of waterflow impoundments. It would greatly increase waterfowl habitat created over the proposed action with a corresponding increase in wildlife use.

Adverse impacts include the loss of 26–30 acres of wetlands in the placement of fill for dike construction and impacts to marsh functions in the areas of hydrology and nutrient exchange.

Other government agencies contributed to the planning and evaluation of the proposal and to the preparation of this EA. On May 19, 1989, the Service invited Federal and State environmental review agencies for a predevelopment consultation meeting to discuss the proposal. Using feedback from that meeting, the Service and Commission developed a draft study design which was submitted on September 28, 1989, to environmental and regulatory review agencies for their informal review and comment. The proposed action presented in the EA was developed taking into consideration the comments and suggestions offered by these agencies.

All agencies and individuals are urged to provide comments and suggestions for improving this EA as soon as possible.

All comments received by the dates given above will be considered in preparation of the final EA for this proposed action.

Dated: June 13, 1990.

James W. Pulliam, Jr.,
Regional Director.

[FR Doc. 90–15627 Filed 7–5–90; 8:45 am]
BILLING CODE 4310–55–M

Intent to Prepare an Environmental Impact Statement on the Lake Ilo Dam Rehabilitation Project, Lake Ilo National Wildlife Refuge, Dunn County, ND

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: This notice advises the public that the Fish and Wildlife Service (FWS) intends to gather information necessary for the preparation of an Environmental Impact Statement (EIS) for the Lake Ilo Dam Rehabilitation Project, Lake Ilo National Wildlife Refuge, Dunn County, North Dakota. Three preliminary public meetings have been held to date and additional public meetings will be held regarding this proposal and preparation of the EIS. This notice is being furnished, as required by the National Environmental Policy Act (NEPA) Regulations (40 CFR 1501.7), to obtain suggestions and information from other agencies and the public and to define the scope of issues to be addressed in the EIS. Comments and participation in this scoping process are solicited.

DATES: Written comments should be received by August 6, 1990. Additional public meetings will be held in Killdeer, North Dakota, and other cities as appropriate.

ADDRESSES: Comments should be addressed to: Regional Director (RW–60130), U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, CO 80225.

FOR FURTHER INFORMATION CONTACT: Dale B. Henry, Associate Manager, P.O. Box 25486, Denver Federal Center, Denver, CO 80225 Telephone: (303) 236–8151.

SUPPLEMENTARY INFORMATION: Dale B. Henry is the primary author of this document. The Fish and Wildlife Service, Department of the Interior, proposes to rehabilitate Lake Ilo Dam on the Lake Ilo National Wildlife Refuge, Dunn County, North Dakota.

Project Description

Lake Ilo Dam is located on Spring Creek in Dunn County, North Dakota. The dam was designed by the U.S. Department of Agriculture, Bureau of Biological Survey (currently the U.S. Department of Interior, Fish and Wildlife Service). It was constructed as a Civilian Conservation Corps (CCC) project in 1937. The lake and surrounding area were developed into the Lake Ilo National Wildlife Refuge by Executive Order No. 8154, dated June 12, 1939.

The dam was constructed with earthfill materials and has a crest length of 1,525 feet, and a height above the natural stream bed of 38.5 feet. A spillway is located in the right abutment area. This spillway has an estimated discharge capacity of 5,170 cubic feet per second (cfs) and provides the only means of water discharge from the reservoir during both normal operating and flood conditions. Lake Ilo Dam does not have a low-level outlet works. Lake Ilo reservoir has an estimated storage capacity of 5,150 acre-feet when water is stored to the crest of the spillway (approximate elevation 2,190.5 feet).

The dam and reservoir are located about one mile west-southwest of the City of Dunn Center, and about one-half mile south of N.D. Highway 200. The dam and reservoir are classified as "High Hazard" according to the U.S. Department of the Interior guidelines. A High Hazard dam is defined as a situation where more than six lives are in jeopardy and excessive economic loss would occur due to floodwater released at the structure, or waters released by partial or complete failure of the structure. The term High Hazard is not associated with the existing condition of the dam, but is a statement of potential adverse impact on human life and downstream development if the dam were to fail.

History of Dam Safety Concerns

A safety inspection and evaluation of Lake Ilo Dam was completed by the FWS in 1983. At that time it was determined that two dam safety problems existed: (1) The existing spillway structure was not adequate to

safely pass large floods; and (2) a low level outlet works structure was needed in order to drain the reservoir in the event of an emergency.

In 1986, the FWS contracted with GEI Consultants, Inc. to perform dam safety studies. These studies included evaluating the dam, its foundations and spillway, and determining a Probable Maximum Flood (PMF). A Probable Maximum Flood is an estimate of the largest possible flood that may occur from the drainage basin above the dam. The studies and evaluation by GEI confirmed that there were indeed problems with the spillway structure and also indicated additional problems with the stability of the dam itself.

Another safety inspection by the FWS in the spring of 1988 found more seepage along the north spillway wall. Not only had the amount of water seeping through the dam increased, but there was also material from the interior of the dam itself coming through. The change in seepage conditions was serious enough that it was determined a failure of the dam could occur near the spillway.

To prevent this potential failure of the dam, a notch was cut in the spillway to lower the lake approximately seven feet and reduce pressure on the dam. A filter system was installed where the seepage occurred as an extra safety measure.

Rehabilitation Studies

In addition to the dam safety inspections and evaluations, the FWS contracted with GEI Consultants, Inc. to identify a range of alternatives for rehabilitating the existing dam, and/or restoring the reservoir basin. The first of these two studies was completed and summarized in a report dated March 1988. In this study, four overall alternatives for rehabilitating the dam and emergency spillway and constructing a new low level outlet works were considered. The estimated total 1990 construction costs for these four alternatives ranged from approximately $10,670,000 to over $15,600,000.

Due to the high costs associated with each of these alternatives, a subsequent study was initiated in March 1989 to evaluate four additional alternatives for rehabilitating and/or restoring the dam and reservoir basin. Preliminary results of this study indicate total 1993 construction costs ranging from $5,200,000 to $13,000,000. This study will be completed and cost estimates finalized in January 1991. The second report contains a description of the lowest cost dam rehabilitation option from the March 1988 GEI study, and a description of all four dam and reservoir rehabilitation/restoration concepts under current consideration.

The area immediately east of the Lake Ilo National Wildlife Refuge is known to be of historical significance and has been proposed as the Knife River Flint Quarry National Historic District. Investigations are currently underway to identify historically significant sites on the Refuge and how they relate to the various alternatives being considered.

Anticipated Schedule of Future Activities

The anticipated schedule for future activities associated with lake Ilo Dam and Reservoir are as follows:

(1) National Environmental Protection Act (NEPA) documents and meetings, permits, additional archaeological work, and preparation of final designs and construction documents will be completed during 1990, 1991, and 1992.

(2) Provided funding is obtained, construction will begin in late spring of 1993 and will be completed by early summer to early fall of 1994.

Summary of Alternatives

Alternative No. 1—Dam Removal with Pond and Slough Habitat Development

Estimated Cost: $13,600,000.

This alternative will:

*Remove the existing dam.

*Develop four ponds for wildlife production and feeding.

*Construct diversion dams and canals on both Spring and Murphy Creeks.

*Construct a new dike, canal, and control structure between Pond No. 3 and LePaul Slough.

*Seed grass in remaining lakebed areas.

*Seed shoreline vegetation along streams in restored lakebed area.

Alternative No. 2—Dam Removal and Grassland Habitat Restoration

Estimated Cost: $5,200,000.

This alternative will:

*Remove the old dam.

*Seed shoreline vegetation along Spring and Murphy Creeks in lakebed area.

*Seed grass in remaining lakebed area.

Alternative No. 3—Low Hazard Dam with Pond and LePaul Slough Habitat Development

Estimated Cost: $13,000,000.

This alternative will:

*Develop "Low Hazard" dam at existing dam location with a "100 year flood" spillway, and a new level outlet. The new lake elevation would be about four feet below the former lake level. A fishing hole would be dug out to provide maximum water depths up to 12 feet.

*Construct three ponds in upper lakebed area.

*Construct diversion dams and canals on both Spring and Murphy Creeks.

*Construct a new dike, canal, and control structures between Pond No. 3 and LePaul Slough.

*Seed grass in appropriate areas of lakebed.

*Seed shoreline vegetation along appropriate portions of Spring and Murphy Creeks in lakebed area.

Alternative No. 4—Low Hazard Dam

Estimated Cost: $5,400,000.

This alternative will:

*Develop "Low Hazard" dam at old dam location with a "100-year flood" spillway and new low level outlet. The new lake level would be about four feet below the former lake level. A fishing hole would be dug out to provide maximum water depths up to 12 feet.

*Seed grass along the edges of the new lake and ponds.

*Seed shoreline vegetation along appropriate portions of Spring and Murphy Creeks in lakebed area.

Alternative No. 5—Rebuild the Old Dam

Estimated Cost: $13,400,000.

This plan will:

*Rehabilitate the old dam to safely pass a 50 percent Probable Maximum Flood, construct a new low level outlet works, and flatten the downstream dam slopes to improve stability. The lake level would be the same as the former lake level.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4271 *et seq.*), NEPA Regulations (40 CFR parts 1500–1508), other appropriate Federal regulations, and FWS procedures for compliance with those regulations.

We estimate the Draft Environmental Impact Statement will be available to the public by June 1, 1991.

Dated: June 19, 1990.

John L. Spinks, Jr.,

Deputy Regional Director, Region 6, Denver, CO.

[FR Doc. 90-15628 Filed 7-5-90; 8:45 am]

BILLING CODE 4310-55-M

Office of Surface Mining Reclamation and Enforcement

Information Collection Submitted to the Office of Management and Budget for Review

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35). Copies of the proposed collection of information, related form and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirements should be made directly to the Bureau clearance officer and to the Office of Management and Budget, Paperwork Reduction Project (1029-0055), Washington, DC 20503, telephone 202-395-7340.

Title: Rights of Entry, 30 CFR part 877.
OMB Number: 1029-0055.
Abstract: This regulation establishes procedures for non-consensual entry upon private lands by a regulatory authority for the purpose of reclamation activities or exploratory studies when the landowner's consent is refused or the landowner is not available.
Bureau Form Number: None.
Frequency: On occasion.
Description of Respondents: Regulatory Authorities.
Estimated Completion Time: ½ hour.
Annual Responses: 120.
Annual Burden Hours: 60
Bureau clearance officer: Andrew F. DeVito, (202) 343-5150.

Dated: May 23, 1990.

John P. Mosesso,

Chief, Division of Technical Services.

[FR Doc. 90-15672 Filed 7-5-90; 8:45 am]

BILLING CODE 4310-05-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Housing Guaranty Program; Investment Opportunity

The Agency for International Development (A.I.D.) has authorized the guaranty of a loan to the Government of Tunisia ("Borrower") as part of A.I.D.'s development assistance program. The proceeds of this loan will be used to finance shelter projects for low-income families in Tunisia. The Borrower has authorized A.I.D. to request proposals from eligible investors. The name and address of the Borrower's representative to be contacted by interested U.S. lenders or investment bankers, and the amount of the loan and project number are indicated below:

Tunisia

Project: 664-HG-004B—$6,000,000
Loan Guaranty Authorization No. 664-HG-006B01
Attention: Mr. Abdelmajid Fraj
Directeur General des Finances Exterieures
Banque Centrale de Tunisie
Tunis, Tunisia
Telex Nos.: BANCENTUN 15375, 13309, 13311
Telephone Nos.: 216-1-340588 or 254000
Telefax No.: 216-1-340615

Interested investors should submit their bids to the Borrower's representative on Tuesday, July 17, 1990, 5:00 p.m. Eastern Standard Time. Bids should be open for a period of 48 hours from the bid closing date. Copies of all bids should be simultaneously sent to the following:

Mr. Douglas Heisler
Regional Housing Officer
Regional Housing and Urban Development Office,
Near East & Northern Africa
c/o American Embassy, Tunis, Tunisia
28 Rue Suffex, Notre Dame, Tunis, Tunisia
Tunis, Tunisia
Telex No: 14182 USAID TN
Telephone No.: 216-1-784300
Telefax No.: 216-1-782464
Sean P. Walsh
Agency for International Development
PRE/H, Room 401, SA-2
Washington, D.C. 20523-0214
Telex No.: 892703 AID WSA
Telefax No.: 202/663-2552 (preferred communication)

For your information the Borrower is currently considering the following terms:

(a) *Amount:* U.S. $6 million.
(b) *Term:* Up to 30 years.
(c) *Grace Period:* 10 years on repayment of principal.
(d) *Interest Rate:* Fixed, variable, and/or variable rate with option to convert to fixed rate.
(e) *Prepayment:* Offers should include the terms for partial or total prepayment of the loan by the Borrower specifying the earliest date the option can be exercised without penalty.
(f) *Closing Date:* Estimated 60 days from date of selection of investor.
(g) *Fees:* Borrower agrees to pay all closing costs at closing from the proceeds of the loan. Lenders are requested to include all legal fees in their placement fee.

Selection of investment bankers and/or lenders and the terms of the loan are initially subject to the individual discretion of the Borrower and thereafter subject to approval by A.I.D. Disbursements under the loan will be subject to certain conditions required of the Borrower by A.I.D. as set forth in agreements between A.I.D. and the Borrower.

The full repayment of the loans will be guaranteed by A.I.D. The A.I.D. guaranty will be backed by the full faith and credit of the United States of America and will be issued pursuant to authority in Section 222 of the Foreign Assistance Act of 1961, as amended (the "Act").

Lenders eligible to receive an A.I.D. guaranty are those specified in section 238(c) of the Act. They are: (A) U.S. citizens; (2) domestic U.S. corporations, partnerships, or associations substantially benefically owned by U.S. citizens; (3) foreign corporations whose share capital is at least 95 percent owned by U.S. citizens and, (4) foreign partnerships or associations wholly owned by U.S. citizens.

To be eligible for an A.I.D. guaranty, the loans must be repayable in full no later than the thirtieth anniversary of the disbursement of the principal amount thereof and the interest rates may be no higher than the maximum rate established from time to time by A.I.D.

Information as to the eligibility of investors and other aspects of the A.I.D. housing guaranty program can be obtained from:

Peter M. Kimm, Direcor
Office of Housing and Urban Programs
Agency for International Development
Room 401, SA-2, Washington, D.C. 20523-0214
Telephone: 202/663-2530

Dated: July 2, 1990.

Michael G. Kitay,

Assistant General Counsel Bureau for Private Enterprise Agency for International Development.

[FR Doc. 90-15788 Filed 7-5-90; 8:45 am]

BILLING CODE 6116-01-M

INTERSTATE COMMERCE COMMISSION

Intent To Engage In Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation: Quality Trailer Products Corporation, 633 Northwest Parkway, Azle, Texas 76020.

2. Wholly owned subsidiaries and State of Incorporation:

(I) DDR Machine Corporation, Texas.
(II) Mt. Pleasant Trailer Products, Inc., Texas.
(III) Trailer Products of Ocala, Texas.
(IV) Quality Running Gear, Texas.

Noreta R. McGee,

Secretary.

[FR Doc. 90-15714 Filed 7-5-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31671]

Georgia Southern and Florida Railway Co.—Extension of Operations Exemption—Georgia Pacific Corp.

Georgia Southern and Florida Railway Company (GS&F) has filed a notice of exemption to extend its operations over 10,368 feet of track owned by Georgia Pacific Corporation (GP) between the connection of the GP lead track with track of CSX Transportation, Inc., at Palatka, FL, and the connection of the GP lead track with the track of GS&F at Palatka. The transaction is expected to be consummated on or after July 1, 1990.

Any comments must be filed with the Commission and served on Thomas W. Ambler, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: June 27, 1990.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 90-15496 Filed 7-5-90; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31656]

Joppa and Eastern Railroad Co.; Construction Exemption, Joppa, IL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the prior approval requirements of 49 U.S.C. 10901, the construction by the Joppa and Eastern Railroad Co. (Joppa and Eastern) of a 4.5-mile rail line. The line will connect the Joppa Steam Electric Station (Joppa Plant) at Joppa, IL with a main line of the Burlington Northern Railroad Co. (Burlington Northern).

DATES: The exemption will not be effective until completion of the Commission's environmental review and further decision. Petitions for reconsideration must be filed by July 23, 1990.

ADDRESSES: Send pleadings referring to Finance Docket No. 31656 to:

(1) Office of the Secretary, Cases Control Branch, Interstate Commerce Commission, Washington, DC 20423.
(2) Petitioner's representative: John R. Molm, Troutman, Sanders, Lockerman and Ashmore, 1400 Candler Building, 127 Peachtree Street, NE., Atlanta, GA 30303.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7246. (TDD for hearing impaired: 275-1721.)

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services (202) 275-1721.

Decided: June 29, 1990.

By the Commission, Chairman Philbin, Vice Chairman Phillips, Commissioners Simmons, Lamboley, and Emmett.

Noreta R. McGee,

Secretary.

[FR Doc. 90-15715 Filed 7-5-90; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree; U.S. vs National Starch and Chemical Co.

In accordance with Department policy, 28 CFR 50.7, notice is hereby given that on June 26, 1990, a proposed consent decree in *United States* v. *National Starch & Chemical Co.*, Civil Action No. IP 87-304C, was lodged with the United States District Court for the Southern District of Indiana. The proposed consent decree resolves a judicial enforcement action brought by the United States against National Starch and Chemical Co. ("National") for violations of the Clean Air Act (the "Act").

The proposed consent decree provides that National achieve and maintain compliance with the Act, and with Indiana State Implementation ("SIP") Rules 325 IAG 6-1-12, APC-3, and 325 IAG 6-4(2)(c). Specifically, the consent decree requires that National have ceased operation of boilers, 1, 2 and 3 by October 1, 1989. National ceased operation of these boilers on September 24, 1989. The consent decree provides that National may not start-up or operate boilers 1, 2 and 3 unless National demonstrates compliance with Indiana SIP Rules 325 IAC 6-1-12 and 325 IAC 5-1. The consent decree also requires National to implement and comply with a Fugitive Dust Control Program and a Operation and Maintenance Plan as set forth in the decree. Further, the consent decree requires National to a civil penalty of $105,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *National Starch* D.J. 90-5-2-1-1052.

The proposed consent decree may be examined at the office of United States Attorney, 46 East Ohio Street, Indianapolis, Indiana and at the office of Regional Counsel, Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois.

Copies of the consent decree may be examined at the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice, room 1647, Ninth and Pennsylvania Avenue, NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Environment and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $3.20 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

Richard B. Stewart,

Assistant Attorney General, Environment and Natural Resources, Division.

[FR Doc. 90-15674 Filed 7-5-90; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Manufacturer of Controlled Substances; Registration

By Notice dated August 31, 1989, and published in the **Federal Register** on September 14, 1989, (54 FR 38003), Arenol Chemical Corporation, 189 Meister Avenue, Somerville, New Jersey 08876, made application to the Drug Enforcement Administration to be registered as a bulk manufacturer of the

basic classes of controlled substances listed below:

Drug	Schedule
Amphetamine, its salts, optical isomers, and salts of its optical isomers (1100)	II
Methamphetamine, its salts isomers, and salts of its isomers (1105)	II

No comments or objections have been received. Therefore, pursuant to section 303 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 and title 21, Code of Federal Regulations, § 301.54(e), the Deputy Assistant Administrator hereby orders that the application submitted by the above firm for registration as a bulk manufacturer of the basic classes of controlled substances listed above is granted.

Dated: June 12, 1990.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 90-15626 Filed 7-5-90; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes 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.

Withdrawn General Wage Determination Decision

This is to advise all interested parties that the Department of Labor is withdrawing from the date of this notice General Wage Determinations Nos. TX90-33, TX90-34, TX90-37, TX90-39, TX90-40, TX90-41, TX90-42, TX90-44, TX90-46 and TX90-49. See General Wage Determinations Nos. TX90-27, TX90-28, TX90-29, TX90-38, TX90-43, TX90-47 and TX90-48 for all areas formerly covered by the withdrawn decisions.

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

Connecticut:
CT90-1 (Jan. 5, 1990) ..... p. 63.
p. 67.

Massachusetts:
MA90-1 (Jan. 5, 1990) ..... p. 399.
pp. 401, 404.
MA90-2 (Jan. 5, 1990) ..... p. 417.
pp. 420-422.

Pennsylvania:
PA90-25 (Jan. 5, 1990) ..... p. 1091.
p. 1092.

Tennessee:
TN90-6 (Jan. 5, 1990) ..... p. 1175.
p. 1176.
TN90-7 (Jan. 5, 1990) ..... p. 1177.
p. 1178.
TN90-11 (Jan. 5, 1990) ..... p. 1185.
p. 1186.

Volume II

Illinois:
IL90-9 (Jan. 5, 1990) ..... p. 143.
p. 144.

Minnesota:
MN90-12 (Jan. 5, 1990) ..... p. 605.
p. 606.
MN90-15 (Jan. 5, 1990) ..... p. 613.
pp. 614-615.

New Mexico:
NM90-1 (Jan. 5, 1990) ..... p. 747.
pp. 753, 760.

Ohio:
OH90-1 (Jan. 5, 1990) ..... p. 777.
pp. 778-783.
OH90-2 (Jan. 5, 1990) ..... p. 791.
p. 794.
OH90-3 (Jan. 5, 1990) ..... p. 813.
p. 814.
OH90-28 (Jan. 5, 1990) ..... p. 867.
p. 868.
OH90-29 (Jan. 5, 1990) ..... p. 873.
pp. 877-878, 882.
pp. 884-886.
pp. 888, 910.
OH90-35 (Jan. 5, 1990) ..... p. 918c.
p. 918d.

Texas:
TX90-27 (Jan. 5, 1990) ..... p. 1049.
TX90-48 (Jan. 5, 1990) ..... p. 1127.

Volume III

Colorado:
CO90-1 (Jan. 5, 1990)..... p. 107.
pp. 108-114.

Washington:
WA90-2 (Jan. 5, 1990)..... p. 395.
p. 400.

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 29th day of June 1990.

Alan L. Moss,

Director, Division of Wage Determinations.

[FR Doc. 90-15645 Filed 7-5-90; 8:45 am]

BILLING CODE 4510-27-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 90-46]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Reviewer.

DATES: Comments are requested by August 6, 1990. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Mr. D. A. Gerstner, NASA Agency Clearance Officer, Code NTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700-0058), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 755-1430.

Reports

Title: Non-Discrimination in Federally Assisted Programs.
OMB Number: 2700-0058.
Type of Request: Reinstatement.
Frequency of Report: As Required.
Type of Respondent: Non-profit Institutions and Small Businesses or Organizations.
Number of Respondents: 220.
Responses Per Respondent: 1.1.
Annual Responses: 242.
Hours Per Response: 4.
Annual Burden Hours: 968.
Abstract-Need/Uses: Records and reports relating to title VI of the Civil Rights Act, Section 504 of the Rehabilitation Act, and facilities and recipients of the Federal Financial Assistance are required to comply with the objectives of the statutes and NASA implementing regulations.

Dated: June 22, 1990.

Don Andreotta,

Acting Director IRM Policy Division.

[FR Doc. 90-15647 Filed 7-5-90; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) Propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 USC 3303a(a).

DATES: Requests for copies must be received in writing on or before August 20, 1990. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a

thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of the Air Force (N1-AFU-90-34). Routine records relating to miliary justice.
2. Department of the Army (N1-AU-90-10). Occupational health X-rays.
3. Department of the Army (N1-AU-90-13). Routine records relating to medical material.
4. Department of the Army (N1-AU-90-14). Routine records relating to travel orders.
5. Department of the Army (N1-AU-90-15). Routine records relating to foreign military sales shipments.
6. Department of the Army (N1-AU-90-16). Routine controlled substance records.
7. Department of the Army (N1-AU-90-17). Records relating to the establishment and management of commissaries.
8. Department of Agriculture, Forest Service (N1-95-90-1). Case files on unsuccessful bidders for timber sales or permits.
9. Department of Agriculture, Commodity Credit Corporation (N1-161-90-1). Case files related to suspension of warehouse operations.
10. Department of Commerce, International Trade Administration (N1-151-89-2). Records relating to textiles and apparel importations.
11. Department of Commerce, Bureau of Export Administration (N1-476-89-1). Case Files and related records pertaining to export controls.
12. Department of Commerce, Bureau of Export Affairs, Office of Export enforcement (N1-476-90-6). Records relating to investigations and intelligence, as well as chron files and working papers.
13. United States District Court, District of Western Wisconsin (N1-21-90-1). Modify retention period of magistrates' criminal case files.
14. Department of Education, Office of Education (N1-12-90-2) Printouts, documentation, and data file for the Teacher Corps Program (1972-75).
15. Department of Education, Office of Education (N1-12-90-3). Unreadable data tapes rom the Anchor Test Study Program.
16. Farm Credit Administration (N1-103-90-1). Assessment notifications.
17. General Services Administration, Inspector General Program Records (N1-269-90-2). Automated time reporting system.
18. Department of Health and Human Services, Public Health Service, Office of the Assistant Secretary for Health, Office of Refugee Health (N1-90-90-1). Clinical records administered for the Immigration and Naturalization Service.
19. Department of Health and Human Services, Public Health Service, Centers for Disease Control, National Center for Health Statistics (N1-90-90-3). Reporting Agency Files and International File of the National Office of Vital Statistics, 1940-50.
20. Department of Health and Human Services, Public Health Service (N1-90-90-4). Unreadable and marginally identifiable computer records, ca. 1951-76.
21. United States Information Agency, Bureau of Programs (N1-306-90-3). Miscellaneous films.
22. Department of Justice, Foreign Claims Settlement Commission (N1-299-90-1). Routine and facilitative correspondence and working files.
23. Department of Labor, Bureau of Labor Statistics, Office of Productivity and Technology (N1-257-89-2). Background materials for the New Jersey Engineers Operating Study.
24. Department of Labor, Employment and Training Administration (N1-369-90-1) Records of the Manpower Administration Program, 1963-73.
25. National Archives and Records Administration (N2-166-90-1). Unreadable tapes relating to agricultural commodities, accessioned from Foreign Agricultural Service.
26. Panama Canal Commission (N1-185-90-10). Asbestos exposure records.
27. Peace Corps (N1-362-90-1). Routine administrative files documenting support services provided by the Department of State.
28. Bureau of Public Debt, Office of Securities and Accounting Services (N1-53-89-1). Routine administrative project records.
29. Small Business Administration (N1-309-90-1). Reduction in retention period for Small Business Investment Corporations Receivership files.
30. Department of State, Bureau of East Asian Affairs (N1-59-90-9). Routine and facilitative records relating to publications.
31. Department of State, Office of Budget Reports (N1-59-90-12). Routine and facilitative records relating to budget allocations.
32. Tennessee Valley Authority, Resource Development (N1-142-90-7). Machine readable data base used in creating TVA Timeline.
33. Tennessee Valley Authority, Resource Development (N1-142-90-8). Discharge Monitoring Report Generating System Data Base and related records.

Dated: June 18, 1990.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 90-15675 Filed 7-5-90; 8:45 am]

BILLING CODE 7515-01-M

Records Schedules; Availability and Request for Comments

AGENCY: National Archives and Records Administration, Office of Records Administration.

ACTION: Notice of availability of proposed records schedules; request for comments.

SUMMARY: The National Archives and Records Administration (NARA) publishes notice at least once monthly of certain Federal agency requests for records disposition authority (records schedules). Records schedules identify records of sufficient value to warrant preservation in the National Archives of the United States. Schedules also authorize agencies after a specified period to dispose of records lacking administrative, legal, research, or other value. Notice is published for records schedules that (1) Propose the destruction of records not previously authorized for disposal, or (2) reduce the retention period for records already authorized for disposal. NARA invites public comments on such schedules, as required by 44 U.S.C. 3303a(a).

DATES: Requests for copies must be received in writing on or before August 20, 1990. Once the appraisal of the records is completed, NARA will send a copy of the schedule. The requester will be given 30 days to submit comments.

ADDRESSES: Address requests for single copies of schedules identified in this notice to the Records Appraisal and Disposition Division (NIR), National Archives and Records Administration, Washington, DC 20408. Requesters must cite the control number assigned to each schedule when requesting a copy. The control number appears in parentheses immediately after the name of the requesting agency.

SUPPLEMENTARY INFORMATION: Each year U.S. Government agencies create billions of records on paper, film, magnetic tape, and other media. In order to control this accumulation, agency records managers prepare records schedules specifying when the agency no longer needs the records and what happens to the records after this period. Some schedules are comprehensive and cover all the records of an agency or one of its major subdivisions. These comprehensive schedules provide for the eventual transfer to the National Archives of historically valuable records and authorize the disposal of all other records. Most schedules, however, cover records of only one office or program or a few series of records, and many are updates of previously approved schedules. Such schedules also may include records that are designated for permanent retention.

Destruction of records requires the approval of the Archivist of the United States. This approval is granted after a thorough study of the records that takes into account their administrative use by the agency of origin, the rights and interests of the Government and of private persons directly affected by the Government's activities, and historical or other value.

This public notice identifies the Federal agencies and their subdivisions requesting disposition authority, includes the control number assigned to each schedule, and briefly describes the records proposed for disposal. The records schedule contains additional information about the records and their disposition. Further information about the disposition process will be furnished to each requester.

Schedules Pending

1. Department of Agriculture, National Agricultural Statistics Service (N1-355-90-1). Guidelines and management project records relating to routine administrative functions.

2. Central Intelligence Agency (N1-263-89-1 and N1-263-90-3). These CIA schedules are classified in the interests of national security pursuant to Executive Order 12356 and is further exempt from public disclosure pursuant to the National Security Act of 1947, 50 U.S.C. 403(d)(3), and the CIA Act of 1949, 50 U.S.C. 403g.

3. Environmental Protection Agency (N1-412-90-1). Copies of premanufacturing notices maintained for public access.

4. Federal Communications Commission, Office of Engineering and Technology (N1-173-90-5). Control of Electromagnetic Radiation (CONELRAD) program files, 1951-59.

5. Department of Justice, Economic Stabilization Agency (N1-293-90-1). Facilitative records of the Wage and Salary Stabilization Board.

6. Department of State, Under Secretary of State (N1-59-90-24). Routine correspondence. (Policy records are scheduled for permanent retention.)

Dated: June 14, 1990.

Don W. Wilson,

Archivist of the United States.

[FR Doc. 90-15676 Filed 7-5-90; 8:45 am]

BILLING CODE 7515-01-M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Agency Information Collection Under OMB Review

AGENCY: National Endowment for the Arts and Humanities.

ACTION: Notice.

SUMMARY: The National Endowment for the Humanities (NEH) has sent to the Office of Management and Budget (OMB) the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

DATES: Comments on this information collection must be submitted on or before August 6, 1990.

ADDRESSES: Send comments to Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Room 310, Washington, DC 20506 (202-786-0494) and Mr. Joe Lackey, Office of Management and Budget, New Executive Office Building, 726 Jackson Place, NW., Room 3002, Washington, DC 20503 (202-395-7316).

FOR FURTHER INFORMATION CONTACT: Ms. Susan Daisey, Assistant Director, Grants Office, National Endowment for the Humanities, 1100 Pennsylvania Avenue, NW., Room 310, Washington, DC 20506 (202) 786-0494 from whom copies of forms and supporting documents are available.

SUPPLEMENTARY INFORMATION: All of the entires are grouped into new forms, revisions, or extensions. Each entry is issued by NEH and contains the following information: (1) The title of the form; (2) the agency form number, if applicable; (3) how often the form must be filled out; (4) who will be required or asked to report; (5) what form will be used for; (6) an estimate of the number of responses; (7) an estimate of the total number of hours needed to fill out the form. None of these entries are subject to 44 U.S.C. 3504(h).

Category Extension

Title: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Form Number: Not applicable.

Frequency of Collection: On occasion.

Respondents: State or local governments.

Use: Grant oversight and administration.

Estimated Number of Respondents: 60.

Frequency of Response: On occasion.

Estimated Hours for Respondents to Provide Information: 70 per respondent.

Estimated Total Annual Reporting and Recording Burden: 7,800 hours.

Thomas S. Kingston,

Assistant Chairman for Operations.

[FR Doc. 90-15701 Filed 7-5-90; 8:45 am]

BILLING CODE 7536-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-271-OLA-4 ASLBP No. 89-595-03-OLA]

Vermont Yankee Nuclear Power Corp., Vermont Yankee Nuclear Power Station; (Construction Period Recapture); Reconstitution of Board

Pursuant to the authority contained in 10 C.F.R. 2.721, the Atomic Safety and Licensing Board for *Vermont Yankee Nuclear Power Corporation* (Vermont Yankee Nuclear Power Station) (Construction Period Recapture), Docket No. 50-271-OLA-4, is hereby reconstituted by appointing Administrative Judge Jerry R. Kline in place of Administrative Judge Jerry Harbour, who has retired from the Panel.

As reconstituted, the Board is comprised of the following Administrative Judges:

Robert M. Lazo, Chairman
Jerry R.Kline
Frederick J. Shon

All correspondence, documents and other material shall be filed with the Board in accordance with 10 C.F.R. 2.701 (1980). The address of the new Board member is:

Administrative Judge Jerry R. Kline, Atomic Safety and Licensing Board

Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

Robert M. Lazo,

Acting Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

Dated at Bethesda, Maryland, this 29th day of June, 1990.

[FR Doc. 90-15691 Filed 7-5-90; 8:45 am]

BILLING CODE 7590-01-M

OVERSIGHT BOARD

Regions 5 and 6 Advisory Board Meetings

AGENCY: Oversight Board.

ACTION: Meeting notice.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is hereby published for Regional Advisory Board meetings for Regions 5 and 6. The meetings are open to the public.

DATES: The meetings are scheduled as follows:

1. July 24, 1990, 8:30 a.m. to 4:30 p.m., Denver, CO, Region 5 Advisory Board.
2. July 26, 1990, 8:30 a.m. to 4:30 p.m., Los Angeles, CA, Region 6 Advisory Board.

ADDRESSES: The meetings will be held at the following locations:

1. Denver—Auraria Higher Education Center, North Classroom 1130 A UCD Administration Building, 1200 Larimer St.
2. Los Angeles—Moseley-Salvatori Conference Center Auditorium, 67 South Lucas Avenue.

FOR FURTHER INFORMATION CONTACT: Jill Nevius, Committee Management Officer, Oversight Board/RTC, 1777 F Street, NW., Washington, DC 20232, 202/786-9675.

SUPPLEMENTARY INFORMATION: 21 A(d) of the Federal Home Loan Bank Act, as added by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, Public Law No. 101-73, section 501(a) ("FIRREA"), directed the Oversight Board to establish one national advisory board and six regional advisory boards. Announcement on the establishment of the advisory boards was published in the **Federal Register** on November 21, 1989 (54 FR 48172).

The advisory boards are to provide information and recommendations on the policies and programs for the sale or other disposition of real property assets of depository institutions, the accounts of which were insured by the Federal Savings and Loan Insurance Corporation before August 9, 1989, the date of the enactment of FIRREA, and for which the Resolution Trust Corporation ("RTC"), has been appointed as the conservator or receiver during the period from January 1, 1989 to August 9, 1992.

Purpose

The purpose of the regional advisory boards is to provide advice to the RTC. These are the first of a series of meetings to be held throughout the country.

Agenda

A detailed agenda will be available at the meeting. Discussions will center around the activities of that particular region as related to the disposition of affordable housing and appraisal policies. In addition, there will be briefings on RTC activity and policy updates pertaining to that region.

Statements

Interested persons may present data, information, or views in writing on the issues pending before the advisory boards. Persons wishing to make oral statements are to notify the contact person 15 days before each meeting, giving a brief statement on the nature of the remarks. Time permitting, oral comments limited to five minutes may be presented.

All meetings are open to the public. Seating is available on a first come first served basis.

Dated: July 3, 1990.

Diane M. Casey,

Vice President, Office of Public Affairs.

[FR Doc. 90-15702 Filed 7-5-90; 8:45 am]

BILLING CODE 2222-01-M

POSTAL SERVICE

Proposed International Surface Air Lift Service and Rate Changes

AGENCY: Postal Service.

ACTION: Proposed changes in International Surface Air Lift service and rates.

SUMMARY: Pursuant to its authority under 39 U.S.C. 407, the Postal Service is proposing to make several modifications to International Surface Air Lift (ISAL) service. First, the Postal Service proposes to establish two new gateways in San Francisco and Miami. Second, the Postal Service proposes to make available a service for shipments of at least 750 pounds of mail from designated U.S. origin cities to the country of destination. Third, the Postal Service proposes that the rates for items tendered at a gateway or qualifying for direct-shipment service be 20 cents per pound less than full service rates. Fourth, the Postal Service proposes to reconfigure the country rate groups to reflect cost, service, geographic, and market considerations. Fifth, the Postal Service proposes to restructure the rates for ISAL service by establishing a per-piece and per-pound charge to more closely reflect the way costs are incurred. Sixth, the Postal Service proposes to change the method of postage payment to allow the mailer the use of postage meter stamps in addition to permit imprint for identical piece mailings. Mailers using permit imprint on mailings containing non-identical peices of mail would have to make special arrangements with the Postal Service, or use postage meter stamps on each piece.

DATES: Comments must be received on or before August 6, 1990.

ADDRESSES: General Manager, Rate Development Division, Office of Rates, Rates and Classification Department, U.S. Postal Service, Washington, DC 20260-5350. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in room 1140, 475 L'Enfant Plaza West, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John F. Alepa (202) 268-2650.

SUPPLEMENTARY INFORMATION: International Surface Air Lift (ISAL) service is a bulk mailing service designed for international shipment of publications, advertising matter, catalogs, directories, books, and other printed matter. It is available from designated metropolitan areas to 125 countries. To qualify for ISAL, a mailer must send at least 50 pounds of printed matter at one time and presort that mail by country of destination. Items do not have to be the same size and weight to qualify. The full-service rates for ISAL currently range from $2.22 per pound to $3.90 per pound depending on the country of destination. A 30 cent per pound discount is currently offered for mail tendered at the JFK-New York gateway and a 20% discount is offered for printed matter sent to the same addressee at the same address and inserted in special bags (M bags).

While mailers have indicated that they are generally satisfied with ISAL service, they have also indicated that they would like the opportunity to obtain a rate discount when use of direct flights to destination countries from cities other than New York can save postal costs. The Postal Service therefore proposes to establish new gateways at San Francisco and Miami at

which mailers may tender ISAL mailings and receive a rate discount. These cities were selected because of the availability of air transportation and the ability of the Postal Service to concentrate ISAL shipments to receive more favorable air transportation rates.

The Postal Service also proposes to provide a direct-shipment option to mailers who present at least 750 pounds of mail for a designated single location that can be transported on a direct flight or flight with on-line service from a designated acceptance point. Mail of this kind and quantity would bypass the gateway facilities and thereby save some mail handling costs for the Postal Service. In addition, the Postal Service is authorized to enter into contracts with air carriers for transportation of such mail at favorable rates, producing additional cost savings. These cost savings justify a rate reduction for such mail.

Regulations in International Mail Manual (IMM) section 246 would apply to mailers using the ISAL direct shipment option. Changes in the IMM regulations and in Publication 31 (International Surface Air Lift Service Guide) concerning the proposed direct shipment option will be made in due course.

The Postal Service proposes a discount of 20 cents per pound for mail tendered at a gateway or qualifying for direct shipment. This discount reflects the cost savings in handling and transporting this mail.

The Postal Service also proposes to reconfigure the grouping of destination countries for rate purposes. The proposed groupings are set forth below. Generally, Pacific rim countries would form rate group 1, European countries would form rate group 2, and the rest of the world would form rate group 3. These groupings reflect the differences in air transportation availability and cost, and the way other costs are incurred.

The Postal Service proposes to restructure the rates for ISAL service to more closely track the way in which costs are incurred. Generally, costs for mail vary either by weight or by volume. However, at the time the current rates were established, the most significant costs that were incurred, transportation and terminal dues, varied only by weight. Since then, new terminal dues arrangements have been made with a number of countries that take into account costs that vary by volume as well as weight. Moreover, the Universal Postal Union terminal dues provisions that will take effect in 1991 contain a correction mechanism that takes the number of pieces per pound into account in setting terminal dues rate levels. Therefore, the Postal Service proposes to establish rates for ISAL service with both per-piece and per-pound elements. The rate per piece would be fixed to recover those costs that vary by volume. The rate per pound would be fixed to recover those costs that vary by weight.

The rates for each rate group are set forth below. Mail sent to countries in rate groups 1 and 3 have, and are expected to have, lower costs per piece than mail sent to countries in rate group 2. Therefore, the proposed per-piece rate for rate groups 1 and 3 is lower than the proposed per-piece rate for rate group 2. On the other hand, mail sent to countries in rate groups 1 and 3 have, and are expected to have, higher per-pound handling costs than mail sent to countries in rate group 2. Further, mail sent to countries in rate group 3 incurs higher transportation costs than mail sent to countries in rate groups 1 and 2, and mail sent to countries in rate group 1 incurs higher transportation costs than mail sent to countries in rate group 2. To reflect these differences in costs that vary by weight, the proposed per-pound rates are highest for rate group 3 and lowest for rate group 2.

The Postal Service proposes that the rates for M bags be 80% of the regular per-pound rates for each rate group. Costs for M bags do not vary by the number of pieces in them. Therefore, the proposed rates for M bags do not include a per-piece element. In addition, M bags receive favorable terminal dues treatment, and the UPU Convention authorizes rates up to 20% lower than regular rates to reflect the lower costs.

If the proposed change in the design of the rate structure from a per pound rate to a piece/pound rate is adopted, it would be necessary to make changes in the methods of postage payment to assure full and correct postage payment. It is proposed that when a mailing consists of identical pieces, postage may be paid by permit imprint or each piece may bear a meter stamp bearing the piece rate. If a mailing consists of non-identical pieces, permit imprint may be used if special postage payment and verification procedures are arranged with the Postal Service and it is to the benefit of the Postal Service and the mailer. Otherwise, mailings consisting of non-identical pieces would bear the per piece postage using meter stamps.

Although 39 U.S.C. 407 does not require advance notice and opportunity for submission of comments, and the Postal Service is exempted by 39 U.S.C. 410(a) from the advance notice requirements of the Administrative Procedure Act regarding proposed rulemaking (5 U.S.C. 553), the Postal Service invites interested persons to submit written data, views, or arguments concerning the proposed change.

Authority: 39 U.S.C. 407, 410.

Stanley F. Mires,

Assistant General Counsel, Legislative Division.

