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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 910

[Lemon Reg. 661]

Lemons Grown in California and Arizona; Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 661 establishes the quantity of fresh California-Arizona lemons that may be shipped to market at 330,000 cartons during the period April 16 through April 22, 1989. Such action is needed to balance the supply of fresh lemons with market demand for the period specified, due to the marketing situation confronting the lemon industry.

DATES: Regulation 661 (§ 910.961) is effective for the period April 16 through April 22, 1989.

FOR FURTHER INFORMATION CONTACT: Beatriz Rodriguez, Marketing Specialist, Marketing Order Administration Branch, F&V, AMS, USDA, Room 2523, South Building, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 475–3861.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory action 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 Agricultural Marketing Agreement 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 85 handlers of lemons grown in California and Arizona subject to regulation under the lemon marketing order and approximately 2500 producers in the regulated area. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.2) as those having annual gross revenues for the last three years of less than $500,000, and small agricultural service firms are defined as those whose gross annual receipts are less than $3,500,000. The majority of handlers and producers of California-Arizona lemons may be classified as small entities.

This regulation is issued under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. The order is effective under the Agricultural Marketing Agreement Act (the "Act," 7 U.S.C. 601–674), as amended. This action is based upon the recommendation and information submitted by the Lemon Administrative Committee (Committee) and upon other available information. It is found that this action will tend to effectuate the declared policy of the Act.

This regulation is consistent with the California-Arizona lemon marketing policy for 1988–89. The Committee met publicly on April 11, 1989, in Los Angeles, California, to consider the current and prospective conditions of supply and demand and, by a 9 to 4 vote, recommended a quantity of lemons deemed advisable to be handled during the specified week. The Committee reports that demand for lemons is improving.

Pursuant to 5 U.S.C. 553, it is further found that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice and engage in further public procedure with respect to this action and that good cause exists for not postponing the effective date of this action until 30 days after publication in the **Federal Register** because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared purposes of the Act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary, in order to effectuate the declared purposes of the Act, to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

List of Subjects in 7 CFR Part 910

Marketing agreements and orders, California, Arizona, Lemons.

For the reasons set forth in the preamble, 7 CFR Part 910 is amended as follows:

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

1. The authority citation for 7 CFR Part 910 continues to read as follows:

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

2. Section 910.961 is added to read as follows:

NOTE: This section will not appear in the Code of Federal Regulations.

§ 910.961 Lemon Regulation 661.

The quantity of lemons grown in California and Arizona which may be handled during the period April 16, 1989, through April 22, 1989, is established at 330,000 cartons.

Dated: April 12, 1989.

Robert C. Keeney,

Deputy Director, Fruit and Vegetable Division.

[FR Doc. 89–9153 Filed 4–13–89; 8:45 am]

BILLING CODE 3410–02–M

NUCLEAR REGULATORY COMMISSION

10 CFR Part 2

RIN 3150–AC44

Submission and Management of Records and Documents Related to the Licensing of a Geologic Repository for the Disposal of High-Level Radioactive Waste

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rulemaking.

SUMMARY: The Nuclear Regulatory Commission is amending the Commission's Rules of Practice in 10 CFR Part 2 for the adjudicatory proceeding on the application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to 10 CFR Part 60. The revisions establish the basic procedures for the licensing proceeding, including procedures for the use of the Licensing Support System, an electronic information management system, in the proceeding. The revisions are based on the deliberations of the Commission's High-Level Waste Licensing Support System Advisory Committee. The Advisory Committee was composed of organizations representing the major interests likely to be affected by the rulemaking, and was established by the Commission pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. 1, in September 1987.

EFFECTIVE DATE: May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Francis X. Cameron, Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–1623.