ISAL Rate Groups

Group 1

Australia
China
Fiji Islands
Hong Kong
Indonesia
Japan
Korea, Republic of
Malaysia
New Zeland
Papua New Guinea
Philippines
Taiwan
Thailand

Group 2

Albania
Austria
Belgium
Bulgaria
Czechoslovakia
Denmark
Finland
France
Germany, Democratic Republic
Germany, Federal Republic
Great Britain
Greece
Hungary
Iceland
Ireland
Italy
Luxembourg
Netherlands
Northern Ireland
Norway
Poland
Portugal
Romania
Spain
Sweden
Switzerland
Turkey
USSR
Yugoslavia

Group 3

Algeria
Angola
Argentina
Bahrain
Bangladesh
Belize
Benin
Bolivia
Brazil
Burkina Faso
Burundi
Cameroon
Central African Republic
Chile
Colombia
Congo
Costa Rica
Cote d'Ivore
Cuba
Dominican Republic
Ecuador
Egypt
El Salvador
Emirates Venequela
Ethiopia
French Guiana
Gabon
Ghana
Guatemala
Guyana
Haiti
Honduras
India
Iran
Iraq
Israel
Libya
Madagascar
Mali
Mauritania
Mauritius
Mexico
Morocco
Mozambique
Netherland Antilles
Nicaragua
Niger
Nigeria
Oman
Pakistan
Panama
Paraguay
Peru
Qatar
Reunion
Rwanda
Saudi Arabia
Senegal
Sierra Leone
Somalia
South Africa
Sri Lanka
Sudan
Suriname
Syria
Tanzania
Togo
Trinidad/Tobago
Tunisia
Uganda
Uruguay
United Arab Repablic

Jamaica
Jordon
Kenya
Kuwait
Lebanon
Liberia
Yemen Arab Republic
Yeman Peoples Democratic Republic
Zaire
Zambia
Zimbabwe

INTERNATIONAL SURFACE AIR LIFT

[Rate per pound and per piece]

Rate group	Dropship and direct shipment [1]		M-Bags	Full service [2]		M-Bags
	Regular			Regular		
	Lb	Pc		Lb	Pc	
1	$2.95	12¢	$2.36	$3.15	12¢	$2.52
2	2.15	15¢	1 72	2.35	15¢	1.88
3	3.10	12¢	2.48	3.30	12¢	2.64

[1] For International Surface Air Lift mail at the J.F. Kennedy airmail facility, San Francisco airmail facility, and Miami airmail facility by the mailer Direct-ship service from designated ISAL acceptance cities qualify for these rates only when a 750 pound minimum weight mailing is tendered by the mailer and appropriate transportation to destination or transit hub is available.

[2] For International Surface Air Lift mail tendered at any acceptance city when the mailing does not qualify for direct-ship service.

[FR Doc. 90-15625 Filed 7-5-90; 8:45 am]

BILLING CODE 7710-12-M

RAILROAD RETIREMENT BOARD

Termination of the Benefit Program Under Title VII of the Regional Rail Reorganization Act of 1973, as Amended by the Northeast Rail Service Act of 1981

Pursuant to 31 U.S.C., 1555, the Railroad Retirement Board has determined that the purposes for which this appropriation was made have been fulfilled, that no further obligations will be incurred against this appropriation and the unobligated balances of $1,292,869.58 for the payment of benefits under section 713 of the Regional Rail Reorganization Act of 1973, as amended by section 1143 of the Northeast Rail Service Act of 1981, and $29,815.13 for the payment of necessary administrative expenses under section 701 of the Regional Rail Reorganization Act of 1973, will be transferred to the Department of Transportation for withdrawal and redeposit to the general fund of the Department of the Treasury.

By Authority of the Board.

Dated: June 27, 1990.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 90-15677 Filed 7-5-90; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-28146; File No. S7-24-89]

Joint Industry Plan; Order Approving Proposed Reporting Plan for NASDAQ/NMS Securities Traded on an Exchange on an Unlisted or Listed Basis, Submitted by the National Association of Securities Dealers, Inc., and the American, Boston, Midwest and Philadelphia Stock Exchanges

On June 21, 1989, pursuant to Rules 11Aa3-2 and 11Aa3-1 under the Securities Exchange Act of 1934 ("Act"), the National Association of Securities Dealers, Inc. ("NASD"), together with the American ("Amex"), Boston ("BSE"), Midwest ("MSE"), and Philadelphia ("Phlx") Stock Exchanges, filed with the Securities and Exchange Commission ("Commission") a proposed Joint Industry Plan ("Plan") governing the collection, consolidation and dissemination of quotation and transaction information for NASDAQ/National Market System ("NMS") Securities listed on an exchange or traded on an exchange pursuant to a grant of unlisted trading privileges ("UTP"). Notice of the filing of the proposed Plan was published in Securities Exchange Act Release No. 27178 (August 24, 1989), 54 FR 37067. The Commission received five comment letters in response to this notice, and has determined, for the reasons discussed below, to approve the Plan.

I. Background

The Securities Acts Amendments of 1975 ("1975 Amendments") [1] directed the Commission to facilitate the development of a national market system for securities, consistent with certain objectives, including "fair competition * * * between exchange markets and markets other than exchange markets." [2] The legislative history of the 1975 Amendments makes clear that many active OTC stocks were expected to be part of the NMS.[3] The 1975 Amendments also authorized the Commission to grant UTP in OTC securities to exchanges if certain conditions were met.[4] The Commission generally deferred granting exchanges OTC/UTP pending progress on the development of the NMS.

In 1985, however, the Commission noted that since the enactment of the 1975 Amendments, major developments have occurred in the OTC market that led the Commission to reconsider its position on OTC/UTP.[5] For example, enhancements to the NASD's NASDAQ quotation system for the collection and dissemination of interdealer quotations dramatically increased the availability of OTC quotations, narrowed spreads and increased investor interest in OTC securities. These enhancements to the NASDAQ system have altered the conditions in which OTC securities trade and have made OTC trading of these securities more compatible with exchange trading. The dissemination in 1980 of the NASDAQ best bid and offer to registered representatives and the investing public in place of a representative bid and ask improved the usefulness of OTC quotation information.[6] In addition, the initiation in April 1982 of last sale reporting for OTC securities designated as NMS Securities pursuant to Rule 11Aa2-1 ("NMS Securities Rule") increased the availability of market information for OTC securities.[7] Market makers are required to report their trades in NMS Securities within 90 seconds of execution, thereby providing a real-time indication of trading conditions.

In view of these and other developments in the OTC market, the Commission announced on September 16, 1985, its willingness to grant UTP to

[1] Public Law No. 94-29, 89 Stat. 97 (June 4, 1975).

[2] Section 11A(a)(1)(c)(ii) of the Act.

[3] Congress envisioned that NMS Securities would include those equity securities whose characteristics of size, earnings history, breadth of ownership, and investor interest made them suitable for auction-market trading. *See* Senate Comm. on Banking, Housing & Urb. Affs., Report to Accompany S.249: Securities Acts Amendments of 1975, S. Rep. No. 75, 94th Cong., 1st Sess. 16 (1975).

[4] Section 12(f)(2) of the Act permits the Commission to grant OTC/UTP, but requires the Commission, prior to such grant, to consider:

The public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to and the progress that has been made toward the development of a national market system and [the Commission] shall not grant any such application if any rule of the national securities exchange making application under this subsection would unreasonably impair the ability of any dealer to solict or effect transactions in such security for his own account, or would unreasonably restrict competition among dealers in such security or between such dealers acting in the capacity of market makers who are specialists and such dealers who are not specialists.

For further background on the statutory history of OTC/UTP, see Securities Exchange Act Release No. 21498 (November 16, 1984), 49 FR 46156.

[5] *See* Securities Exchange Act Release No. 22412 (September 16, 1985), 50 FR 38640 ("OTC/UTP Release").

[6] Rule 11Ac1-2, 17 CFR 240.11Ac1-2, adopted in Securities Exchange Act Release No. 16590 (February 19, 1980), 45 FR 12391.

[7] Securities Exchange Act Release No. 17549 (February 17, 1981), 46 FR 13992.

national securities exchanges in NMS Securities if certain terms and conditions were met. The Commission's willingness to grant UTP was conditioned, in part, on the approval of a plan submitted by interested exchanges and the NASD to consolidate and disseminate exchange and OTC quotation data and transaction data in OTC securities upon which UTP is granted ("Joint Industry Plan" or "Plan").[8] The exchanges and the NASD have been negotiating the terms of this Plan, under the oversight of the Commission staff, since that time. The Commission also determined that although it was premature, at that time, to require any specific type of market linkage prior to the initiation of trading, that the exchanges must provide OTC market makers direct telephone access to the exchange specialist in UTP securities to facilitate intermarket trading in those securities.[9] The Commission also conditioned the grant of OTC/UTP on the exchanges not applying their off-board trading restrictions to those securities.[10] Finally, the Commission stated that it would evaluate trading under the one-year pilot and at the end of the pilot period would determine what further action to take.

Because of the potentially significant market structure implications of this new policy, the Commission decided to proceed cautiously by establishing a one-year pilot program under which each exchange requesting UTP would be permitted to trade, on an unlisted basis, up to 25 OTC securities designated as NMS Securities pursuant to rule 11Aa2-1 under the Act. The Commission stated that it considered this one-year pilot a first step in granting UTP on NMS Securities and that granting UTP on additional NMS Securities may be appropriate if no adverse consequences result from the trading of securities under the pilot program.[11]

Because of protracted negotiations to develop a joint industry plan, the MSE decided in 1986 to enter into an interim transaction reporting plan with the NASD that was significantly more limited than the Joint Industry Plan.[12] On April 29, 1987, the Commission approved the MSE's application for UTP in 25 OTC securities[13] and simultaneously approved the interim transaction reporting plan submitted by the MSE and the NASD ("Interim Plan").[14] That Interim Plan will now be superseded by the Joint Industry Plan approved herein.

II. Description of the Plan

The Joint Industry Plan provides for the collection from Plan Participants, and the consolidation and dissemination to vendors, subscribers and others of quotation and transaction information in "eligible securities," *i.e.*, NMS Securities traded on an exchange on a listed or UTP basis.[15] The following is a summary of the major provisions of the Plan. The full text of the Plan, as well as a "Concept Paper" describing the requirements of the Plan, are contained in the original filing which is available for inspection and copying in the Commission's Public Reference Room.

A. Implementation of the Plan

In its submission, the NASD stated that it will implement the Plan when (a) the Commission approves the Plan, and (b) the Commission grants an Exchange Participant's application for UTP in NASDAQ/NMS securities pursuant to section 12(f) of the Act.[16] When the Plan Processor, which under the terms of the Plan will be NASDAQ, Inc. for at least the first 5 years, reports that the necessary modifications to the NASDAQ system have been completed and that it is ready to initiate operations, Exchange Participants will transmit quotation information and transaction reports in eligible securities to the Processor via computer-to-computer interfaces ("CTCI"), except that Limited Particiants, and any Exchange Participants that is not yet ready with its CTCI, will transmit information through the NASDAQ system using the NASDAQ Workstation Service.

B. Manner of Collecting, Processing, Sequencing, Making Available, and Disseminating Last Sale Information

Section VI.B. of the Plan provides that the Processor shall be capable of receiving last sale information on transaction in eligible securities received from Exchange Participants using a CTCI, and from NASDAQ market makers using NASDAQ-approved devices. The Processor will use the NASDAQ system and the NASD's Transaction Reporting System, modified to include marketplace identifiers, to consolidate last sale information in eligible securities received from the Participants and disseminate it to authorized vendors, subscribers, and news services in a fair and non-discriminatory manner, via the NASDAQ/NMS Last Sale Information Service, as specified in the Concept

---

[8] *Id.*

[9] The Commission determined to condition its grant of OTC/UTP to an exchange on that exchange providing NASDAQ market makers access to the exchange market in the subject securities to the same extent that NASDAQ market makers provide access to their trading facilities. In its 1985 OTC/UTP Release, the Commission said that it expected that NASDAQ market makers would provide exchange members with fair and efficient access to the OTC market, and that if the Commission became aware of any limitation on such access, it would take prompt remedial action. The Commission further noted that it did not believe that a more sophisticated intermarket linkage need be in place during the initial stages of trading OTC/UTP securities, but that it encouraged the NASD and the exchanges to forge their own initiatives in facilitating computerized intermarket trading linkages and trade-through rules for these securities.

[10] Off-board trading restrictions are rules of national securities exchanges that limit or condition the ability of members to effect transactions other than on an exchange in securities that are traded on those exchanges. Rule 19c-3 under the Act (17 CFR 240.19c-3) removed certain off-board trading restrictions, thereby allowing member firms to effect principal transactions in the OTC market in reported securities that were listed or admitted to UTP on an exchange after April 26, 1979 ("Rule 19c-3 securities"). In its report on the National Market System, the General Accounting Office ("GAO") recommended that the Commission examine the continued validity of off-board trading restrictions. *See* GAO, SEC Action Needed to Address National Market System Issues, Report to Congressional Committees (March 1990).

[11] *See* OTC/UTP Release, *supra* note 5.

[12] For example, under the interim plan, the NASD and MSE use the existing NASDAQ system and the NASD's transaction reporting system to collect, consolidate and disseminate quotation and transaction information received from NASDAQ market makers and the MSE in eligible securities. The NASD disseminates on NASDAQ Level I service (which provides the best bid and offer quotations in each NASDAQ security without identifying market makers) a consolidated best bid and offer quotation with size based upon quotation information for eligible securities received from the MSE and NASDAQ market makers. MSE quotation information is, however, disseminated and identified in the NASDAQ Level 2 and 3 service.

[13] *See* Securities Exchange Act Release No. 24407 (April 29, 1987), 52 FR 17349.

[14] *See* Securities Exchange Act Release No. 24406 (April 29, 1987), 52 FR 17495.

[15] The signatories to the Plan, *i.e.*, the NASD, Amex, MSE, Phlx, and the BSE, are the "Participants." The BSE, however, has joined the Plan as a "Limited Participant," and only will report quotation information and transaction reports in NASDAQ/NMS securities listed on BSE. (The BSE is not now interested in trading OTC securities on an unlisted basis, but, because it has dually listed 21 NASDAQ/NMS securities that it wishes to continue trading, it is participating on a limited basis in the Plan.) The Plan provides that any other national securities association or exchange in whose market eligible securities are or become traded may become a Plan Participant by executing a copy of the Plan and paying its share of development costs. (Limited Participants, however, do not pay development costs.) "Participant" is used in this release to refer both to full and Limited Participants, unless otherwise indicated.

[16] The NASD also noted that the BSE's participation is contingent upon the Commission granting it an exemption from the requirement of paragraph (b)(2)(viii) of rule 11Aa3-1 under the Act to provide market identifiers on transaction reports or last sale data. *See* letter from George W. Mann, Jr., Senior Vice President and General Counsel, BSE, to Christine Sakach, Branch Chief, Division of Market Regulation, SEC, dated August 17, 1989, and discussion at pp. 15-17 *infra*.

Paper. Limited Participants and Exchange Participants that have not yet implemented a CTCI will utilize the NASDAQ Workstation Service, and will not have market identifiers for Level 1 quotations or on trade reports. The Processor will accept transaction reports in eligible securities from Exchange Participants, Limited Participants, and NASDAQ market makers and include them in a consolidated last sale data stream on a first-in, first-out basis.

C. Reporting Requirements

Pursuant to section XI of the Plan, Participants will be required to report transactions in eligible securities executed between 9:30 a.m. and 4 p.m. Eastern Time ("ET") to the Processor between the hours of 9:30 a.m. and 4:01:30 p.m. ET on all days the Processor is in operation. Transaction reports may be entered after 4:01:30 p.m. ET, but they shall be reported as "late," in accordance with the rules of the Participant in whose market the transaction occurred. At the expense of any requesting Participant(s), the Processor will disseminate last sale trade reports until 4:30 p.m. ET.

D. Standards and Methods Ensuring Promptness, Accuracy, and Completeness on Transaction Reports

Section XII of the Plan requires that each Participant enforce compliance by its members with the Plan's provisions. The rules of each Participant, to the extent they are not inconsistent with the Plan, will apply to the actions of the Participant's members in reporting quotation and transaction data in eligible securities executed through Participant's facilities.[17]

The NASD stated that it would monitor members' compliance with the requirement that transaction reports be promptly reported, accurate and complete, primarily through examinations of NASDAQ market makers' books and records. Should the NASD discover apparent rule violations, the NASD will consider possible disciplinary action. The Commission believes that the other Participants will use similar methods to ensure the promptness, accuracy, and completeness of the transaction reports they transmit to the NASD.

The Processor also will check the accuracy and completeness of transaction reports by using the automatic validation feature of the NASD's Transaction Reporting System. That system automatically will check data transmitted by a NASDAQ market maker or Exchange Participants to ensure that all required information has been reported and that the reported price is reasonable as measured against the current market price. If information is missing or improperly reported, or if the reported price exceeds established parameters, the Processor will reject the report and will notify the reporting party through its CTCI or terminal.

E. Terms and Conditions of Access

As required by the 1985 UTP Release, the Plan provides that NASDAQ market makers shall have access to the exchange markets to the same extent that NASDAQ market makers provide access to OTC trading facilities. Section IX.A of the Plan provides that each Exchange Participant and Limited Participant shall provide each NASDAQ market maker with direct telephone access to the specialist post in each Eligible Security in which the NASDAQ market maker is registered as a market maker. Similarly, pursuant to section IX.B., the NASD shall ensure that each Exchange Participant, Limited Participant, and their members have direct telephone access to the trading desk of each NASDAQ maker in each eligible security in which it displays quotations.

F. Description of Operation of Facility Contemplated by the Plan

The Plan makes specific provision for the administration of the UTP Service by the Participants through an Operating Committee.[18] As noted above, NASDAQ, Inc. will, at least initially, be the Plan Processor. In that capacity, NASDAQ, Inc. will modify the NASDAQ system to permit the Participants to report to NASDAQ quotation and trade data for eligible securities. The basic operations of the UTP Processor are described in the Concept Paper.

G. Method and Frequency of Processor Evaluation

Section V.A. of the Plan provides that the Processor's performance is subject to review by an Operating Committee during the fifth year of its initial five-year term, and periodically thereafter (at least every two years, or from time to time upon the request of any two Participants but not more frequently than once each year).

Section V.B. provides that, in evaluating the Processor's performance, the Operating Committee shall consider whether the Processor has performed its functions in a reasonably acceptable manner in accordance with the provisions of the Plan, and whether its reimbursable expenses are excessive and not justified on a cost basis. Among the factors the Operating Committee may consider in evaluating whether the Processor has performed its functions in a reasonably acceptable manner are the reasonableness of its response to requests from Exchange or Limited Participants for technological changes or enhancements pursuant to section IV.C.2. of the Plan. Section V.B. also provides that the Processor may be terminated for cause if the Operating Committee determines that it has failed to perform its functions in a reasonably acceptable manner in accordance with the provisions of the Plan or that its reimbursable expenses have become excessive and not justified on a cost basis. Such termination for cause shall be by a majority vote of the Operating Committee; provided, however, that Limited Participants shall not vote.[19]

H. Calculation of BBO

The Plan provides that, in calculating the best bid and offer ("BBO") disseminated to vendors, if quotations of more than one Participant are identical in price, then the earliest in time shall be the best.

I. Dispute Resolution

The Plan does not include any provision for specialized mechanism for the resolution of disputes arising under the Plan. Section IV.A. of the Plan authorizes the Operating Committee to make decisions and take action within specified areas of responsibility, and provides that such decisions or actions are binding upon each Participant, without prejudice, however, to the rights of any Participant to seek redress from the Commission pursuant to rule 11Aa3-2 or in any other appropriate forum.

J. Method of Determination and Imposition, and Amount of, Fees and Charges

With the exception of standard charges to Limited Participants and Exchange Participants using NASDAQ Workstation Service, the Plan does not

[17] In its submission to the Commission, the NASD noted that the pertinent rules include Article III, sections 1, 5 (and accompanying Interpretation), 6 (and accompanying Policy), and 18 of the NASD's rules of Fair Practice, and applicable provisions of Schedule D of the NASD By-Laws.

[18] Unanimous votes would be required for certain matters, including amendments to the Plan, reduction of fees charged, and replacement of the Processor.

[19] Pursuant to section IV.C.1.b. of the Plan, replacement of the Processor for any reason other than termination for cause requires the Operating Committee's unanimous vote.

provide for the imposition of any fees or charges in connection with the collection, consolidation, and dissemination of information regarding eligible securities. Section IX.A of the Plan prohibits an Exchange or Limited Participant from imposing or permitting the imposition of any access or execution fee, or any other fee or charge, with respect to transactions in eligible securities effected with NASDAQ market makers that are communicated to the exchange floor by telephone.

Section XIV of the Plan provides that the NASD shall recover from exchange Participants a sum of money to be negotiated.[20] The Plan also provides for revenue sharing, but states that the method of revenue sharing shall not be included in the Plan at this time. The method of revenue sharing is to be resolved within one year of the commencement of the UTP Service. Net revenues will be distributed to Participants (but not Limited Participants) in a manner to be determined. Prior to any such distribution, however, all operating and administrative expenses of the Processor in connection with the Plan shall be offset against operating revenues.

K. Written Understandings of Agreements Relating to Interpretation of, or Participation in, the Plan

The Participants have entered into an agreement, memorialized in an Undertaking dated April 1, 1989, which provides that for the one-year period following the date on which the UTP Processor commences operations, each initial entry or update of quotation information in Eligible Securities shall be effected by an individual at a computer terminal and shall not be programmed or automated. A copy of the Undertaking is attached to the filing.

III. The Boston Stock Exchange's Request for Exemption

As described above, the Plan does not provide for market identifiers for transaction reports or the inclusion of Limited Participants in the consolidated best bid and offer quotation.[21] Subsection (b)(2)(viii) of rule 11Aa3-1, however, requires that any transaction reporting plan submitted to the Commission must provide market identifiers for transaction reports or last sale data made available to vendors.[22] Thus, the BSE, as the only Limited Participant under the Plan, requested that the Commission exempt it from this requirement.[23] The BSE stated that it has signed the Plan only because it seeks to continue providing trading facilities for dually listed (*i.e.*, listed on the BSE and traded in NASDAQ) stocks that it listed prior to the date the Plan was filed with the Commission and does not wish to apply for OTC/UTP.[24] To accommodate the BSE, the Plan Participants created the category of "Limited Participants," which do not pay any of the development costs of modifying NASDAQ to accommodate OTC/UTP and have limited voting rights under the Plan.[25] Limited Participants will not be permitted to expand the number of dually listed issues or to apply for OTC/UTP.[26]

The NASD supported the BSE's request for exemption from SEC rule 11Aa3-1(b)(viii), which requires that transaction reporting plans provide market identifiers for transaction reports or last sale data made available to vendors. The Plan provides that the BSE's quotations and trade reports will not have a BSE market identifier, but will instead be identified by NASDAQ's market symbol. The NASD stated that the BSE's requested exemption "will effectuate a reasonable accommodation to the BSE's limited interest in maintaining its ability to trade certain securities listed on its exchange on a UTP basis." [27]

IV. Summary of Comments

The Commission received five comment letters in response to the Notice of Filing of the Joint Industry Plan. Comment letters were received from the Amex, NASD, Phlx, and the MSE, which submitted two letters.

A. Comments on Calculation of BBO

The Plan provides that, in calculating the best bid and offer ("BBO") disseminated to vendors, if quotations of more than one Participant are identical in price, then the earliest in time shall be the best.[28] The Amex believes, however, that the BBO should be based on size (rather than time) priority.[29] Because the NASD has opposed this change, the Amex urged the Commission to require that the BBO be based on price/size/time priority at the start of the Plan's operation. In support of this position, the Amex maintains that its specialists, as part of their responsibility for contributing to market depth and liquidity, are accustomed to disseminating quotations in size. Thus, if exchange market makers are prepared to commit to larger sizes, then their ability to improve market depth and liquidity should not be impaired. Furthermore, Amex points out that the Plan Processor was designed to permit ready conversion to consolidated BBO calculation based on price/size/time priority, and that this feature would enhance intermarket competition.

The MSE also believes that the BBO should be determined by size priority.[30] The MSE argues that its experience with the Interim Plan over the past two years indicates that market makers do not compete on the basis of size, and

[20] Section XIV of the Plan states that "[i]t is expressly agreed and understood among the Participants that specific provisions governing the issues of cost allocation and revenue-sharing among the Participants will not be included in the Plan at the time of execution thereof, but will be resolved within one year from the commencement of the Plan's operation. The provisions agreed upon by the Participants will be applied on a retroactive basis by means of an amendment to the Plan. There shall be no retroactive application if the Participants are unable to agree upon a cost allocation and revenue-sharing provision or the amount of recapture * * *."

[21] Limited Participants will send transaction and quotation data to the processor through the NASDAQ system, specifically through Workstation Terminals, in the same manner as OTC market makers. The NASDAQ system has never provided market identifiers for transaction and quotation reports for NMS Securities.

[22] Rules 11Ac1-1 and 11Ac1-2 also require market identifiers for transaction and quotation reports. The Commission, however, previously has provided exemptions under these rules to NASDAQ and vendors. *See* Securities Exchange Act Release No. 18585 (March 23, 1982), 47 FR 13265; letter from Richard G. Ketchum, Associate Director, Division of Market Regulation, SEC, to James M. Yates, Bridge Data Company, dated March 30, 1982. These exemptions will continue to apply to disseminations under the Plan.

[23] Letter from George W. Mann, Jr., Senior Vice President and General Counsel, BSE, to Christine Sakach, Branch Chief, Division of Market Regulation, SEC, dated August 17, 1989.

[24] The BSE, as a Limited Participant, will trade the following dually listed stocks: Assix Int'l, Bailey Corp., Biotechnica Int'l, Chronar Corp., Colonial Group, Inc., Community National Bank & Trust Co. (N.Y.), Computer Data, Confertech, Dataflex Corp., Del Taco Restaurants, E & B Marine, Eaton Vance Corp., Financial News Network, ICO, Inc., Jesup Group Inc., Software Services of America, and Wolverine Exploration. Letter from George W. Mann, Jr., Senior Vice President and General Counsel, BSE, to Jill Finder, Attorney, Division of Market Regulation, SEC, dated April 24, 1990.

[25] While Limited Participants are permitted to attend all meetings, they are permitted to vote only on those matters that directly affect them.

[26] Limited Participants could, however, become full Participants, pay their pro rata share of the development costs and apply for OTC/UTP.

[27] Letter from Frank J. Wilson, Executive Vice President and General Counsel, NASD, to Richard G. Ketchum, Director, Division of Market Regulation, SEC, dated October 23, 1989.

[28] NASDAQ calculates the BBO based on price and time priority for all securities traded in the NASDAQ system.

[29] *See* letter from Ivers W. Riley, Senior Executive Vice President, Amex, to Jonathan G. Katz, Secretary, SEC, dated October 13, 1989.

[30] *See* letter from J. Craig Long, Vice President, General Counsel and Secretary, MSE, to Jonathan G. Katz, Secretary, SEC, dated July 7, 1989. Alternatively, size provides investors with the depth of the market displaying the best price.

therefore suggests that the Commission adhere to its earlier position as enunciated in the rule 11Ac1-2 adopting release in which the Commission stated that time receipt is a "less useful" factor as orders are not routed on the basis of quotation time, and, if anything, the "oldest" quotation is more likely to be stale. Alternatively, size provides investors with depth of the market displaying the best juice.[31]

In response to the MSE's suggestion that the BBO be based on size priority, the NASD states that calculating the BBO using price/time priority is customary within the NASDAQ system and represents a reasonable accommodation reached by the Plan Participants. The NASD points out that the Processor will include a "switch" for easy conversion if the Commission determines that the BBO should be calculated using price/size/time priority.

B. Comments on the NASD's Intermarket Linkage Agreements

Section VI of the Plan contains a provision for fair and non-discriminatory dissemination of quotation information and transaction reports, and provides that this provision does not affect existing agreements between the NASD and the International Stock Exchange ("ISE") and the Singapore Stock Exchange ("SSE"). The Amex is concerned that Exchange Participants have no opportunity to assess the potential effects of these agreements, and that future amendments to the agreements could affect the Participants' rights and obligations. Therefore, Amex asks that any changes to the NASD's existing or future agreements with the ISE or SEE be consistent with section VI(c), which provides for the fair and nondiscriminatory dissemination of consolidated quotation information and transaction reports in OTC/UTP securities to authorized vendors, subscribers and news services.

The MSE is also troubled by this provision, stating that the NASD has not made these agreements available for inspection, despite requests to do so. The MSE maintains that the Plan Participants have been asked to accept this provision without the opportunity to view the documents themseles and individually assess its potential effects. The MSE is also troubled by the fact that there is nothing to prohibit future amendments that may affect the Participants' rights and obligations.

The NASD, however, maintains that these agreements were executed "long before" the conclusion of Plan negotiations and that it will continue to treat the contents of these agreements as proprietary and confidential.[32] The NASD believes that these agreements will have no impact on the Participants' rights and obligations.

C. Comments on Expansion of the Pilot

In its first letter, the MSE requested that the grant of OTC/UTP be expanded to allow each exchange to trade 100 OTC securities on an unlisted basis.[33] In support of this request, the MSE noted that since May 1987, it has traded 25 NASDAQ/NMS securities pursuant to an interim UTP Plan with the NASD, and that during this period there was no disruption of the OTC market, that pricing efficiency generally improved in all 25 securities, and that the MSE has had difficulty attracting order flow with only 25 stocks. Based on its experience during this period, the MSE believes that expansion of the Interim Plan will not present competitive concerns, and that the Commission should expand that Plan from 25 to 100 OTC stocks. In addition to requesting that the Interim Plan be expanded to 100 OTC stocks, the MSE has requested that the Joint Industry Plan also encompass 100 stocks.

In its second letter,[34] the MSE reiterated its position, as discussed above, and then pointed out that, to date, there have been no adverse effects from trading the securities under the Interim Plan, and that a meaningful pilot cannot be conducted with only 25 stocks. Furthermore, its experience with unlisted trading of NMS Securities has been severely hampered by the limited number of NMS Securities eligible for UTP. MSE believes that expanding the pilot program under the Joint Plan to 100 stocks per exchange will afford the Commission the necessary data to determine whether and how the program should be revised after its one-year term, and would represent a more significant step toward the establishment of a national market system by encouraging greater integration of exchange and OTC markets. Finally, the MSE states that expansion would be fair in light of the delays in start-up of the pilot due to the protracted negotiations of the Joint Industry Plan.

The Phlx submitted a comment letter stating that it "strongly supports" the MSE's request for expansion of the pilot to 100 stocks per exchange.[35] Phlx would support the removal of any limitation on the number of stocks each exchange can trade pursuant to OTC/UTP, but as a compromise would support expansion to 100 stocks.

The Phlx pointed out that four years have passed since the Commission issued a release directing the NASD and the exchanges to develop a reporting plan,[36] and believes that it would be inappropriate to prevent the exchanges from trading additional OTC stocks after such "substantial" delay. Phlx also maintains that the MSE's OTC/UTP agreement is substantially similar to the Joint Industry Plan, and the MSE's program has not harmed investors or the public interest, and has not resulted in trade reporting, execution, or other operational problems. Phlx points out that when the pilot was first contemplated it was understood that if there were no adverse effects, then the pilot might be expanded or perhaps the limitations could be eliminated altogether. Phlx believes that the MSE's program has afforded the Commission and the markets adequate experience with an OTC/UTP program and, therefore, there is little reason to limit the pilot to 25 stocks.

Finally, Phlx believes that a pilot is by nature a constraint on competition, and that such a constraint may be justified if there are system integrity concerns, constraints on overall capacity, or market structure concerns. The MSE's program has shown a "demonstrable lack of adverse impacts to date," indicating that, on balance, a small pilot is unwarranted.

Amex believes that it is appropriate for the Commission to expand the number of NASDAQ/NMS stocks eligible for exchange trading under the Plan.[37] Amex believes that the current limitation to 25 stocks does not afford Exchange Participants the flexibility necessary to compete with OTC market makers. They suggest that the Commission expand, to at least 100, the number of NASDAQ/NMS securities that any Exchange Participant can trade at the start of OTC/UTP, with the

[31] *See* Securities Exchange Act Release No. 16590 (February 1980), 45 FR 12391.

[32] *See* letter from Frank J. Wilson, *supra* note 28.

[33] Letter from J. Craig Long, Vice President, General Counsel and Secretary, MSE, to Jonathan G. Katz, Secretary, SEC, dated July 7, 1989.

[34] *See* letter from J. Craig Long, Vice President, General Counsel and Secretary, MSE, to Jonathan G. Katz, Secretary, SEC, dated November 7, 1989.

[35] Letter from Nicholas A. Giordano, President, Phlx, to Jonathan G. Katz, Secretary, SEC, dated October 2, 1989.

[36] *See* Securities Exchange Act Release No. 22412 (September 16, 1985), 50 FR 38640.

[37] *See* letter from Ivers W. Riley, *supra*.

possibility of further expansion under appropriate circumstances.

The NASD opposes the MSE's request for expansion of the pilot to 100 NMS Securities, citing its concern that the quality of the market of MSE's trading under the interim plan has not been adequately evaluated.[38]

D. Comments on Autoquote Agreement

The NASD stated in its comment letter that it is concerned about the impact of autoquote traffic on the NASDAQ system and believes that it would be inappropriate to consider its use until a complete evaluation of the pilot has been conducted.[39]

The Amex objects to the manner in which an undertaking was signed whereby the Participants agreed not to program or autoquote any entry or update information for one year after the Processor begins operation. Amex believes that this side agreement was the result of an "eleventh hour ultimatum" by the NASD, and that Amex agreed to it only to avoid further delay in signing a final plan. Amex objects to the absence of any clear NASD explanation of their insistence on this agreement, and would also object to any extension of this agreement without full discussion and consensus by all Participants before the end of the one-year period.

The MSE also opposes this separate formal agreement.[40] The MSE stated that the NASD refused to sign the Plan if the exchanges were permitted to use autoquote for NASDAQ stocks, and that after three years of negotiations, the NASD introduced this condition immediately prior to the scheduled sign-up date for the Plan and has not offered any reason for this condition. The MSE noted that it agreed to refrain from using autoquote for one year, along with the other Participants, despite its belief that this condition is inappropriate. The MSE asked that the Commission consider whether to approve the one-year prohibition.

E. Comments on NASD's Provision for Revenue Sharing

Amex expressed concern about the Plan's provisions governing cost allocation and revenue sharing among Participants, pointing out that in a later draft the NASD amended the Plan to provide that net income, rather than net operating revenues, was to be distributed subject to operating and administrative expense offsets. Because of objections from the other Participants, the NASD changed the Plan provision back so that revenues to be shared would be calculated from "net operating revenue." [41] But the NASD, in its letter accompanying the Plan filing, stated that its position always has been, and will continue to be, that revenue to be shared will be distributed from net income.

Amex is concerned that by using a net income standard, the NASD is suggesting that expenses related to the general operations of the NASDAQ system may be deducted from distributable Processor revenues. This, they maintain, would further reduce the likelihood of Exchange Participants realizing any revenue from OTC/UTP trading. They are concerned that the NASD may be attempting to force a revenue sharing arrangement that does not reflect the consensus they believed had been reached during the lengthy negotiations.

V. Discussion

In reviewing the Joint Industry Plan, the Commission must determine whether the Plan meets the standards set forth in section 11A of the Act and rules 11Aa3–2 and 11Aa3–1 thereunder.

Section 11A of the Act directs the Commission to facilitate the development of a national market system for securities, "having due regard for the public interest, the protection of investors, and the maintenance of fair and orderly markets," and cites as an objective of that system the "fair competition * * * between exchange markets and markets other than exchange markets." [42] Rule 11Aa3–1 provides that any NMS transaction reporting plan shall specify, at a minimum: (1) Reporting requirements with respect to transactions in listed equity securities or NMS Securities for any broker or dealer subject to the plan; (2) the manner of collecting, processing, sequencing, making available and disseminating transaction reports and last sale data reported pursuant to such plan; (3) the manner in which transaction reports reported pursuant to such a plan are to be consolidated with transaction reports from exchanges and associations reported pursuant to any other effective transaction reporting plan; (4) the applicable standards and methods which will be utilized to ensure promptness of reporting, and accuracy and completeness of transaction reports; (5) any rules or procedures which may be adopted to ensure that transaction reports or last sale data will not be disseminated in a fraudulent or manipulative manner; (6) specific terms of access to transaction reports made available or disseminated pursuant to the plan; and (7) that transaction reports or last sale data made available to any vendor for display on an interrogation device identify the marketplace where each transaction was executed.

In addition, rule 11Aa3–2 requires that an NMS plan describe, to the extent applicable: (1) The terms and conditions under which brokers, dealers, and/or SROs will be granted or denied access (including specific procedures and standards governing the granting or denial of access); (2) the method by which any fees or charges collected on behalf of all sponsors and/or Participants in connection with access to, or use of, any facility contemplated by the plan or amendment will be determined and imposed (including any provision for distribution of any net proceeds from such fees or charges to the sponsors and/or Participants) and the amount of such fees or charges; (3) the method by which, and the frequency with which, the performance of any person acting as a plan processor with respect to the implementation and/or operation of the plan will be evaluated; and (4) the method by which disputes arising in connection with the operation of the plan will be resolved.

The Commission finds that the Plan substantially meets the standards outlined above and substantially addresses the specific concerns the Commission described in the OTC/UTP Release. Before approving the Plan, however, the Commission is compelled to address several specific issues raised by the commentators concerning: (1) The BBO calculation; (2) the BSE's request for exemption; (3) the NASD's intermarket linkage agreements; (4) expansion of the pilot; (5) the autoquote

[38] *See* letter from Frank J. Wilson, *supra*.

[39] Autoquote systems allow specialists automatically and instantaneously to update their quotes when some predesignated condition occurs (for example, the primary market in a security changes its quote). Autoquote is not presently permitted within the NASDAQ system. On January 31, 1990, the NASD submitted a proposed rule change to the Commission (File No. SR–NASD–90–5) proposing a policy to prohibit NASD member autoquote systems from effecting automated quote updates or tracking of inside quotations in the NASDAQ system for a one-year period, except in certain circumstances. The Commission believes it is appropriate to revisit the issue of autoquoting under the Plan at the end of the one-year pilot. The Commission preliminarily believes, however, that, at a minimum, the NASD should provide the exchanges with the same ability to autoquote as it provides to its members.

[40] The MSE stated that the regional exchanges developed autoquote systems to permit specialists to eliminate stale quotations.

[41] In discussions with the NASD, the Amex objected to distribution from net income; the term had not been previously discussed by the Participants and is not defined in the Plan.

[42] Section 11A(a)(1)(C)(ii).

agreement; and (6) the Plan's provision for revenue sharing.[43]

A. Calculation of BBO and Exemption from the Vendor Display Rule

The Plan provides that the BBO disseminated to vendors shall be the quotation earliest in time when quotations of more than one Participant are identical. While the Commission is inclined to agree with those commentators who suggested that the BBO be based on size rather than time priority,[44] the Commission has determined not to modify the Plan's provision for BBO calculation at this time. The Commission recognizes that a BBO calculation based on price/time priority is indicative of how the NASDAQ market currently operates, and the Commission believes that the pilot period will provide an opportunity to evaluate the impact of such a calculation.

When the Commission approved the MSE/NASD interim plan in 1987, it noted that while size priority was not addressed in the 1985 OTC/UTP Release, approval of the interim plan would not foreclose a future Commission decision to require size priority pursuant to the Vendor Display Rule,[45] should such a decision be appropriate. The Commission preliminarily believes that such a decision may be appropriate at the end of the one-year pilot program and will reexamine the issue at that time.

The Commission preliminarily agrees with the commentators' arguments that size priority would enhance intermarket competition, and would provide investors with the depth of the market displaying the best price. In addition, the Commission notes that the NASD recently filed a proposed rule change with the Commission (File No. SR-NASD-89-12) that would require all NASDAQ market makers to display quotation size and to honor such size orders for all parties except firms making a market in that security. The size displayed would at least equal the maximum order size required by the NASD's Small Order Execution System ("SOES").[46] Currently, OTC market makers' practice has been to quote only 100-share markets, despite the fact that they are often willing to trade in substantially larger size. This proposal represents a significant step toward displaying meaningful size in the OTC market. The Commission believes that this development also should indicate that some of the NASD's historical reluctance toward a BBO calculation based on size will ease.

In the interim, however, the Commission believes it is appropriate to approve the Plan as it was submitted by the Participants: With a BBO calculation based on price, time priority. Because of this decision, the Commission also believes that it is appropriate to grant vendors an exemption from the Vendor Display Rule, which requires vendors to display a BBO calculated on the basis of price, size, time priority. The Commission has determined to grant a limited exemption from the Rule, however, that will run for a period co-extensive with the one-year pilot period.[47] As it reviews the markets' experience under the pilot program and reviews whether the Plan should be amended to provide a BBO calculated on the basis of size, the Commission will reconsider the continued need for the exemption at that time.

B. BSE's Request for Exemption

As described above, the Plan provides that the BSE, as the only Limited Participant, is not required to provide market identifiers for transaction reports and the consolidated best bid and offer quotations.[48] Subsection (b)(2)(viii) of the Transaction Reporting Rule, however, requires that any transaction reporting plan submitted to the Commission must provide market identifiers for transaction reports or last sale data made available to vendors.[49] The absence of market identifiers may reduce, to some extent, the BSE's ability to attract order flow through the dissemination of competitive quotations relating to both price and size. While the Commission continues to believe that market identifiers enhance opportunities for fair competition among markets, we also believe that it may be appropriate, in this instance, for the BSE to continue trading its 21 dually listed stocks without these identifiers.[50] Accordingly, the Commission has determined to grant the BSE an exemption from this requirement pursuant to paragraph (g) of rule 11Aa3-1. The BSE, however, will not be permitted to expand its number of dually listed issues or to apply for OTC/UTP. If the BSE decides to expand the number of OTC securities they trade on a listed or unlisted basis, then they must sign the Plan as a full Participant, pay their share of development costs, and forego this exemption.

C. Intermarket Linkage Agreements

Section VI of the Plan contains a provision for fair and non-discriminatory dissemination of quotation information and transaction reports, and further provides that this provision does not affect existing agreements between the NASD and the ISE and the SSE. The Commission is sympathetic to the commentators' concerns that future amendments to such agreements could affect the Participants' rights and obligations under the Plan, but we also understand that the NASD considers the contents of these intermarket linkage agreements proprietary and confidential. The NASD is subject to the information display requirements of rule 11Ac1-2 under the Act. These requirements derive from the goals of the NMS as specified in section 11A of the Act, particularly fair competition among markets and the ability of investors to achieve best execution.[51] The Commission believes that those goals would be furthered by the availability to non-U.S. vendors of consolidated quotation and transaction information for UTP securities, especially in view of the increasing internationalization of the securities markets and the resultant increased competition among the U.S. markets for foreign order flow. For these reasons, the Commission expects the NASD to provide non-U.S. vendors with

[43] On August 24, 1989, the Commission published notice of the proposed Plan (Securities Exchange Act Release No. 27178, 54 FR 37067) and requested comment on: (1) Provisions of the Joint Industry Plan; (2) the BSE's request for exemption from the requirements of rule 11Aa3-1; and (3) the MSE's request to expand the pilot program. The Commission received five comment letters in response thereto.