SUPPLEMENTARY INFORMATION:

Background

On August 5, 1987, the Commission announced (52 FR 29024) the formation of the High-level Waste Licensing Support System Advisory Committee ("negotiating committee") to develop recommendations for revising the Commission's Rules of Practice in 10 CFR Part 2 for the adjudicatory proceeding on the application for a license to receive and possess high-level radioactive waste ("HLW") at a geologic repository operations area ("HLW licensing proceeding").[1] The negotiating committee sought concensus on the procedures that would govern the HLW licensing proceeding, focusing primarily on the use of an electronic information management system known as the Licensing Support System ("LSS"), in the HLW licensing proceeding. The objective of the negotiated rulemaking was to develop the essential features of the procedural rules for effective Commission review of the U.S. Department of Energy (DOE) license application within the three-year time period required by section 114(d) of the Nuclear Waste Policy Act of 1982, as amended ("NWPA"). The negotiating committee completed its deliberations in July 1988. Based on the committee deliberations, the Commission approved a proposed rule that would revise 10 CFR Part 2 to establish the procedures for the HLW proceeding. The proposed rule was published on November 3, 1988. The comment period closed on December 5, 1988. After consideration of the public comments, the Commission is promulgating this final rule.

The LSS is intended to provide for the entry of, and access to, potentially relevant licensing information as early as practicable before DOE submits the license application for the repository to the Commission. The LSS would contain the documentary material generated by DOE, NRC and other parties to the licensing proceeding, which are relevant to licensing of the repository. All parties would then have access to this system well before the proceeding begins. Access to these documents will be provided through electronic full text search capability. This provides the flexibility of searching on any word or word combinations within a document and thus facilitates the rapid identification of relevant documents and issues. Because the relevant information would be readily available through access to the LSS, the initial time-consuming discovery process, including the physical production and on-site review of documents by parties to the HLW licensing proceeding, will be substantially reduced.

The use of the LSS in the HLW licensing proceeding is to provide for timely review of the DOE license application by—

- Eliminating the most burdensome and time-consuming aspect of the current system of document discovery—i.e., the physical production of documents after the license application has been filed—because the LSS will provide for the identification and submission of discoverable documents before the license application is submitted;
- Eliminating the equally burdensome and numerous FOIA requests for the same information that both DOE and the NRC will surely receive before and after the application is filed if the LSS does not become a reality;
- Enabling the comprehensive and early technical review of the millions of pages of relevant licensing material by the DOE and NRC staff, through the provision of electronic full text search capability which will allow the quick identification of relevant documents and issues;
- Enabling the comprehensive and early review of the millions of pages of relevant licensing material by the potential parties to the proceeding, so as to permit the earlier submission of better focused contentions resulting in a substantial saving of time during the proceeding;
- Providing for the electronic transmission of all filings duirng the hearing, thereby eliminating a significant amount of delay.

The Negotiating Committee. The Commission used the process of negotiated rulemaking to develop the proposed rule. In negotiated rulemaking, the representatives of parties who may be affected by a proposed rule, including the Commission, convene as a group over a period of time to attempt to reach consensus on the proposed rule.

The first meeting of the negotiating committee was held in September 1987. The negotiating committee completed its deliberations in July 1988.

The members of the negotiating committee are—

- DOE
- NRC
- State of Nevada
- A coalition of Nevada local governments
- A coalitation of industry groups (Edison Electric Institute/Utility Nuclear Waste Management Group/U.S. Council for Energy Awareness)
- National Congress of American Indians
- A coalition of national environmental groups (Environmental Defense Fund/Sierra Club/Friends of the Earth).

All members of the negotiating committee, with the exception of the industry coalition, agreed to the draft text of the proposed rule that was discussed by the committee at its final meeting ("final negotiating text"). Under the committee protocols, the dissenting vote by the industry precluded committee consensus on the proposed rule.[2]

[1] *See* Agreement in Principle Between the Department of Energy (DOE) and the Nuclear Regulatory Commission (NRC) on the Development of a Licensing Support Systems (LSS), February 27, 1987.

[2] In the August 5, 1987, **Federal Register** Notice that initiated the negotiated rulemaking, the Commission clearly indicated that the LSS was only one of the mechanisms that the Commission was considering to streamline the licensing process. However, all participants on the negotiating committee, including the industry, initially agreed that a significant contributer to licensing delay was document discovery and motions practice—issues that the LSS was intended to address. In this regard, the industry, later stated that the LSS would result in little change in the length of the licensing proceeding without further procedural changes.