[44] *See* discussion *supra*, at pp. 18-19.

[45] 17 CFR 240.11Ac1-2.

[46] In its Notice of filing of the proposed rule change, the NASD stated that its proposal would enhance the quality, liquidity and depth of the NASDAQ market, and would provide greater information to the investing public. Securities Exchange Act Release No. 27601 (January 9, 1990), 55 FR 1743.

[47] The Commission understands that because of necessary modifications to NASDAQ, the exchanges and the NASD will not be prepared to begin trading under the Plan immediately.

[48] All other Participants will have market identifiers on quote and trade data. For a description of the BSE's special circumstances, *see* Securities Exchange Act Release No. 27178 (August 24, 1989), 54 FR 37067.

[49] Under the MSE/NASD interim plan, the consolidated best bid and ask quotation and transaction reports did not contain market identifiers. *See* Securities Exchange Act Release No. 24635 (June 23, 1987), 52 FR 24149.

[50] The Commission previously granted exemptions from rules 11Ac1-1 and 11Ac1-2 under the Act to NASDAQ and vendors regarding market identifiers for transaction and quotation reports for NMS Securities. *See* Securities Exchange Act Release No. 18585 (March 23, 1982), 47 FR 13265; and letter from Richard G. Ketchum, Associate Director, Division of Market Regulation, SEC, to James M. Yates, Bridge Data Company, dated March 30, 1982. In the 1985 OTC/UTP Release, the Commission indicated that market identifiers are part of the competitive protections that Plan Participants can insist upon.

[51] Section 11A(a)(1)(C) (ii) and (iv).

consolidated information for UTP securities.[52]

D. Expansion of Pilot Program

The Commission has determined to expand the pilot to 100 NMS Securities per exchange for one year. In addition, Participants may substitute issues, if such action is necessary or appropriate in the public interest or for the protection of investors, or is consistent with the maintenance of fair and orderly markets and the protection of investors, so long as the total number of eligible OTC/UTP securities does not exceed 100 per exchange.

In making its determination to expand the pilot, the Commission was persuaded by the commentators and, in particular, by the MSE's experience under the Interim Plan. The MSE noted that in the two and one half years that it has traded 25 NASDAQ/NMS securities on a UTP basis, there have been no adverse impacts on the markets for the subject securities, no disruptive effects on the structure of the OTC market, and no other adverse consequences.

When the pilot program was first contemplated, the Commission stated that the granting of UTP on additional NMS Securities may be appropriate if no adverse consequences resulted from trading the securities under the pilot.[53] While it is important to note that the MSE's OTC/UTP program was not the pilot program contemplated in the 1985 OTC/UTP Release, the experience gained under that program is instructive. During that period, the Commission observed no significant impact on the market. Furthermore, commentators have not identified any market structure issues raised by the MSE's program.

The Commission believes that expansion of the pilot program to 100 securities per exchange will enhance competition and market efficiency, and will result in a more meaningful model for evaluating the impact of exchange trading of NMS Securities. Furthermore, such expansion might encourage exchange specialists to make greater commitments to OTC/UTP and therefore result in a truer pilot. At the end of the pilot period, the Commission will examine the effects on the markets of this expansion and will determine whether withdrawal of all limitations is appropriate.

E. Autoquote Agreement

The commentators stated that the NASD required the Participants to sign this agreement after three years of negotiations and just prior to the final signing of the Plan, and the Commission is not unsympathetic to this fact. During negotiations, however, the exchanges indicated that they had no plans to implement autoquote at this time, and since the Plan will be reviewed at the end of a one-year period, the Commission has determined that it would be appropriate to review the issue at that time.[54]

F. Revenue Sharing

Throughout the Plan negotiations the Participants agreed that distributions would be made from net operating revenues. Until the very end of the negotiations the language in the Plan referred to net operating revenues, not net income, as the basis for determining revenues, and this is what the Commission has determined to approve. The Plan provides, and the Participants always have contemplated, deferring discussions on the revenue sharing provisions of the Plan for one year. During that year, the Participants will negotiate the method of future revenue sharing. The Plan, however, specifies that net operating revenues will be the starting point.

VI. Conclusion

The Commission believes that the Joint Industry Plan contains all the competitive protections contemplated by the Act and that approval of the Plan marks a significant step toward the development of a national market system. The Plan should enhance market efficiency and fair competition, avoid investor infusion, and facilitate regulatory surveillance of concurrent exchange and OTC trading.

The Commission also believes that the pilot period will provide the Commission and market participants with an opportunity to evaluate and assess the effects of OTC/UTP. For example, as noted in the discussion above, the pilot will provide an opportunity to gain experience with an expanded group of OTC/UTP securities as well as afford the Participants time to address the remaining unresolved issues, *i.e.*, a BBO calculation based on size priority, use of autoquote, and the method of revenue sharing.

In this context, the Commission will be particularly interested in examining the changes in order flow patterns between and among the markets.[55] While such order flow patterns are not dispositive, the Commission will consider whether the choice of price/time/size priority for the BBO display, versus price/size/time priority, has limited the exchanges' ability to compete. In addition, the Commission will review whether the additional competition has had any adverse or beneficial effect on the trading markets for these securities. In considering this question, the Commission will consider the effects, if any, of unlisted trading privileges and the Plan on the width of quotation spreads and the continuity of trading. The Commission also will consider efforts by exchange markets and the NASD to compete on the basis of services, automated systems, transaction charges and price and depth guarantees. Finally, the Commission will review the bases on which firms decide to which markets to send customer orders for execution.

The factors discussed in the two prior paragraphs do not compromise all the factors the Commission may consider at the expiration of the pilot period. Such discussion is intended, however, to provide guidance to Plan Participants and to the public as to what matters the Commission presently believes are significant issues to be evaluated and assessed during the pilot program and to be addressed in any request for extension of the pilot or for permanent approval of the Plan.[56]

[52] Section 19(b) of the Act, of course, requires that the NASD would have to file any changes to those agreements with the Commission as proposed rule changes, which the Commission would review to determine whether they were consistent with the Act, including section 11A.

[53] OTC/UTP Release, *supra* note 5, at p. 3.

[54] The NASD has filed with the Commission a proposed rule change (File No. SR-NASD-90-5) that would impose a one-year ban on the use of autoquote systems by NASDAQ market makers, except in certain circumstances. *See* Securities Exchange Act Release No. 27693 (February 8, 1990), 55 FR 5531. During the proposed ban, the NASD would conduct a study to analyze autoquote systems currently in place, or being developed, and their potential impact on market volatility and NASDAQ capacity. The Commission believes that it would be appropriate to conduct its review of the autoquote issue as it relates to the Plan after the NASD completes its own study of this issue.

[55] The Commission believes, however, that the volume the exchanges are able to attract would not be dispositive of the question of whether the Commission should permanently approve the Plan.

[56] Plan Participants are hereby directed, in connection with any request for extension of the pilot or for permanent approval of the Plan, to provide the Commission with a quantitative assessment of the effects, if any, of unlisted trading privileges and the Plan on the width of quotation spreads and on price continuity in trading in OTC/UTP securities. The Commission does not expect to be able to make a further finding that extension of the pilot or permanent Commission approval of the Plan is warranted as consistent with the requirements of the Act and the rules and regulations thereunder if, during the pilot period, the plan has contributed to wider quotation spreads or has adversely affected price continuity in OTC/UTP securities.

For the reasons discussed above, the Commission finds that the Joint Industry Plan is consistent with the requirements of the Act and the rules and regulations thereunder and, in particular, section 11A(a)(1) and rules 11Aa3-1 and 11Aa3-2.

It is therefore ordered, pursuant to section 11A of the Act and paragraph (c)(2) of rule 11A3-2 thereunder, that the Joint Industry Plan described above be, and hereby is, approved. Further, the Commission hereby grants a temporary exemption from the rule 11Ac1-2 requirement that the BBO be calculated based on price, size, time priority for a one-year period beginning on the date that the Participants first begin trading under the Plan, which will also be the date on which the one-year pilot period will commence.[57] Finally, the Commission hereby orders that the BSE be granted an exemption, commencing on the date of this order, from the rule 11Aa3-1 requirement that transaction reporting plans include market identifiers for transaction reports and last sale data.

Dated: June 26, 1990.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-15700 Filed 7-5-90; 8:45 am]

BILLING CODE 8010-01-M

[57] The Commission notes that the Participants are required to inform the Commission in writing one week in advance of the beginning of trading under the Plan.

SMALL BUSINESS ADMINISTRATION

Interest Rates

The interest rate of section 7(a) Small Business Administration direct loans (as amended by Pub.L. 97-35) and the SBA share of immediate participation loans is 9⅞ percent for the fiscal quarter beginning July 1, 1990.

On a quarterly basis, the Small Business Administration also publishes an interest rate called the optional "peg" rate (13 CFR 122.1-1(d)). This rate is a weighted average cost of money to the government for maturities similar to the average SBA loan. This rate may be used as a base rate for guaranteed fluctuating interest rate SBA loans. For the July-September quarter of 1990, this rate will be 8¾.

Allen S. Mandel,

Deputy Assistant Administrator for Financial Assistance.

[FR Doc. 90-15644 Filed 7-5-90; 8:45 am]

BILLING CODE 8025-01-M

Small Business Investment Company; Maximum Annual Cost of Money to Small Business Concerns

13 CFR 107.302 (a) and (b) limit maximum annual Cost of Money (as defined in 13 CFR 107.3) that may be imposed upon a Small Concern in connection with Financing by means of Loans or through the purchase of Debt Securities. The cited regulation incorporates the term "Debenture Rate", which is defined elsewhere in 13 CFR 107.3 in terms that require SBA to publish, from time to time, the rate charged on ten-year debentures sold by Licensees to the public. Notice of this rate will be published upon change in the Debenture Rate.

Accordingly, Licensees are hereby notified that effective the date of publication of this Notice, and until further notice, the Debenture Rate to be used for computation of maximum cost of money pursuant to 13 CFR 107.302 (a) and (b) is 9.30 percent per annum.

13 CFR 107.302 does not supersede or preempt any applicable law imposing an interest ceiling lower than the ceiling imposed by its own terms. Attention is directed to section 308(i) of the Small Business Investment Act, as further amended by section 1 of Public Law 99-226, December 28, 1985 (99 Stat. 1744), to that law's Federal override of State usury ceilings, and to its forfeiture and penalty provisions.

(Catalog of Federal Domestic Assistance Program No. 59.011, small business investment companies)

Dated: June 28, 1990.

Bernard Kulik,

Associate Administrator for Investment.

[FR Doc. 90-15643 Filed 7-5-90; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

[Public Notice 1225]

State Department Conference on the Political and Economic Environment for U.S. Telecommunications Business Development and Broadcasting in Eastern Europe and the Soviet Union; Meeting

The department of State's Bureau of International Communications and Information Policy will host a meeting on Eastern Europe and the Soviet Union on July 26 in the Loy Henderson Conference Room, Department of State, 2201 C Street, NW., Washington, DC. The meeting will begin at 9 a.m.

Senior State Department officials will discuss U.S. government policy with respect to political and economic developments in Eastern Europe and the Soviet Union as well as implications for telecomunications business development and broadcasting in the region. A second panel, comprised of senior U.S. government officials and representatives from the private sector, will address in greater detail the opportunities for telecommunications business development and broadcasting in specific Eastern European countries and the Soviet Union.

Members of the general public may attend the meeting and join in the discussion, subject to the instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. Prior to the meeting, persons who plan to attend should so advise the office of Doreen F. McGirr, Department of State, Washington, DC, telephone (202) 647-5872.

Dated: June 26, 1990.

Doreen F. McGirr,

Office of Trade and Development, Bureau of International, Communications and Information Policy.

[FR Doc. 90-15678 Filed 7-5-90; 8:45 am]

BILLING CODE 4710-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Proposed Advisory Circ. 25.785-1A]

Flight Attendant Seat and Torso Restraint System Installations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed Advisory Circular 25.785-1A and request for comments.

SUMMARY: This notice announces the availability of and requests comments on a proposed advisory circular (AC) pertaining to flight attendant seat and torso restraint system installations. This notice is necessary to give all interested persons an opportunity to present their views on the proposed AC.

DATES: Comments must be received on or before November 5, 1990.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Attention: Transport Standards Staff, ANM-110, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168. Comments may be inspected at the above address between 7:30 a.m.

and 4 p.m. weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Jan Thor, Transport Standards Staff, at the address above, telephone (206) 431-2127.

SUPPLEMENTARY INFORMATION:

Comments Invited

A copy of the draft AC may be obtained by contacting the person named above under "**FOR FURTHER INFORMATION CONTACT.**" Interested persons are invited to comment on the proposed AC by submitting such written data, views, or arguments as they desire. Commenters should identify AC 25.785-1A and submit comments, in duplicate, to the address specified above. All communications received on or before the closing date for comments will be considered by the Transport Standards Staff before issuing the final AC.

Background

Advisory Circular 25.785-1A was issued on December 4, 1991, in order to clarify changes made to §§ 25.785 and 121.311 of the Federal Aviation Regulations, by Amendments 25-51 and 121-155, respectively.

As a result of the recommendations made at the September 1985, Public Technical Conference on Emergency Evacuation of Transport Airplanes, in Seattle, Washington, a draft revision of AC 25.781-1 was developed to provide guidance relative to the close proximity of aft-facing flight attendant seats and forward-facing passenger seats. Information was given in that draft revision which would assist in the design of airplane interiors or the placement of seats which would preclude a passenger from striking a flight attendant during any emergency landing. The draft also included guidance relating to the width of single and double flight attendant seats and the proper installation of torso restraint systems.

A notice requesting comments on the draft AC was published in the *Federal Register* on October 8, 1987. The comment period closed on February 5, 1988. Due to the extent of adverse comments received concerning the above mentioned strike criteria, and the resulting change in scope of the draft AC to encompass more detailed criteria on flight attendant direct view, we are again soliciting public comment through the **Federal Register** notice of availability process.

Issued in Seattle, Washington, on June 22, 1990.

Leroy A. Keith,

Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM-100.

[FR Doc. 90-15655 Filed 7-5-90; 8:45 am]

BILLING CODE 4910-13-M

Approval of Noise Compatibility Program, Charlotte/Douglas International Airport, Charlotte, NC

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by the city of Charlotte under the provisions of title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR part 150. These findings are made in recognition of the description of Federal and nonfederal responsibilities in Senate Report No. 96-52 (1980). On July 11, 1989, the FAA determined that the noise exposure maps submitted by the city of Charlotte under part 150 were in compliance with applicable requirements. On May 18, 1990, the Administrator approved the Charlotte/Douglas International Airport noise compatibility program. Most of the recommendations of the program were approved. No program elements relating to new or revised flight procedures for noise abatement were proposed by the airport operator.

EFFECTIVE DATE: The effective date of the FAA's approval of the Charlotte/Douglas International Airport noise compatibility program is May 18, 1990.

FOR FURTHER INFORMATION CONTACT: Thomas M. Roberts, Atlanta Airports District Office, 1680 Phoenix Blvd., suite 101, Atlanta, Georgia 30349 (telephone number 404/994-5306). Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Charlotte/Douglas International Airport, effective May 18, 1990.

Under section 104(a) of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses and prevention of additional noncompatible land uses within the area covered by the noise exposure maps. The Act requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and the Act and is limited to the following determinations

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types or classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, § 150.5. Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute an FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measures may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are

eligible for grant-in-aid funding from the FAA. Where federal funding is sought, requests for project grants must be submitted to the FAA Airports District Office in Atlanta, Georgia.

The city of Charlotte submitted to the FAA on June 9, 1989, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from March 1985 through September 1989. The Charlotte/Douglas International Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on July 11, 1989. Notice of this determination was published in the **Federal Register** on August 1, 1989.

The Charlotte/Douglas International Airport study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to the year 1994 and beyond. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in section 104(b) of the Act. The FAA began its review of the program on November 20, 1989, and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained 14 proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of the Act and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective May 18, 1990.

Outright approval was granted for 10 of the specific program elements. The following program elements were disapproved or partially disapproved:

Noise Abatement Action No. 2, the extension of runway 36R, was disapproved for purposes of a part 150 since it is approved as an airport capacity related development item;

Noise Abatment Action No. 3 concerning the goal for achieving greater use of Stage III aircraft was disapproved since the operational incentives appear to increase noise, rather than reduce noise, over noncompatible land uses;

Land-use Corrective Measure No. 5. Voluntary Farmland Preservation, was disapproved since the area is presently zoned compatible and there is no indication that, without the acquisition, the land use will develop into noncompatible uses;

Item #4 of *Land-use Measure No. 4* is approved with the exception of land acquisition for airport development. Such property acquisition is not considered as meeting the part 150 goals and should be acquired by other methods;

Likewise, *Land-use Corrective Measure No. 5* is approved except for acquisition of property for the purpose of keeping it vacant. This does not meet the intent of a part 150 program.

The approved elements of the Noise Compatibility Program are as follows:

a. *Noise Abatement Action No. 1*—a *Noise Monitoring Program* has been initiated which will validate noise contours on a semi-annual basis, verify noise levels at random locations, and respond to individual inquiries by use of portable monitoring equipment.

b. *Land-use Preventive Measure No. 1*—the city of Charlotte has directed the implementation of land use planning policies to promote compatible development in all noise zones by amending land-use policies for zoning, density, and capital improvements recommendations to the specific noise zones.

c. *Land-use Preventive Measure No. 2*—the city has directed the implementation of zoning for compatible development in rezoning property to permit only compatible uses, retain compatible zoning and to limit the density of residential development in specific noise zones.

d. *Land-use Preventive Measure No. 3*—the city has directed the implementation of zoning Performance Standards by requiring all new residential or other noise sensitive uses to meet specified interior noise levels within certain noise zones.

e. *Land-use Preventive Measure No. 4*—the city has directed that subdivision and zoning ordinances be amended to require "dedication of avigation easements" as a condition for approval of plots and rezoning within designated noise zones.

f. *Land-use Preventive Measure No. 6*—the city has directed the implementation of policies for "programming public improvements" (notably sewer services) where airport noise considerations are not offset by other community development goals which would discourage residential growth or greater density.

g. *Land-use Corrective Measure #1*—the city will develop a "public information program" for informing land developers, lending institutions, planning officials, and real estate professionals to increase the awareness of airport noise.

h. *Land-use Corrective Measure No. 2*—soundproofing of public buildings has been adopted as a corrective measure for buildings which house noise-sensitive activities, namely, schools.

i. *Land-use Corrective Measure No. 3*—the city will develop a program to consider sound insulation of private residences within Ldn 65–70 noise zones.

j. *Land-use Corrective Measure No. 4*—a program has been approved for reducing existing noncompatible use within Ldn 70–75 noise zones by (1) guaranteeing property owners purchase of their property when a bona fide effort to sell is unsuccessful, (2) soundproofing of existing houses, (3) purchase of avigational easement, and (4) acquisition of non-compatible property.

k. *Land-use Corrective Measure No. 5*—the city approved purchase of noncompatible land use in the Ldn 75+ noise zones.

All of the approval and disapproval actions are more fully explained in the enclosed Record of Approval.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on May 18, 1990. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available for review at the FAA office listed above and at the administrative offices of the city of Charlotte.

Issued in Southern Region, Atlanta, Georgia, June 7, 1990.

Samuel F. Austin,

Manager, Atlanta Airports District Office.

[FR Doc. 90-15656 Filed 7-5-90; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement: Salt Lake County, UT

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Salt Lake County, Utah.

FOR FURTHER INFORMATION CONTACT: Bill Gedris, Environmental Coordinator, Federal Highway Administration, 2520 West 4700 South, suite 9A, Salt Lake City, Utah 84118, Telephone: (801) 524-5143; or Tom Smith, Preconstruction Engineer, Utah Department of Transportation, District Two, 2060 South

2400 West, Salt Lake City, Utah 84104, Telephone: (801) 975-4806.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Utah Department of Transportation, will prepare an environmental impact statement (EIS) on a proposal to extend the planned West Valley Highway approximately 4.5 miles from 9000 South to 12600 South in Salt Lake County, Utah. The proposed extension would provide increased traffic capacity for the west side of the Salt Lake City metropolitan area as a component of the planned West Valley Highway which is presently under various stages of design.

The concept of a West Valley Highway has been included in long-range transportation planning for the Salt Lake Valley for nearly 30 years, and has received considerable public and political attention during the past several years. The extension proposed here will be an obvious and necessary component of that facility. Alternatives under consideration include: (1) Taking no action, (2) using alternate travel routes, and (3) constructing the extension on one of several alternative alignments. Incorporated into and analyzed with the various build alternative will be design variations of grade and alignment.

A scoping document describing the proposed action and soliciting comments, concerns, and issues will be sent to all appropriate Federal, State, and local agencies, and to private organizations and individuals expected to be interested in the project. A public scoping meeting will be scheduled and held in the city of Riverton in mid-1990. Notice of additional public scoping meetings to present information and solicit comments relative to alternatives for consideration and possible impacts will be given as the proposed project proceeds. Upon release of the draft EIS for public and agency review and comment, public notice will be given of the time and place for a public hearing to be held to receive comments.

To ensure that the full range of issues related to his proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or UDOT at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: June 18, 1990.

Donald P. Steinke,

Division Administrator, Salt Lake City, Utah.

[FR Doc. 90-15679 Filed 7-5-90; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Debt Management Advisory Committee; Meeting

Notice is hereby given, pursuant to section 10 of Public Law 92-463, that a meeting will be held at the U.S. Treasury Department in Washington, DC on July 31, and August 1, 1990, of the following debt management advisory committee: Public Securities Association, Treasury Borrowing Advisory Committee.

The agenda for the Public Securities Association Treasury Borrowing Advisory Committee meeting provides for a working session on July 31 and the preparation of a written report to the Secretary of the Treasury on August 1, 1990.

Pursuant to the authority placed in Heads of Departments by section 10(d) of Public Law 92-463, and vested in me by Treasury Department Order 101-05, I hereby determine that this meeting is concerned with information exempt from disclosure under section 552b(c) (4) and (9)(A) of title 5 of the United States Code, and that the public interest requires that such meetings be closed to the public.

My reasons for this determination are as follows. The Treasury Department requires frank and full advice from representatives of the financial community prior to making its final decision on major financing operations. Historically, this advice has been offered by debt management advisory committees established by the several major segments of the financial community, which committees have been utilized by the Department at meetings called by representatives of the Secretary. When so utilized, such a committee is recognized to be an advisory committee under Public Law 92-463. The advice provided consists of commercial and financial information given and received in confidence. As such debt management advisory committee activities concern matters which fall within the exemption covered by section 552b(c) (4) of title 5 of the United States Code for matters which are "trade secrets and commercial or financial information obtained from a person and privileged or confidential."

Although the Treasury's final announcement of financing plans may not reflect the recommendations provided in reports of an advisory committee, premature disclosure of these reports would lead to significant financial speculation in the securities market. Thus, these meetings also fall within the exemption covered by section 552b(c)(9)(A) of title 5 of the United States Code.

The Assistant Secretary (Domestic Finance) shall be responsible for maintaining records of debt management advisory committee meetings and for providing annual reports setting forth a summary of committee activities and such other matters as may be informative to the public consistent with the policy of section 552b of title 5 of the United States Code.

Dated: June 28, 1990.

Michael E. Basham,

Acting Assistant Secretary, (Domestic Finance).

[FR Doc. 90-15646 Filed 7-5-90; 8:45 am]

BILLING CODE 4810-25-M

Public Information Collection Requirements Submitted to OMB for Review

June 29, 1990.

The Department of the 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.

Comptroller of the Currency

OMB Number: 1557-0147.
Form Number: None.
Type of Review: Extension.
Title: National Bank Lending Limits.
Description: The regulation, in part, imposes certain recordkeeping requirements that will permit national banks to expand their lending to foreign governments and their related entities.
Respondents: Businesses or other for-profit, small businesses or organizations.
Estimated Number of Recordkeepers: 50.
Estimated Burden Hours Per Recordkeeper: 8 hours.
Frequency of Response: Other.
Estimated Total Reporting Burden: 12,000 hours.

Clearance Officer: John Ference (202) 447-1177, Comptroller of the Currency, 5th Floor, L'Enfant Plaza, Washington, DC 20219.

OMB Reviewer: Gary Waxman (202) 395-7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 90-15610 Filed 7-5-90; 8:45 am]

BILLING CODE 4810-33-M

Public Information Collection Requirements Submitted to OMB for Review

June 28, 1990.

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: 1545-0020.
Form Number: 709.
Type of Review: Revision.
Title: United States Gift (and Generation-Skipping Transfer) Tax Return.
Description: Form 709 is used by individuals to report transfers subject to the gift and generation-skipping transfer taxes and to compute these taxes. IRS uses the information to enforce these taxes and to compute the estate tax.
Respondents: Individuals or households.
Estimated Number of Respondents: 80,500.
Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping—40 minutes
Learning about the law of the form—50 minutes
Preparing the form—1 hour, 40 minutes
Copying, assembling, and sending the form to IRS—1 hour, 3 minutes
Frequency of Response: Annually.
Estimated Total Recordkeeping/ Reporting Burden: 338,905 hours.

OMB Number: 1545-0070.
Form Number: 2350.
Type of Review: Extension.
Title: Application for Extension of Time to File U.S. Income Tax Return.
Description: Form 2350 is used to request an extension of time to file in order to meet the bona fide residence or physical presence tests required to gain the benefits permitted under section 911. The information furnished is used to determine if the extension should be granted.
Respondents: Individuals or households.
Estimated Number of Respondents: 22,594.
Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping—13 minutes
Learning about the law of the form—8 minutes
Preparing the form—1 hour, 21 minutes
Copying, assembling, and sending the form to IRS—14 minutes
Frequency of Response: On occasion.
Estimated Total Recordkeeping/ Reporting Burden: 21,238 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. 90-15611 Filed 7-5-90; 8:45 am]

BILLING CODE 4830-01-M

Public Information Collection Requirements Submitted to OMB for Review

June 29, 1990.

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: 1545-1038.
Form Number: 8703.
Type of Review: Extension.
Title: Annual Certification by Operator of a Residential Rental Project.
Description: Operators of qualified residential projects will use this form to certify annually that their projects meet the requirements of Internal Revenue Code section 142(d). Operators are required to file this certification under section 142(d)(7).
Respondents: Businesses or other for-profit.
Estimated Number of Respondents: 5,000.
Estimated Burden Hours Per Response/ Recordkeeping:
Recordkeeping—3 hours, 35 minutes
Learning about the law of the form—30 minutes
Preparing and sending the form to IRS—35 minutes
Frequency of Response: Annually.
Estimated Total Recordkeeping/ Reporting Burden: 23,300 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. 90-15612 Filed 7-5-90; 8:45 am]

BILLING CODE 4830-01-M

Fiscal Service

[Dept. Circ. 570, 1989—Rev., Supp. No. 22]

Surety Companies Acceptable on Federal Bonds: Termination of Authority: Meritplan Insurance Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Meritplan Insurance Company, under the United States Code, title 31, sections 9304-9308, to qualify as an acceptable surety on Federal bonds is terminated effective today.

The Company was last listed as acceptable surety on Federal bonds at 54 FR 27815, June 30, 1989.

With respect to any bonds currently in force with Meritplan Insurance Company bond-approving officers for the Government may let such bonds run to expiration and need not secure new bonds. However, no new bonds should be accepted from the Compnay. In addition, bonds that are continuous in nature should not be renewed.

Questions concerning this notice may be directed to the Department of the Treasury, Financial Management Service, Finance Division, Surety Bond

Branch, Washington, DC 20227, telephone (202) 287-3921.

Dated: May 31, 1990.

Mitchell A. Levine,

Assistant Commissioner, Comptroller Financial Management Service.

[FR Doc. 90-15637 filed 7-5-90; 8:45 am]

BILLING CODE 4810-35-M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Kazmir Malevich 1878-1935" (see list [1]) imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements with the foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the National Gallery of Art from September 16, 1990 to on or about November 4, 1990; at the Armand Hammer Museum of Art & Cultural Center, Los Angeles, California, beginning on or about November 25, 1990 to on or about January 13, 1991; and at The Metropolitan Museum of Art, New York, NY, from February 7, 1991, to on or about March 24, 1991, is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register.**

Dated: June 29, 1990.

Alberto J. Mora,

General Counsel.

[FR Doc. 90-15680 Filed 7-5-90; 8:45 am]

BILLING CODE 8230-01-M

[1] A copy of this list may be obtained by contacting Mr. R. Wallace Stuart of the Office of the General Counsel of USIA. The telephone number is 202/619-5078, and the address is room 700, U.S. Information Agency, 301 Fourth Street, SW., Washington, DC 20547.

Sunshine Act Meetings

Federal Register
Vol. 55, No. 130
Friday, July 6, 1990

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, July 11, 1990.

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 item 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: July 3, 1990.

Jennifer J. Johnson,
Associate Secretary of the Board.

[FR Doc. 90-15878 Filed 7-3-90; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: June 26, 1990, 55 FR 26053.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: June 27, 1990, 10 a.m.

CHANGE IN THE MEETING: The following Docket Numbers and Companies have been added to Items CAG-7, CAG-51 and CAG-52 to the Agenda of June 27, 1990:

Item No., Docket No., and Company

CAG-7—RP89-225-000, South Georgia Natural Gas Company

CAG-51—RP88-259-000 and CP89-1227-000, Northern Natural Gas Company, a Division of Enron Corp.

CAG-52—CP90-163-000, Texas Gas Transmission Corporation

Lois D. Cashell,
Secretary.

[FR Doc. 90-15746 Filed 7-2-90; 4:36 pm]

BILLING CODE 6717-02-M

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, July 10, 1990, 10 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration

Internal personnel rules and procedures or matters affecting a particular employee

DATE AND TIME: Thursday, July 12, 1990, 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

MATTERS TO BE CONSIDERED:

Correcton and Approval of Minutes

Draft Advisory Opinion 1990-10: Ms. Carolyn F. Bigda on behalf of the Texas Air Corporation PAC

1990 Management Plan Allocations

Administrative Matters

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Press Officer. Telephone: (202) 376-3155.

Marjorie W. Emmons,
Secretary of the Commission.

[FR Doc. 90-15848 Filed 7-3-90; 2:17 pm]

BILLING CODE 6715-01-M

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

TIME AND DATE: 9 a.m., July 16, 1990.

PLACE: 5th Floor, Conference room, 805 Fifteenth Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of last meeting.

2. Thrift Savings Plan activities report by the Executive Director.

3. Review of KPMG Peat Marwick audit report on Selected Federal Agencies' Implementation and Maintenance of Systems and Records Supporting the Federal Employees' Retirement System Thrift Savings Plan.

CONTACT PERSON FOR MORE INFORMATION: Tom Trabucco, Director, Office of External Affairs, (202) 523-5660.

Dated: July 25, 1990.

Francis X. Cavanaugh,
Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 90-15777 Filed 7-3-90; 10:14 am]

BILLING CODE 6760-01-M

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of July 9, 1990.

An open meeting will be held on Thursday, July 12, 1990, at 10 a.m. A closed meeting will be held on Friday, July 13, 1990, at 10:30 a.m.

The 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 Schapiro, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the open meeting scheduled for Thursday, July 12, 1990, at 10 a.m., will be:

(1) Consideration of proposed amendments to a rule promulgated under section 15 of the Securities Exchange Act of 1934. The amendments concern the withdrawal of net capital from registered broker-dealers to benefit certain described persons related to the broker-dealer and related notice provisions. These amendments are intended to enhance the financial responsibility rules which provide safeguards with respect to the financial responsibility and related practices of brokers and dealers. For further information, please contact Roger G. Coffin at (202) 272-2396.

(2) Consideration of whether to propose for public comment amendments to rule 2a-7 under the Investment Company Act of 1940

("1940 Act"), the rule that permits money market funds to use the amortized cost method of valuing portfolio securities and the penny-rounding method of computing price per share. The proposed amendments would tighten the conditions of the rule relating to portfolio quality, maturity and diversification, and make it unlawful for any investment company to hold itself out as a money market fund unless it met the risk-limiting conditions of the rule. In addition, the Commission will consider whether to propose related amendments to rule 482 under the Securities Act of 1933, rule 34b-1 under the 1940 Act, and Forms N-1A, N-3 and N-4. For further information, please contact Richard Pfordte at (202) 272-2811.

The subject matter of the closed meeting scheduled for Friday, July 13, 1990, at 10:30 a.m., will be:

Institution of administrative proceedings of and enforcement nature

Settlement of administrative proceedings of and enforcement nature

Institution of injunctive actions

At times, changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Dan Gray at (202) 272-2300.

Dated: July 2, 1990.

Jonathan G. Katz,

Secretary.

[FR Doc. 90-15810 Filed 7-3-90; 1:12 pm]

BILLING CODE 8010-01-M

UNITED STATES INSTITUTE OF PEACE

DATES: July 9 and 10, 1990.

TIME: 10:00 a.m. to 5:30 p.m.

PLACE: 1550 M Street, NW., Washington, DC (ground floor, Board Room).

STATUS: Open session (portions may be closed pursuant to subsection (c) of section 552(b) of title 5, United States Code, as provided in subsection 1706(h)(3) of the United States Institute of Peace Act, Public Law (98-525).

AGENDA: (Tentative):

Meeting of the Board of Directors convened.

Chairman's Report.

President Report.

Committee Reports.

Consideration of the minutes of the fortieth meeting of the Board of Directors.

Consideration of grant application matters.

CONTACT: Mr. Gregory McCarthy, Director, Public Affairs, telephone (202) 457-1700.

DATED: July 3, 1990.

Bernice J. Carney,

Director of Administration, the United States Institute of Peace.

[FR Doc. 90-15854 Filed 7-3-90; 2:41 pm]

BILLING CODE 3155-01-M

Corrections

Federal Register
Vol. 55, No. 130
Friday, July 6, 1990

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 71015-0067]

Endangered and Threatened Species; Listing and Recovery Priority Guidelines

Correction

In notice document 90-13895 beginning on page 24296, in the issue of Friday, June 15, 1990, make the following corrections:

On page 24297, in the third column, in **Table 3—Species Recovery Priority**, in the first column of the table, as the second entry, under "High" insert "Moderate", and on the same line, in the second column, "low to moderate." should read "High".

BILLING CODE 1505-01-D

OFFICE OF GOVERNMENT ETHICS

5 CFR Part 2637

Revisions of References in Certain Rules To Show the Correct Separate Agency Status and Office Address and To Clarify the Rulemaking Authority of the Office of Government Ethics

Correction

In rule document 90-15331 beginning on page 27179 in the issue of Monday, July 2, 1990, make the following correction:

§ 2637.101 [Corrected]

On page 27180, in § 2637.101, in the first column, in the eighth line "branch" should follow "executive".

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 430

Performance Management and Recognition System

Correction

In rule document 90-14747 beginning on page 25947 in the issue of Tuesday, June 26, 1990, make the following correction:

§ 430.204 [Corrected]

On page 25949, in the third column, in § 430.204, in paragraph (i)(3), in the last line "4320" should read "4302".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 229, 230, 239, 240 and 249

[Rel. Nos. 33-6867; 34-28094; File No. S7-16-89]

RIN 3235-AB79

Registration and Reporting Requirements for Employee Benefit Plans

Correction

In rule document 90-13456 beginning on page 23909 in the issue of Wednesday, June 13, 1990, make the following corrections:

1. On page 23926, in the second column, under *D. Filing and Effectiveness of Registration Statement; Requests for Confidential Treatment; Number of Copies*, in the first line "of" should read "on".

2. On page 23929, in the first column, in amendatory instruction 2., in the next to last line, "as" should read "and".

BILLING CODE 1505-01-D

federal register

Friday
July 6, 1990

Part II

Department of Education

Program of Special Projects and Demonstrations for Fiscal Year 1990 Providing Vocational Rehabilitation Services to Severely Handicapped Individuals; Notice

DEPARTMENT OF EDUCATION

Rehabilitation Services Administration; Special Projects and Demonstrations for Fiscal Year 1990

AGENCY: Department of Education.

ACTION: Notice of final funding priority.

SUMMARY: The Secretary announces a final funding priority for fiscal year (FY) 1990 for service activities to be supported under the Program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps of the Rehabilitation Services Administration (RSA).

EFFECTIVE DATE: This final priority takes effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of this final priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Wallace Babington, Office of Program Operations, Rehabilitation Services Administration, Department of Education, 400 Maryland Avenue, SW., (Switzer Building, Room 3033–A) Washington, DC 20202–2575. Telephone (202) 732–1322 (voice) or (202) 732–2848 (TDD).

SUPPLEMENTARY INFORMATION: Grants under the Program of Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Individuals with Severe Handicaps are authorized by Title III, section 311(a)(1) of the Rehabilitation Act of 1973, as amended. The purpose of this program is to expand and otherwise improve rehabilitation services to individuals with the most severe handicaps.

Eligible Applicants

Under the Program of Special Projects and Demonstrations, awards are made to States and other public and nonprofit agencies and organizations.

On March 20, 1990, the Secretary published a notice of proposed priority for this program in the **Federal Register** (54 FR 10385). Except for minor editorial and technical revisions, no changes have been made since publication of the proposed priority.

Analysis of Comments and Changes

In response to the Secretary's invitation in the notice of proposed priority, eight parties submitted comments. Five of the comments were favorable and did not suggest any changes to the proposed priority. Three of the Comments were not favorable. An analysis of the comments and the Secretary's responses are summarized below:

Comment: Two commenters objected to funds being set aside to address the needs of low-functioning adults who are deaf. One of these commenters also pointed out that there are insufficient funds in the commenter's State to meet the need for physical therapists.

Discussion: Congress appropriated funds in fiscal year 1990 specifically to fund projects under the Program of Special Projects and Demonstrations to support "a consortium of institutions to provide education and vocational rehabilitation services for low-functioning adults who are deaf." (Pub. L. 101–166, enacted November 21, 1989.) Thus, the general subject area of the priority and the requirement for a consortium reflect a congressional mandate rather than matters in which the Department can exercise discretion.

Changes: None.

Comment: One commenter noted that the priority included some requirements for coordination and cooperation that, while desirable, would have the effect of limiting the pool of eligible applicants.

Discussion: The Secretary recognizes that the priority is detailed but believes that the requirements referred to are important and are consistent with congressional intent. The legislative history of this appropriation indicates that Congress intended that the funds support a consortium of institutions to work in collaboration with private and public agencies to address the general education, counseling, vocational training, work transition, supported employment, job placement, follow-up, and community outreach needs of low-functioning adults who are deaf.

Changes: None.

Comment: One commenter recommended that the priority be limited to the support of projects that provide only vocational rehabilitation services in accordance with statutory language. This commenter also recommended that a "non-priority" funding category be added.

Discussion: Section 311(a)(1) of the Rehabilitation Act of 1973, as amended, authorizes the establishment of programs that hold promise of expanding or otherwise improving rehabilitation services to individuals with handicaps, irrespective of vocational potential, who can benefit from comprehensive services. The statute, therefore, does not limit the provision of services to vocational rehabilitation services. Also, as previously noted, Pub.L. 101–166 specifically appropriated funds under the Special Projects authority to provide education and vocational rehabilitation services.

The Secretary published a combined application notice (CAN) for fiscal year 1990 new awards under the Department's discretionary grant programs on September 15, 1989 (54 FR 38339). The CAN included an invitational (non-binding) priority under the Program of Special Projects and Demonstrations. Consequently, applicants under this program were given the opportunity in fiscal year 1990 to submit applications in subject areas of their own choice.

Changes: None.

Final Priority

In accordance with the Education Department General Administrative Regulations (EDGAR), 34 CFR 75.105(c)(3), the Secretary will set aside funds and give an absolute preference to applications that respond to the final priority under the program described in this notice for fiscal year 1990; that is, the Secretary will select for funding only those applications proposing projects that meet this priority.

Funding of particular projects depends on the availability of funds and the quality of the applications received.

The sum of $888,000 is available for this purpose for FY 1990. Funds awarded under this priority will be available only during FY 1990. No funds have been requested for FY 1991, and the Secretary has no plans for further grant awards under this priority.

The purpose of this final priority is to solicit applications for one or more projects that will provide educational and vocational rehabilitation services, not otherwise adequately available in the geographic area proposed to be served, to maximize the vocational potential of low-functioning adults who are deaf, including those who are deaf and have secondary disabilities. Projects must coordinate with and provide services through a consortium of institutions that works in collaboration with private and public agencies and organizations to address the postsecondary education, counseling, vocational training, work transition, supported employment, job placement, follow-up, and community outreach needs of low-functioning adults who are deaf.

Projects must have working relationships with existing educational and vocational programs for the adult deaf, such as the Regional Postsecondary Education Programs for the Deaf (RPEPD) supported by the Department of Education. Projects must coordinate with the Rehabilitation

Research and Training Center on the Rehabilitation of Low-Functioning Deaf Individuals, and the results of the projects funded under this priority must be disseminated to the Research and Training Center.

Each project must also establish relationships with potential employers from the public and private sector and have access to community-based resources serving the adult deaf (for example, clubs for persons who are deaf, groups providing special activities for persons who are deaf, and employment settings where there are deaf workers).

The staff for the project must be experienced in the delivery of services, such as vocational evaluation, peer counseling, personal adjustment, job coaching, community-based instruction, and placement, to deaf adults who are low-functioning. The staff must also be experienced in communicating with adult persons who are deaf and who have minimal language skills.

Projects must involve individuals who are deaf and representatives of RPEPDs or other appropriate services programs for the deaf in the planning, implementation, operation, and evaluation of the project and dissemination of project results. Projects must be capable of being replicated, in whole or in part, by other service providers. Projects must provide technical assistance to facilities and agencies in areas such as outreach, using a coordinated consortium approach to the delivery of services, and on-site training and workshops. The technical assistance must be designed to facilitate the wide dissemination of practices and materials developed by the projects and to facilitate the capacity of agencies and facilities to provide improved services to deaf adults who are low-functioning.

Authority: 29 U.S.C. 777a(a)(1).)

(Catalog of Federal Domestic Assistance No. 84.128A, Rehabilitation Services Administration)

Dated: June 19, 1990.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90-15638 Filed 7-5-90; 8:45 am]

BILLING CODE 4000-01-M

federal register

Friday
July 6, 1990

Part III

Department of Education

Technology, Educational Media, and Materials for the Handicapped Program; Final Funding Priority; Notice

DEPARTMENT OF EDUCATION

Technology, Educational Media, and Materials for the Handicapped Program

AGENCY: Department of Education.

ACTION: Notice of final funding priority.

SUMMARY: The Secretary announces a final funding priority for fiscal year 1990 for the Technology, Educational Media, and Materials for the Handicapped Program. This program is administered by the Office of Special Education Programs. The Secretary announces this priority to ensure effective use of program funds and to direct funds to areas of identified need during fiscal year 1990.

EFFECTIVE DATE: This priority takes effect either 45 days after publication in the **Federal Register** or later if the Congress takes certain adjournments. If you want to know the effective date of this priority, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: Linda Glidewell, Division of Innovation and Development, Office of Special Education Programs, Department of Education, 400 Maryland Avenue, SW. (Switzer Building, Room 3095—M/S 2313–2640), Washington, DC 20202. Telephone: (202) 732–1099.

SUPPLEMENTARY INFORMATION: The purpose of this program is to support projects and centers for advancing the availability, quality, use, and effectiveness of technology, educational media, and materials in the education of children and youth with handicaps and the provision of early intervention servicies to infants and toddlers with handicaps. In creating Part G, Congress expressed the intent that the projects and centers funded under that part should be primarily for the purpose of enhancing research and development advances and efforts being undertaken by the public or private sector, and to provide necessary linkages to make more efficient and effective the flow from research and development to application. This priority is for a separate competition from that announced through priorities published in the **Federal Register** on September 14, 1989 for the Technology, Educational Media, and Materials for the Handicapped Program (54 FR 38160).

Public Comment

In the Notice of Proposed Priority the Secretary invited comments on the proposed priority. The Secretary did not receive any comments. The Secretary has made no substantive changes in this priority since publication of the proposed priority.

The Secretary established the following priority for the Technology, Educational Media, and Materials for the Handicapped Program, CFDA No. 84.180. In accordance with the Education Department General Administrative Regulations (EDGAR, 34 CFR 75.105(c)(3)), the Secretary will give an absolute preference under this program to applications that respond to the following priority; that is, the Secretary will select for funding only those applications proposing projects that meet this priority.

Background

Compensatory Technology (CFDA 84.180)

Compensatory technology has the potential to alleviate barriers to mobility, manipulation, communication, or instruction for learners who are handicapped. The high cost of research and development coupled with limited market potential have discouraged developers, particularly those in the private sector, from investing in prototype development for compensatory technology. The Office of Special Education Programs has funded a variety of projects in an effort to reduce the investment risk and thereby provide an incentive to developers who wish to introduce innovative technologies into the field.

Priority

This priority supports the development of innovative hardware or software technology that would improve access to education of learners with disabilities. In addition to the development of compensatory technology prototypes, this priority requires grantees to identify design principles, issues, and features that might be applicable to a variety of uses, settings, or target populations. Thus, even if the testing of a prototype were to yield mixed results, the project could yield information useful to other researchers and developers.

Projects funded under this priority must determine what functions need to be performed before learning can begin, as well as functions inherent in the tasks of learning. Projects must also determine students' functional limitations that could be addressed by technology. The determination of educational tasks and of learners' limitations could include behavioral, cognitive, affective, or other functions that are germane to educational experiences.

Projects must match the identified needs or functional limitations and the demands of educational tasks with the functions and features of the proposed devices or support systems to be developed and, on that basis, build a compensatory technology prototype. If possible, projects are encouraged to use components or features from existing, "off-the-shelf" technologies or to adapt innovations from other sectors.

Projects must include testing of the prototype, or its primary design features to determine the soundness of the engineering, the adequacy of the design, whether it compensates for the disability for which the project is designed, whether it is feasible to operate and maintain in a school setting, and whether future production and distribution are feasible. The testing must also determine whether and how the use of this prototype is an improvement over existing technologies, and whether the prototype has the potential to become a marketable product.

Projects must include potential target audiences that might be able to use features of the prototype design or the prototype itself. If the prototype is a marketable product, projects must identify developers or manufacturers with potential to produce the prototype. Projects must also disseminate information about design features, principles, and issues to researchers and developers in the field even if the testing of the prototype does not support the feasibility of using the prototype. This dissemination could be accomplished through presentations at meetings, publications, and the activities of national information centers.

Program Authority: 20 U.S.C. 1461.

(Catalog of Federal Domestic Assistance Number 84.180, Technology, Educational Media, and Materials for the Handicapped Program)

Dated: June 22, 1990.

Lauro F. Cavazos,

Secretary of Education.

[FR Doc. 90–15639 Filed 7–5–90; 8 45 am]

BILLING CODE 4000–01–M

federal register

Friday
July 6, 1990

Part IV

Department of Health and Human Services

Administration on Aging

Fiscal Year 1990 Discretionary Funds Programs; Statewide Legal Hotlines; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

[Program Announcement No. AOA-90-2]

Fiscal Year 1990 Discretionary Funds Program; Statewide Legal Hotlines

AGENCY: Administration on Aging, HHS.

ACTION: Announcement of availability of funds and request for preapplications for statewide legal hotlines.

SUMMARY: The Administration on Aging (AoA) announces a request for preapplications concerning the development and establishment of Statewide Legal Hotlines. Funding for such developmental grants is authorized by Title IV of the Older Americans Act, Public Law 89-73, as amended. This program announcement consists of three parts. Part I provides background information and documents the statutory funding authority. Part II describes the program area, Statewide Legal Hotlines, for which AoA is inviting preapplications to be considered for funding. Part III describes in detail the preapplication process and provides guidance on how to prepare and submit a preapplication.

All of the forms necessary to submit a preapplication are published as part of this announcement following part III. No separate preapplication kit is necessary for submitting a preapplication. If you have a copy of this announcement, you have all the information and forms required to prepare and submit a preapplication.

DATES: The closing date for receipt of preapplications under this announcement is September 11, 1990.

ADDRESSES: Preapplication receipt point: Department of Health and Human Services, Grants and Contracts Management Division, Acquisition and Assistance Management Branch, 200 Independence Avenue, SW., Room 341F.2, Washington, DC 20201, Attn: AoA-90-2.

FOR FURTHER INFORMATION CONTACT: Department of Health and Human Services, Administration on Aging, Office of Program Development, 330 Independence Avenue, SW., Room 4661, Washington, DC 20201, telephone (202) 619-0769.

SUPPLEMENTARY INFORMATION:

Part I Background

A. Legal Services Under the Older Americans Act

The Older Americans Act underscores the importance of legal assistance to older people. Section 302(4) defines legal assistance as:

> legal advice and representation by an attorney (including, to the extent feasible, counseling or other appropriate assistance by a paralegal or law student under the supervision of an attorney), and includes counseling or representation by a nonlawyer where permitted by law, to older individuals with economic or social needs.

Specific funding for "the delivery of legal assistance" is authorized under both parts A and B of title III by section 303(c)

Special status is accorded legal assistance by section 306(a)(2) which stipulates that the area plan must:

> provide assurances that an adequate proportion, as required under section 307(a)(22), of the amount allotted for part B to the planning and services area will be expended for the delivery of each of the following categories of services—* * * (C) legal assistance

In addition, detailed information about the inclusion of legal assistance in the State plan is provided in section 307(a)(15).

Finally, support for the development of legal assistance for older people is mandated by title IV, section 424 which provides:

> (a) The Commissioner shall make grants and enter into contracts, in order to—
>
> (1) Provide a national legal assistance support system (operated by one or more grantees or contractors) of activities to State and area agencies on aging for providing, developing, or supporting legal assistance for older individuals, including—
>
> (A) Case consultations;
>
> (B) Training;
>
> (C) Provision of substantive legal advice and assistance; and
>
> (D) Assistance in the design, implementation, and administration of legal assistance delivery systems to local providers of legal assistance for older individuals; and
>
> (2) Support demonstration projects to expand or improve the delivery of legal assistance to older individuals with social or economic needs.

This announcement is designed to help accomplish the mandate of the Older Americans Act by improving and expanding the delivery of legal services through legal hotlines.

B. Development of the Legal Hotline Model

The Administration on Aging is requesting proposals from legal services organizations to establish statewide Legal Hotlines. In 1985 the Administration on Aging (AoA) funded the American Association of Retired Persons/Legal Counsel for the Elderly (AARP/LCE) to develop and test an innovative method of delivering a high volume of quality legal assistance to older people. The initial service area was Pittsburgh, Pennsylvania. The Legal Hotline provided unlimited free legal advice and brief services to all other residents of Allegheny County regardless of income or affiliation with AARP. Those requiring more complex services were referred to free legal aid programs (for those eligible) or to a specially recruited panel of attorneys in private who agreed to charge reduced fees (for all others).

The Legal Hotline was so successful that AoA funded AARP/LCE to expand the demonstration to serve all older residents of Pennsylvania via toll-free lines. Based on the success of the statewide effort, the District of Columbia, Texas, and Florida established Legal Hotlines with AARP/LCE funds supplemented by AoA.

Based upon the effectiveness of the model, AoA and AARP signed a Memorandum of Understanding to expand the number of Legal Hotlines to achieve substantial geographic coverage. Under this agreement, additional Legal Hotlines are currently being developed in Michigan and Ohio with AARP/LCE support.[1] This announcement is a major step in AoA's implementation of the agreement.

Evaluation of four years of experience has shown that Legal Hotlines and their referral panels can resolve 81% of callers legal questions and 56% of their legal problems. However, a recent national survey shows that as many as two million older households may still have an unmet legal need each year. The proposed expansion of Legal Hotlines would make legal assistance available to many of these older people.

In addition, Legal Hotlines serve as an efficient intake system for free legal services programs and make access to such service more convenient for poor older people. A simple telephone call can replace a trip to the legal services office in some cases. When more extensive services are needed, the Legal Hotline can often refer callers to the best service to meet their needs. The Legal Hotlines use paid, specially trained and experienced lawyers to provide free legal advice to all State residents age 60 and older regardless of their level of income or resources. The Legal Hotlines also provide brief services such as document reviews and calls/letters to third parties but only when this is likely to resolve the

[1] Therefore applications to develop Legal Hotlines in these five States and the District of Columbia will be redundant and will not be accepted for consideration.

problem. Services are provided statewide by means of toll-free telephone lines. Legal Hotlines are fully computerized, therefore eliminating the need for paper, files, and most support staff.

The legal hotlines initiative not only responds to the objectives of the Older Americans Act, it also addresses several of the published AoA goals for Fiscal Year 1990 including:

Public/Private Partnerships—Legal Hotlines are an excellent example of such partnerships through the use of attorneys in private practice to provide pro bono and reduced fee services to older people.

Prevention and Alternatives to Institutional Care—The ease of access to the Hotlines by telephone will make the provision of services to the institutionalized elderly easier and more effective.

Promotion and Enhancement of Effective Community Based Service Systems—A legal hotline is a vastly improved system for providing one of the most important community services, legal assistance.

Targeting—Strategic Resource Allocation—Through proper outreach techniques legal hotlines can increase the number of the most vulnerable older people who will receive needed legal assistance.

C. Technical Assistance for Prospective Preapplicants

Legal Counsel for the Elderly of American Association for Retired Persons (LCE) will provide potential preapplicants with technical assistance in developing the preapplications. They will provide, upon request, written information about the existing Legal Hotlines and specific technical assistance for potential preapplicants. Information and technical assistance is available through Monica Kolasa at (412) 263–3432.

D. Statutory Authority

The statutory authority under which grants and cooperative agreements will be awarded through the AoA Discretionary Funds Program is:

• Title IV of the Older Americans Act, as amended (42 U.S.C. 3001 *et seq.*).

Part II Statewide Legal Hotlines

Content: The Legal Hotline preapplications sent under the RFP should be modeled upon Legal Hotlines which currently exist in Pennsylvania, Texas, Florida and the District of Columbia as described above in section IB.

Eligibility: Support under these grants is limited to non-profit organizations currently engaged in the direct provision of legal services to the elderly. AARP and its departments are not eligible for this competition.

Award Process: This announcement begins a two stage process for the solicitation, review, and approval of Legal Hotline projects. The purpose of the first stage, request for preapplications, is to select the best potential applicants for operating legal hotlines. These selected to submit full applications will be able to take full advantage of the technical assistance available from AARP (See IC. above.) Only those preapplicants selected in this first stage competition will be eligible for the Stage Two competition.

Stage Two: Development of a Full Application—This planning stage is preparatory to the actual funding, implementation, and operation and of Legal Hotline projects. It is designed to allow organizations time to cement the range of endorsements and agreements that are essential to the success of Legal Hotlines and to organize the resources needed to begin the operational stage of the legal Hotlines project. The intended product is be a fully developed Legal Hotlines program application, including final commitments from the appropriate organizations. All successful preapplicants will be provided technical assistance in preparation for submitting the full application.

Final guidelines for the completion of the full application will be issued as part of the notification of successful preapplicants.

Full applications will be due five (5) months after notification to the successful preapplicants. Grant awards will be made in response to these full applications and will be for a 36 month project period.

Requirements: The preapplications while not required to have final commitments for funding and support, must show preliminary commitments and show how the planned project expects to meet the following minimum requirements, including grantee matching funds. Full applications will require firm commitments. Based upon the experience with developing the current hotlines certain requirements for an effective operation have become obvious. Therefore the preapplication must address, at a minimum, the following elements of a Legal Hotline program:

I. Staffing

A. A full time managing attorney,

B. The equivalent of two additional full-time attorneys to handle the calls, and

C. Someone to answer the phones when the attorneys are busy (we recommend title V workers.)

II. Telephones

A. Two incoming toll-free lines, and

B. One outgoing WATTS line,

C. Experience has shown that the total telephone budget will be a minimum of $20,000 per year after the Legal Hotline is operational.

III. Computer

A. An allocation of $13,500 for purchasing computer equipment,

B. Legal Hotline software will be provided by AARP.

IV. Reduced Attorneys Fees

Commitment to recruit a statewide panel of attorneys in private practice willing to accept a rate of $50 per hour or less with fee caps on common services such as $45 for a simple will.

V. Training and Materials

Develop and deliver a training program for the Legal Hotline attorneys and modify reference materials used in other Legal Hotlines to conform with your State law.

Technical Assistance: Legal Counsel for the Elderly of American Association for Retired Persons (LCE) will provide potential preapplicants with technical assistance in developing the preapplications. They will provide, upon request, written information about the existing Legal Hotlines and specific technical assistance for potential preapplicants. Information and technical assistance is available through Monica Kolasa at (412) 263–3432. LCE will continue to provide assistance to the winning preapplicants in preparing their applications.

Criteria: Preapplications meeting the following criteria will receive preference:

A. Preapplications from States with large elderly populations and/or large low income or minority elderly populations.

B. Preapplications that offer the largest cash matches, and thus request the fewest AoA dollars. The minimum cash match is 25% see part III section C. below.

C. Preapplications which demonstrate that title III and Legal Services Corporation funded legal services programs within the State are willing to coordinate their services with the proposed Legal Hotline.

D. Preapplications which demonstrate the ability to deliver services to the non-English speaking population.

E. Preapplications that show plans for special outreach activities to low income and minority older populations.

F. Preapplications which offer a practical plan for funding the Legal Hotline once the AoA grant ends.

Endorsements: Preapplications should include the preliminary endorsement of the State Agency on Aging and the State Bar Association, the voluntary and/or mandatory Bar, whatever is appropriate. Exceptions to this requirement must be justified in the application and will severely disadvantage the applicant.

Geographic Coverage: AoA will consider preapplications for a Legal Hotline which serves either New York City or the rest of the State of New York, but not both. Similarly it will consider preapplications which serve either Northern California or Southern California but not both. This is because of the unique size and distribution of the older population in these States. No other exceptions will be made to the requirement that Legal Hotlines serve the entire State.

Federal Share: AoA expects to select up to size (6) preapplicants and, from them, at least three (3) operational projects. The Federal share for the projects will be up to a maximum of $100,000 per year for up to three years.

Part III. Information and Guidelines for the Application Process and Review

This part contains general information for potential preapplicants and basic guidelines for submitting preapplications in response to this announcement. Application forms are provided along with detailed instructions for developing and assembling the preapplication package for submittal. General guidelines on applicant eligibility are provided in part I. Specific eligibility guidelines are provided in part II.

A. General Information

1. Review Process and Considerations for Funding

Within the limits of available Federal funds, the Administration on Aging (AoA) makes financial assistance awards consistent with the purposes of the statutory authorities governing the AoA Discretionary Funds Program and this announcement. The following steps are involved in the review process.

a. *Notification.* All preapplicants will automatically be notified of the receipt of their preapplication and informed of the identification number assigned to it.

b. *Screening.* To insure that minimum standards of equity and fairness have been met, preapplications which do not meet the screening criteria listed in Section D below, will not be reviewed and will receive *no* further consideration for funding.

c. *Expert Review.* Preapplications that conform to the requirements of this program announcement will be reviewed and scored competitively against the evaluation criteria specified in section H, below, by qualified persons from outside the Federal government and knowledgeable non-AoA Federal Government officials. These expert reviewers' scores and judgments are a major factor in selecting the successful preapplicants. Because of their involvement in providing technical assistance to the preapplicants, AARP/LCE will not be involved in the expert review process.

d. *Other Comments.* AoA solicits comments from: other Federal Departments, Federal Regional Office staff, interested foundations, national organizations, specialists, experts, and State Agencies on Aging. These comments are considered by the Commissioner on Aging in making decisions.

e. *Other Considerations.* In making the selection of successful preapplications, AoA will pay particular attention to those which focus on or feature: (1) Ethnic and/or racial minority populations and (2) a programmatic focus on those in greatest economic and social need.

Final decisions will also reflect the equitable distribution of assistance among geographical areas of the nation.

f. *Other Funding Sources.* AoA reserves the option of discussing preapplications with, or referring them to, other Federal or non-Federal funding sources when this is determined to be in the best interest of the Federal government or the preapplicant.

g. *Decision-Making Process.* After the panel review sessions, applicants may be contacted by AoA staff to furnish additional information. Preapplicants who are contacted should not assume that selection to submit a full application is guaranteed. Grants will be made under this announcement subject to the availability of funds for the support of these activities.

Applicants should be aware that the time interval between the deadline for submission of preapplications and official notification of selection to submit a full application may be as long as six months. This time is required to review and process grant preapplications.

2. Notification Under Executive Order 12372

This is not a covered program under Executive Order 12372, "Intergovernmental Review of Federal Programs".

B. Deadline for Submission of Preapplications

The closing date for submission of preapplications under this program announcement is September 11, 1990. Preapplications must be either sent or hand-delivered to the address specified in section D, below.

Hand-delivered preapplications are accepted during the normal working hours of 9 a.m. to 5:30 p.m., Monday through Friday. An application will be considered as meeting the deadline if it is either:

1. Received at the mailing address on or before the deadline date; or

2. Sent before midnight of the deadline date as evidenced by either (1) A U.S. Postal Service receipt or postmark or (2) a receipt from a commercial carrier. The preapplication must also be received in time to be considered under the competitive independent review mandated by chapter 1–62 of the DHHS Grants Administration Manual. Preapplicants are strongly advised to obtain +proof that the preapplication was sent by the deadline date. If there is a question as to when a preapplication was sent, preapplicants will be asked to provide proof that they have met the deadline date. Private metered postmarks are not acceptable as proof of a timely submittal.

Preapplications which do not meet the above deadline are considered late preapplications. The Acquisition and Assistance Management Branch will notify each late applicant that its preapplication will not be considered in the current competition.

AoA may extend the deadline for all preapplicants because of acts of God, such as floods, hurricanes or earthquakes, when there is widespread disruption of the mail or when AoA determines an extension to be in the best interest of the government. However, if AoA does not extend the deadline for all preapplicants, it may not waive or extend the deadline for any preapplicant(s).

C. Grantee Share of the Project

(This section is not applicable to the preapplications but should be considered in the description of planned project funding.) Under the Discretionary Funds Program, AoA does not make grant awards for the entire project cost. Successful applicants must, at a minimum, contribute one (1) dollar, secured from non-Federal sources, for every three (3) dollars received in Federal funding. The grantee share

amounts to 25% of the entire project cost. (Funds received from the Legal Services Corporation may be considered as from a non-Federal source.)

The non-Federal share of total project costs for each budget period may be in the form of grantee-incurred direct or indirect costs, third party in-kind contributions, and/or grant related income. AoA encourages projects where the matching requirement will be met in cash (as opposed to in-kind contributions) from non-Federal funding sources.

If the required non-Federal share is not met by a funded project, AoA will disallow any unmatched Federal dollars. Therefore, applicants should be sure of any amount proposed as match before including these funds in their budgets.

D. Preapplication Screening Requirements

All preapplications will be screened to determine completeness and conformity to the requirements of this announcement. These screening requirements are intended to assure a level playing field for all applicants. Preapplications which fail to meet one or more of the criteria described below will not be reviewed and will receive no further consideration for funding. Complete, conforming preapplications will be reviewed and scored competitively.

In order for an application to be reviewed, it must meet the following screening requirements:

1. The application must *not* exceed thirty (30) pages, exclusive of certain required forms and assurances which are listed below. The pages must be double-spaced, not single or space-and-a-half. The following documents are excluded from the 30 page limitation: Standard Forms (SF) 424, and 424B; proof of non-profit status; and indirect cost agreements. Within the thirty (30) page limitation, the following guidelines are suggested:

—Summary description (one page)
—Narrative (approximately nineteen pages)
—Capability statement (three to four pages, including a one page organization chart) and;
—Up to 3 individual vitae (each about two pages in length).

Preliminary letters of commitment and cooperation should be submitted, as required, to indicate statewide coverage.

2. Preapplications must be postmarked by midnight, September 11, 1990, or hand-delivered by 5:30 p.m. on September 11, 1990 to the following address:

Department of Health and Human Services, Grants and Contracts Management Division, Acquisition and Assistance Management Branch, 200 Independence Avenue, SW., Room 341F.2, Washington, DC 20201, Attn: AoA-90-2.

3. Applicants must meet eligibility requirements mentioned in part II.

Under no circumstances will preapplications that do not meet these screening requirements be assigned to reviewers.

F. Evaluation Criteria

Preapplications which pass the screening will be evaluated by an independent review panel of at least three individuals. These reviewers will be primarily experts from outside the Federal government. Based on the specific programmatic considerations set forth above, the reviewers will comment on and score the preapplications, focusing their comments and scoring decisions on the criteria below.

1. Objectives and Need for Assistance: 15 points

a. Does the preapplication pinpoint relevant economic, social, financial, institutional or other problems within the State requiring a solution?

b. Is the need for the Legal Hotlines within the State clearly demonstrated and supported by documentation? Are the special needs of low income and minority elderly included and discussed?

c. Are the principal and subordinate objectives of the project clearly stated, justified, and related to the problem area and stated need?

2. Results or Benefits Expected: 15 points

a. Are the expected project benefits and/or results clearly identified, realistic, and consistent with the objectives of the project?

b. Does the preapplication clearly indicate how the expected results will be of direct and tangible benefit to older people?

3. Approach: 35 points

a. Has the preapplication identified and secured the preliminary commitment of each of the key cooperating organizations, groups, and individuals who are needed to insure the Legal Hotline will be successful and provided an adequate description of the nature of their effort or contribution?

b. Does the preapplication provide a sound and workable plan pertaining to establishing the Legal Hotline and detail how the proposed work will be accomplished?

c. Are persuasive reasons offered for taking the proposed approach toward establishing the Legal Hotline as opposed to others? Does the preapplication clearly explain the methodology for determining if the results and benefits identified are being achieved?

d. Does the proposed work/task schedule offer a logical and realistic projection of accomplishments to be achieved? Is a time-line chart or its equivalent employed to list project activities in chronological order and show the target dates for the projected accomplishments?

e. Has the preapplication clearly identified the kinds of data to be collected and analyzed, and discussed the criteria to be used in evaluating the success of the project?

4. Level of Effort: 35 points

a. Are the project management, staff resources and time commitments adequate to carry-out the proposal effectively and efficiently? Is the staff chart consistent with the project plan expressed in the Approach section of the Program Narrative?

b. Are the key staff well qualified for this project? Are consultants and advisors used appropriately? If volunteers will be used, is there adequate supervision and support from project staff?

c. Does the preliminary budget justification for the project adequately describe the resources necessary to conduct the project? Is this budget reasonable in terms of the intended results?

d. Are the authors of the preapplication their relationship with the applicant agency and their intended role in the project, if any, identified?

G. The Components of a Preapplication

To expedite the processing of preapplications, we request that you arrange the components of your application in the following order:

1. A copy of the Check List of Preapplication Requirements (See section K, below) with all the completed items checked.

2. An original and two copies of the preapplication, including:

• SF 424, Application for Federal Assistance; and SF 424B (Assurance);

Note.—The original copy of the preapplication must have an original signature in item 18d on the SF 424.

• Proof of nonprofit status, as necessary;

- Project summary description;
- Program narrative;
- Organizational capability statement and vitae;
- Letters of Commitment and Cooperation.

Each copy should be stapled securely (front and back if necessary) in the upper left corner. Pages should be sequentially numbered. In order to facilitate handling, please do not use covers, binders or tabs. Do not include extraneous materials such as agency promotion brochures, slides, tapes, film clips, etc. It is not feasible to use such items in the review process, and they will be discarded if included.

H. Communications With AoA

Do not include a self-addressed, stamped acknowledgment card. All applicants will automatically be notified of the receipt of their preapplication and informed of the identification number assigned to it. This number and the announcement number should be referred to in all subsequent communication with AoA concerning the preapplication. If acknowledgment is not received within seven weeks after the deadline date, please notify the Acquisition and Assistance Management Branch by telephone at (202) 245-9016.

After an identification number is assigned and the preapplicant has been notified of the number, preapplications are filed numerically by identification number for quick retrieval. It will not be possible for AoA staff to provide a timely response to inquiries about a specific preapplication unless the identification number is given.

Preapplicants are advised that, prior to reaching a decision, AoA will not release information relative to a preapplication other than that it has been received and that it is being reviewed. Unnecessary inquiries delay the process. Once a decision is reached, the preapplicant will be notified as soon as possible of the acceptance or rejection of the preapplication.

I. Background Information and Guidance for Preparing the Application

1. Current Projects and Previous Project Results

In the Program Narrative of the preapplication (see section J below) applicants are expected to demonstrate familiarity with recent and ongoing activity related to their proposal. As mentioned above this information is available from Legal Counsel for the Elderly of American Association for Retired Persons. They will provide, upon request, written information about the existing Legal Hotlines. Information is available through Monica Kolasa at (412) 263-3432.

J. Completing the Preapplication

In completing the preapplication, please recognize that the set of standardized forms and instructions prescribed by OMB is not perfectly adaptable to the particulars of AoA's Discretionary Funds Program. Wherever possible, we have attempted to iron out discrepancies. If you encounter a problem, please call (202) 619-0441 for assistance.

Forms SF 424 and SF 424B have been reprinted as part of this **Federal Register** announcement for your convenience in preparing the preapplication. Single-sided copies of all required forms must be used for submitting your preapplication. You should reproduce single-sided copies from the reprinted form and type your preapplication on the copies. Please do not use forms directly from the **Federal Register** announcement as they are printed on both sides of the page.

To assist preapplicants in completing Form SF 424 correctly, samples of these forms have been provided as part of this announcement. These samples are to be used as a guide only. Please submit your preapplication on the blank copies. When specific information is not required under this program N/A, (not applicable) has been preprinted on the form. All items which are not to be completed have been shaded.

Please remember that while no budget information is required for the preapplication, the narrative must include budget estimates for the project.

Please prepare your preapplication in accordance with the following instructions:

1. SF 424, Cover Page

Complete only the items specified in the following instructions:

Top Left of Page. In the box provided, enter the announcement number under which the application is being submitted.

Item 1. Preprinted on the form.

Item 2. Date of preapplication submittal.

Item 3. Not applicable.

Item 4. Leave blank.

Item 5. Legal name of preapplicant, name of primary organizational unit which will undertake the assistance activity, complete address of the preapplicant, and name and telephone number of the person to contact on matters related to this preapplication.

Item 6. Enter the employer identification number (EIN) of the preapplicant organization as assigned by the Internal Revenue Service. Please include the suffix to the EIN, if known.

Item 7. Enter the appropriate letter in the space provided.

Item 8. Preprinted on form.

Item 9. Preprinted on form.

Item 10. Preprinted on form.

Item 11. The title should describe concisely the nature of the project. It should not exceed 10 to 12 words and 120 characters including spaces and punctuation.

Item 12. Leave blank.

Item 13. Not applicable.

Item 14. List the preapplicant's Congressional district and any District(s) affected by the program or project.

Item 15. Not applicable.

Item 16. Preprinted on form.

Item 17. This question applies to the preapplicant organization, not the person who signs as the authorized representative.

Categories of debt include delinquent audit disallowances, loans and taxes.

Item 18. To be signed by an authorized representative of the preapplicant organization. A document attesting to that sign-off authority must be on file in the preapplicant's office.

3. SF 424B—Assurances

SF 424B, Assurances—Non-Construction Programs, contains assurances required of preapplicants under the Discretionary Funds Program of the Administration on Aging. Two other assurances are required of the preapplicant, namely that it has not been debarred and that it will comply with the Drug-Free Workplace Act of 1988. In addition, a certification regarding lobbying must be signed and returned if the annual request will exceed $100,000. Please note that a duly authorized representative of the preapplicant organization must certify that the preapplicant is in compliance with these assurances.

4. Project Summary Description

Clearly mark this separate page with the applicant name as shown in SF 424, item 5 and the announcement number as shown in the upper left hand corner of SF 424. Please limit the summary description to a maximum of 1,200 characters, including words, spaces and punctuation.

The description should be specific and concise. It should describe the objectives of the project, the approaches to be used and the outcomes expected. The project description provides the reviewer with an introduction to the substantive parts of the application. Therefore, care should be taken to produce a summary which accurately and concisely reflects the proposal.

5. Program Narrative

The Program Narrative is the most important part of the preapplication. It should be clear, concise, and specific to the Legal Hotlines. In describing your proposed project under the narrative format prescribed below, make certain that you respond fully to the evaluation criteria set forth in Section F above. (A separate submission or response is not required to the evaluation criteria)

Please have the narrative typed on a single-side of 8½" x 11" plain white paper with 1" margins on both sides. All pages of the narrative (including charts, tables, maps, exhibits, etc.) should be sequentially numbered, beginning with "Objectives and need for assistance" and page number one. (Preapplicants should not submit

reproductions of larger size paper, reduced to meet the size requirement).

The narrative should conclude by identifying the author(s) of the proposal, their relationship with the preapplicant, and the role they will play, if any, should the project be funded.

6. Organizational Capability Statement

A brief organizational capability statement should be included. The statement should describe how the preapplicant agency (or the particular division of a larger agency which will have responsibility for this project) is organized, the nature and scope of its work and/or the research capabilities it possesses. This description should cover capabilities of the applicant not included in the program narrative. It may include descriptions of any current or previous relevant experience or describe the competence of the project team and its demonstrated ability to produce a final product that is readily comprehensible and usable. An organization chart showing the relationship of the project to the current organization should be included.

K. Checklist for a Complete Preapplication

The checklist below should be typed on 8½" x 11" plain white paper, completed and included in your preapplication package. It is for use in ensuring proper preparation of your preapplication.

Checklist

I have checked my preapplication package to ensure that it includes or is in accord with the following:

—One original preapplication plus two copies, each stapled securely (no folders or binders) with the SF 424 as the first page of each copy of the preapplication;
—SF 424 and SF 424B—Assurances;
—SF 424 has been completed according to the instructions, signed and dated by an authorized official (item 18);
—Proof of nonprofit status, as necessary;
—Summary description;
—Program Narrative;
—Organizational capability statement;
—No more than 3 vitae for key personnel;
—Letters of Commitment and Cooperation, as appropriate;

L. Points to Remember

1. There is a thirty (30) page limitation for the substantive parts of the preapplication. Before submitting your preapplication, please check that you have adhered to this requirement which is spelled out in Section D.

2. You are required to send an original and two copies of a preapplication.

3. The summary description of 1,200 characters or less should accurately reflect the nature and scope of the proposed project.

4. In following the required format for preparing the program narrative, make certain that you have responded fully to the four (4) evaluative criteria which will be used by reviewers to evaluate and score all preapplications.

7. Letters of Commitment should indicate that the appropriate organizations have made a preliminary commitment to working with the grantee in implementing the Legal Hotlines in the State but need not provide the detailed commitments which will be required for the second stage.

8. Before submitting the preapplication, have someone other than the author(s): (1) Apply the screening requirements to make sure you are in compliance; and (2) carry out a trial run review based upon the evaluative criteria. Take the opportunity to consider all recommended changes and then make whatever changes you deem appropriate.

9. Preapplications must be sent by midnight Eastern Time, or hand delivered (by 5:30 p.m.), no later than September 11, 1990 to:

Department of Health and Human Services, Grants and Contracts Management Division, Acquisition and Assistance Management Branch, 200 Independence Avenue, SW., Room 341F.2, Washington, DC 20201, Attn: AoA–90–2.

Joyce T. Berry,
U.S. Commissioner on Aging.

BILLING CODE 4130-01-M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN): ☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A State
B County
C Municipal
D Township
E Interstate
F Intermunicipal
G Special District
H Independent School Dist.
I State Controlled Institution of Higher Learning
J Private University
K Indian Tribe
L Individual
M Profit Organization
N Other (Specify) _____

8. TYPE OF APPLICATION:

☐ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es) ☐ ☐

A Increase Award B Decrease Award C Increase Duration
D Decrease Duration Other *(specify)*

_____

9. NAME OF FEDERAL AGENCY:

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: ☐☐ . ☐☐☐

TITLE:

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*

13. PROPOSED PROJECT: Start Date	Ending Date	14. CONGRESSIONAL DISTRICTS OF: a Applicant	b Project

15. ESTIMATED FUNDING:	
a Federal	$ .00
b Applicant	$ .00
c State	$ .00
d Local	$ .00
e Other	$ .00
f Program Income	$ .00
g TOTAL	$ .00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON

DATE _____

b NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT; THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED.

a Typed Name of Authorized Representative	b Title	c Telephone number
d Signature of Authorized Representative		e Date Signed

Previous Editions Not Usable

Standard Form 424 (REV. 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY				Total (5)
	(1)	(2)	(3)	(4)	
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7 Program Income	$	$	$	$	$

Authorized for Local Reproduction

Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8.	$	$	$	$
9.				
10.				
11.				
12. TOTALS (sum of lines 8 and 11)	$	$	$	$

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal	$	$	$	$	$
14. NonFederal					
15. TOTAL (sum of lines 13 and 14)	$	$	$	$	$

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16.	$	$	$	$
17.				
18.				
19.				
20. TOTALS (sum of lines 16 -19)	$	$	$	$

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

SF 424A (4-88) Page 2
Prescribed by OMB Circular A 102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF-424A

General Instructions

This form is designed so that application can be made for funds from one or more grant programs. In preparing the budget, adhere to any existing Federal grantor agency guidelines which prescribe how and whether budgeted amounts should be separately shown for different functions or activities within the program. For some programs, grantor agencies may require budgets to be separately shown by function or activity. For other programs, grantor agencies may require a breakdown by function or activity. Sections A,B,C, and D should include budget estimates for the whole project except when applying for assistance which requires Federal authorization in annual or other funding period increments. In the latter case, Sections A,B, C, and D should provide the budget for the first budget period (usually a year) and Section E should present the need for Federal assistance in the subsequent budget periods. All applications should contain a breakdown by the object class categories shown in Lines a-k of Section B.

Section A. Budget Summary
Lines 1-4, Columns (a) and (b)

For applications pertaining to a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1-4, Columns (c) through (g.)

For new applications, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

Lines 1-4, Columns (c) through (g.) (continued)

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5 — Show the totals for all columns used.

Section B Budget Categories

In the column headings (1) through (4), enter the titles of the same programs, functions, and activities shown on Lines 1-4, Column (a), Section A. When additional sheets are prepared for Section A, provide similar column headings on each sheet. For each program, function or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6a-i — Show the totals of Lines 6a to 6h in each column.

Line 6j - Show the amount of indirect cost.

Line 6k - Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)-(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on Line 5.

INSTRUCTIONS FOR THE SF-424A *(continued)*

Line 7 – Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

Lines 8-11 – Enter amounts of non-Federal resources that will be used on the grant. If in-kind contributions are included, provide a brief explanation on a separate sheet.

Column (a) – Enter the program titles identical to Column (a), Section A. A breakdown by function or activity is not necessary.

Column (b) – Enter the contribution to be made by the applicant.

Column (c) – Enter the amount of the State's cash and in-kind contribution if the applicant is not a State or State agency. Applicants which are a State or State agencies should leave this column blank.

Column (d) – Enter the amount of cash and in-kind contributions to be made from all other sources.

Column (e) – Enter totals of Columns (b), (c), and (d).

Line 12 — Enter the total for each of Columns (b)-(e). The amount in Column (e) should be equal to the amount on Line 5, Column (f), Section A.

Section D. Forecasted Cash Needs

Line 13 – Enter the amount of cash needed by quarter from the grantor agency during the first year.

Line 14 – Enter the amount of cash from all other sources needed by quarter during the first year.

Line 15 – Enter the totals of amounts on Lines 13 and 14.

Section E. Budget Estimates of Federal Funds Needed for Balance of the Project

Lines 16 - 19 – Enter in Column (a) the same grant program titles shown in Column (a), Section A. A breakdown by function or activity is not necessary. For new applications and continuation grant applications, enter in the proper columns amounts of Federal funds which will be needed to complete the program or project over the succeeding funding periods (usually in years). This section need not be completed for revisions (amendments, changes, or supplements) to funds for the current year of existing grants.

If more than four lines are needed to list the program titles, submit additional schedules as necessary.

Line 20 – Enter the total for each of the Columns (b)-(e). When additional schedules are prepared for this Section, annotate accordingly and show the overall totals on this line.

Section F. Other Budget Information

Line 21 – Use this space to explain amounts for individual direct object-class cost categories that may appear to be out of the ordinary or to explain the details as required by the Federal grantor agency.

Line 22 – Enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period, the estimated amount of the base to which the rate is applied, and the total indirect expense.

Line 23 – Provide any other explanations or comments deemed necessary.

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

BILLING CODE 4130-01-C

Certification Regarding Lobbying

Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31 U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

Organization

Authorized Signature

Title

Date

Note.—If Disclosure Forms are required, please contact: Mr. William Sexton, Deputy Director, Grants and Contracts Management Division, Room 341F, HHH Building, 200 Independence Avenue, SW., Washington, DC 20201-0001.

Certification Regarding Debarment, Suspension, Ineligibility and Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency:

(b) Have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," provided below without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions

(To Be Supplied to Lower Tier Participants)

By signing and submitting this lower tier proposal, the prospective lower tier participant, as defined in 45 CFR part 76, certifies to the best of its knowledge and belief that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

(b) Where the prospective lower tier participant is unable to certify to any of the above, such prospective participant shall attach an explanation to this proposal.

The prospective lower tier participant further agrees by submitting this proposal that it will include this clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered Transactions," without modification in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

U.S. Department of Health and Human Services Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

By signing and/or submitting this application or grant agreement, the grantee is providing the certification set out below. This certification is required by regulations implementing the Drug-Free Workplace Act of 1988, 45 CFR part 76, subpart F. The regulations, published in the January 31, 1989 **Federal Register**, require certification by grantees that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when HHS determines to award the grant. False certification or violation of the certification shall be grounds for suspension of payments, suspension or termination of grants, or governmentwide suspension or debarment.

The grantee certifies that it will provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing a drug-free awareness program to inform employees about:

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and,

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will:

(1) Abide by the terms of the statement; and,

(2) Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five days after such conviction;

(e) Notifying the agency within ten days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction;

(f) Taking one of the following actions, within 30 days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted:

(1) Taking appropriate personnel action against such an employee, up to and including termination; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e) and (f).

BILLING CODE 4130-01-M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED: 5.3	Applicant Identifier: 4/01/90
3. DATE RECEIVED BY STATE: N/A	State Application Identifier: N/A
4. DATE RECEIVED BY FEDERAL AGENCY: N/A	Federal Identifier: N/A

1. TYPE OF SUBMISSION:
Application: ☐ Construction ☒ Non-Construction
Preapplication: ☐ Construction ☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name: Department of Human Services

Organizational Unit: Division on Aging

Address (give city, county, state, and zip code): 1234 Smith Street, Jonesville, Iowa 54321

Name and telephone number of the person to be contacted on matters involving this application (give area code): Jane Doe (234) 567-8912

6. EMPLOYER IDENTIFICATION NUMBER (EIN): 9 8 – 7 6 5 4 3 2 1

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐
A State
B County
C Municipal
D Township
E Interstate
F Intermunicipal
G Special District
H Independent School Dist.
I State Controlled Institution of Higher Learning
J Private University
K Indian Tribe
L Individual
M Profit Organization
N Other (Specify) _____

8. TYPE OF APPLICATION:
☐ New ☐ Continuation ☐ Revision
If Revision, enter appropriate letter(s) in box(es) ☐ ☐
A Increase Award B Decrease Award C Increase Duration
D Decrease Duration Other (specify) _____

9. NAME OF FEDERAL AGENCY: Administration on Aging

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 1 3 . 5 6 8
TITLE: Discretionary Funds Program

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT: Improve Services to the Aging

12. AREAS AFFECTED BY PROJECT (cities, counties, states, etc.): N/A

13. PROPOSED PROJECT: Start Date 09/01/90; Ending Date 01/31/92

14. CONGRESSIONAL DISTRICTS OF: a Applicant 3; b Project 3,4

15. ESTIMATED FUNDING:

a Federal	$ 120,000	.00
b Applicant	$ 40,00	.00
c State	$	.00
d Local	$	.00
e Other	$	.00
f Program Income	$	.00
g TOTAL	$ 160,000	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?
a YES THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON
DATE _____
b NO ☒ PROGRAM IS NOT COVERED BY E O 12372
☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?
☐ Yes If "Yes," attach an explanation ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a Typed Name of Authorized Representative: Richard Roe	b Title: Director	c Telephone number: (666) 555-4444
d Signature of Authorized Representative		e Date Signed: 03/30/90

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1. N.A	N.A.	$ N.A.	$ N.A.	$ N.A.	$ N.A.	$ N.A.
2. N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
3. N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
4. N.A.	N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
5. TOTALS	13,668	$ N.A.	$ N.A.	$ 120,000	$ 40,000	$ 160,000

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$ N.A.	$ N.A.	$ N.A.	$ N.A.	$ 95,000
b. Fringe Benefits	N.A.	N.A.	N.A.	N.A.	16,250
c. Travel	N.A.	N.A.	N.A.	N.A.	2,000
d. Equipment	N.A.	N.A.	N.A.	N.A.	3,000
e. Supplies	N.A.	N.A.	N.A.	N.A.	2,250
f. Contractual	N.A.	N.A.	N.A.	N.A.	5,000
g. Construction	N.A.	N.A.	N.A.	N.A.	N.A.
h. Other	N.A.	N.A.	N.A.	N.A.	17,500
i. Total Direct Charges (sum of 6a - 6h)	N.A.	N.A.	N.A.	N.A.	141,000
j. Indirect Charges	N.A.	N.A.	N.A.	N.A.	19,000
k. TOTALS (sum of 6i and 6j)	$ N.A.	$ N.A.	$ N.A.	$ N.A.	$ 160,000
7. Program Income	$ N.A.	$ N.A.	$ N.A.	$ N.A.	$ N.A.

Authorized for Local Reproduction

Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

SAMPLE

SECTION C - NON-FEDERAL RESOURCES

(a) Grant Program	(b) Applicant	(c) State	(d) Other Sources	(e) TOTALS
8. N.A.	$ N.A.	$ N.A.	$ N.A.	$ N.A.
9. N.A.	N.A.	N.A.	N.A.	N.A.
10. N.A.	N.A.	N.A.	N.A.	N.A.
11. N.A.	N.A.	N.A.	N.A.	N.A.
12. TOTALS (sum of lines 8 and 11)	$ 40,000	$	$	$ 40,000

SECTION D - FORECASTED CASH NEEDS

	Total for 1st Year	1st Quarter	2nd Quarter	3rd Quarter	4th Quarter
13. Federal N.A.	$ N.A.	$ N.A.	$ N.A.	$ N.A.	$ N.A.
14. Nonfederal N.A.	N.A.	N.A.	N.A.	N.A.	N.A.
15. TOTAL (sum of lines 13 and 14) N.A.	$ N.A.	$ N.A.	$ N.A.	$ N.A.	$ N.A.

SECTION E - BUDGET ESTIMATES OF FEDERAL FUNDS NEEDED FOR BALANCE OF THE PROJECT

(a) Grant Program	FUTURE FUNDING PERIODS (Years)			
	(b) First	(c) Second	(d) Third	(e) Fourth
16. N.A.	$ N.A.	$ N.A.	$ N.A.	$ N.A.
17. N.A.	N.A.	N.A.	N.A.	N.A.
18. N.A.	N.A. !!	N.A.	N.A.	N.A.
19. N.A.	N.A.	N.A.	N.A.	N.A.
20. TOTALS (sum of lines 16-19)	$ - 0 -	$ N.A.	$ N.A.	$ N.A.

SECTION F - OTHER BUDGET INFORMATION

(Attach additional Sheets if Necessary)

21. Direct Charges:	22. Indirect Charges:

23. Remarks

[FR Doc. 90-14945 Filed 7-5-90; 8:45 am]

BILLING CODE 4130-01-C

Authorized for Local Reproduction

SF 424A (4-88) Page 2
Prescribed by OMB Circular A-102

federal register

Friday,
July 6, 1990

Part V

Department of the Treasury

Office of the Comptroller of the Currency

12 CFR Parts 5, 8, 11, and 16
Assessments and Other Fees; Proposed Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Parts 5, 8, 11, and 16

[Docket No. 90-12]

Assessments and Other Fees

AGENCY: Office of the Comptroller of the Currency, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Office of the Comptroller of the Currency (OCC) is proposing to amend 12 CFR parts 5, 8, 11, and 16 to: (1) Increase assessments by 8 percent and (2) set other fees for national banks. The OCC is soliciting industry and public comments on the long-term funding options which are described in this proposal. This proposal affects national banks, District of Columbia banks supervised by the OCC, and federally licensed branches and agencies of foreign banks.

In 1988, when the OCC last revised its assessment schedule, it also informed the public that the 1988 revision would only fulfill the agency's needs in the short term. To address the longer-term funding issues, the OCC established a Comprehensive Revenue Study Steering Committee (Steering Committee) to review various funding options. This proposal arises from the Steering Committee's work. It includes two elements (assessment increase and additional fees) to deal with a predicted near-term revenue shortfall and, as a third element, presents long-term funding options identified by the Steering Committee. The shortfall is a result of decreased revenue growth, expanded supervisory responsibilities which reflect the increased complexity of the financial services industry, changes in the asset quality of many national banks, and new statutory requirements. This proposal and further action to meet long-term funding needs will enable the OCC to continue meeting its supervisory and regulatory responsibilities.

DATES: Comments must be received by September 4, 1990.

ADDRESSES: Comments should be directed to: Communications Division, 5th Floor, 490 L'Enfant Plaza East SW., Washington, DC 20219, Attention: Docket No. 90-12. Comments will be available for public inspection and photocopying at the same location.

FOR FURTHER INFORMATION CONTACT: Either Janice A. Booker, Director, Customer and Industry Affairs Division, (202) 287-4169; Roy C. Madsen, Associate Director, Financial Management Division, (202) 447-0956; or Ferne Fishman Rubin, Attorney, Legal Advisory Services Division, (202) 447-1882, Office of the Comptroller of the Currency, Washington, DC 20219.

SUPPLEMENTARY INFORMATION:

Background

Under the National Bank Act, 12 U.S.C. 1 *et seq.*, the OCC is responsible for supervising national banks and ensuring that they comply with applicable law. Pursuant to 12 U.S.C. 482, the OCC recovers its expenses by assessing national bank "in proportion to their assets or resources." The current assessment schedule, found at 12 CFR part 8, fulfills this statutory requirement. The OCC last revised its part 8 semiannual assessment schedule on December 1, 1988 (53 FR 48624).

In the preamble to that final rule, the OCC noted that the current assessment methodology might need to be revised and that the OCC needed to study the way it generated revenue. 53 FR 48626 (December 1, 1988). The OCC also advised the public that it had established a Comprehensive Revenue Study Steering Committee to oversee such a study. This notice of proposed rulemaking makes additional short-term adjustments to the OCC's revenue processes and describes the funding options developed as part of the study.

Reasons for the Proposed Actions

The OCC believes that the proposed changes are needed to provide it with sufficient revenue to supervise adequately the national banking system. The financial services industry is changing rapidly, and those changes are affecting the growth rate of national bank assets. At the same time, the changing face of financial services, and new and amended statutory responsibilities, have affected the OCC's supervision of national banks.

Environment

In recent years, the OCC has faced new challenges, including:

- A larger number of troubled institutions, requiring closer supervision;
- The increased complexity of the financial industry and more sophisticated products compells the OCC to devise ways to examine and incorporate new procedures into the supervisory process; and
- More regulatory and supervisory responsibilities mandated by Congress, such as those contained in the Financial Institutions Reform, Recovery and Enforcement Act of 1989, Public Law No. 101-73, 103 Stat. 183 (FIRREA).

During those same years, national bank assets, which are the primary source of the OCC's revenues, did not grow as they had in the past. In the early 1980s, national bank assets grew at annual rates of 7.0 percent or more. In 1986, the annual growth rate fell to 6.6 percent, and by 1987 was less than 2.0 percent, the lowest rate since 1948. In 1988 and 1989 growth rates rose to 3.4 percent and 7.0 percent, respectively.

For the 1990s, asset growth continues to be uncertain. Predictability of future increases is further reduced by the transition to the new risk-based capital requirements which are likely to affect asset growth. Furthermore, if the consolidation of smaller institutions into larger ones continues, the OCC's assessment revenues will be correspondingly reduced. This occurs because under the OCC's regressive assessment schedule, the average assessment per dollar of assets decreases as asset size increases.

Staff Costs

Employee salaries and benefits make up the largest portion of OCC expenditures. In 1990, they will comprise approximately 72 percent of the OCC's costs, up from 66 percent in 1985.

Several factors contribute to this increase. First, the supervisory environment requires better-trained and additional staff. The agency has added the equivalent of 405 full-time employees to its workforce since 1985, an increase of 14.3 percent.

Second, under FIRREA, compensation of OCC employees is to be comparable to that of other financial regulatory agencies. The OCC is conducting a compensation study and, in the interim, has increased most employees' compensation to achieve general comparability with other regulators, thereby increasing average salary costs beginning in 1990.

Third, for the OCC, as with other employers in the 1980s, benefit costs have increased at rates far greater than inflation. In 1980, the OCC's benefits cost approximately 11 percent of payroll. Currently, they approximate 20 percent of payroll, and are anticipated to increase to about 24.5 percent by 1993. The OCC is attempting to reduce these costs through negotiations with the benefit providers and by requiring its employees to pay some of these increased costs, when appropriate. Furthermore, retirement plans has become more costly. The new Federal government retirement program, the Federal Employee Retirement System (FERS), is significantly more expensive to the OCC than the Civil Service

retirement plan. The proportion of FERS employees will rise over time as employees retire and are replaced by new employees who are in FERS.

The OCC is facing other increasing costs as well. For example, due to the need for more efficient utilization of space and for a decision on an expiring lease, the OCC is moving its Washington headquarters office in 1991. Although the relocation will result in reduced office space costs over the long term, it will cause the OCC's expenses to increase slightly in the short term. Space costs for other district, field and duty station offices may also increase as leases expire and are renegotiated.

Finally, the OCC's bank examiners are regularly required to go on "travel status" in conducting bank supervision. In 1989, the OCC increased its *per diem* allowances by approximately 20 percent and mileage rates by approximately 7 percent to remain current with Federal travel rates that recognize escalating costs. Additionally, the OCC revised its maximum lodging allowances to accommodate higher lodging cost requirements throughout the country. Travel costs associated with this activity are expected to continue to rise because of increased lodging rates, common carrier fares and mileage rates.

Cost Control

The OCC has controlled and cut costs where possible and is committed to a tight and balanced budget. For 1990, the OCC projects a balanced budget of $263.8 million, 7.4 percent higher than 1989 expenditures. However, despite our best efforts to contain costs, the current assessment schedule will not provide sufficient revenue to meet the OCC's operating costs beyond 1990.

The OCC has adopted strategies designed to use its resources with maximum efficiency and to improve its ability to achieve its mission. It has aggressively controlled costs while adopting procedures that provide more effective bank supervision. For example, the OCC has moved toward greater reliance on ongoing, off-site monitoring of bank performance, and concentrates resources on the parts of the system that present the greatest risk.

In order to achieve longer-term savings, the OCC invested in the expansion of its field office space facilities and improved its automated systems capabilities to support the off-site strategy. As a result of these efforts, the OCC is realizing staff and travel savings.

Without leveraging resources, the current supervisory conditions would require a staff far greater than the current 3,246, and expenditures far greater than 1990's projected $263.8 million.

Based on current projections, the OCC's efforts to control costs should stabilize expenditure growth at an annual rate lower than the 10 percent increases of the past. Beginning in 1990, expenses are expected to grow no more than 6 to 7 percent annually for the next few years. However, the OCC must be in a financial position to respond immediately to developments in the financial services industry.

I. Proposal

A. Increase Current Assessment Schedule by 8 Percent

The OCC's assessment income depends on three factors: (1) The level of nominal bank assets, (2) the distribution of these assets over different size categories of national banks and (3) the rate of change in the measure of inflation used to index the assessment schedule.

The OCC proposes to increase the marginal assessment rates of each of the ten brackets by 8 percent. The increase is expected to raise about $9.5 million per semiannual assessment, or $19 million per year. The amendment to 12 CFR 8.2 would be effective for the semiannual assessment period January 1, 1991, and beyond, with the first semiannual assessment payment under the new schedule due on or before January 31, 1991.

The OCC anticipates a balanced budget in 1990. However, unless the assessment schedule is revised for 1991, the OCC will be confronted with deficits in 1991 and beyond. To avoid these projected deficits and to ensure that the required supervisory resources are available, the OCC proposes a revision to the assessment schedule in part 8.

B. Other Revenue Sources

The Steering Committee reviewed several potential revenue sources in addition to basis assessments, including expanded billing for supervision. (As authorized by 12 U.S.C. 482, the OCC currently bills on an hourly basis for trust examinations and other investigations. The expanded billable hours models will be discussed below, in section II. C. 2.). Other potential revenue sources that were considered included: Setting fees for legal, accounting and trust opinions; initiating fees for certain securities filings; establishing fees for banks with government and/or municipal securities dealer departments; revising fees for OCC publications; and implementing hourly fees for precedent-setting corporate applications.

After reviewing these potential funding sources and looking at cash management policies and procedures, the Steering Committee determined there were two additional fees the OCC could reasonably levy. First, the OCC could initiate fees for certain securities filings. Second, the OCC could establish a fee for banks with government and/or municipal securities dealer departments. Both of these fees are included in this proposed rulemaking. Based on the information available to the OCC, the other fees were deemed inequitable, or so burdensome as to offset the increase in revenues.

Proposed Fees for Securities-Related Filings

The proposed fees for securities-related filings are based on two principles. First, the OCC should recover the costs associated with processing securities-related filings. Second, the OCC should require parties making securities-related filings to bear the cost of processing them.

This proposal, to the extent practicable, places the cost on those directly benefiting from the OCC's processing. This follows the OCC's long-standing policy in prior fee rulemakings, as well as the current proposal. *See* 50 FR 1439 (January 11, 1985); 49 FR 38954 (October 2, 1984); 46 FR 16656 (March 13, 1981); 45 FR 85042 (December 24, 1980).

The OCC is proposing to impose fees associated with:

- Filings made pursuant to the Securities Exchange Act of 1934 (Exchange Act) and the OCC's implementing regulations at 12 CFR part 11;
- Filings of proxy and information statements in conformance with the requirements of subpart E of part 11 pursuant to 12 CFR 5.33; and
- Filings of offering circulars and documents pursuant to the OCC's regulations relating to the offer and sale of a bank's securities. These regulations are set forth at 12 CFR part 16.

These fees would recover a portion of the OCC's cost of reviewing and processing those filings.

Under section 12(i) of the Exchange Act, the OCC has the powers, functions and duties vested in the Securities and Exchange Commission (SEC) to administer and enforce sections 12, 13, 14(a), 14(c), 14(d), 14(f), and 16 with respect to banks with a class of securities registered with the OCC (registered national banks). As required by the Exchange Act and part 11, registered national banks and directors and controlling shareholders thereof must file various periodic, current and

beneficial ownership reports with the OCC. The Exchange Act and part 11 also require that persons making tender offers for registered national bank stock file certain reports. In addition, national banks that have applied, pursuant to § 5.33, for OCC approval of a merger, consolidation or purchase and assumption transaction (merger transaction) must file proxy materials or information statements with the OCC in conformance with the requirements of subpart E of part 11. The OCC uses this material to determine the adequacy of disclosure to shareholders, one of six factors considered in acting on merger applications. All these various filings are hereinafter referred to as "part 11 filings."

The OCC also proposes to amend § 5.33 and 12 CFR 11.501 to clarify the existing requirement that banks adequately inform shareholders of all aspects of merger transactions. Proposed § 5.33 clarifies that banks are required to provide proxy statements or information statements in conformance with subpart E of part 11.

Pursuant to 12 U.S.C. 1828(c), merger transactions require prior OCC approval when the resulting bank will be a national banking association. In order to facilitate this approval process, the OCC has instituted procedures that require merger applicants to submit merger applications to the appropriate district office. *See* sections 20 and 21, Comptroller's Manual for Corporate Activities. In evaluating a merger application, the Comptroller considers many factors, including "the adequacy of disclosure of the terms of the merger." 12 CFR 5.33(b)(2)(vi). In evaluating the adequacy of disclosure, the Comptroller looks to the determination by the OCC's Securities & Corporate Practices Division of banks' compliance with the requirements of part 11. *See* §§ 20.1 and 21.1, Comptroller's Manual for Corporate Activities. Consequently, the proposed amendment to § 5.33 does not impose an additional filing burden on banks.

The OCC is proposing to charge the same fees for part 11 filings as those paid by corporations to the SEC for similar filings. Such fees will not fully recover the aggregate cost of reviewing the filings required of registered banks or the average cost of reviewing proxy material or information statements filed by banks pursuant to § 5.33. Nevertheless, because its part 11 regulations and forms are similar to those prescribed by the SEC, the OCC believes that charging the same fees as the SEC will be fair. The list of fees would be included in the OCC's Notice of Comptroller of the Currency Fees.

The OCC is also proposing fees for offering circulars and other documents filed pursuant to 12 CFR 16.3, 16.4(e), 16.4(f) and 16.7. These fees are the same as those paid by corporations to the SEC for similar filings under the Securities Act of 1933. The proposed fees will not fully recover the OCC's processing costs for the offering circulars and other documents. However, because the OCC's securities offering regulations are modeled in part on the SEC's regulations, using SEC charges will be fair, and will alleviate any possible confusion.

The following table lists the proposed securities-related filing fees.

TABLE I

	Proposed fee (A)
Part 11 Filings:	
Form F-1	$250.
Form F-2	$250.
Form F-3	No fee.
Form F-4	No fee.
Form F-5	Note: (B) (1), (2), and (3).
Form F-6	Note: (B)(2).
Form F-7	No fee.
Form F-8	No fee.
Form F-10	$250.
Form F-11	$100.
Form F-11A	$100.
Form F-12	No fee.
Form F-13	Note: (C).
Form F-20	No fee.
Part 16 Filings:	
Offering circulars and documents filed pursuant to 12 CFR 16.3, 16.4(e), 16.4(f) and 16.7.	$100 min. (D):

Notes

(A) General considerations:

(1) Fees are not refundable.

(2) Filing fees calculated on a percentage basis should be accompanied by a letter of transmittal stating the amount of the filing fee and how it was determined.

(3) In determining fees calculated on a percentage basis, the market value of securities shall be established by either the average high and low prices reported in the consolidated reporting system (for exchange traded securities and last sale reported over-the-counter securities) or the average of the bid and asked price (for other over-the-counter securities) as of a specified date within five business days prior to the date of the filing. If there is no market for the securities, the value shall be based upon the book value of the securities computed as of the latest practicable date prior to the date of the filing, unless the bank has an accumulated capital deficit, in which case one-third of the principal amount, par value of the securities shall be used.

(B) Proxy and Information Statements:

(1) Preliminary proxy material or information statements involving merger, consolidation, purchase and assumption transactions: A fee of one-fiftieth of one percent of the proposed cash payment or the value of the securities and other property to be transferred to security holders. The value of securities or other property to be transferred to security holders, whether or not in combination with a cash payment for the same securities, shall be based on the market value of the transferred securities. See note (A)(3) above for the calculation of market value.

(2) Preliminary proxy material where a contest as set forth in 12 CFR 11.511 exists: A fee of $500 from each participant who files a Form F-6.

(3) Other preliminary proxy material that solicits proxies, or information statements concerning business for which a shareholder vote is necessary: A fee of $125.

(C) A fee of one-fiftieth of one percent of the value of the cash or of the value of the securities or other property offered by the bidder. Where the bidder is offering securities or other non-cash consideration for some or all of the securities to be acquired, whether or not in combination with a cash payment for the same securities, the value of the consideration to be offered for such securities shall be based on the market value of the securities to be received by the bidder. See note (A)(3) above for the calculation of market value.

(D) A fee of one-fortieth of one percent of the maximum aggregate price at which the securities are to be offered or $100, whichever is greater.

Proposed Franchise Fee for Bank Securities Dealers

The OCC is proposing to impose an annual franchise fee on every national bank or department or division of the bank that is registered or on file as either a municipal or a government securities dealer. Two fees will be paid if a bank engages in both types of securities dealer activity. National bank subsidiaries or affiliates that are registered or on file as municipal or government securities dealers are not subject to an OCC franchise fee because these entities already pay a fee to the National Association of Securities Dealers.

The OCC is the appropriate regulatory agency for national banks with municipal or government securities dealer departments (15 U.S.C. 78c(a)(34)). The supervision of these departments is part of the OCC's compliance examination procedures. The proposed fee is designed to allocate the OCC's supervisory costs to those institutions that engage in government or municipal securities dealer activities.

The OCC periodically examines national bank municipal securities dealers to determine whether the dealer and associated persons comply with all

applicable rules of the Municipal Securities Rulemaking Board. Further, the OCC conducts Government Securities Act compliance examinations of banks that have filed notice as government securities dealers. The OCC processes the dealer registration forms and amendments and forms filed by individuals associated with either the municipal or government securities dealer activity. The OCC also performs activities to support this regulatory function, such as rendering regulatory interpretations of its rules, training examiners, developing policies and procedures, conducting investigations, and taking administrative actions.

Because these costs are now being paid from assessments on all national banks, banks that are not securities dealers are subsidizing the supervision of those that are. The proposed fee will allocate the cost of supervision to those institutions that perform the activity. The fee does not impose an undue burden because these activities would be subject to fees from other securities regulators if they were not performed within the bank.

Because the size and type of municipal or government securities dealer activity does not directly relate to the asset size of the bank, the OCC proposes to levy a flat annual fee for each type of dealer activity.

The OCC has allocated its costs based upon a 24-month compliance examination cycle. Thus, each bank dealer activity—either municipal or government securities—which currently has an allocated cost basis of $3,000 for each 24-month period, would pay an annual fee of $1,500. This figure includes specialized examiner training, clerical assistance directly associated with dealer banks, and records processing and maintenance.

The amount of the fee could change based on the data available when the fees are calculated. The OCC's Notice of Comptroller of the Currency Fees will include the annual fees for securities dealer activities. The fees will be due on January 31 of each year.

C. Proposed Long-Term Funding Options

The OCC is considering several long-term funding options as possible improvements to the current method. Those options, developed by the Steering Committee, fall into two groups—those that rely upon assessments alone and those that incorporate expanded hourly billing for the supervision time that the OCC provides directly to individual national banks.

From 1988 through 1989, the Steering Committee reviewed and studied many areas of OCC responsibility using two working groups. The revenue working group reviewed various revenue systems, developed criteria to guide the selection of a revenue system and identified current and potential sources of revenue. The cost working group reviewed the overall costs to the OCC of supervising national banks.

The revenue working group developed seven primary criteria to guide the selection of a revenue model for the OCC.

The revenue model should balance the following goals:

Equitable—Fairly allocate costs.

Reliable—Reliably fund the OCC's operations.

Automatic—Result in automatic increases in revenues when changes occur that place a heavier burden on the OCC, *e.g.*, the automatic adjustment for inflation that exists in the current assessment schedule.

Flexible—Allow the OCC to adjust revenues easily to respond to changes in its responsibilities and in the industry that cannot be accommodated by the automatic adjustments.

Simple—Minimize the calculation burden on the banks and the administrative burden on the OCC.

Predictable—Result in predictable charges to individual banks and predictable receipts for the OCC.

Disciplined—Further fiscal discipline at the OCC by including periodic review of goals, costs and efficiency aimed at avoiding deficits and significant surpluses.

Two apparent concerns with the current assessment method motivated the Steering Committee to investigate other stand-alone assessment alternatives. First, the cost working group's review showed that under the current schedule large banks subsidize the cost of supervising small banks, and healthy banks subsidize the supervision of troubled banks. Therefore, the criterion that the revenue model be equitable is not necessarily met with the current schedule.

Second, in recent years, the current schedule has not been reliable, in that it has not yielded sufficient revenue growth to keep pace with the OCC's rising supervisory costs, which are due to changes in the law, and the growing complexity of the financial services industry.

The Steering Committee targeted its research and review at developing a flexible way to generate revenue that would provide long-term funding and allow the OCC to supervise adequately the national banking system in a changing environment. It also considered ways to improve the relationship between the amount of supervisory time a bank requires and the assessment cost that bank bears.

The Steering Committee reviewed how other Federal and state financial regulatory agencies are funded, with particular attention devoted to the 17 states that use an assessment plus billable hours system. Overall, the Steering Committee developed and reviewed several stand-alone assessment and assessment plus expanded billable hours models. Because it was determined that the current statutory authority limits the OCC's implementation of flexible revenue generation approaches, the OCC is seeking an amendment to 12 U.S.C. 482 to explicitly give it more flexibility in generating revenue to carry out its responsibilities.

The OCC is requesting specific comments on these long-term funding options and the questions posed for each. This information will assist the OCC in deciding the revenue model option that the OCC will use to fund its operations over the long term. The long-term funding options are briefly discussed below.

1. Stand-Alone Assessment Models

The OCC's current assessment schedule is based on total assets and has ten asset-size categories with regressive marginal assessment rates. The OCC uses a regressive schedule because the cost of supervising a bank does not increase as a straight-line function of the bank's assets; instead, it rises at a decreasing rate. The assessment rates in the current schedule, however, do not decline as rapidly as do supervision costs per dollar of assets.

The OCC reviewed several ways to amend the current schedule. The considerations included a progressive schedule, which would assess banks at an increasing marginal rate as asset size grows, or a flat rate schedule, which would assess a flat fee for each dollar of a bank's assets. This review indicated that both choices would increase the subsidy of small banks by large banks. On the other hand, increasing the amount of regressivity would result in rising assessments for smaller banks, which would then correspond more closely to their cost of supervision.

The OCC studied whether total bank assets should continue to be the base for assessments. Several asset- and resource-based models were examined to see if they correlated better with the OCC's supervisory costs. The alternatives considered included assessments based on: Nonaccrual

loans; composite CAMEL ratings; total assets, including off-balance-sheet activities; and low-risk assets (a brief discussion of each alternative is included at the end of this section).

a. *Simplified asset-based model.* The Steering Committee determined that while no other assessment base offered substantial improvements over the current asset base, some simplification may be possible. Therefore, the Steering Committee developed an asset-based assessment model which reduces the number of asset brackets from ten to six and provides for a base payment of $2,500. This model could be designed to either maintain the subsidy of small banks, or to reduce it. In order to assure adequate funding, the schedule would have to be periodically revised.

The table below shows an illustration of a simplified assessment schedule with six brackets and a base payment of $2,500. It maintains roughly the same subsidy of small banks that exists in the current schedule. This schedule would raise about the same revenue that the current assessment schedule would raise if each of the ten marginal assessment rates were increased by 8 percent.

Sample biennial assessment schedule

Over (million)	But not over (million)	This amount	Plus	Of excess over
0	$50	$2,500	.000131250	0
$50	100	9,063	.000117500	$50
100	1,000	14,938	.000072500	100
1,000	10,000	80,188	.000050000	1,000
10,000	50,000	530,188	.000038000	10,000
50,000	.....	2,050,188	.000024000	50,000

The 8 percent across-the-board increase is the current proposal contained in the NPR. Ignoring the effect of asset growth or further possible consolidation of national banks, these schedules generate roughly $127.7 million in assessment revenue in January 1991.

Two options of the simplified model are presented for comment:

• *Biennial Schedule.* This option uses a simplified schedule that incorporates a two-year planning horizon and requires revision to the regulation in part 8 every two years to maintain required funding levels for the OCC's operations.

• *Multiple-Year Assessment Schedules.* This option requires that the OCC publish a series of annual schedules in one rulemaking to cover up to four years of assessment increases. The OCC could defer subsequent rate increases to later years if the revenue is not needed. This would allow the OCC to spread assessment increases over several years and provides for annual increments. The OCC will recover only the assements it needs to meet its financial objectives. The OCC's publication of multiple-year schedules would ensure that banks can budget for future years. The applicable schedule would be published in the Notice of Comptroller of the Currency Fees.

The advantages of simplification are countered by two factors. First, the change in the number of asset brackets results in disproportionate assessment changes for some banks, due solely to the simplification process. Second, as with the current schedule, the biennial schedule requires frequent rulemaking to ensure that revenues adequately fund operations.

The OCC invites comment on the merit of the simplified assessments model, and on the following questions:

(1) Is the simplified model an improvement?

(2) Should the OCC revise the assessment regulation every two years, based on the current banking environment?

(3) Should the OCC change the schedule rates to create a closer balance between assessments paid and the cost of supervising different sizes of banks? On the sample simplified model, for example, this would require raising the assessment rates for the smaller bank brackets and lowering the rates for the larger bank brackets.

(4) What is a reasonable frequency for a rulemaking change to meet the OCC's funding needs? For example, should marginal rate increases in the schedule be made annually, biennially, or over longer periods of time.

b. *Other alternate assessment options.* Prior to developing the Simplified Asset Based-Model, the Steering Committee examined each of the models described below.

• *Models Involving an Asset-Based Assessment with a Measure of a Bank's Credit Quality.* These models would augment the asset-based assessment with a measure of a bank's credit quality—the level of nonaccrual loans or the composite CAMEL rating. Incorporating credit quality into assessments has several shortcomings. First, both models would be more complex than a simple asset-based method. Second, such a system might have the effect of disclosing composite ratings and other confidential information to the public. Third, the adjustments could produce very large, potentially disruptive increases in the payments required of many small banks. Finally, use of supervisory resources does not correlate perfectly with a bank's CAMEL rating. For example, a stable problem bank may require fewer supervisory resources than a bank that has begun new, more complex business activities, because of the prospective effect of these activities on a bank's condition.

• *Assets and Off-Balance-Sheet Items Model.* To account more explicitly for the cost of supervising off-balance-sheet items, the Steering Committee considered adding commercial letters of credit, standby letters of credit and loan commitments to the asset base. This approach presents two problems. First, off-balance-sheet activities are concentrated in the largest banks. Because large banks already pay assessments higher than their actual supervisory costs, this would only exacerbate an existing problem of the assessment schedule. Second, off-balance-sheet activities are difficult to compute because there are no consistent accounting standards for them.

• *Low-Risk Assets Model.* The Steering Committee considered adjusting asset-based assessments to reflect low-risk assets. Although a bank with more low-risk assets may have lower supervisory costs, the Steering Committee did not find that levels of low-risk assets affected supervisory costs in any systematic way.

2. Assessment Plus Expanded Billable Hours Model

The Steering Committee researched and considered several expanded billable hours alternatives. The OCC historically has charged an hourly fee

only for trust department examinations and other investigations. The "expanded" billable hours approach would expand hourly billing to other OCC supervisory areas beyond trust examinations, while still obtaining most funding from asset-based assessments. The expanded billable hours model requires the OCC to provide estimates to banks about the number of hours likely to be billed in the following year. This element would assist bank management in projecting their overall payment to the OCC.

As currently envisioned by the OCC, the most significant features of an expanded billable hours proposal would be: (1) Using the current asssessment schedule with ten asset-size categories, and billing for supervision hours spent in the bank; and (2) rebating annually to banks any surplus.

While numerous hourly billing scenarios are possible, the Steering Committee narrowed those under consideration to three. These are:

- *Billing for on-site hours only.* Only those examiner hours spent in banks would be billable. Assessments would cover the other aspects of supervision.
- *Initial billing for on-site hours only and phased-in billing for off-site hours.* Initially, only those examiner hours spent in banks would be billed. However, hourly billing for off-site hours spent on a specific bank would be phased in.
- *Billing for both on-site and off-site hours.* All on-site and off-site hours spent supervising a specific bank would be billed.

Revenue models that incorporate an expanded billing component contain several advantages. They require banks to pay relative to the OCC resources they use. Billing for supervision therefore instills a higher level of "self-supervision" on the part of banks. Well-managed banks requiring less OCC supervision will pay less. This reduces the subsidy afforded smaller and/or problem banks. Such models also more reliably fund the OCC's operations due to automatic increases in the hourly rates that reflect the OCC's supervisory costs. Hourly billing also reduces the need to frequently adjust the base assessment schedule.

There are also disadvantages to any billing component. For example, billing would not be as simple or predictable as the current assessment schedule. In addition, the OCC's administrative expenses would increase if many banks disputed bills and time was spent resolving billing disputes.

The OCC requests comment on the expanded billable hours model. In particular:

(4) Should the OCC adopt the expanded billable hours approach to generate revenue?

The OCC also invites comment on specific features of the model. Respondents are encouraged to comment on any aspect of the proposal including the following issues:

Technological enhancements make it possible for the OCC's examining staff to spend more time in their offices. Thus, some of the activity once performed in the banks can now be accomplished off-site, which result in lower supervisory costs, because travel is avoided.

(5)(a) Should the hourly charge be limited to on-site hours, or should the OCC also bill for bank-specific time spent in OCC offices? (b) Should billing for off-site supervision be phased in? (c) If so, over what period of time should the phase-in occur?

Bank examining is an occupation that requires an apprenticeship period. However, banks benefit from supervision conducted while new examiners are learning on the job.

(6)(a) Should the OCC bill banks for all, or part of, the hours devoted to on-the-job training for OCC staff? (b) Should banks be billed for the time more experienced staff members dedicate to these examinations that serve (in substantial part) to train less experienced examiners?

One of the OCC's goals in considering an expanded billable hours approach is to encourage and reward banks that are well managed. In order to fulfill its mission regarding compliance with laws, rulings and regulations, the OCC randomly selects community banks for compliance examinations through a statistical sampling process. In this regard, the quality of the bank's management or its compliance systems is not considered. However, the bank receives an examination and ratings, as appropriate.

(7) Should OCC bill the selected community banks for compliance examinations?

It is possible to design the revenue structure so that a bank's assessment includes a "base" number of on- or off-site supervision hours.

(8) Should the OCC include a base number of hours in a bank's assessment, and bill for hours expended that exceed the base allocation?

The expanded billable hours model could be designed to use single or multiple hourly rates. Billing at a single rate is less cumbersome to administer. However, if different rates for commissioned and non-commissioned examiners are established, the billing for more complex or problematic banks would be commensurate with the expertise necessary to supervise them.

(9) If the OCC proceeds with the expanded billable hours concept, should it establish a single rate for all supervision hours, or should the OCC differentiate between commissioned and non-commissioned examiners?

The expanded billable hours model includes an annual rebate feature. This would permit the OCC to return any surplus funds to the industry, after expenses had been met and necessary funds set aside to cover three months of expenses. (The OCC's policy requires that liquid equity adequate to meet expenses for three months be maintained.)

(10) Should the OCC retain the annual rebate feature?

Evaluation of the Long-Term Options Using the Criteria

The OCC used seven criteria discussed earlier in the proposal to evaluate the long-term funding options. These criteria aid the decision process in selecting a revenue model. The revenue option selected should be one that best meets these seven criteria.

(11) (a) Are these criteria appropriate for making the decision? (b) If so, should the criteria be weighted equally or are some more important than others? (c) If these criteria are not appropriate, what evaluation measures do you recommend?

II. Notice of Comptroller of the Currency Fees

Currently, 12 CFR 8.8 provides that the OCC shall publish a "Notice of Comptroller of the Currency Fees" no later than the first business day in December for all fees to be charged in the upcoming year.

During the course of a year, statutes and regulations are amended and may impose new supervisory responsibilities on the OCC. Furthermore, new types of applications and filings may become necessary. These situations may require that the OCC impose new types of fees before the beginning of a new year.

Consequently, the OCC proposes to amend § 8.8 to permit interim changes to the Notice of Comptroller of the Currency Fees. The OCC will provide 30 days notice of any fee change.

III. Technical Changes

The OCC proposes to remove sentences pertaining to 1985 fees throughout part 8.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 605(b), it is certified that

this amendment will not have a substantial economic impact on a significant number of small entities. While this amendment will have some impact on all national banks, it will not have a significant or disparate impact on small banks. The across-the-board assessment increase proposed will increase costs somewhat for banks of all sizes. Additionally, as explained in the proposal, the small-bank subsidy included in large bank assessments will continue. The fees proposed will increase costs slightly for banks that file securities-related forms or reports. The long-term funding options under consideration also will increase bank costs. However, even when the effects of the various fees are combined, the increase will not be significant.

Executive Order 12291

The OCC has determined that this amendment is not a "major rule" and therefore does not require a Regulatory Impact Analysis. While this amendment will have some impact on national banks regardless of size, that impact will not result in (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (3) 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.

List of Subjects

12 CFR Part 5

National banks, Corporate filings, Fees.

12 CFR Part 8

National banks, Assessments, Fees.

12 CFR Part 11

National banks, Securities filings, Fees.

12 CFR Part 16

National banks, Offering circulars, Fees.

Authority and Issuance

For the reasons set forth in the preamble, parts 5, 8, 11 and 16 of chapter I of title 12 of the Code of Federal Regulations are proposed to be amended at set forth below:

PART 5—[AMENDED]

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

Authority: 12 U.S.C. 1 *et seq.*; 12 U.S.C. 93a.

2. Paragraphs (b)(6) and (d) of § 5.33 are revised to read as follows:

§ 5.33 Merger, consolidation, purchase and assumption.

* * * * *

(b) * * *

(6) *Other factors.*

(i) In addition to the foregoing, the Office considers banking factors and will normally not approve a merger if it will result in a bank which has inadequate capital, unsatisfactory management or poor earnings prospects.

(ii) It is required that all shareholders be adequately informed of all aspects of the transaction. In this regard, banks are required to file with the Office proxy material or information statements in conformance with subpart E of part 11 of this chapter.

* * * * *

(d) *Place of filing.*

(i) Applications should be submitted for filing with the Director for Analysis in the appropriate district office or with the Director for Multinational and Regional Bank Supervision.

(ii) Proxy material or information statements should be submitted for filing with the Director, Securities & Corporate Practices Division.

* * * * *

PART 8—[AMENDED]

3. The authority citation for part 8 is revised to read as follows:

Authority: 12 U.S.C. 93a, 481, 482 and 3102, and 26 D.C. Code 102; 15 U.S.C. 78c.

4. Section 8.1 is revised to read as follows:

§ 8.1 Scope and application.

The assessments contained in this part are made pursuant to the authority contained in 12 U.S.C. 93a, 481, 482 and 3102, in 26 DC Code 102, and in 15 U.S.C. 78c.

5. The table in § 8.2 is revised to read as follows:

If the bank's total assets (consolidated domestic and foreign subsidiaries) are:		The semiannual assessment is:		
		This amount—	Plus	Of excess over—
Over—	But not over—	Column C	Column D	Column E
Column A	Column B			
Million	Million			Million
0	X_1	0	.001231200	0
X_1	X_2	Y_1	.000153900	X_1
X_2	X_3	Y_2	.000123120	X_2
X_3	X_4	Y_3	.000080028	X_3
X_4	X_5	Y_4	.000067716	X_4
X_5	X_6	Y_5	.000055404	X_5
X_6	X_7	X_6	.000049248	X_6
X_7	X_8	X_7	.000041904	X_7
X_8	X_9	X_8	.000039420	X_8
X_9	.....	X_9	.000025812	X_9

6. Section 8.8 is revised to read as follows:

§ 8.8 Notice of Comptroller of the Currency fees.

(a) *December notice of fees.* A "Notice of Comptroller of the Currency Fees" shall be published not later than the first business day in December of each year for fees to be charged by the Office during the upcoming year. These fees will be effective January 1, of that upcoming year.

(b) *Interim notices of fees.* The Office may amend the "Notice of Comptroller of the Currency Fees" from time to time throughout the year as necessary. Amendments will be effective 30 days after the Office issues the amended Notice.

7. A new § 8.15 is added to read as follows:

§ 8.15 Annual franchise fees.

(a) *Fees.* National banks that are registered or on file as municipal and/or government securities dealers shall pay, with their January 31 semiannual assessment, an annual franchise fee covering each dealer activity. The Office will set the franchise fees for those activities at an amount designed to allocate supervisory costs to banks engaging in dealer activities.

(b) *Notice of fees.* The OCC publishes the franchise fee schedule in the Notice of Comptroller of the Currency Fees described under § 8.8 of this chapter.

(c) *Exception:* The requirements of this section do not apply to a national bank subsidiary or affiliate that is registered or on file as either a municipal or government securities dealer.

PART 11—[AMENDED]

8. The authority citation in part 11 is revised to read as follows:

Authority: 12 U.S.C. 93a; 15 U.S.C. 78l, 78m, 78n, 78p, and 78w.

9. In § 11.101, paragraph (a) is revised to read as follows:

§ 11.101 Scope of part.

(a) This part is issued by the Comptroller of the Currency pursuant to 12 U.S.C. 93a, section 12(i) of the Securities Exchange Act of 1934 (15 U.S.C. 78) (the "Act") and applies to all securities subject to registration pursuant to section 12(b) or section 12(g) of the Act by a national bank or a bank operating under the Code of Law for the District of Columbia ("bank"). Subpart E of this part also applies to proxy statements and information statements filed pursuant to § 5.33 of this chapter.

* * * * *

10. In § 11.103, the existing text of that section is designated as paragraph (a) and a paragraph heading is added, and a new paragraph (b) is added to read as follows:

§ 11.103 Filing of material with the Comptroller of the Currency and fees.

(a) *Filing of material.* * * *

(b) *Fees.* Fees must accompany certain filings before they will be accepted by the Office.

(1) The OCC publishes filing fees in the Notice of Comptroller of the Currency Fees.

(2) Fees must be paid by check payable to the Comptroller of the Currency.

PART 16—[AMENDED]

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

Authority: 12 U.S.C. 93a.

12. In § 16.3, a new paragraph (h) is added to read as follows:

§ 16.3 Offering circular requirements, filing, effective date and fees.

* * * * *

(h) Fees must accompany offering circulars and offering documents filed pursuant to this paragraph, § 16.4 (e) and (f) and § 16.7 before they will be accepted by the Office. The OCC publishes filing fees in the Notice of Comptroller of the Currency Fees. Fees must be paid by check payable to the Comptroller of the Currency.

Dated: June 27, 1990.

Robert L. Clarke,

Comptroller of the Currency.

[FR Doc. 90-15770 Filed 7-5-90; 8:45 am]

BILLING CODE 4810-33-M

federal register

Friday
July 6, 1990

Part VI

Office of Management and Budget

Budget Recissions and Deferrals; Notice

OFFICE OF MANAGEMENT AND BUDGET

Budget Recissions and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report eight proposed rescissions totalling $327,375,000.

The proposed rescission affect programs of the Department of Defense. The details of the proposed rescissions are contained in the attached report.

George Bush

The White House,

June 28, 1990.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

RESCISSION NO.	ITEM	BUDGET AUTHORITY
	Department of Defense, Military:	
R90-4	Military Construction, Army	155,745
R90-5	Military Construction, Navy	6,200
R90-6	Military Construction, Air Force	27,290
R90-7	Military Construction, Defense Agencies	68,119
R90-8	Family Housing, Army	12,664
R90-9	Family Housing, Navy	11,037
R90-10	Family Housing, Air Force	46,020
R90-11	Family Housing, Defense Agencies	300
	Total, Proposed Rescissions	327,375

SUMMARY OF SPECIAL MESSAGES
FISCAL YEAR 1990
(in thousands of dollars)

	RESCISSIONS	DEFERRALS
Seventh special message:		
New items	327,375	—
Revisions to previous special messages	—	
Effects of the seventh special message	327,375	
Amounts from previous special messages	226,883	11,071,539
TOTAL amount proposed to date in all special messages	554,258	11,071,539

Rescission Proposal No. R90-4

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 776,442,000 (P.L. 101-148 & 302)
BUREAU: Department of the Army	Other budgetary resources... 445,174,300
Appropriation title and symbol: Military Construction, Army 216/02050 219/32050 217/12050 210/42050 218/22050	Total budgetary resources... 1,221,616,300
	Amount proposed for rescission.....$ 155,745,000 *
OMB identification code: 21-2050-0-1-051	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual Sept. 30, 1990 Sept. 30, 1991 ☒ Multi-year Sept. 30, 1992 Sept. 30, 1993 (expiration date) ☐ No-Year Sept. 30, 1994	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: In light of changes in the world situation, the Department of Defense does not require as extensive an infrastructure as was anticipated when the budget was transmitted. Accordingly, the amount proposed for rescission has been identified as no longer required for construction purposes.

ESTIMATED PROGRAM EFFECT: The attached list identifies the projects that would be rescinded. No adverse effects are anticipated from this proposal.

OUTLAY EFFECT: (in thousands of dollars):

1990 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
*Account No. 216/02050 - $1,900,000							
62,007	61,399	608	741	323	95	76	13
*Account No. 217/12050 - $14,905,000							
70,486	65,716	4,770	5,813	2,534	745	596	104
*Account No. 218/22050 - $29,030,000							
225,896	216,606	9,290	11,322	4,935	1,452	1,161	203

Rescission Proposal No. R90-4

1990 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
*Account No. 219/32050 - $26,910,000							
490,859	482,248	8,611	10,495	4,575	1,346	1,076	188
*Account No. 210/42050 - $83,000,000							
262,163	235,603	26,560	32,370	14,110	4,150	3,320	581

Rescission Proposal R90-4

Attachment

MILITARY CONSTRUCTION ARMY LISTING OF
PROJECTS FOR WHICH FUNDING IS PROPOSED FOR RESCISSION
(in thousands of dollars)

PROJECT		Project Amount
FY 1986	Flight Simulator Bldg, Wiesbaden GE	50
FY 1986	Hardstand, Hanau GE	1,850
FY 1987	ADP Center, Rheinberg GE	150
FY 1987	Comm Center, Rheinberg GE	300
FY 1987	Unaccompanied Personnel Housing w/Dining, Rheinberg GE	6,205
FY 1987	Range Complex, Mannheim GE	2,450
FY 1987	Dining Facility, Giessen GE	2,100
FY 1987	Tactical Equipment Shop, Hanau GE	3,700
FY 1988	Child Development Center (CDC), Rheinberg GE	1,050
FY 1988	Maintenance Facility, Phase I, Rheinberg GE	5,430
FY 1988	CDC, Hainerburg GE	2,250
FY 1988	Tactical Shop, Vilseck GE	5,700
FY 1988	Operations Building Modification, Stuttgart GE	5,400
FY 1988	Training Exercise Facility, Kaiserslautern GE	5,900
FY 1988	Range Modification, Various Locations GE	2,000
FY 1988	Hardstand, Hanau GE	1,300
FY 1989	Barracks Modernization, Argyroupolis GR	660
FY 1989	Barracks Modernization, Perivolaki GR	660
FY 1989	IRETS Ranges, Erlangen GE	2,850
FY 1989	Aircraft Maintenance Hangar, Budingen GE	7,100
FY 1989	Industrial Operations Facility, Rheinberg GE	6,600
FY 1989	Physical Fitness Center, Rheinberg GE	5,800
FY 1989	Tactical Equip Shop, Wiesbaden GE	2,250
FY 1989	Child Care Center, Taegu KO	990
FY 1990	Aircraft Parking Apron Refueling Facility, Hanau GE	8,300
FY 1990	Helicopter Parking Apron, Hanau GE	6,500
FY 1990	Class I Warehouse Addition/Modernization, Hohenfels GE	3,550
FY 1990	Fuel Storage Facility, Hohenfels GE	1,800
FY 1990	Training Support Center, Hohenfels GE	1,450
FY 1990	Unaccompanied Personnel Housing, Hohenfels GE	3,150
FY 1990	Command Center Modernization, Stuttgart GE	9,400
FY 1990	Helicopter Parking Apron, Wuerzburg GE	7,900
FY 1990	Recreation Center, Location 276	1,950
FY 1990	Central District Center, Phase III, Red River TX	39,000

Rescission Proposal No. R90-5

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 1,129,300,000 (P.L. 101-148 & 302)
BUREAU: Department of the Navy	Other budgetary resources... 2,500,000
Appropriation title and symbol: Military Construction, Navy 170/41205	Total budgetary resources... 1,131,800,000
	Amount proposed for rescission.....$ 6,200,000 *
OMB identification code: 17-1205-0-1-051	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year Sept. 30, 1994 (expiration date) ☐ No-Year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: In light of changes in the world situation, the Department of Defense does not require as extensive an infrastructure as was anticipated when the budget was transmitted. Accordingly, the amount proposed for rescission has been identified as no longer required for construction purposes.

ESTIMATED PROGRAM EFFECT: Funding for the following projects would be rescinded:

Project	Amount (in thousands of dollars)
FY 1990 Mess Hall, Camp Covington, Guam	4,300
FY 1990 Child Development Center, Naval Station Rota, Spain	1,900

No adverse effects are anticipated from this proposal.

OUTLAY EFFECT: (in thousands of dollars):

1990 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
187,989	186,966	1,023	3,255	1,302	341	155	62

Rescission Proposal No. R90-6

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 1,192,796,000 (P.L. 101-148 & 302)
BUREAU: Department of the Air Force	Other budgetary resources. 396,667,639
Appropriation title and symbol: Military Construction, Air Force 579/33300 570/43300	Total budgetary resources.. 1,589,463,639
	Amount proposed for rescission.....$ 27,290,000 *
OMB identification code: 57-3300-0-1-051	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year Sept. 30, 1993 Sept. 30, 1994 (expiration date) ☐ No-Year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: In light of changes in the world situation, the Department of Defense does not require as extensive an infrastructure as was anticipated when the budget was transmitted. Accordingly, the amount proposed for rescission has been identified as no longer required for construction purposes.

ESTIMATED PROGRAM EFFECT: Funding for the following projects would be rescinded:

Project	Amount (in thousands of dollars)
FY 1989 Addition to Flight Simulator, Luke AFB AZ	1,900
FY 1989 Spec. Activity Facility, Andersen AFB Guam	2,800
FY 1989 Spec. Support Facility, Anderson AFB Guam	1,900
FY 1990 Antenna Support Structure, Hahn GE	2,500
FY 1990 Training/Software Maintenance Facility, Hahn GE	1,400
FY 1990 Combat Rep. Equipment Storage Facility, Spangdahlem, GE	1,250
FY 1990 Transient Dormitory, San Vito IT	2,750
FY 1990 Alteration, Munitions Storage Facility, Aviano IT	1,300
FY 1990 Munitions Storage Igloos, Aviano IT	950
FY 1990 Hydrant Fueling System, Lajes Field, Portugal	6,100
FY 1990 Addition to/Upgrade Fire Station, Benwaters UK	1,250
FY 1990 Alteration, Munitions Storage Facility, Bentwaters UK	2,450
FY 1990 F-15E Addition to/and Alteration Flight Simulator Facility - (Classified location.)	740

Rescission Proposal No. R90-6

No adverse effects are anticipated from this proposal.

OUTLAY EFFECT: (in thousands of dollars):

1990 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
*Account No. 579/33300 - $6,600,000							
497,509	496,420	1,089	2,607	1,716	660	330	132
*Account No. 570/43300 - $20,690,000							
199,418	196,005	3,413	8,172	5,379	2,069	1,034	413

Rescission Proposal No. R90-7

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 531,630,000 (P.L. 101-148 & 302)
BUREAU: Office of the Secretary of Defense	Other budgetary resources... 359,762,281
Appropriation title and symbol: Military Construction, Defense Agencies 979/30500 970/40500	Total budgetary resources... 891,392,281
	Amount proposed for rescission.....$ 68,119,000 *
OMB identification code: 97-0500-0-1-051	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year Sept. 30, 1993 Sept. 30, 1994 (expiration date) ☐ No-Year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: In light of changes in the world situation, the Department of Defense does not require as extensive an infrastructure as was anticipated when the budget was transmitted. Accordingly, the amount proposed for rescission has been identified as no longer required for construction purposes.

ESTIMATED PROGRAM EFFECT: Funding for the following projects would be rescinded.

Project	Amount (in thousands of dollars)
FY 1989 Composite Medical Facility, Hahn GE	16,569
FY 1989 2nd Echelon Medical Facility, Geilenkirchen GE	450
FY 1989 Elementary School, Geinhausen GE	1,482
FY 1989 Middle School, Giessen GE	2,197
FY 1989 High School, Giessen GE	5,430
FY 1989 Elementary and High School Additions, Aviano IT	9,450
FY 1990 Edwards Elementary School, Frankfurt GE	7,101
FY 1990 Elementary School Addition, Grafenwoehr GE	4,186
FY 1990 Elementary School Addition, Hohenfels GE	7,177
FY 1990 Middle/High School Addition, Hohenfels GE	9,902
FY 1990 Elementary School Addition, Upwood UK	4,175

No adverse effects are anticipated from this proposal.

Rescission Proposal No. R90-7

OUTLAY EFFECT: (in thousands of dollars):

1990 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
*Account No. 979/30500 - $35,578,000							
228,684	223,347	5,337	11,385	8,895	6,404	2,134	711
*Account No. 970/40500 - $32,541,000							
77,384	72,503	4,881	10,413	8,135	5,857	1,952	650

Rescission Proposal No. R90-8

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 78,982,000 (P.L. 101-148)
BUREAU: Department of the Army	Other budgetary resources... 108,443,699
Appropriation title and symbol: Family Housing, Army 218/20702 219/30702	Total budgetary resources... 187,425,699
	Amount proposed for rescission.....$ 12,664,000
OMB identification code: 21-0702-01-051	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year Sept. 30, 1992 Sept. 30, 1993 (expiration date) ☐ No-Year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: In light of changes in the world situation, the Department of Defense does not require as extensive an infrastructure as was anticipated when the budget was transmitted. Accordingly, the amount proposed for rescission has been identified as no longer required for construction purposes.

ESTIMATED PROGRAM EFFECT: Funding for the following construction projects would be rescinded:

Project	Amount (in thousands of dollars)
FY 1988 Improvements to Housing, Wiesbaden GE	4,264
FY 1989 New Construction (88 units), Hohenfels GE	8,400

No adverse effects are anticipated from this proposal.

OUTLAY EFFECT: (in thousands of dollars):

1990 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
*Account No. 218/20702 - $4,264,000							
117,245	116,648	597	1,279	1,450	597	235	94
*Account No. 219/30702 - $8,400,000							
64,651	63,475	1,176	2,520	2,856	1,176	462	185

Rescission Proposal No. R90-9

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 174,621,000 (P.L. 101-148)
BUREAU: Department of the Navy	Other budgetary resources... 1,736,107
Appropriation title and symbol: Family Housing, Navy 170/40703	Total budgetary resources... 176,357,107
	Amount proposed for rescission.....$ 11,037,000
OMB identification code: 17-0703-0-1-051	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year Sept. 30, 1994 (expiration date) ☐ No-Year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: In light of changes in the world situation, the Department of Defense does not require as extensive an infrastructure as was anticipated when the budget was transmitted. Accordingly, the amount proposed for rescission has been identified as no longer required for construction purposes.

ESTIMATED PROGRAM EFFECT: Funding for improvements at various construction locations would be rescinded. No adverse effects are anticipated from this proposal.

OUTLAY EFFECT: (in thousands of dollars):

1990 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
3,492	3,272	220	4,966	3,642	1,269	607	166

Rescission Proposal No. R90-10

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 163,549,000 (P.L. 101-148)
BUREAU: Department of the Air Force	Other budgetary resources... 28,873,576
Appropriation title and symbol: Family Housing, Air Force 578/20704 579/30704 570/40704	Total budgetary resources... 192,422,576
	Amount proposed for rescission.....$ 46,020,000 *
OMB identification code: 57-0704-0-1-051	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual Sept. 30, 1992 ☒ Multi-year Sept. 30, 1993 Sept. 30, 1994 (expiration date) ☐ No-Year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: In light of changes in the world situation, the Department of Defense does not require as extensive an infrastructure as was anticipated when the budget was transmitted. Accordingly, the amount proposed for rescission has been identified as no longer required for construction purposes.

ESTIMATED PROGRAM EFFECT: Funding for the following construction projects would be rescinded:

Project	Amount (in thousands of dollars)
FY 1988 Enlarge Storage/Ut, RAF Greenham Common UK	1,941
FY 1988 Install Fireplaces in SOQs, WPAFB OH	56
FY 1989 Improve SOQ, Andersen AFB Guam	167
FY 1990 Construction Improvements, Various Overseas Locations	43,856

No adverse effects are anticipated from this proposal.

OUTLAY EFFECT: (in thousands of dollars):

1990 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
*Account No. 578/20704 - $1,997,000							
23,639	23,379	260	879	359	300	120	40

Rescission Proposal No. R90-10

1990 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
*Account No. 579/30704 - $167,000							
82,086	82,064	22	73	30	25	10	3
*Account No. 570/40704 - $43,856,000							
26,009	20,308	5,701	19,297	7,894	6,578	2,631	877

Rescission Proposal No. R90-11

PROPOSED RESCISSION OF BUDGET AUTHORITY
Report Pursuant to Section 1012 of P.L. 93-344

AGENCY: Department of Defense	New budget authority..... $ 500,000 (P.L. 101-148)
BUREAU: Office of the Secretary of Defense	Other budgetary resources... 50,000
Appropriation title and symbol: Family Housing, Defense Agencies 970/40706	Total budgetary resources... 550,000
	Amount proposed for rescission.....$ 300,000
OMB identification code: 97-0706-0-1-051	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act ☐ Other _____
Grant program: ☐ Yes ☒ No	
Type of account or fund: ☐ Annual ☒ Multi-year Sept. 30, 1994 (expiration date) ☐ No-Year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other _____

JUSTIFICATION: In light of changes in the world situation, the Department of Defense does not require as extensive an infrastructure as was anticipated when the budget was transmitted. Accordingly, the amount proposed for rescission has been identified as no longer required for construction purposes.

ESTIMATED PROGRAM EFFECT: Funding for a classified construction project of the National Security Agency would be rescinded. No adverse effects are anticipated from this proposal.

OUTLAY EFFECT: (in thousands of dollars):

1990 Outlay Estimate		Outlay Savings					
Without Rescission	With Rescission	FY 1990	FY 1991	FY 1992	FY 1993	FY 1994	FY 1995
425	170	255	33	10	1	---	---

[FR Doc. 90-15723 Filed 7-5-90; 8:45 am]
BILLING CODE 3110-01-C

federal register

Friday
July 6, 1990

Part VII

Department of Labor

Employment and Training Administration
Wage and Hour Division

20 CFR Parts 621 and 655
29 CFR Part 504

Attestations by Facilities Temporarily Employing Nonimmigrant Aliens as Registered Nurses; Proposed Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Parts 621 and 655

RIN 1205-AA84

Wage and Hour Division

29 CFR Part 504

RIN 1215-AA55

Attestations by Facilities Temporarily Employing Nonimmigrant Aliens as Registered Nurses

AGENCIES: Employment and Training Administration and Wage and Hour Division, Employment Standards Administration, Labor.

ACTION: Proposed rule.

SUMMARY: The Employment and Training Administration (ETA) and the Employment Standards Administration (ESA) of the Department of Labor (DOL or Department) are proposing regulations governing the filing and enforcement of attestations by facilities seeking to employ aliens as registered nurses on a temporary basis under H-1A visas.

The attestations, required under the Immigration and Nationality Act, as amended by the Immigration Nursing Relief Act of 1989 (INRA), pertain to substantial disruption in the delivery of health care services, absence of adverse effect on wages and working conditions of similarly employed registered nurses, payment to aliens at wage rates paid to other registered nurses similarly employed by the facility, taking timely and significant steps designed to recruit and retain U.S. nurses in order to reduce dependence on nonimmigrant nurses, absence of a strike or lockout, and giving appropriate notice of filing.

Facilities are required to submit these attestations to DOL as a condition for being able to petition the Immigration and Naturalization Service (INS) for H-1A nurses. The attestation process will be administered by ETA, while investigations and complaints regarding the attestations will be handled by ESA.

DATES: Written comments on the proposed rule are invited from interested parties. Comments shall be received by July 23, 1990.

ADDRESSES: Send comments on 20 CFR parts 621 and 655, subpart D, and 29 CFR part 504, subpart D, to the Assistant Secretary for Employment and Training, Department of Labor, room N-4456, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Director, U.S. Employment Service.

Send comments on 20 CFR part 655, subpart E, and 29 CFR part 504, subpart E, to the Administrator, Wage and Hour Division, Employment Standards Administration, Department of Labor, room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210.

Written comments on the collection of information requirements also should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment and Training Administration, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: On 20 CFR parts 621 and 655, subpart D, and 29 CFR part 504, subpart D, contact Mr. Thomas M. Bruening, Chief, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N-4456, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-535-0163 (this is not a toll-free number).

On 20 CFR part 655, subpart E, and 29 CFR part 504, subpart E, contact Mr. Solomon Sugarman, Chief, Farm Labor Programs, Wage and Hour Division, Employment Standards Administration, Department of Labor, room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-523-7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Background
- A. Introduction.
- B. Attestation process.
- C. Complaints, investigations and enforcement.
- D. Advisory group.

II. Contents of regulations
- A. Section———.300 Purpose and scope.
- B. Section———.301 Overall process for utilizing H-1A nurses.
- C. Section ———.302 Definitions.
  1. "Date of filing"; and "Accepted for filing".
  2. "Board of Alien Labor Certification Appeals (BALCA)".
  3. "Employer"; "Nursing Contractor"; and "Facility".
  4. "Layoff".
  5. "Nurse".
  6. "Prevailing wage"; "Geographic area"; and "Similarly employed".
- D. Section ———.310 Employer attestations.
  1. General.
  2. Nursing contractors; and private households.
  3. Attestation elements.
     - a. Element I: substantial disruption
     - b. Element II: no adverse effect.
     - c. Element III: facility wage.
     - d. Element IV: timely and significant steps; or State plan
       - (1) Timely and significant steps.
         - (i) Significant Step I: operating and training program for nurses.
         - (ii) Significant Step II: facilitating health care workers to become nurses.
         - (iii) Significant Step III: paying wage higher than that in geographic area.
         - (iv) Significant Step IV: free nurses from non-nursing duties.
         - (v) Significant Step V: opportunities for salary advancement.
         - (vi) Other steps.
         - (vii) Alternative to criteria for each step.
       - (2) Subject to State plan.
     - e. Element V: no strike; lockout; or intent or design to influence bargaining representative election.
     - f. Element VI: notice of filing.
  4. Acceptance, rejection, and appeals.
  5. Efective date and validity of attestation.
- E. Section ———.315 State plan.
- F. Section ———.350 Public access.
- G. Section ———.400 Enforcement authority of Administrator, Wage and Hour Division.
- H. Section ———.405 Complaints and investigative procedures.
- I. Section ———.410 Civil money penalties and other remedies.
- J. Section ———.415 Written notice and service of Administrator's determination.
- K. Section ———.420 Request for hearing.
- L. Section ———.425 through xxx.440 Administrative law judge proceedings.
- M. Section ———..445 Secretary's review of administrative law judge decision.
- N. Section ———.450 Administrative record.
- O. Section ———.455 Non-applicability of the Equal Access to Justice Act.
- P. Technical and clarifying amendments.

I. Background

A. Introduction

The Immigration Nursing Relief Act of 1989 (INRA), Public Law 101-238, 103 Stat. 2099 (December 18, 1989), amended the Immigration and Nationality Act (INA) to add new sections 101(a)(15)(H)(i)(a) and 212(m) governing the admission to the United States of nonimmigrant aliens in employment as registered nurses (RNs) during a five-year "pilot" period. 8 U.S.C. 1101(a)(15)(H)(i)(a) and 1182(m).

Congress enacted this legislation based on its finding of a shortage of RNs in the United States. See, *e.g.*, H.R. Rep. No. 101-288, 101st Cong., 1st Sess. 1-4

(October 16, 1989). Due to this shortage, some hospitals have reportedly been forced to close beds or shut down entire wings. *Id.* at 2. Health facilities have been relying on nonimmigrant RNs admitted under H-1 visas to fill this need. However, the numbers of visas available for such aliens to adjust their immigration status to permanent residents have been limited. *Id.* at 2 and 3.

Many such RNs are facing the end of their periods of admission to the United States and face a return to their home countries. Of these, many H-1 RNs potentially affected by the INRA are thought to be employed in critical care and emergency service units. *Id.* at 2. The House Judiciary Committee found that departure of these H-1 RNs would have a detrimental impact on the care provided to critically ill patients. *Id.*

The INRA addresses this situation by permitting RNs who had H-1 status as of September 1, 1989, and who have been employed in the United States as RNs for at least three years to become permanent residents. Public Law 101-238, sec. 2, 8 U.S.C. 1255 note.

At the same time, Congress was concerned about the perceived increased dependence of health care providers on foreign RNs. As a result, INA, as amended by the INRA, links future employer access to temporary foreign nonimmigrant RNs to the taking of significant steps by the employer to develop, recruit and retain U.S. workers as employees in the registered nursing profession. 8 U.S.C. 1182(m). The regulations in this document effectuate that purpose.

B. Attestation Process

The INRA requires a health care employer seeking access to temporary foreign RNs (under the newly created H-1A visa category) to file an "attestation" with the Department of Labor (DOL or Department) on an annual basis. 8 U.S.C. 1101(a)(15)(H)(i)(a) and 1182(m)(2) (A) and (C). The prospective employer's attestation must assure that the following six statutory criteria are met:

(1) There would be a substantial disruption through no fault of the facility in the delivery of health care services of the facility without the services of such alien(s). A facility is not considered to meet this clause if, within the previous year, it laid off RNs.

(2) The employment of the alien(s) will not adversely affect the wages and working conditions of RNs similarly employed.

(3) The alien(s) will paid the wage rate for RNs similarly employed by the facility.

(4) Either:

(a) The facility has taken and is taking timely and significant steps designed to recruit and retain sufficient RNs who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant RNs, or

(b) The facility is subject to an approved State plan for the recruitment and retention of nurses (see 8 U.S.C. 1182(m)(3)).

(5) There is not a strike or lockout in the course of a labor dispute, and the employment of such alien(s) is not intended or designed to influence an election for a bargaining representative for RNs of the facility.

(6) At the time of the filing of the petition for RNs, notice of the filing has been provided by the facility to the bargaining representative of the RNs at the facility or, where there is none, notice of the filing has been provided to RNs employed at the facility through posting in conspicuous locations.

8 U.S.C. 1182(m)(2)(A) (i) through (vi).

Each of the following is a "significant step" reasonably designed to recruit and retain RNs (see Item (4)(a) above):

(i) Operating a training program for RNs at the facility or financing (or providing participation in) a training program for RNs elsewhere;

(ii) Providing career development program and other methods of facilitating health care workers to become RNs;

(iii) Paying RNs wages at a rate higher than currently being paid to RNs similarly employed in the geographic area;

(iv) Providing adequate support services to free RNs from administrative and other non-nursing duties;

(v) Providing reasonable opportunities for meaningful salary advancement by RNs.

8 U.S.C. 1182(m)(2)(B) (i) through (v); see 8 U.S.C. 1182(m)(2)(A)(iv)(I).

Items (i) through (v) above are not an exclusive list of significant steps that may be taken to meet the conditions, and a facility is not required to take more than one step if the facility can demonstrate that taking a second step is not reasonable. 8 U.S.C. 1182(m)(2)(B).

These employer attestations are to be available for public examination in the Employment and Training Administration (ETA) National Office in Washington, DC, 8 U.S.C. 1182(m)(2)(E)(i). The Department must also inform the Immigration and Naturalization Service (INS) whether such attestation is on file as a prerequisite for INS approving an employer's petition to bring in foreign RNs under H-1A visas (which visas are issued by the U.S. Department of State (DOS)). 8 U.S.C. 1101(a)(15)(H)(i)(a).

In summary, DOL's administrative functions under the INRA basically consist of receiving, reviewing, and accepting or rejecting for filing employer attestations; making these available for public inspection; and notifying INS of those attestations that DOL has on file. These administrative functions have been delegated to ETA.

C. Complaints, Investigations and Enforcement

The Department also is authorized to investigate allegations that an employer has failed to meet the conditions attested to or that a facility has misrepresented a material fact in an attestation. 8 U.S.C. 1182(m)(2)(E) (ii) through (v). DOL may impose administrative remedies, including civil money penalties (CMPs); shall notify the Attorney General, who shall not approve petitions for a period of at least one year for the facility; shall obtain back wages; and may impose other remedies. These activities constitute the Department's enforcement functions under the INRA. Under the regulations, the enforcement functions have been delegated to the Department's Employment Standards Administration (ESA), Wage and Hour Division.

D. Advisory Group

Finally, the INRA requires the Secretary of Labor (Secretary) to provide for the appointment, by January 1991, of an advisory group which will include representatives of DOL, the Department of Health and Human Services, the Attorney General, hospitals, and labor organizations representing RNs. Public Law 101-238, sec. 3(c)(2), 103 Stat. at 2103.

The INRA calls for this advisory group to advise the Secretary on:

(1) The impact of this legislation on the nursing shortage,

(2) Programs that health care facilities may implement to recruit and retain U.S. RNs,

(3) State recruitment and retention plans, and

(4) The advisability of extending the law beyond the current five-year duration of this pilot program.

The advisory group will be established and described in a future document to be published as a notice in the **Federal Register**.

II. Contents of Regulations

The following is a section-by-section summary of the primary components of the regulations. In particular, where one or more options were considered, these options are discussed briefly. Commenters are encouraged to comment, whether pro or con, on all options. Commenters are also invited to suggest additional options. This will provide the fullest possible administrative record as a basis for promulgating a final (or interim final) rule.

A. Section _____.300 Purpose and Scope

This section describes the overall purpose of the INRA, and delimits the scope of these regulations (subparts D and E).

B. Section _____.301 Overall Process for Utilizing H-1A Nurses

This section describes briefly the overall process a facility must follow in order to secure an H-1A nurse, including the roles of individual DOL components and the INS and DOS. This section is intended to provide health care facilities with an understanding of where these regulations (subparts D and E) fit within the overall H-1A visa process.

C. Section _____.302 Definitions

This section provides definitions for terms used in the regulations, including the following:

1. "Date of filing"; and "Accepted for filing"

The terms "Date of filing" and "accepted for filing" together determine the beginning date of the period for which an attestation will be valid. The INRA states that an attestation shall "expire at the end of the 1-year period beginning on the date of its filing with the Secretary of Labor." 8 U.S.C. 1182(m)(2)(C)(i). In order not to penalize a facility for the time it takes DOL to process the attestation, "date of filing" has been defined to be the date the attestation is accepted for filing by DOL after review.

2. "Board of Alien Labor Certification Appeals (BALCA)"

The "Board of Alien Labor Certification Appeals" has been designated as the entity within the Office of Administrative Law Judges to review appeals from attestation and annual State plan disapprovals and attestation approvals, because this mechanism has been found to be effective in achieving uniformity and consistency in reviewing appeals under the alien labor certification programs. See 20 CFR 655.112(a)(1), 656.26, 656.27, and 656.50.

3. "Employer"; "Nursing Contractor"; and "Facility"

The terms "employer," "nursing contractor," and "facility," taken together, identify the kinds of entities which are eligible to submit attestations for H-1A nurses under the INRA. Consideration was given to whether nursing contractors and private household employers were intended to be covered. The regulations permit all employers who were eligible to apply for H-1 nurses in full-time employment in the past to continue to be eligible to apply for H-1A nurses.

Specifically excluded are facilities which are not involved in the direct provision of health care services. Comments are invited on whether such facilities should be included.

4. "Layoff"

The term "layoff" is defined specifically to exclude a situation where a separated nurse is offered retraining and retention at the same facility in another activity but refuses. Occupations other than nursing are excluded from the no-layoff attestation.

5. "Nurse"

The term "nurse" includes all persons who are or will be authorized by a State Board of Nursing to practice as registered nurses.

6. "Prevailing wage"; "Geographic area"; and "Similarly employed"

The terms "prevailing wage," "geographic area," and "similarly employed" define the wage which must be paid in order to prevent adverse effect on the wages of registered nurses similarly employed (see the second attestation element). Consideration was given to whether a single rate for nurses in an area should be the standard or whether a series of rates, recognizing various factors as legitimate bases for differentials, should be permitted. These definitions permit a series of rates, with various bases for differentials permitted at the discretion of the State Employment Security Agency (SESA) conducting the survey.

D. Section _____.310 Employer attestations

1. General

This section describes the basic process for submitting an attestation and prescribes what should be submitted. In developing the requirements for attestation, DOL is cognizant of Congressional intent that the process not be unduly burdensome to employers and not involve lengthy processing by DOL. DOL also recognizes the need to establish criteria which meet the statutory terms regarding " 'substantial' disruption", "significant" steps, and the like, indicating that Congress intended this to be more than a paper exercise. In addition, DOL is very cognizant of the need to have criteria and standards in the process which could serve as a basis for complaints and subsequent investigation by DOL. The criteria strike an appropriate balance of these several considerations.

2. Nursing Contractors; and Private Households

For an employer which is a nursing contractor, the attestation must include an additional special element. The nursing contractor must attest that it will refer H-1A nurses to perform nursing services only at worksite facilities which themselves have valid attestations on file with ETA/DOL. The nursing contractor will keep in its file for inspection a copy of the worksite facility's attestation, on Form ETA 9029, accepted for filing by ETA (the supporting documentation for the worksite facility's attestation need not be retained by the nursing contractor in its files; that documentation will be retained by the worksite facility and by ETA for inspection). While this special element imposes additional responsibilities on nursing contractors, it is a necessary responsibility, to ensure that the intent of the INRA is carried out. An alternative would be to exclude nursing contractors entirely from access to H-1A nurses.

For an employer which is a private household, the regulations make a presumption that certain of the attestation elements are inapplicable. Thus, the documentation requirements for those elements are not made applicable to such employers, with the exception of the prevailing wage requirement in Element Two and the taking of timely and significant steps in Element Four.

3. Attestation Elements

The attestation filed by a health care facility contains six elements.

a. *Element I: substantial disruption.* Two alternative measures, in addition to the no-layoff requirement, are in the regulations. The first relates to the vacancy rate for nurses; the second to unutilized beds at a facility. These are intended as simple, objective proxy measures indicating substantial disruption, which should be suitable for most institutions using H-1A nurses. However, it is also recognized there may be situations where these measures are not appropriate. The regulations provide an alternate approach in these instances, but do require that the facility explain why the two primary measures are not appropriate for that facility.

b. *Element II: no adverse effect.* In proscribing "adverse effect" on nurses similarly employed, the INRA uses language used in the alien labor certification process for many years. With respect to wages, this has been

interpreted in this document as requiring at least the prevailing wage in the geographic area. The phrase "not adversely affect the wages" is a well-established legal term of art that has been used for decades in alien labor certification programs, with a very specific meaning of at least the area prevailing wage for the occupation. See, *e.g.*, 8 U.S.C. 1182(a)(14) and 1186; 8 CFR 214.2(h); and 20 CFR 656.40. Presumably Congress was aware of this meaning in incorporating this language in the INRA. Nevertheless, there may be some confusion on this issue, related to the Senate amendment which specifically struck the word "prevailing" from the facility wage requirement, which is the third element to which the facility must attest. However, that third element, which relates to the going rate for the occupation at the facility is not meant to clarify what is meant by the phrase "not adversely affect the wages" in the second attestation element. The construction of the legislation supports this interpretation by DOL. This use of a prevailing wage standard is specific to this program, in light of the statutory language ("not adversely affect the wages"), and does not mandate the application of such a standard under future legislation.

Commenters are invited to provide information on the potential impact on wages and health care costs which may result from this area prevailing wage requirement.

The facility may not know, at the time it submits the attestation, the number of H-1A nurses for whom it will submit visa petitions during the year, or in what specific jobs (*e.g.*, specialties or shifts) such nurses will be employed. For that reason, the regulations provide that the facility submit documentation summarizing its entire pay and other compensation package for nurses employed by it in categories of positions for which H-1A nurses are being or will be hired or promoted into and positions for which H-1 or H-1A nurses have been promoted into. Categories of positions not covered by the submitted documentation are not covered by the attestation and, therefore, H-1A nurses may not occupy those positions.

Regarding working conditions, the regulations apply an adverse effect standard on a facility basis, due to the administrative infeasibility of making prevailing practice determinations on an area-wide basis at this time.

c. *Element III: facility wage.* Facilities would be required to submit a summary of their pay schedule for nurses, including a brief explanation of the factors accounting for differentials. This is needed to serve as a basis for comparison with the wages paid any H-1A nurses. The summary must cover all categories of positions in which H-1A nurses are or will be hired or promoted into. Categories of positions not covered by the submitted documentation are not covered by the attestation and, therefore, H-1A nurses may not occupy those positions.

d. *Element IV: timely and significant steps; or State plan*—(1) *Timely and significant steps.* The objective of these timely and significant steps, as stated in the INRA, is to "remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses." 8 U.S.C. 1182(m)(2)(A)(iv)(I). The criteria have been developed with this objective in mind; they also attempt to meet the statutory requirement that the steps be both "timely" and "significant." This is interpreted to mean that such steps should represent efforts which go beyond the normal practices for the industry.

Where possible, both qualitative and quantitative criteria are established for these steps. A facility is required to take at least two of these steps, unless the facility can demonstrate that taking a second step is unreasonable.

The regulations specify how a facility which claims that taking a second step is not reasonable shall make the required showing. The taking of a second step may be considered unreasonable, if it would result in the facility's financial inability to continue providing the same quality and quantity of health care or if the provision of nursing services would otherwise be jeopardized by the taking of such a step. An alternative definition considered, on which public comment is invited, is a showing that the costs of an additional step would outweigh the benefits.

The regulations describe each of the five steps specified in the legislation and several additional steps which might be considered as alternatives. The legislation specifically states that the statutory list is not intended to be all-inclusive. An alternative to meeting the specific criteria for the steps also is provided for facilities which meet certain goals for reducing their reliance on temporary foreign nurses. This alternative may be characterized as a results-driven approach, which could apply to the second and subsequent years a facility submits attestations for filing.

(i) *Significant step I: operating a training program for nurses.* The regulations interpret this as applying to training programs for persons who are already RNs, rather than for persons to become RNs, although consideration was given to the latter interpretation as well. The latter is provided for in the second significant step, for those who are U.S. health care workers and want to become registered nurses, and in the "other" significant steps for other U.S. workers who want to become registered nurses.

The training of RNs may be continuing education endeavors that are approved by a professional association/organization, a State-approved institution of higher learning, or a State Board of Nursing. The training of RNs also may be courses which lead to an academic degree in nursing and which are accredited by the appropriate State authority.

Regarding the number of U.S. nurses who should participate in such training, since the presumed objective of this step is to retain U.S. nurses, the number is in relation to those leaving during the past year. The statutory requirement that the facility "provide" or "finance" such training is interpreted to mean covering the total cost of such training.

(ii) *Significant step II: facilitating health care workers to become nurses.* The regulations include programs which lead both directly and indirectly to becoming an RN, and are limited to U.S. workers who are working or have worked in health care occupations. Since the presumed objective of this step is to recruit U.S. workers as nurses, the number required to participate is related to the number of vacancies at the facility.

(iii) *Significant step III: paying wage higher than that in geographic area.* The regulations set this standard at five percent above the prevailing wage. This is thought to be a "significant" differential, but not an unreasonable one.

(iv) *Significant step IV: free nurses from non-nursing duties.* The regulations call for non-nursing duties to be excluded from nurses' duties at a facility, except under extraordinary circumstances.

Alternative standards considered include establishing a ratio of support staff to nurses. However, there could be legitimately wide variations in such ratios between different types of institutions. Another alternative considered was to establish a percent limit on the proportion of nurses' time which could be spent on non-nursing duties. However, this would appear to sanction performance by nurses of non-nursing duties.

(v) *Significant step V: opportunities for salary advancement.* This step addresses the problem that nurses' starting wages are reasonably adequate and some salary advancement in the

first few years generally occurs, but thereafter a salary plateau is reached, which creates a disincentive for nurses to remain in the field. The standard calls for continuing increases over a ten-year period.

(vi) *Other steps.* The regulations provide examples of other steps which could be taken under the statute. However, commenters are invited to suggest other possible steps of comparable timeliness and significance.

(vii) *Alternative to criteria for each step.* This alternative is designed to permit facilities to achieve the objective of the INRA, without subjecting them to detailed requirements as to the specific means of achieving that objective. It is not applicable in the first year a facility submits an attestation for filing, but is an alternative in the second and subsequent years, provided certain goals for reducing reliance on temporary foreign nurses are achieved.

(2) *Subject to State plan.* As an alternative to attesting to and documenting the timely and significant steps described above, the facility may attest that it is subject to an approved State plan. The State plan is described in the discussion of §_____.315 below.

e. *Element V: no strike; lockout; or intent or design to influence bargaining representative election.* The regulations make this provision apply only to nurses. While the legislation speaks to the absence of a strike or lockout at the time the attestation is submitted, the regulations also require that the facility notify DOL should a strike or lockout occur during the time the attestation is in effect. This will permit DOL to certify such strike or lockout to INS, which may result in INS discontinuing H-1A visa petition approvals, under the INS regulations. See 8 CFR 214.2(h)(16), 55 FR 2606 (January 26, 1990). This approach is consistent with the INRA.

f. *Element VI: notice of filing.* While the INRA calls for notice of filing when the visa petition is filed, the regulations also require such notice when the attestation is submitted. This approach is consistent with the intent of Congress that all aspects of the process be open to public review. This is also necessitated to facilitate the complaint and investigation process called for in the INRA.

4. *Acceptance, Rejection, and Appeals*

While not specifically stated in the INRA, it is DOL's contemporaneous interpretation of the INRA that Congress clearly intended DOL to review and to accept or reject the attestations. This is a logical derivative of the complaint and enforcement requirements of the INRA, which imply criteria and standards for the attestations, necessitating a review and acceptance/rejection process. The regulations provide appeal rights to the Board of Alien Labor Certification Appeals (BALCA) in the DOL Office of Administrative Law Judges for both parties affected by the acceptance/rejection decision—the facilities and workers.

5. Effective Date and Validity of Attestation

The regulations make the attestation effective as of the date it is accepted for filing by DOL. The attestation may be suspended, for purposes of securing additional H-1A nurses:

(1) Where the Wage and Hour Division, ESA, determines that a violation has been committed and no timely request for a hearing is filed;

(2) Where an administrative law judge, after a hearing, finds that a violation has been committed; or

(3) Where an administrative law judge finds no violation, but the Secretary, on a discretionary review, determines that a violation has been committed.

Such suspension, however, does not relieve the facility from having to continue to comply with the attestation during the remainder of the attestation's one-year period, where the facility has one or more H-1 or H-1A nurse-employees. Further, the facility shall comply with the terms of the attestation, even if suspended, invalidated, or expired, as long as H-1A nurses admitted under the attestation are employed by the facility, unless the attestation is superseded by a subsequent attestation accepted for filing by ETA. The regulations state that the suspension will be for a period of at least one year. The INRA, by using the term "at least one year", permits the suspension of a facility for a period longer than one year; commenters are invited to suggest criteria by which such longer suspension could be imposed. No new attestation will be accepted by ETA from a facility that fails to pay civil money penalties and/or fails to satisfy a remedy assessed by the Wage and Hour Administrator, where that penalty or remedy assessment has become the final agency action.

E. Section _____.315 State Plan

This section describes the process for submitting the State plan, the contents of the plan, and the approval/disapproval and appeal processes.

The State plan is clearly intended to be broader in scope and coverage than the attestations of individual health care facilities. Therefore, the regulations require that all of the timely and significant steps specifically mentioned in the INRA be addressed in the State plan. See 8 U.S.C. 1182(m)(2)(b) (i) through (v). However, this does not change the more limited requirements for individual facilities covered by the State plan.

In addition, States are encouraged to develop and pursue efforts which go well beyond the steps specified in the INRA. The INRA clearly requires that where an individual facility is covered by a State plan, the specific criteria required for each step which might be chosen for that facility shall be addressed, just as if an individual facility attestation were being submitted.

The State may appeal to the BALCA from ETA/DOL's disapproval of a State plan. Further appeal of a BALCA decision on a State plan may be made by the Director of the U.S. Employment Service or by the State to the Secretary, whose consideration of the appeal is discretionary.

F. Section _____.350 Public Access

This section describes the specific documents which shall be available for public review in the National Office of the Employment and Training Administration in Washington, DC. The regulations require that all documents pertaining to the process of applying for H-1A nurses by a facility be available to the public.

G. Section _____.400 Enforcement Authority of Administrator, Wage and Hour Division

This section describes the scope of the investigative authority of the Administrator of the ESA Wage and Hour Division (Administrator), through which appropriate investigations are conducted. The Administrator may enter and inspect places and records (and make transcriptions thereof), question persons, and gather information as deemed necessary by the Administrator to determine compliance regarding the matters to which a health care facility has attested under 8 U.S.C 1182(m) and these regulations (subparts D and E).

In order to assure effective enforcement, this section states the Administrator's intention to maintain confidentiality for complainants requesting it; prohibits interference in the investigation and discrimination against any person cooperating in an investigation or exercising that person's rights under 8 U.S.C. 1182(m); and prohibits waivers of rights under the 8 U.S.C. 1182(m).

H. Section _____405 Complaints and Investigative Procedures

This section states that, within 180 days of the receipt of a complaint sufficient to warrant an investigation, the Administrator will conduct an investigation and issue a written determination stating whether there is a basis to make a finding that the facility misrepresented a material fact, or failed to meet a condition in its attestation, or otherwise violated 8 U.S.C. 1182(m) or these regulations (subparts D and E). Where the Administrator determines that an investigation is not warranted, the complainant shall be so notified and may submit a new complaint with such additional information as may be necessary.

I. Section _____410 Civil Money Penalties and Other Remedies

Under this section, the Administrator may assess a civil money penalty up to $1,000 for each affected person with respect to whom there has been a violation and with respect to each instance in which such violation occurred. See 8 U.S.C. 1182(m)(2)(E)(iv). The assessment will be based on numerous relevant factors; an indicative list is presented in this section. The Administrator may also assess remedies, such as payment of back wages. All penalties and remedies shall be promptly paid or performed when the agency action becomes final. A facility that fails to comply with any penalty or remedy will be ineligible to participate in the H-1A program through any future attestation, until the penalty or remedy is satisfied.

J. Section _____415 Written Notice and Service of Administrator's Determination

This section provides that the Administrator's decision shall set out the determination as to violations, penalties, and remedies, and shall be served on all interested parties. Further, the decision shall inform the interested parties that they may request an administrative law judge hearing through the prescribed proceeding. Finally, the notice shall inform the interested parties that the Administrator shall notify ETA and INS of such violation, in the event that:

(1) A violation has been found and no timely request for a hearing is made;

(2) A hearing is requested and the administrative law judge finds a violation has been committed; or

(3) The administrative law judge finds no violation, but the Secretary, on discretionary review, determines that a violation has been committed.

Upon receipt of the Administrator's notice, ETA shall suspend the violator's attestation and notify INS, which agency is required to deny all H-1A visa petitions from the violator for a period of at least one year.

K. Section _____420 Request for Hearing

This section sets out the procedure and deadline by which an administrative law judge hearing may be requested. Any interested party may request a hearing. If the Administrator found no violation and the complainant or other interested party requests a hearing, the requestor shall be the prosecuting party, the facility shall be the respondent, and the Administrator shall have the option to participate as an intervenor or *amicus curiae*. If the Administrator found a violation and the facility or other interested party requests a hearing, the Administrator shall be the prosecuting party and the facility shall be the respondent.

L. Section _____425 through _____440 Administrative Law Judge Proceedings

These sections specify the procedural and evidentiary rules, the methods of service of documents, the rules for computation of time, and the deadlines for the administrative law judge hearing and decision.

M. Section _____445 Secretary's Review of Administrative Law Judge Decision

This section provides for discretionary review by the Secretary, at the request of the Administrator or an interested party. The deadlines and procedures for the review are prescribed.

N. Section _____450 Administrative Record

This section provides that the DOL Chief Administrative Law Judge maintain custody of the official record of the administrative proceedings and, in the event of a U.S. District Court action, certify and file that record with the clerk of the court.

O. Section _____455 Non-applicability of the Equal Access to Justice Act

This section provides that attorney fees and costs under the Equal Access to Justice Act are not available in proceedings under this rule.

P. Technical and Clarifying Amendments

Other technical and clarifying amendments also are made, primarily by redesignating the temporary alien nonagricultural/nonlogging labor certification (H-2B) regulations from 20 CFR part 621 to 20 CFR part 655, subpart A.

Regulatory Impact

The rule does not have the financial or other impact to make it a major rule and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order 12291, 3 CFR, 1981 Comp., page 127, 5 U.S.C. 601 note.

The Department of Labor has notified the Chief Counsel for advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the rule does not have a significant economic impact on a substantial number of small entities.

Nevertheless, interested parties are requested to submit, as part of their comments on this rule, information on the potential economic impact of the rule.

Paperwork Reduction Act

The information collection requirements contained in the rule have been submitted to the Office of Management and Budget for clearance under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

ETA estimates that approximately 1,000 facilities per year will be submitting attestations. The public reporting burden for this collection of information is estimated to average 2-4 hours per response, including the time for reviewing instructions, searching existing information/data sources, gathering and maintaining the information/data needed, and completing and reviewing the attestation. It is likely that the burden will be considerably less in the second and subsequent years in which a facility submits an attestation.

ETA estimates that approximately 10 facilities per year will be submitting notices of strikes or lockouts. The public reporting burden for this collection of information is estimated to average less than 1 hour per response, including the time for reviewing instructions, searching existing information/data sources, gathering and maintaining the information/data needed, and completing and reviewing the notice of strike or lockout.

ETA estimates that approximately less than 10 States per year will be

submitting annual State plans. Fewer than that number of States currently have a significant number of H-1 nurses working at facilities in the State. The public reporting burden for this collection of information is estimated to average less than 40 hours per response, including the time for reviewing instructions, searching existing information/data sources, gathering and maintaining the information/data needed, and completing and reviewing the annual State plan.

Written comments on the collection of information requirements should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment and Training Administration, Washington, DC 20503.

Catalog of Federal Domestic Assistance Number

This program is not yet listed in the Catalog of Federal Domestic Assistance.

List of Subjects

20 CFR Part 621

Administrative practice and procedure, Aliens, Employment, Guam, Labor, Wages.

20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Employment, Enforcement, Forest and forest products, Guam, Health professions, Immigration, Labor, Migrant labor, Nurses, Penalties, Registered nurse, Reporting and recordkeeping requirements, Wages.

29 CFR Part 504

Administrative practice and procedure, Aliens, Employment, Enforcement, Health professions, Immigration, Labor, Nurses, Penalties, Registered nurse, Reporting and recordkeeping requirements, Wages.

Accordingly, it is proposed that chapter V of title 20, Code of Federal Regulations, be amended as follows:

PART 655—[AMENDED]

1. The authority citation for part 655 is revised to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(H) and 1184; 29 U.S.C. 49 *et seq.*; §§ 655.0, 655.00, and 655.000 also issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1188, and 8 CFR 214.2(h)(4)(i); subparts A and C also issued under 8 CFR 214.2(h)(4)(i); subpart B also issued under 8 U.S.C. 1188; subparts D and E also issued under 8 U.S.C. 1101(a)(15)(H)(i)(a) and 1182(m) and Pub. L. 101-238, sec. 3(c)(1), 103 Stat. 2099, 2103.

PART 655—TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

2. The heading for part 655 is revised to read as set forth above.

Subpart A—Labor Certification Process for Temporary Employment in Occupations Other Than Agriculture, Logging, or Registered Nursing in the United States (H-2B Workers)

3. The heading for subpart A of part 655 is revised to read as set forth above.

§ 655.1 [Removed]

4. Section 655.1 of part 655 is removed.

§§ 621.1, 621.2, 621.3 [Redesignated as §§ 655.1, 655.2, 655.3]

PART 621—[REMOVED AND RESERVED]

5. Sections 621.1, 621.2, and 621.3 of part 621 are redesignated as §§ 655.1, 655.2, and 655.3 of subpart A of part 655, respectively; and the remainder of part 621 is removed and reserved.

PART 655—[AMENDED]

6. Newly designated § 655.1 is revised to read as follows:

§ 655.1 Scope and purpose of subpart A.

This subpart sets forth the procedures governing the labor certification process for the temporary employment of nonimmigrant aliens in the United States in occupations other than agriculture, logging, or registered nursing.

§ 655.2 [Amended]

7. Newly designated § 655.2 is amended by removing the phrase "(Form ETA-575-B) for certification for temporary nonagricultural foreign labor" and by adding in lieu thereof the phrase "for certification of temporary employment of nonimmigrant aliens".

§ 655.3 [Amended]

8. Newly designated § 655.3 is amended as follows:

a. In paragraph (a), the acronym "RAETA" is removed and the phrase "Regional Administrator, Employment and Training Administration," is added in lieu thereof; and the word "he" is removed and the phrase "he or she" added in lieu thereof;

b. In paragraph (b), the phrase "parts 655 and 604 of this chapter" is removed and the phrase "part 652 of this chapter and subparts B and C of this part" is inserted in lieu thereof;

c. In paragraph (c), the words "RAETA", "he", and "him" are removed and the phrases "Regional Administrator, Employment and Training Administration,", "he or she", and "him or her" added in lieu thereof, respectively;

d. In paragraph (d), the phrase "his petition Form I-129B," is removed and the phrase "its visa petition," is added in lieu thereof.

9. Section 655.0 is amended as follows:

a. In paragraph (a), (1) and (2) are redesignated as (i) and (ii);

b. Paragraph (a) is redesignated as paragraph (a)(1);

c. Paragraph (b), including the concluding text, is redesignated as paragraph (a)(2);

d. A heading is added for paragraph (a), reading "*subparts A, B, and C.*";

e. The heading for newly designated (a)(1) continues to read "*General.*";

f. In paragraph (a), the phrase "This part sets" is removed from the first sentence and the phrase "subparts A, B, and C of this part set" is added in lieu thereof;

g. A new paragraph (b) is added, to read as follows:

§ 655.0 Scope and purpose of part.

* * * * *

(b) *Subparts D and E.* Subparts D and E of this part set forth the process by which health care facilities can file attestations with the Department of Labor for the purpose of employing nonimmigrant registered nurses under H-1A visas.

* * * * *

§ 655.00 [Amended]

10. Section 655.00 is amended as follows:

a. The section heading is revised to read as follows:

"§ 655.00 Authority of the Regional Administrator Under Subparts A, B, and C."

b. The first sentence in § 655.00 is amended by adding between the words "determinations" and "are" the phrase "under subparts A, B, and C of this part".

§ 655.000 [Amended]

11. Section 655.000 is amended as follows:

a. In the first sentence, the phrase

"and part 621 of this chapter do" is removed and the word "does" is added in lieu thereof;

b. In the first sentence, the period at the end of the sentence is removed and added in lieu thereof are the words ", and with respect to temporary employment of nonimmigrant alien (H-1A) registered nurses under subpart D of this part."

12. Part 655 is amended by adding new subparts D and E, as set forth at the end of this document.

Subpart D—Attestations by Facilities Temporarily Employing Aliens As Registered Nurses

Sec.
655.300 Purpose and scope of subparts D and E.
655.301 Overview of process.
655.302 Definitions.
655.310 Employer attestations.
655.315 State plans.
655.320 Appeals of acceptance and rejection of attestations submitted for filing and of State plans.
655.350 Public access.

Subpart E—Enforcement of Attestations by Facilities Temporarily Employing Aliens As Registered Nurses

655.400 Enforcement authority of Administrator, Wage and Hour Division.
655.405 Complaints and investigative procedures.
655.410 Civil money penalties and other remedies.
655.415 Written notice and service of Administrator's determination.
655.420 Request for hearing.
655.425 Rules of practice for administrative law judge proceedings.
655.430 Service and computation of time.
655.435 Administrative law judge proceedings.
655.440 Decision and order of administrative law judge.
655.445 Secretary's review of administrative law judge's decision.
655.450 Administrative record.
655.455 Non-applicability of the Equal Access to Justice Act.

Authority: 8 U.S.C. 1101(a)(15)(H) and 1184; 29 U.S.C. 49 *et seq.*; §§ 655.0, 655.00, and 655.000 also issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1188, and 8 CFR 214.2(h)(4)(i); subparts A and C also issued under 8 CFR 214.2(h)(4)(i); subpart B also issued under 8 U.S.C. 1188; subparts D and E also issued under 8 U.S.C. 1101(a)(15)(H)(i)(a) and 1182(m) and Pub. L. 101-238, sec. 3(c)(1), 103 Stat. 2099, 2103.

Signed at Washington, DC, this 2nd day of July, 1990.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

William C. Brooks,

Assistant Secretary for Employment Standards.

Elizabeth Dole,

Secretary of Labor.

DEPARTMENT OF LABOR

Wage and Hour Division

Accordingly, it is proposed that title 29, Code of Federal Regulations, be amended as follows:

1. A new part 504 is added, with a heading reading as follows:

PART 504—ATTESTATIONS BY FACILITIES TEMPORARILY EMPLOYING ALIENS AS REGISTERED NURSES

Subparts A, B, and C [Added and Reserved]

2. Part 504 is amended by adding and reserving subparts A, B, and C.

3. Part 504 is amended by adding subparts D and E, as set forth at the end of this document.

Subpart D—Attestations by Facilities Temporarily Employing Aliens As Registered Nurses

Sec.
504.300 Purpose and scope of subparts D and E.
504.301 Overview of process.
504.302 Definitions.
504.310 Employer attestations.
504.315 State plans.
504.320 Appeals of acceptance and rejection of attestations submitted for filing and of State plans.
504.350 Public access.

Subpart E—Enforcement of Attestations by Facilities Temporarily Employing Aliens As Registered Nurses

504.400 Enforcement authority of Administrator, Wage and Hour Division.
504.405 Complaints and investigative procedures.
504.410 Civil money penalties and other remedies.
504.415 Written notice and service of Administrator's determination.
504.420 Request for hearing.
504.425 Rules of practice for administrative law judge proceedings.
504.430 Service and computation of time.
504.435 Adminstrative law judge proceedings.
504.440 Decision and order of administrative law judge.
504.445 Secretary's review of administrative law judge's decision.
504.450 Administrative record.
504.455 Non-applicability of the Equal Access to Justice Act.

Authority: 8 U.S.C. 1101(a)(15)(H)(i)(a) and 1182(m) and Pub. L. 101-238, sec. 3(c)(1), 103 Stat. 2099, 2103.

Signed at Washington, DC, this 2nd day of July, 1990.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

William C. Brooks,

Assistant Secretary for Employment Standards.

Elizabeth Dole,

Secretary of Labor.

Text of Proposed Joint Rule

The text of the proposed joint rule as adopted by ETA and ESA in this document appears below:

Subpart D—Attestations by Facilities Temporarily Employing Aliens As Registered Nurses

Sec.
_____.300 Purpose and scope of subparts D and E.
_____.301 Overview of process.
_____.302 Definitions.
_____.310 Employer attestations.
_____.315 State plans.
_____.320 Appeals of acceptance and rejection of attestations submitted for filing and of State plans.
_____.350 Public access.

Subpart E—Enforcement of Attestations by Facilities Temporarily Employing Aliens As Registered Nurses

_____.400 Enforcement authority of Administrator, Wage and Hour Division.
_____.405 Complaints and investigative procedures.
_____.410 Civil money penalties and other remedies.
_____.415 Written notice and service of Administrator's determination.
_____.420 Request for hearing.
_____.425 Rules of practice for administrative law judge proceedings.
_____.430 Service and computation of time.
_____.435 Adminstrative law judge proceedings.
_____.440 Decision and order of administrative law judge.
_____.445 Secretary's review of administrative law judge's decision.
_____.450 Administrative record.
_____.455 Non-appliacability of the Equal Access to Justice Act.

Subpart D—Attestations by Facilities Temporarily Employing Aliens as Registered Nurses

§ _____.300 Purpose and scope of subparts D and E.

(a) *Purpose.* The Immigration Nursing Relief Act of 1989 (INRA) was enacted to provide relief for the nursing shortage crisis. Subpart D of this part sets forth the procedure by which health care facilities seeking to employ nonimmigrant registered nurses may submit attestations to the Department of Labor on their attempts to recruit and

retain United States workers as registered nurses and certain information on wages and working conditions for nurses at the facility. Subpart E of this part sets forth complaint, investigation, and penalty provisions with respect to such attestations.

(b) *Procedure.* The INRA establishes a procedure for health care facilities to follow in seeking admission to the United States for nonimmigrant nurses under H-1A visas, beginning on September 1, 1990. The procedure is designed to reduce reliance on foreign nurses in the future, and calls for the health care facility to attest, and be able to demonstrate, that, *e.g.*, there would be substantial disruption to health services without the nonimmigrant nurses and that it is taking timely and significant steps to develop, recruit, and retain U.S. nurses. Subparts D and E of this part set forth the specific requirements for those procedures.

(c) *Applicability.* Subparts D and E of this part apply to all facilities that seek the temporary admission of nonimmigrants to employ them as registered nurses.

§ _____.301 Overview of process.

This section provides a context for the attestation process, to facilitate understanding by the health care facilities that may seek alien nurses under H-1A visas.

(a) *Federal agencies' responsibilities.* The United States Department of Labor (DOL), Department of Justice, Department of State, and Department of Health and Human Services are involved in the H-1A visa process. Within DOL, the Employment and Training Administration (ETA) and the Employment Standards Administration (ESA) have responsibility for different aspects of the process.

(b) *Health care facility's attestation responsibilities.* Each health care facility seeking to employ one or more H-1A nurses shall, as the first step, submit an attestation on *Form ETA 9020*, as described in § _____.310 of this subpart, to the national office of the Employment and Training Administration (ETA) of DOL at the address set forth at § _____.310(b) of this subpart. If the attestation is found to meet the requirements set forth at § _____.310 (a) through (j) of this subpart, ETA shall accept the attestation for filing, shall return the cover form of the accepted attestation to the health care facility, and, at the same time, shall notify the Immigration and Naturalization Service (INS) of the Department of Justice of the filing.

(c) *Visa petitions and supporting letters.* Upon ETA's acceptance of the filing, the health care facility may then file, with INS, H-1A visa petitions and supporting letters which accompany applications for extensions of stays filed by H-1A nurses, attaching a copy of the accepted attestation form (*Form ETA 9020*). At the same time that the facility files any such visa petition or supporting letter with INS, it shall also send a copy of that visa petition or supporting letter to the ETA national office, at the address set forth at § _____.310(b) of this subpart.

(d) *Visa issuance.* The usual visa issuance process, including the Department of State role, shall then be followed. INS shall assure that the aliens possess the required qualifications and credentials to be employed as nurses (see 8 U.S.C. 1182(m)(1)).

(e) *Administrative-judicial review of attestations accepted and not accepted for filing.* If the attestation is not accepted by ETA for filing, the health care facility may request administrative-judicial review by the DOL Board of Alien Labor Certification Appeals (BALCA). If the attestation is accepted by ETA for filing, any interested party may request administrative-judicial review by BALCA.

(f) *Complaints.* Complaints concerning misrepresentation in the attestation or failure of the health care facility to carry out the terms of the attestation may be filed with the Wage and Hour Division (Division), Employment Standards Administration (ESA) of DOL, according to the procedures set forth in subpart E of this part. The Division shall then investigate, and, where appropriate, after an opportunity for a hearing, assess sanctions and penalties. Subpart E of this part also provides that interested parties may obtain an administrative law judge hearing and may seek the Secretary's review of the administrative law judge's decision.

§ _____.302 Definitions.

For the purposes of subparts D and E of this part:

Accepted for filing means that the attestation and supporting documentation submitted by the health care facility have been reviewed by the Employment and Training Administration of the Department of Labor (DOL) and have been found to be in compliance with the attestation requirements in § _____.310 of this part.

Act and *INA* mean the Immigration and Nationality Act, as amended, 8 U.S.C. 1101 *et seq.*

Administrative law judge means an official appointed pursuant to 5 U.S.C. 3105.

Administrator means the Administrator of the Wage and Hour Division, Employment Standards Administration, Department of Labor, and such authorized representatives as may be designated to preform any of the functions of the Administrator under subparts D and E of this part.

Attorney General means the chief official of the U.S. Department of Justice or the Attorney General's designee.

Board of Alien Labor Certification Appeals (BALCA) means a panel of one or more administrative law judges who serve on the permanent Board of Alien Labor Certification Appeals established by 20 CFR part 656. BALCA consists of administrative law judges assigned to the Department of Labor and designated by the Chief Administrative Law Judge to be members of the Board of Alien Labor Certification Appeals.

Chief Administrative Law Judge means the chief official of the Office of the Administrative Law Judges of the Department of Labor or the Chief Administrative Law Judge's designee.

Date of filing means the date an attestation is "accepted for filing" by ETA.

Department and *DOL* mean the United States Department of Labor.

Director means the chief official of the United States Employment Service (USES), Employment and Training Administration, Department of Labor, or the Director's designee.

Division means the Wage and Hour Division of the Employment Standards Administration, DOL.

Employer means a person, firm, corporation, or other association or organization involved in the direct provision of health care services, which:

(1) Suffers or permits a person to work;

(2) Has a location within the United States to which U.S. workers may be referred for employment;

(3) Proposes to employ workers at a place within the United States; and

(4) Has an employer-employee relationship with respect to employees under subparts D and E of this subpart, as indicated by the fact that it may hire, pay, fire, supervise or otherwise control the work of such employee.

Employment means full-time work by an employee for an employer/health care facility other than oneself. "Full-time work" means work where the nurse is regularly scheduled to work 40 hours or more per week, unless the facility documents as part of its attestation that it is common practice for the occupation

at the facility or for the occupation in the geographic area for nurses to work fewer hours per week.

Employment and Training Administration (ETA) means the agency within the Department of Labor (DOL) which includes the United States Employment Service (USES).

Employment Standards Administration (ESA) means the agency within the Department of Labor (DOL) which includes the Wage and Hour Division.

Facility means an employer with either a single site of employment or a group of contiguous locations at which the employer provides health care services. "Facility" includes an employer of registered nurses who provided health care services in a home or other setting, such as a hosptial, nursing home, or other site of employment, not owned or operated by the employer (*e.g.*, a visiting nurse association or a nursing contractor). Groups of structures which form a campus or separate buildings across the street from one another, are a single facility. However, separate buildings or areas which are not physically connected or in immediate proximity are a single health care facility if they are in reasonable geographic proximity, used for the same purpose, and share the same nursing staff and equipment. An example is an employer who manages a nursing home and a hospital in the same area and who regularly shifts or rotates the nurses between the two. Non-contiguous sites, even within the same geographic area, which do not share the same nursing staff and operational purpose are not a single facility. For example, hospitals which are located on opposite sides of a municipality, but which are managed or owned by a single entity, are separate facilities if they do not regularly share nursing staff and operational purpose.

Georgraphic area means the area within normal commuting distance of the place (address) of intended employment (the worksite). If the geographic area does not include a sufficient number of facilities to make a prevailing wage determination, the term "geographic area" shall be expanded (by the State employment service, unless directed not to do so by the Director) with respect to the attesting facility to include a sufficient number of facilities to permit a prevailing wage determination to be made. If the place of intended employment is within a Metropolitan Statistical Area (MSA), any place within the MSA is deemed to be within normal commuting distance of the place of intended employment.

Governor means the chief elected official of a State or the Governor's designee.

H-1A nurse means any nonimmigrant alien admitted to the United States to perform services as a nurse under section 101(a)(15)(H)(i)(a) of the Act (8 U.S.C. 1101(a)(15)(H)(i)(a)).

Immigration and Naturalization Service (INS) means the component of the Department of Justice which makes the determination under the Act on whether to grant visa petitions to employers seeking the admission of nonimmigrant nurses under H-1A visas.

Layoff means any involuntary separation of nurses without cause/prejudice. If nurses are separated from one specialized activity and are offered retraining and retention at the same facility in another activity at the same wage and status, but refuse, this shall not constitute a layoff. The layoff provision applies to nurses only, not to other health occupations. If the position is covered by a collective bargaining agreement, the collective bargaining agreement definition of "layoff" (if any) shall apply to that position.

Lockout means a labor dispute involving a work stoppage, wherein an employer withholds work from its employees in order to gain a concession from them.

Nurse means a person who is or will be authorized by a State Board of Nursing to practice as a registered nurse in a State or a U.S. territory or possession. Professional nursing practice encompasses the full scope of nursing practice and includes all of its specialties. It consists of the application of nursing theory to the development, implementation, and evaluation of plans of nursing care for individuals, families, and communities. This includes, but is not limited to:

(1) Assessment, diagnosis, planning, intervention, and evaluation of human responses to health or illness;

(2) The provision of direct nursing care to individuals to restore optimum function or to achieve a dignified death;

(3) The procurement, coordination, and management of essential client resources;

(4) The provision of health counseling and education;

(5) The establishment of standards of practice for nursing care in all settings, including the development of nursing policies, procedures, and protocols for a specific setting;

(6) The direction of nursing practice, including elegation to those practicing technical nursing;

(7) The supervision of those who assist in the practice of nursing;

(8) Collaboration with other independently licensed health professionals in case finding and the clinical management and execution of intervention as identified to be appropriate in a plan of care; and

(9) The administration of medication and treatments as prescribed by those professionals qualified to prescribe under the provisions of applicable State or Federal statutes.

Nursing contractor means an entity that employs registered nurses and supplies these nurses, on a temporary basis and for a fee, to health care facilities or private homes.

Prevailing wage means the average wage paid to similarly employed registered nurses within the geographic area.

Secretary means the Secretary of Labor or the Secretary's designee.

Similarly employed means employed by the same type of facility (acute care or long-term care) and working under like conditions, such as the same shift, on the same days of the week, and in the same specialty area.

State means one of the 50 States, the District of Columbia, Puerto Rico, the U.S. Virgin Islands, and Guam.

State employment service means the State agency designated under section 4 of the Wagner-Peyser Act to cooperate with USES in the operation of the national system of public employment offices.

Strike means a labor dispute wherein employees engage in a concerted stoppage of work (including stoppage by reason of the expiration of a collective-bargaining agreement) or engage in any concerted slowdown or other concerted interruption of operations.

United States Employment Service (USES) means the agency of the Department of Labor, established under the Wagner-Peyser Act, which is charged with administering the national system of public employment offices.

United States (U.S.) nurse means a nurse who is a U.S. citizen, a U.S. national, or a permanent resident alien.

United States (U.S.) worker means a worker who is a U.S. citizen, a U.S. national, or a permanent resident alien.

United States is defined at 8 U.S.C. 1101(a)(38).

Worksite means the health care facility or home where the nurse is involved in the practice of nursing. It is possible, in the case of nursing contractors, that the employer's physical location and the worksite facility's physical location will differ.

§ ——.310 Employer attestations.

(a) *Who may submit attestations?* Any employer meeting the definition of "facility" in § ——.302 of this part may submit an attestation. The attestation shall include: a completed *Form ETA 9029*, which shall be signed by the chief executive officer of the facility (or the chief executive officer's designee); and the supporting documentation prescribed in paragraphs (d) through (j) of this section. A nursing contractor that seeks to employ nonimmigrant nurses shall file its own attestation (including Form ETA 9029 and supporting documentation) as prescribed by this section, and, as part of its own attestation, shall attest that it shall refer H-1A nurses only to facilities that have current and valid attestations on file with ETA. Subparts D and E of this part shall apply both to the nursing contractor and to the worksite facility.

(b) *Where and when should attestations be submitted?* Attestations shall be submitted, by U.S. mail or private carrier, to ETA at the following address: Chief, Division of Foreign Labor Certifications, U.S. Employment Service, Employment and Training Administration, Department of Labor, 200 Constitution Avenue NW., room N-4456, Washington, DC 20210.

Attestations shall be reviewed and accepted for filing or rejected by ETA within thirty calendar days of the date they are received by ETA. Therefore, it is recommended that attestations be submitted to ETA at least thirty-five calendar days prior to the planned date for filing an H-1A visa petition with the Immigration and Naturalization Service.

(c) *What should be submitted?*—(1) *Form ETA 9029* and supporting documentation. (Copies of *Form ETA 9029* are available at the address listed in paragraph (b) of this section.) Three completed original Form ETA 9029's, each containing the six attestation elements, shall be submitted, with the original signature of the chief executive officer of the facility on each Form ETA 9029. In addition, documentation for each of the six attestation elements, as prescribed by paragraphs (d) through (i) of this section (and, if the facility is a nursing contractor, the special attestation element in paragraph (j)(1) of this section), shall be submitted in triplicate with the Form ETA 9029. If the facility is a private household, the documentation exemption provisions of paragraph (j)(2) of this section shall apply to that facility.

(2) *Attestation elements.* The attestation elements referenced in paragraph (c)(1) of this section are mandated by section 212(m)(2)(A) of the Act (8 U.S.C. 1182(m)(2)(A)). Section 212(m)(2)(A) of the Act requires covered facilities to attest as follows:

(i) The attestation referred to in section 101(a)(15)(H)(i)(a) of the Act, with respect to a facility for which an alien will perform services, is an attestation as to the following:

(A) There would be a substantial disruption through no fault of the facility in the delivery of health care services of the facility without the services of such an alien or aliens.

(B) The employment of the aliens will not adversely affect the wages and working conditions of registered nurses similarly employed.

(C) The aliens will be paid the wage rate for registered nurses similarly employed by the facility.

(D) Either—(*1*) The facility has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses, or

(*2*) The facility is subject to an approved State plan for the recruitment and retention of nurses (described in paragraph 3 of section 212(m) of the Act).

(E) There is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility.

(F) At the time of the filing of the petition for registered nurses under section 101(a)(15)(H)(i)(a) of the Act, notice of the filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to registered nurses employed at the facility through posting in conspicuous locations.

(ii) A facility is considered not to meet paragraph (c)(2) (i)(A) of this section (relating to an attestation of a substantial disruption in delivery of health care services) if the facility, within the previous year, laid off registered nurses. Nothing in paragraph (c)(2)(i)(D) of this section shall be construed as requiring a facility to have taken significant steps described in such paragraph before December 18, 1989.

(d) *The first attestation element: substantial disruption.* The facility shall attest that "there would be substantial disruption through no fault of the facility in the delivery of health care services of the facility without the services of such an alien or aliens." This element shall be met if the facility provides the following information:

(1) *Layoffs.* The facility shall attest that it has not laid off nurses during the 12-month period prior to submitting the attestation.

(2) *Nursing shortage*—(i) *Vacant positions; nonutilization of beds.* The facility shall:

(A) Document a current vacancy rate for nurses of seven percent or more; or

(B) Document an inability to utilize seven percent or more of its total beds due to a shortage of nurses; or

(C) Submit the documentation required by paragraph (d)(2)(ii) of this section.

(ii) *Other substantial disruption.* When the facility finds that neither paragraph (d)(2)(i)(A) nor (d)(2)(i)(B) of this section can be met by it or that such paragraphs contain indicators inappropriate to that facility, but that substantial disruption still would occur due to a shortage of nurses, the facility shall provide, as part of the documentation submitted for the attestation, an explanation of the facility's finding. The documentation required by this paragraph (d)(2)(ii) shall include an explanation of why the indicators in paragraphs (d)(2)(i)(A) and (d)(2)(i)(B) cannot be met or are inappropriate for the purpose of showing substantial disruption. Such documentation shall describe what indicators are being substituted and what those indicators display. (The no-layoff requirement in paragraph (d)(1) of this section still shall apply.) Such situations may include:

(A) A shortage of nurses directly resulting in curtailment of essential services, in which case the kinds and extent shall be documented; or

(B) An inability to open needed new beds or services, which otherwise would be provided, in which case the numbers and kinds shall be documented.

(3) *Overall data on facility's nursing positions.* The facility shall set forth in its documentation:

(i) The total number of nursing positions at the facility;

(ii) The number of nursing vacancies at the facility during the twelve months prior to submittal of the attestation;

(iii) The number of nurses who left employment with the facility during the twelve months prior to the submittal of the attestation;

(iv) The number of nurses hired by the facility during the twelve months prior to the submittal of the attestation;

(v) The overall staffing pattern for nursing positions at the facility; and

(vi) A description of the facility's efforts to recruit U.S. nurses during the twelve months prior to submittal of the attestation.

The documentation on numbers of nurses, submitted for the purposes of this paragraph (d)(3), shall be broken out by numbers of U.S. nurses, nurses

admitted under H-1 visas, nurses admitted under H-1A visas, nurses admitted under other nonimmigrant visas, and other nurses.

(e) *The second attestation element: no adverse effect.* The facility shall attest that "the employment of the alien will not adversely affect the wages and working conditions of registered nurses similarly employed."

(1) *Wages.* To meet the requirement of no adverse effect on wages, the facility shall attest that it shall pay each nurse at the facility at least the prevailing wage for the occupation in the geographic area. The facility must pay the higher of the wage required pursuant to this paragraph (e) or the wage required pursuant to paragraph (f) of this section (*i.e.*, the third attestation element: facility wage).

(i) *State employment service determination.* The facility, prior to submitting the attestation to ETA, shall request, from the State employment service in whose State the worksite for H-1A nurses will be located, a determination of the prevailing wage for nurses in the worksite's geographic area. The State employment service shall determine the prevailing wage for nurses in the geographic area, taking into account the kind of facility (*i.e.*, acute versus long-term care).

(ii) *Collectively bargained wage rates.* Where wage rates for nurses at a facility are the result of arms-length collective bargaining, those rates shall be considered "prevailing" for that facility for the purposes of this subpart.

(iii) *Total compensation package.* The prevailing wage finding under this paragraph (e)(1) relates to wages only. However, each item in the total compensation package for U.S., H-1A, and other nurses employed by the facility shall be the same within a given facility, including such items as housing assistance and other perquisities.

(iv) *Documentation of pay and total compensation.* The facility shall submit with its attestation documentation summarizing its pay schedule and compensation package for nurses. The summary shall cover each category of nursing position in which H-1A nurses are or will be hired or promoted into and each category of nursing position in which H-1A nurses (or nurses admitted on H-1 visas) have been hired or promoted into. Categories of nursing positions not covered by the submitted documentation shall not be covered by the attestation, and, therefore, such position shall not be filled or held by H-1A nurses.

(2) *Working conditions.* To meet the requirement of no adverse effect on working conditions, the facility shall attest that it shall afford equal treatment to U.S. and H-1A nurses with the same seniority, with respect to such working conditions as the number and scheduling of hours worked (including shifts, straight days, weekends); vacations; wards and clinical rotations; and overall staffing-patient patterns.

(f) *The third attestation element: facility wage.* The facility shall attest that "the alien will be paid the wage rate for registered nurses similarly employed by the facility." Documentation for determining compliance with this attestation shall include a description of the factors taken into consideration by the facility in making compensation decisions for nurses and the summarized facility pay schedule for nurses submitted pursuant to paragraph (e)(1) of this section. The facility must pay the higher of the wage required pursuant to this paragraph (f) or the wage required pursuant to paragraph (e) of this section (*i.e.*, the second attestation element: no adverse effect).

(g) *The fourth attestation element: timely and significant steps; or State plan.* The facility may satisfy the fourth attestation element by satisfying Alternative I in paragraph (g)(1) of this section or by satisfying Alternative II in paragraph (g)(2) of this section.

(1) *Alternative I: Timely and significant steps.* The facility shall attest that it "has taken and is taking timely and significant steps designed to recruit and retain sufficient registered nurses who are United States citizens or immigrants who are authorized to perform nursing services, in order to remove as quickly as reasonably possible the dependence of the facility on nonimmigrant registered nurses." The facility shall take at least two such steps, unless it demonstrates that taking a second step is not reasonable. The steps described in this paragraph (g)(1) shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of this paragraph (g)(1). Nothing in this subpart or subpart E of this part shall require a facility to take more than one step, if the facility can demonstrate that taking a second step is not reasonable. The facility is not required to have taken any of these steps prior to December 18, 1989.

(i) *Descriptions of steps*—(A) *Statutory steps.* Each of the following shall be considered a significant step reasonably designed to recruit and retain U.S. nurses:

(*1*) *Step One: "Operating a training program for registered nurses at the facility or financing (or providing participation in) a training program for registered nurses elsewhere."* A facility choosing this step shall submit as part of its attestation a complete description of the types of training programs available to nurses on the staff of the facility and an explanation of how the requirements of this paragraph are satisfied by the program. Training programs may include either courses leading to a higher degree (*i.e.*, beyond an associate or a baccalaureate degree), or continuing education courses. If the program includes courses leading to a higher degree, they shall be courses which are part of a program accepted for degree credit by a college or university and accredited by a State Board of Nursing or a State Board of Higher Education (or its equivalent), as appropriate. If the program includes continuing education courses, they shall be courses which meet criteria established to qualify the nurses taking the courses to earn continuing education units accepted by a State Board of Nursing (or its equivalent). In either type of program, the nurses shall be allowed to attend these courses on paid duty time and financing by the facility shall cover the total costs of such training. The number of U.S. nurses for whom such training actually is provided shall be no less than half of the number of nurses who left the facility during the past year (U.S. nurses to whom such training was offered, but who rejected such training, may be counted towards those provided training in this equation, but the facility, in such cases, shall submit documentation of such offer and rejection).

(*2*) *Step Two: "Providing career development programs and other methods of facilitating health care workers to become registered nurses."* This may include programs leading directly to a degree in nursing, or career ladder/career path programs which could ultimately lead to a degree in nursing. A facility choosing this step shall submit as part of its attestation a description of the content and eligibility requirements for both types of programs and an explanation of how the requirements of this paragraph (g)(1)(i)(A)(*2*) are satisfied by each program. Any such degree program shall be, at a minimum, either through an accredited community college (leading to an associate's degree), four-year college (a bachelor's degree), or diploma school, and the course of study shall be one accredited by a State Board of Nursing (or its equivalent). For career ladder or career path programs, the facility shall provide documentation that the programs are normally part of a course of study or training which

prepares a U.S. worker for enrolling in formal direct training leading to a degree in nursing, either through an accredited community college, a four-year college, or a diploma school. Financing by the facility shall cover the total costs of such programs. U.S. workers participating in such programs shall be working or have worked in health care occupations or health care facilities. The number of U.S. workers for whom such training is provided shall be equal to no less than half the average number of vacancies for nurses during the twelve-month prior to the submittal of the attestation.

(*3*) *Step Three: "Paying registered nurses wages at a rate higher than currently being paid to registered nurses similarly employed in the geographic area."* A facility choosing this step shall document that its entire schedule of wages for nurses is at least five percent higher than the prevailing wages as determined pursuant to paragraph (e)(1) of this section, and it shall attest that such differentials shall be maintained throughout the period of the attestation's validity (*i.e*, one year).

(*4*) *Step Four: "Providing adequate support services to free registered nurses from administrative and other non-nursing duties."* Non-nursing duties include such activities as housekeeping duties; food preparation and delivery; transporting patients; providing occupational and respiratory therapy; answering telephones; running errands for patients; and clerical tasks. A facility choosing this step shall not require nurses at the facility to perform non-nursing duties. However, it is understood that on an infrequent non-recurring basis, nurses at the facility may perform one or more of the tasks encompassed by the duties above-listed in this paragraph (g)(1)(i)(A)(*4*) or other non-nursing duties. Facilities choosing this step shall submit documentation showing what steps they have taken to ensure that nursing jobs do not include any of these duties and that such activity by nurses at the facility occurs without regularity and infrequently. Such a facility also shall document any other steps being taken to relieve nurses from non-nursing duties, or to enhance the nursing function, such as computerizing certain writing and routine functions performed by nurses.

(*5*) *Step Five: "Providing reasonable opportunities for meaningful salary advancement by registered nurses."* Documentation for this step shall include documentation of systems for salary advancement based on factors such as merit, education, and specialty, and/or salary advancement based on length of service with other bases for wage differentials remaining constant.

(*i*) *Merit, education, and specialty.* For salary advancement based on factors such as merit, education, and specialty, the facility shall document that it provides opportunities for professional development of its nurses which lead to salary advancement, *e.g.*, opportunities for continuing education; in-house educational instruction; special committees, task forces, or projects considered of a professional development nature; participation in professional organizations; and writing for professional publications. Such opportunities shall be available to all the facility's nurses.

(*ii*) *Length of service.* For salary advancement based on length of service, the facility shall document that it has clinical ladders in place which provide, annually, salary increases of three percent or more for a period of no less than ten years, over and above the cost of living and merit, education, and specialty increases and differentials.

(B) *Other possible steps.* The Act indicates that the five steps described in paragraphs (g)(l)(i)A)(*1*) through (g)(l)(i)(A)(*5*) of this section are not an exclusive list of timely and significant steps which might qualify. Facilities are encouraged to be innovative in devising other steps, but such steps shall be shown in the documentation accompanying the attestation to be of comparable timeliness and significance to qualify. A facility choosing to take steps other than the five steps described in paragraphs (g)(l)(i)(A)(*1*) through (g)(l)(i)(A)(*5*) of this section shall submit with the attestation documentation describing the nature and the general effect of the timely and significant steps it is taking. Examples of such other steps which may be considered to be of comparable timeliness and significance, depending upon all of the circumstances, are:

(*1*) *Other Step One: monetary incentives.* The facility may provide to nurses monetary incentives, through bonuses and merit pay plans not included in the base compensation package, for additional education, and for activities leading to increased recruitment and retention of U.S. nurses. These might be based on: innovations to achieve better patient care, increased productivity, less waste, better safety; obtaining additional certification in a nursing specialty; unused sick leave; recruiting other U.S. nurses; staying with the facility for a given number of years; taking less desirable assignments; participating in professional organizations, on task forces and on special committees; or professional publications. There shall be a documented system for providing financial rewards in the form of salary advancement or bonuses to nurses participating in the activities described in this paragraph (g)(l)(i)(B)(*1*) and a facility choosing the step shall include such documentation with its attestation.

(*2*) *Other Step Two: special perquisites.* The facility may provide to nurses special perquisites such as dependent care, free parking, housing assistance, secure parking facilities and escorts to and from parking facilities and to and from public transportation in high crime areas.

(*3*) *Other Step Three: work schedule options.* The facility may provide to nurses nonmandatory work schedule options, such as part-time work, job sharing, compressed work week and non-rotating shifts; provided, however, that H-1A nurses are employed only in full-time work.

(*4*) *Other Step Four: other training options.* The facility may provide, to U.S. workers not currently in health care occupations, training opportunities to become registered nurses. Such provision may be either by means of financial assistance (*e.g.*, scholarship, loan, or pay-back programs) to such persons; or through serving as a worksite for students in accredited registered nurse training programs at community colleges, four-year colleges, or diploma schools.

(ii) *Unreasonableness of second step.* The steps described in this paragraph (g)(1) shall not be considered to be an exclusive list of the significant steps that may be taken to meet the conditions of this paragraph (g)(1). Nothing in this subpart or subpart E of this part shall require a facility to take more than one step, if the facility can demonstrate that taking a second step is not reasonable. However, a facility shall make every effort to take at least two steps. A facility taking only one step shall demonstrate in the documentation submitted with its attestation that taking a second step is not reasonable. The taking of a second step may be considered unreasonable, if it would result in the facility's financial inability to continue providing the same quality and quantity of health care or if the provision of nursing services would otherwise be jeopardized by the taking of such a step. If the single step which is taken is one of the statutorily defined steps described in paragraphs (g)(1)(i)(A)(*1*) through (g)(1)(i)(A)(*5*) of this section, the facility shall submit, with its attestation, documentation, with respect to each of the four other

statutory steps (described in paragraphs (g)(1)(i)(A)(*1*) through (g)(1)(i)(A)(*5*) of this section) not taken, demonstrating why it would be unreasonable for the facility to take such step and also shall submit, with its attestation, documentation demonstrating why it would be unreasonable for the facility to take any other steps designed to recruit and retain sufficient U.S. nurses to meet its staffing needs. If the single step which is taken is not one of the five statutory steps described in paragraphs (g)(1)(i)(A)(*1*) through (g)(1)(i)(A)(*5*) of this section, the facility shall submit, with its attestation, documentation, with respect to each of the five other statutory steps not taken, demonstrating why it would be unreasonable for the facility to take such step, and also shall submit, with its attestation, documentation demonstrating why it would be unreasonable for the facility to take any other steps designed to recruit and retain sufficient U.S. nurses to meet its staffing needs.

(iii) *Alternative to criteria for each specific step.* Instead of complying with the specific criteria for each of the steps in the second and succeeding years, a facility may include in its prior year's attestation, in addition to the actions taken under Steps One through Five, that it shall reduce the number of alien (H-1 and H-1A visaholders) nurses it employs one year from the date of attestation by at least 10 percent. This shall be achieved without reducing the quality or quantity of services provided. If this goal is achieved (as demonstrated by documentation submitted by the facility with its subsequent year's attestation), the facility's subsequent year's attestation may simply include the *Form ETA 9029*, documentation demonstrating that this goal has been achieved and an attestation that it shall again reduce the number of alien nurses it employs one year from the date of attestation by at least 10 percent. This alternative is designed to permit a facility to achieve the objectives of the Act, without subjecting the facility to detailed requirements and criteria as to the specific means of achieving that objective.

(2) *Alternative II: subject to approved annual State plan.* As an alternative to attesting to and submitting documentation demonstrating the timely and signficant steps set forth in paragraph (g)(1) of this section, the facility may attest that it "is subject to an approved State plan for the recruitment and retention of nurses." The contents of the annual State plan are described in more detail in §_____.315 of this part. For an individual facility to meet the requirements of this paragraph (g)(2), the annual State plan shall provide for the taking of timely and signficant steps by that facility. To qualify for this Alternative II, the annual State plan shall have been approved prior to the date the facility submits the attestation to ETA for filing.

(h) *The fifth attestation element: No strike or lockout; no intention or design to influence bargaining representative election.* The facility shall attest that "there is not a strike or lockout in the course of a labor dispute, and the employment of such an alien is not intended or designed to influence an election for a bargaining representative for registered nurses of the facility." Labor disputes for purposes of this attestation element relate only to those involving nurses providing nursing services; other health service occupations are not included. This attestation element applies to strikes and lockouts and elections of bargaining representatives at both the facility employing the nurse and, in the case of nursing contractors, at the worksite facility.

(1) *Notice of strike or lockout.* In order to remain in compliance with the no strike or lockout portion of this attestation element, if a strike or lockout of nurses at the facility occurs during the one year's validity of the attestation, the facility, within three days of the occurrence of the strike or lockout, shall mail to ETA, by U.S. mail or private carrier, written notice of the strike or lockout.

(2) *ETA notice to INS.* Upon receiving from a facility a notice described in paragraph (h)(1) of this section, ETA shall examine the documentation, and may consult with the union at the facility or other appropriate entities. If ETA determines that the strike or lockout is covered under INS's *"Effect of strike"* regulation for "H" visaholders, at 8 CFR 214.2(h)(16), ETA shall certify to INS, in the manner set forth in that regulation, that a strike or other labor dispute involving a work stoppage of nurses is in progress at the facility.

(i) *The sixth attestation element: notice of filing.* The facility shall attest that at the time of filing of the petition for registered nurses under section 101(a)(15)(H)(i)(a) of the Act, notice of filing has been provided by the facility to the bargaining representative of the registered nurses at the facility or, where there is no such bargaining representative, notice of the filing has been provided to registered nurses employed at the facility through posting in conspicuous locations. This requirement applies to providing notice of filing both for attestations submitted to ETA and for visa petitions filed with INS.

(1) *Notification of bargaining representative.* No later than the date the attestation is mailed to DOL to be considered for filing, the facility shall notify the bargaining representative (if any) for nurses at the facility that the attestation is being submitted to DOL, and shall state in that notice that the attestation is available at the facility and at the national office of ETA for review by interested parties. No later than the date the facility transmits a visa petition for H-1A nurses to INS, the facility shall notify the bargaining representative (if any) for nurses at the facility that the visa petition is being submitted to INS, and shall state in that notice that the attestation and visa petition are available at the facility and at the national office of ETA for review by interested parties. Notices under this paragraph (i)(1) shall include the following statement: "Complaints alleging violation of the terms of the attestation may be filed with any office of the Wage and Hour Division of the United States Department of Labor."

(2) *Posting notice.* If there is no bargaining representative for nurses at the facility, when the facility submits an attestation to ETA, and each time the facility files an H-1A visa petition with INS, the facility shall post a written notice at the facility (and, in addition, at the worksite facility, if at a different location, such as in the case of nursing contractors), stating that the attestation and/or visa petition(s) have been filed and are available at the facility and at the national office of ETA for review by interested parties. In order for the facility to remain in compliance with this paragraph (i)(2), all such notices shall remain posted during the validity period of the attestation and the attestations and petitions shall be available for examination at the facility throughout this period of time. The notice of posting shall provide information concerning the availability of these documents for examination at the facility and at the national office of ETA, and shall include the following statement: "Complaints alleging violation of the terms of the attestation may be filed with any office of the Wage and Hour Division of the United States Department of Labor." Such posted notices shall be clearly visible and unobstructed while posted, shall be posted in conspicuous places, where the facility's U.S. nurses readily can read the posted notice on the way to or from their duties. Appropriate locations for

posting such notices include locations in the immediate proximity of mandatory Fair Labor Standards Act wage and hour notices and Occupational Safety and Health Act occupational safety and health notices.

(j) *Special provisions for nursing contractors and private households*—(1) *Special attestation element for nursing contractors.* A nursing contractor submitting an attestation for filing as a facility, in addition to the attestation elements shall attest that it shall refer H-1A nurses only to facilities that have valid attestations on file with ETA. The nursing contractor shall obtain from each such worksite facility a copy of that facility's Form ETA 9029, accepted for filing by ETA and then currently on file with ETA. The nursing contractor shall maintain a copy of such worksite facility's accepted attestation (but need not maintain copies of supporting documentation submitted by the worksite facility to DOL with the Form ETA 9029) on file at the nursing contractor's principal office during the validity period of the nursing contractor's attestation or the period of time that the H-1A nurse is providing nursing services at the worksite facility, whichever is longer. The sixth attestation element requires a nursing contractor to have copies of both its own attestation and the worksite facility's Form ETA 9029 (as accepted for filing by ETA) available for inspection at the nursing contractor's principal office and at the worksite facility.

(2) *Private households.* If the facility is a private household, the facility is not required to provide the documentation described in paragraph (d) (substantial disruption), paragraph (e)(2) (no adverse effect on working conditions), paragraph (f) (facility wage), paragraph (h) (no strike or lockout; no intention or design to influence bargaining representative election), and paragraph (i) (notice of filing) of this section.

(k) *Determinations on attestations submitted for filing.* Determinations of acceptance and rejection of attestations submitted for filing by facilities shall be made by the Chief, Division of Foreign Labor Certifications, USES/ETA. An attestation submitted by a facility shall be reviewed by ETA, and a determination whether to accept or reject the attestation for filing shall be made within 30 calendar days of ETA's receipt of the attestation. Attestations shall be available for public examination and comment after a posting at the health care facility, at the facility itself and upon receipt at the ETA national office. Information contesting information in the attestation received by ETA prior to the determination to accept or reject the attestation for filing shall not be made part of ETA's administrative record on the attestation, but shall be referred to ESA to be processed as a complaint pursuant to subpart E of this part, and, if such attestation nevertheless is accepted by ETA for filing, the complaint will be handled by ESA under that subpart.

(1) *Acceptance.* If the attestation and the supporting documentation meet the requirements of this subpart, ETA shall accept the attestation for filing, shall notify INS in writing of the filing, and shall return to the facility one of the three original attestation forms submitted by the facility, with ETA's acceptance indicated thereon. The facility may then file a visa petition with INS for alien nurses in accordance with INS regulations.

(2) *Appeals of acceptance.* If an attestation is accepted for filing, any interested party may appeal such acceptance to the BALCA, no later than 30 days after the date of acceptance. Appeals of acceptances shall be filed and considered under the procedures set forth at §_____.320 of this part.

(3) *Appeals of rejections.* If the attestation is not accepted for filing, ETA shall notify the facility in writing, specifying the reasons for rejection and quoting the language of §_____.320(a) of this part.

(l) *Effective date and validity of filed attestations.* An attestation becomes filed and effective as of the date it is accepted and signed by the Chief, Division of Foreign Labor Certifications, USES/ETA, and accepted thereby for filing. Such attestation is valid for the 12-month period beginning on the date of acceptance for filing, unless suspended or invalidated pursuant to §_____.320 of this part or subpart E of this part. The filed attestation expires at the end of the 12-month period of validity.

(m) *Suspension or invalidation of filed attestation.* Suspension or invalidation of an attestation may result from a BALCA decision reversing an ETA acceptance for filing; from investigations by the Administrator, Wage and Hour Division, of the facility's misrepresentation or failure to carry out the attestation; or from a discovery by ETA that it made an error in its reviewing of the attestation and that the documentation provided by the facility does not or did not meet the criteria set forth at §_____.310 (a) through (j) of this part. If an attestation is suspended or invalidated, DOL shall notify INS.

(1) *Result of BALCA or Wage and Hour Division action.* If an attestation is suspended or invalidated as a result of a BALCA decision overruling an acceptance of the attestation for filing, or is suspended or invalidated as a result of a Wage and Hour Division action pursuant to subpart E of this part, such suspension or invalidation may not be separately appealed, but shall be merged with appeals of BALCA's or the Wage and Hour Division's determination on the underlying violation.

(2) *Result of ETA action.* If, after accepting an attestation for filing, ETA discovers that it erroneously accepted that attestation for filing, and, as a result, ETA suspends or invalidates that acceptance, the facility may appeal such suspension or invalidation pursuant to §_____.320 of this part as if that suspension or invalidation were a decision to reject the attestation for filing.

(n) *Facility's responsibilities during suspension and after invalidation or expiration of filed attestation.* A facility with a suspended, invalidated, or expired attestation which has on staff any H-1 and/or H-1A nurses shall be responsible for complying with the attestation for all H-1, H-1A, and U.S. nurses working at the facility during the entire period of the H-1 and H-1A nurses' authorized employment, even though the facility shall not be entitled to file new visa petitions for H-1A nurses or to provide supporting letters for H-1A nurses who are applying for extensions of their stays, during the period of suspension or after invalidation or expiration of the attestation. The facility shall comply with the terms of the attestation, even if suspended, invalidated, or expired, as long as H-1A nurses admitted under the attestation are employed by the facility, unless the attestation is superseded by a subsequent attestation accepted for filing by ETA.

(o) *Facilities subject to penalties.* No attestation shall be accepted for filing from a nursing contractor or other facility which has failed to comply with any penalty, sanction, or other remedy assessed in a final agency action following an investigation by the Wage and Hour Division pursuant to subpart E of this part.

§_____.315 State plans.

A State may submit an annual plan for the recruitment and retention of U.S. citizens and permanent resident aliens

who are authorized to perform nursing services in the State.

(a) *Who should prepare and file the annual plan?* The Governor of each State that chooses to submit an annual State plan shall be responsible for the preparation and filing of the annual plan. The Governor may designate any public and/or private organization(s) to assist the Governor in the development of the annual plan.

(b) *When and where should the annual plan be filed?* If a State determines to file an annual State plan, the Governor shall submit the original plan, signed by the Governor, by U.S. mail or private carrier, to ETA at the following address: Director, U.S. Employment Service, Employment and Training Administration, Department of Labor, 200 Constitution Avenue, NW., room N-4456, Washington, DC 20210. An annual State plan may be filed with ETA at any time. However, for an individual facility legitimately to attest to being subject to an annual State plan for the purposes of the fourth attestation element, Alternative II (see § _____.310(g)(2) of this part), such annual State plan shall have been approved prior to the date the attestation was submitted to ETA for filing and be in current effect. Therefore, if the Governor is aware that a facility within the State plans to submit an attestation for filing with ETA, the annual State plan should be mailed to ETA at least 35 days prior to the facility's submission of its attestation to ETA.

(c) *What overall issues should the annual State plan address?* The annual State plan shall address the overall issue of supply of and demand for nurses within the State, with particular emphasis on measures to develop a sufficient supply of U.S. nurses to meet projected demand. The State, as opposed to individual facilities, is in a position to—and may be expected to—address broad issues and perform such functions as conducting a Statewide needs assessment; overall management, facilitation and coordination among various interested entities within the State; and undertaking more regionally based approaches. The State is also in a position to devote resources which individual facilities may be lacking.

(d) *How should the annual State plan address the timely and significant steps?* The annual State plan shall address all of the timely and significant steps in § _____.310(g)(1)(i)(A)(*1*) through (g)(1)(i)(A)(*5*) of this part generically, without regard to the specific criteria therein, on a Statewide basis. However, for the annual State plan to satisfy Alternative II of the fourth attestation requirement for an individual facility (see § _____.310(g)(2) of this part), the annual State plan shall indicate which of those timely and significant steps relate to individual facilities, and that each individual facility shall take such a step (either one step or more, as appropriate) to meet the appropriate specific criteria as set forth in § _____.310(g)(1).

(e) *What other components may the annual State plan include?* An annual State plan may include the following components:

(1) The cooperation of high schools and colleges may be enlisted in counseling health workers and other individuals to enter the nursing profession.

(2) Geographic and salary data may be made available to assist in linking nurses to facilities.

(3) Publications of vacancies and programs may be made in industry and State newsletters.

(4) Training films and videotapes, as well as information on housing and relocation services, may be developed and distributed.

(5) Measures may be taken to encourage other health professionals to become nurses, such as: Setting up home study programs with State licensing boards to allow work credits for purposes of meeting educational or State clinical requirements; entering into cooperative agreements for providing health care insurance and other job-related elements which would allow greater flexibility for those attempting to combine careers and school; providing monetary grants or long-term loans to persons preparing to become nurses.

(6) Steps may be taken to encourage nurses who have left the nursing field to return to nursing, by providing such inducements as child care, holiday schedule adjustments, and substantial salary increases.

(7) The State may profile and publicize those facilities with special model programs.

(8) The annual State plan may place demands on facilities for comprehensive plans to reduce reliance on foreign nurses.

(f) *Approval and disapproval of annual State plans.* Determinations of approval and disapproval of annual State plans shall be made by the Director, USES. The annual State plan shall be reviewed by ETA, in consultation with the Department of Health and Human Services, and a determination to approve or disapprove the annual State plan made within 30 calendar days of ETA's receipt of the plan.

(1) If the annual State plan is approved, the Director shall notify the Governor in writing.

(2) If the annual State plan is disapproved, the Director shall notify the Governor in writing, specifying the reason(s) for disapproval. The notice shall state that within 30 calendar days of the date of the notice of disapproval, the Governor may correct the deficiencies noted in the disapproval and resubmit the annual State plan to ETA; and shall inform the state of its right to an appeal, by quoting the language of § _____.320(a) of this part.

(g) An approved annual State plan shall be valid for 12-month period beginning on the date of its approval by DOL.

§ _____.320 Appeals of acceptance and rejection of attestations submitted for filing and of State plans.

(a) *Appeal rights—(1) Attestations; when to file appeals from acceptances and rejections.* An interested party may appeal: on the basis that the documentation provided by the facility does not or did not meet the criteria set forth at § _____.310 (a) through (j) of this part an acceptance by ETA of an attestation submitted by a facility for filing; a rejection by ETA of an attestation submitted for filing; or ETA's invalidation or suspension of a filed attestation. In the case of an appeal of an acceptance, the facility shall be a party to the appeal; in the case of the appeal of a rejection, invalidation, or suspension, the collective bargaining representative (if any) representing nurses at the facility shall be a party to the appeal. Appeals shall be in writing; shall set forth the grounds for the appeal; shall state if *de novo* consideration by BALCA is requested; and shall be mailed by certified mail within 30 calendar days of the date of the action from which the appeal is taken (*i.e.*, the acceptance, rejection, suspension or invalidation of the attestation).

(2) *Annual State plans; when to file appeals from disapprovals.* A Governor of a State may appeal from ETA's disapproval of an annual State plan. Individual facilities in the State may file briefs as *amici curiae*. Appeals shall be in writing and shall be mailed by certified mail within 30 calendar days of the disapproval of the annual State plan.

(3) *Where to file appeals.* Appeals taken pursuant to this section shall be in writing and shall be mailed by certified mail to: Director, U.S. Employment Service, Employment and Training Administration, Department of Labor,

200 Constitution Avenue, NW., room N-4456, Washington, DC 20210.

(4) *Complaints.* Appeals under this paragraph (a) shall not encompass questions of misrepresentation by a health care facility or nonperformance by such a facility of its attestation. Such complaints shall be filed with an office of the Wage and Hour Division, United States Department of Labor.

(b) *Transmittal to BALCA; case file.* Upon receipt of an appeal pursuant to paragraph (a) of this section, the Director, USES, shall send to BALCA a certified copy of the ETA case file, containing the attestation and supporting documentation and any other information or data considered by ETA in taking the action being appealed. The administrative law judge chairing BALCA shall assign a panel of one or more administrative law judges who serve on BALCA to review the record for legal sufficiency and to consider and rule on the appeal.

(c) *Consideration on the record; de novo hearings*—(1) *General.* BALCA shall not remand, dismiss, or stay the case, except as provided in paragraph (c)(2) of this section, but may otherwise consider the appeal on the record or in a *de novo* hearing (on its own motion or on a party's request). Interested parties and *amici curiae* may submit briefs in accordance with a schedule set by BALCA. The ETA official making the determination from which the appeal was taken shall be represented by the Associate Solicitor for Employment and Training Legal Services, Office of the Solicitor, Department of Labor, or the Associate Solicitor's designee. If BALCA determines to hear the appeal on the record without a *de novo* hearing, BALCA shall render a decision within 30 calendar days after BALCA's receipt of the case file. If BALCA determines to hear the appeal through a *de novo* hearing, the procedures contained in 29 CFR part 18 shall apply to such hearings, except that:

(i) The appeal shall not be considered to be a complaint to which an answer is required;

(ii) BALCA shall ensure that, at the request of the appellant, the hearing is scheduled to take place within a reasonable period after BALCA's receipt of the case file (see also the time period described in paragraph (c)(1)(iv) of this section);

(iii) Technical rules of evidence, such as the Federal Rules of Evidence and subpart B of the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges (29 CFR part 18, subpart B), shall not apply to any hearing conducted pursuant to this subpart, but rules or principles designed to assure production of the most credible evidence available and to subject testimony to test by cross-examination shall be applied where reasonably necessary by BALCA conducting the hearing; BALCA may exclude irrelevant, immaterial, or unduly repetitious evidence; the certified copy of the case file transmitted to BALCA by the Director, USES, shall be part of the evidentiary record of the case and need not be moved into evidence; and

(iv) BALCA's decision shall be rendered within 120 calendar days after BALCA's receipt of the case file.

(2) *Dismissals and stays.* If the BALCA determines that the appeal is solely a question of misrepresentation by the facility or is solely a complaint of the facility's nonperformance of the attestation, BALCA shall dismiss the case and refer the matter to the Administrator, Wage and Hour Division, for action under subpart E of this part. If the BALCA determines that the appeal is partially a question of misrepresentation by the facility or is partially a complaint of the facility's nonperformance of the attestation, BALCA shall refer the matter to the Administrator, Wage and Hour Division, for action under subpart E of this part and shall stay BALCA consideration of the case pending final agency action on such referral. During such stay, the 120-day period described in paragraph (c)(1)(iv) of this section shall be supended.

(d) *BALCA's decision.* After consideration on the record or a *de novo* hearing, BALCA shall either affirm or reverse ETA's decision, and shall so notify the appellant, the Director, and any other parties. See § _____.450 of this part regarding custody of the record of the appeal.

(e) *Decisions on attestations.* With respect to an appeal of the acceptance or rejection of an attestation, the decision of BALCA shall be the final decision of the Secretary, and no further review shall be given to the matter by any DOL official.

(f) *Decisions on annual State plans.* With respect to an appeal of the disapproval of an annual State plan, the decision of the BALCA shall be the final decision by the Secretary, unless a petition for review of the BALCA decision is filed with the Secretary.

(1) The Director or the State desiring review of the decision and order of BALCA shall petition the Secretary to review the decision and order. To be effective, such petition shall be received by the Secretary within 30 days of the date of the decision and order. Copies of the petition shall be served on all parties and on BALCA.

(2) No particular form is prescribed for any petition for Secretary's review permitted by this paragraph (f). However, any such petition shall:

(i) Be dated;

(ii) Be typewritten or legible written;

(iii) Specify the issue or issues stated in the BALCA decision and order giving rise to such petition;

(iv) State the specific reason or reasons why the party petitioning for review believes such decision and order are in error;

(v) Be signed by the party filing the petition or by an authorized representative of such party;

(vi) Include the address at which such party or authorized representative desires to receive further communications relating thereto; and

(vii) Attach copies of BALCA's decision and order, and any other record documents which would assist the Secretary in determining whether review is warranted.

(3) Whenever the Secretary determines to review the decision and order of BALCA on an annual State plan, a notice of the Secretary's determination shall be served upon BALCA and upon all parties to the proceeding within 30 days after the Secretary's receipt of the petition of review.

(4) Upon receipt of the Secretary's notice, BALCA shall within fifteen days forward the complete hearing record to the Secretary.

(5) The Secretary's notice shall specify:

(i) The issue or issues to be reviewed;

(ii) The form in which submissions shall be made by the parties;

(iii) The time within which such submissions shall be made.

(6) All documents submitted to the Secretary shall be filed with the Secretary of Labor, U.S. Department of Labor, Washington, DC 20210, Attention: Executive Director, Office of Administrative Appeals, room S-4309. An original and two copies of all documents shall be filed. Documents are not deemed filed with the Secretary until actually received by the Secretary. All documents, including documents filed by mail, shall be received by the Secretary either on or before the due date.

(7) Copies of all documents filed with the Secretary shall be served upon all other parties involved in the proceeding. Service upon the Director shall be in accordance with paragraph (a)(3) of this section.

(8) The Secretary's final decision shall be issued within 180 days from the date of the notice of intent to review. The Secretary's decision shall be served upon all parties and BALCA.

(9) Upon issuance of the Secretary's decision, the Secretary shall transmit the entire record to the Chief Administrative Law Judge for custody pursuant to § _____.450 of this part.

§ _____.350 Public access.

(a) ETA shall make available for public examination a list of facilities which have filed attestations and visa petitions for H-1A nurses, and for each such facility, a copy of the facility's attestation and supporting documentation; the annual State plan (if any) which relates to the facility's attestation; and the facility's H-1A visa petition(s) to INS. A copy of the latter shall be transmitted to ETA by the facility at the same time it is submitted to INS. The facility shall also forward to ETA a copy of the INS visa petition approval notice within five days after it is received from INS.

(b) ETA periodically shall publish a notice in the **Federal Register** announcing the names and addresses of facilities which have submitted attestations; facilities which have attestations on file; facilities which have submitted attestations which have been rejected for filing; facilities which have been attestations suspended; States which have submitted annual State plans; States which have approved annual State plans; and States which have submitted annual State plans which were disapproved.

Subpart E—Enforcement of Attestations by Facilities Temporarily Employing Aliens As Registered Nurses

§ _____.400 Enforcement authority of Administrator, Wage and Hour Division.

(a) The Administrator shall perform all the Secretary's investigative and enforcement functions under 8 U.S.C. 1182(m) and subparts D and E of this part.

(b) The Administrator, either pursuant to a complaint or otherwise, shall conduct such investigations as may be appropriate and, in connection therewith, enter and inspect such places and such records (and make transcriptions thereof), question such persons and gather such information as deemed necessary by the Administrator to determine compliance regarding the matters to which a health care facility has attested under section 212(m) of the INA and subparts D and E of this part.

(c) A facility being investigated shall make available to the Administrator such records, information, persons, and places as the Administrator deems appropriate to copy, transcribe, question, or inspect. No facility shall interfere with any official of the Department of Labor performing an investigation, inspection or law enforcement function pursuant to 8 U.S.C. 1182(m) or subparts D or E of this part. In the event of such interference, the Administrator may deem the interference to be a violation and take such further actions as the Administrator considers appropriate.

Note: Federal criminal statutes prohibit certain interference with a Federal officer in the performance of official duties. 18 U.S.C. 111 and 18 U.S.C. 1114.

(d) A facility subject to subparts D and E of this part shall at all times cooperate in administrative and enforcement proceedings. No facility shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any person because such person has:

(1) Filed a complaint or appeal under or related to section 212(m) of the INA or subpart D or E of this part;

(2) Testified or is about to testify in any proceeding under or related to section 212(m) of the INA or subpart D or E of this part;

(3) Exercised or asserted on behalf of himself or others any right or protection afforded by section 212(m) of the INA or subpart D or E of this part.

(4) Consulted with an employee of a legal assistance program or an attorney on matters related to the Act or to subparts D or E of this part or any other DOL regulation promulgated pursuant to 8 U.S.C. 1182(m).

In the event of such intimidation or restraint as are described in paragraph (d)(1), (d)(2), (d)(3), or (d)(4) of this section, the Administrator may deem the conduct to be a violation and take such further actions as the Administrator considers appropriate.

(e) No health care facility shall seek to have an H-1A nurse, or any other nurse similarly employed by the employer, or any other employee waive rights conferred under the Act or under subparts D or E of this part. In the event of such waiver, the Administrator may deem the conduct to be a violation and take such further actions as the Administrator considers appropriate. Any agreement by an employee purporting to waive or modify any rights inuring to said person under the Act or subpart D or E of this part may be void as contrary to public policy, except that a waiver or modification of rights or obligations hereunder in favor of the Secretary shall be valid for purposes of enforcement of the provisions of the Act or subparts D and E of this part. This prohibition of waivers does not prevent agreements to settle litigation among private parties.

(f) The Administrator shall, to the extent possible under existing law, protect the confidentiality of any complainant or other person who provides information to the Department.

§ 405 Complaints and investigative procedures.

(a) The Administrator, through investigation, shall determine whether a facility has failed to perform any attested conditions, misrepresented any material facts in an attestation, or otherwise violated the Act or subparts D or E of this part.

Note: Federal criminal statutes provide penalties of up to $10,000 and/or imprisonment of up to 5 years for knowing and willful submission of false statements to the Federal government. 18 U.S.C. 1001; see also 18 U.S.C. 1546.

(b) Any aggrieved person or organization may file a complaint of a violation of the provisions of section 212(m) of the INA or subparts D or E of this part. No particular form of complaint is required, except that the complaint shall be written or, if oral, shall be reduced to writing by the Wage and Hour Division official who receives the complaint. The complaint shall set forth sufficient facts for the Administrator to determine what part or parts of the attestation or regulations have allegedly been violated. Upon the request of the complainant, the Administrator shall, to the extent possible under existing law, maintain confidentiality regarding the complainant's identity; if the complainant wishes to be a party to the administrative hearing proceedings under this subpart, the complainant shall then waive confidentiality. The complaint may be submitted to any local Wage and Hour Division office; the addresses of such offices are found in local telephone directories. The office or person receiving such a complaint shall refer it to the office of the Wage and Hour Division administering the area in which the reported violation is alleged to have occurred.

(c) The Administrator shall determine whether there is reasonable cause to believe that the complaint warrants investigation and, if so, shall conduct an investigation, within 180 days of the receipt of a complaint. If the Administrator determines that the complaint fails to present reasonable

cause for an investigation, the Administrator shall so notify the complainant, who may submit a new complaint, with such additional information as may be necessary.

(d) When an investigation has been conducted, the Administrator shall, within 180 days of the receipt of a complaint, issue a written determination, stating whether a basis exists to make a finding that the facility failed to meet a condition of its attestation, or made a misrepresentation of a material fact therein, or otherwise violated the Act or subparts D or E of this part. The determination shall specify any sanctions imposed due to violations. The Administrator shall provide a notice of such determination to the interested parties and shall inform them of the opportunity for a hearing pursuant to §§ _____.415(d) and _____.420 of this part.

§ _____.410 Civil money penalties and other remedies.

(a) The Administrator may assess a civil money penalty not to exceed $1,000 for each affected person with respect to whom there has been a violation of the attestation or subparts D or E of this part and with respect to each instance in which such violation occurred. The Administrator also shall impose appropriate remedies, including the payment of back wages and the performance of attested obligations such as providing training.

(b) In determining the amount of civil money penalty to be assessed for any violation, the Administrator shall consider the type of violation committed and other relevant factors. The matters which may be considered include, but are limited to, the following:

(1) Previous history of violation, or violations, by the facility under the Act and subparts D or E of this part;

(2) The number of workers affected by the violation or violations;

(3) The gravity of the violation or violations;

(4) Efforts made by the violator in good faith to comply with the attestation or the State plan as provided in the Act and subparts D and E of this part;

(5) The violator's explanation of the violation or violations;

(6) The violator's commitment to future compliance, taking into account the public health, interest or safety; and

(7) The extent to which the violator achieved a financial gain due to the violation, or the potential financial loss or potential injury or adverse effect upon the workers.

(c) The civil money penalty, back wages, and any other remedy determined by the Administrator to be appropriate, are immediately due for payment or performance upon the assessment by the Administrator, or the decision by an administrative law judge where a hearing is requested, or the decision by the Secretary where review is granted. The facility shall remit the amount of the civil money penalty, by certified check or money order made payable to the order of "Wage and Hour Division, Labor." The remittance shall be delivered or mailed to the Wage and Hour Division Regional Office for the area in which the violations occurred. The payment of back wages, monetary relief, and/or the performance or any other remedy prescribed by the Administrator shall follow procedures established by the Administrator. The facility's failure to pay the civil money penalty, back wages, or other monetary relief, or to perform any other assessed remedy, shall result in the rejection by ETA of any future attestation submited by the facility, until such payment or performance is accomplished.

§ _____.415 Written notice and service of Administrator's determination.

(a) The Administrator's determination, issued pursuant to § _____.405(d) of this part, shall be served on the complainant, the facility, and other interested parties' last known addresses. Where service by certified mail is not accepted by the party, the Administrator may exercise discretion to serve the determination by regular mail. Where the complainant had requested confidentiality, the Administrator shall serve the determination in a manner which will not breach that confidentiality.

(b) The Administrator shall file with the Chief Adminstrative Law Judge, U.S. Department of Labor, a copy of the complaint and the Administrator's determination.

(c) The Administrator's written determination required by § _____.405(c) of this part shall:

(1) Set forth the determination of the Administrator and the reason or reasons therefor; prescribe any remedies or penalties including the amount of any unpaid wages due, the actions required for compliance with the facility attestation and/or State plan, and the amount of any civil money penalty assessment and the reason or reasons therefor.

(2) Inform the interested parties that they may request a hearing pursuant to § _____.420 of this part.

(3) Inform the intrested parties that in the absence of a timely request for a hearing, received by the Chief Administrative Law Judge within 10 days of the date of the determination, the determination of the Administrator shall become final and not appealable.

(4) Set forth the procedure for requesting a hearing, and give the address of the Chief Administrative Law Judge.

(5) Inform the parties, that the Administrator shall notify ETA and INS of the occurrence of a violation, upon the earliest of the following events:

(i) Where the Administrator determines that there is a basis for a finding of violation, and no timely request for hearing is made pursuant to § _____.420 of this part;

(ii) Where, after a hearing, the administrative law judge issues a decision and order finding a violation and imposing a civil money penalty and/or other remedy; or

(iii) Where the administrative law judge finds that there was no violation and the Secretary, upon review, issues a decision pursuant to § _____.445(g) of this part, holding that a violation was committed and imposing a civil money penalty and/or other remedy.

(6) Upon receipt of the Administrator's notification, ETA shall suspend the violator's attestation and shall notify INS, which then is required to deny any H-1A visa petitions from the violator for a period of at least 12 months from the date of receipt of the Administrator's notification.

§ _____.420 Request for hearing.

(a) Any interested party desiring to request an administrative hearing on a determination issued pursuant to §§ _____.405(d) and _____.415(d) of this part shall make such request in writing to the Chief Administrative Law Judge at the address stated in the notice of determination.

(b) Interested parties may request a hearing in the following circumstances:

(1) Where the Administrator determines that there is no basis for a finding of violation, the complainant or other interested party may request a hearing. In such a proceeding, the party requesting the hearing shall be the prosecuting party and the facility shall be the respondent; the Administrator may intervene as a party or appear as *amicus curiae* at any time in the proceeding, at the Administrator's discretion.

(2) Where the Administrator determines that there is a basis for a finding of violation, the facility or other interested party may request a hearing. In such a proceeding, the Administrator shall be the prosecuting party and the facility shall be the respondent.

(c) No particular form is prescribed for any request for hearing permitted by this part. However, any such request shall:

(1) Be dated;

(2) Be typewritten or legibly written;

(3) Specify the issue or issues stated in the notice of determination giving rise to such request;

(4) State the specific reason or reasons why the party requesting the hearing believes such determination is in error;

(5) Be signed by the party making the request or by an authorized representative of such party; and

(6) Include the address at which such party or authorized representative desires to receive further communications relating thereto.

(d) The request for such hearing shall be received by the Chief Administrative Law Judge no later than 10 days after the date of the determination. For the requesting party's protection, if the request is by mail, it should be by certified mail.

(e) Copies of the request for a hearing shall be sent by the requestor to the Administrator and all interested parties.

§ _____.425 Rules of practice for administrative law judge proceedings.

(a) Except as specifically provided in this subpart, and to the extent they do not conflict with the provisions of this subpart, the "Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges" established by the Secretary at 29 CFR part 18 shall apply to administrative proceedings under this subpart.

(b) As provided in the Administrative Procedure Act, 5 U.S.C. 556, any oral or documentary evidence may be received in proceedings under this part. The Federal Rules of Evidence and Subpart B of the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges (29 CFR part 18, subpart B) shall not apply, but principles designed to ensure production of relevant and probative evidence shall guide the admission of evidence. The administrative law judge may exclude evidence which is immaterial, irrelevant, or unduly repetitive.

§ _____.430 Service and computation of time.

(a) Under this subpart, a party may serve any pleading or document by regular mail. Service is complete upon mailing to the last known address. No additional time for filing or response is authorized where service is by mail. In the interest of expeditious proceedings, the administrative law judge may direct the parties to serve pleadings or documents by a method other than regular mail.

(b) Two (2) copies of all pleadings and other documents in any administrative law judge proceeding shall be served on the attorneys for the Administration: One copy shall be served on the Associate Solicitor, Division of Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, and one copy on the attorney representing the Administrator in the proceeding.

(c) Time will be computed beginning with the day following the action and includes the last day of the period unless it is a Saturday, Sunday, or federally-observed holiday, in which case the time period includes the next business day.

§ _____.435 Administrative law judge proceedings.

(a) Upon receipt of a timely request for a hearing filed pursuant to and in accordance with § _____.425 of this part, the Chief Administrative Law Judge shall appoint an administrative law judge to hear the case.

(b) Within seven days following the assignment of the case, the administrative law judge shall notify all interested parties of the date, time and place of the hearing. All parties shall be given at least five days notice of such hearing.

(c) The date of the hearing shall be not more than 60 days from the date of the Administrator's determination. Because of the time constraints imposed by the Act, no requests for postponement shall be granted except for compelling reasons and by consent of all the parties to the proceeding.

(d) The administrative law judge may prescribe a schedule by which the parties are permitted to file a prehearing brief or other written statement of fact or law. Any such brief or statement shall be served upon each other party in accordance with § _____.430 of this part. Posthearing briefs will not be permitted except at the request of the administrative law judge. When permitted, any such brief shall be limited to the issue or issues specified by the administrative law judge, shall be due within the time prescribed by the adminstrative law judge, and shall be served on each other party in accordance with § _____.430 of this part.

§ _____.440 Decision and order of administrative law judge.

(a) Within 90 days after receipt of the transcript of the hearing, the administrative law judge shall issue a decision.

(b) The decision of the administrative law judge shall include a statement of findings and conclusions, with reasons and basis therefor, upon each material issue presented on the record. The decision shall also include an appropriate order which may affirm, deny, reverse, or modify, in whole or in part, the determination of the Administrator; the reason or reasons for such order shall be stated in the decision. The administrative law judge shall not render determinations as to the legality of a regulatory provision or the constitutionality of a statutory provision.

(c) The decision shall be served on all parties in person or by certified or regular mail.

§ _____.445 Secretary's review of administrative law judge's decision.

(a) The Administrator or any interested party desiring review of the decision and order of an administrative law judge shall petition the Secretary to review the decision and order. To be effective, such petition shall be received by the Secretary within 30 days of the date of the decision and order. Copies of the petition shall be served on all parties and on the administrative law judge.

(b) No particular form is prescribed for any petition for Secretary's review permitted by this subpart. However, any such petition shall:

(1) Be dated;

(2) Be typewritten or legibly written;

(3) Specify the issue or issues stated in the administrative law judge decision and order giving rise to such petition;

(4) State the specific reason or reasons why the party petitioning for review believes such decision and order are in error;

(5) Be signed by the party filing the petition or by an authorized representative of such party;

(6) Include the address at which such party or authorized representative desires to receive further communications relating thereto; and

(7) Attach copies of the administrative law judge's decision and order, and any other record documents which would assist the Secretary in determining whether review is warranted.

(c) Whenever the Secretary determines to review the decision and order of an administrative law judge, a notice of the Secretary's determination shall be served upon the administrative law judge and upon all parties to the proceeding within 30 days after the Secretary's receipt of the petition for review.

(d) Upon receipt of the Secretary's notice, the Office of Administrative Law Judges shall within fifteen days forward the complete hearing record to the Secretary.

(e) The Secretary's notice shall specify:

(1) The issue or issues to be reviewed;

(2) The form in which submissions shall be made by the parties (*e.g.*, briefs, oral argument);

(3) The time within which such submissions shall be made.

(f) All documents submitted to the Secretary shall be filed with the Secretary of Labor, U.S. Department of Labor, Washington, DC 20210, Attention: Executive Director, Office of Administrative Appeals, Room S-4309. An original and two copies of all documents shall be filed. Documents are not deemed filed with the Secretary until actually received by the Secretary. All documents, including documents filed by mail, shall be received by the Secretary either on or before the due date.

(g) Copies of all documents filed with the Secretary shall be served upon all other parties involved in the proceeding. Service upon the Administrator shall be in accordance with § _____.430(b) of this part.

(h) The Secretary's final decision shall be issued within 180 days from the date of the notice of intent to review. The Secretary's decision shall be served upon all parties and the administrative law judge.

(i) Upon issuance of the Secretary's decision, the Secretary shall transmit the entire record to the Chief Administrative Law Judge for custody pursuant to § _____.450 of this part.

§ _____.450 Administrative record.

The official record of every completed administrative hearing procedure provided by subparts D and E of this part shall be maintained and filed under the custody and control of the Chief Administrative Law Judge. Upon receipt of a complaint seeking review of the final agency action in a United States District Court, the Chief Administrative Law Judge shall certify the official record and shall transmit such record to the clerk of the court.

§ _____.455 Non-applicability of the Equal Access to Justice Act.

A proceeding under subparts D or E of this part is not subject to the Equal Access to Justice Act, as amended, 5 U.S.C. 504. In such a proceeding, the administrative law judge shall have no authority to award attorney fees and/or other litigation expenses pursuant to the provisions of the Equal Access to Justice Act.

[FR Doc. 90-15698 Filed 7-5-90; 8:45am]

BILLING CODES 4510-10-M, 4510-27-M

Reader Aids

Federal Register
Vol. 55, No. 130
Friday, July 6, 1990

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3408
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Library	523-5240
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the deaf	523-5229

FEDERAL REGISTER PAGES AND DATES, JULY

27171-27440.....2
27441-27626.....3
27627-27798.....5
27799-28012.....6

CFR PARTS AFFECTED DURING JULY

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

1 CFR
460.....27633
461.....27633

3 CFR
Proclamations:
5805 (Amended by Proc. 6152).....27441
6142 (Amended by Proc. 6152).....27441
6151.....27171
6152.....27441
6155.....27799
Executive Orders:
12718.....27451
Administrative Orders:
Presidential Determinations:
No. 90-19 of April 26, 1990.....27627
No. 90-23 of June 21, 1990.....27629
No. 90-24 of June 21, 1990.....27631
No. 90-28 of July 3, 1990.....27797
Memorandums:
June 6, 1990.....27453

5 CFR
430.....27760, 27933
2637.....27179, 27330, 27933
2638.....27179

7 CFR
301.....27180
400.....27182
910.....27182
916.....27801
917.....27801
928.....27184
Proposed Rules:
29.....27249
958.....27825

10 CFR
Proposed Rules:
2.....27645

12 CFR
208.....27762
225.....27762
563.....27185
563b.....27185
Proposed Rules:
5.....27964
8.....27964
11.....27964
16.....27964

13 CFR
120.....27197
121.....27198
Proposed Rules:
121.....27249

14 CFR
13.....27547
39.....27200, 27330, 27457, 27458, 27803-27805
71.....27460
Proposed Rules:
39.....27470-27473, 27826-27829
71.....27474

15 CFR
771.....27760
774.....27760
779.....27760
786.....27760
787.....27760
799.....27760

17 CFR
229.....27933
230.....27933
239.....27933
240.....27933
249.....27933
401.....27461

20 CFR
Proposed Rules:
621.....27974
655.....27974

21 CFR
201.....27776
341.....27806
1316.....27464
Proposed Rules:
58.....27476
103.....27831

23 CFR
Proposed Rules:
630.....27250
1327.....27251

24 CFR
50.....27598
200.....27218
203.....27218
885.....27223
961.....27598
Proposed Rules:
888.....27251
3282.....27252

26 CFR
Proposed Rules:
1.....27598, 27648

27 CFR

Proposed Rules:
9 27652

28 CFR

0 27808

29 CFR

2610 27808

Proposed Rules:
504 27974

30 CFR

901 27224
925 27811

Proposed Rules:
710 27588
901 27255
935 27256

32 CFR

199 27633
289 27225
706 ..... 27817, 27818

Proposed Rules:
299a 27835

33 CFR

4 27226
100 27820
110 27464
146 27226
325 27821

36 CFR

1220 ..... 27422, 27426
1222 27422
1224 27422
1228 27426
1230 27434

38 CFR

21 27821
36 27465

Proposed Rules:
21 27836

40 CFR

52 27226
228 27634
259 27228

Proposed Rules:
52 ..... 27657, 27659
148 27659
268 27659
280 27837
281 27837
721 27257

43 CFR

Public Land Orders:
4176 Partial Revocation 27822
6784 27467
6785 27822
6786 27822

Proposed Rules:
5470 27477

45 CFR

1340 27638

47 CFR

64 ..... 27467, 27468

Proposed Rules:
1 27478

48 CFR

1602 27405
1615 27405
1616 27405
1622 27405
1632 27405
1652 27405

Proposed Rules:
208 27268
225 27268
252 27268
523 27839
546 27839
552 27839

49 CFR

173 27640
179 27640

Proposed Rules:
395 27844
571 27330

50 CFR

672 27643
675 ..... 27643, 27823

Proposed Rules:
17 ..... 27270, 27662
683 27479
685 27481

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last List July 3, 1990