Those participants who approved the final negotiating text are DOE, the State of Nevada, the coalition of Nevada local governments, the National Congress of American Indians, the coalition of national environmental groups, and the NRC staff. The final negotiating text was carefuly drafted with the full participation of people with strong experience and background in NRC practice. It reflected the concerns of the major interests affected by the rulemaking. In fact, the industry coalition, although dissenting on the final negotiating text, fully participated in the drafting of the final text, and had considerable influence on the wording of the final text.[3]

The proposed rule was issued for a thirty-day comment period. The participants on the negotiating committee who approved the final negotiating text agreed to refrain from commenting negatively on the final negotiating text, if that text was published by the Commission as a proposed rule. The industry coalition, as well as any nonparticipants in the negotiation, were free to comment critically on any aspect of the proposed rule, including cost aspects of the LSS. Consistent with the negotiating committee's function advise the Commission on the LSS rulemaking, the staff submitted the comments on the proposed rule to the negotiating committee for review and comment. The public comments on the proposed rule, and any comments from the negotiating committee (the Commission received comments from the State of Nevada, the National Congress of American Indians, and Lincoln County, Nevada), are summarized below.

The comment period on the proposed LSS rule closed on December 5, 1988. The Commission received nine comments. Seven of these comments were from various segments of the Nuclear industry, one was from DOE expressing support for the LSS rulemaking and recommending several clarifications, and one was from formal trial counsel in the Commission's Office of the General Counsel, now with the firm of Hopkins, Sutter, Hamel & Park. Most of the industry comments consisted of an endorsement of the recommendations contained in the comment letter submitted by the Edison Electric Institute and the Utility Nuclear Waste Management Group("EEI/UNWMG"). As noted earlier, EEI/UNWMG, along with the U.S. Council on Energy Awareness, represented the industry on the HLW LSS Advisory Committee. The industry comments will be discussed in the context of the EEI/UNWMG comments, except where there is a significant difference in an individual comment letter. The discussion of the public comments will focus on the issues of cost-benefit, the topical guidelines for the submission of documents ot the LSS, and the non-LSS aspects of the rule.

Benefit-cost. The industry argues that the LSS is a "gigantic, highly complicated, and extraordinarily expensive system" that will not significantly assist Commission decision-making on the construction authorization for the repository within the NWPA timeframe. Rather than leading to a reduction of the time for licensing, the industry believes that the LSS would lead to an extension of the licensing time. Therefore, the industry does not believe that the benefits of the LSS justify the costs (estimated by DOE to be $200 million over a ten year period), and consequently, does not support the LSS.

The industry argument against the LSS has two basic components: (1) The LSS would not enable the Commission to meet the three-year schedule for the issuance of the construction authorization mandated by the NWPA; and (2) the costs of the LSS have been underestimated. As an alternative to the LSS, the industry has proposed a microfiche-based system in which relevant documents would be stored on microfiche but would not be captured in electronic searchable full text. However, the indexes to the documents and the bibliographic headers for the documents would be "computerized", presumably in electronic searchable full text. Parties could request a copy of a doucment from the LSS Administrator, and receive it by overnight mail.

According to the industry, the LSS would lengthen the licensing process for the following reasons:

• The industry argues that the LSS will create new procedural issues over which litigation is likely—for example, the LSS Administrator's certification that DOE is in substantial and timely compliance with the document submission requirements in the rule. In response, the Commission notes that, although the LSS rule does establish some new procedural requirements, these requirements are necessary to ensure that the parties subject to the rule are in substantial and timely compliance with its provisions, and thereby facilitate compliance with the NWPA's three-year time frame. In particular, the certification of DOE compliance is necessary to assure that relevant documents are in the LSS as soon as possible, so as to allow for early, pre-license application discovery. Any disputes over compliance with the rule will be resolved by the Pre-License Application Licensing Board established in § 2.1010 *before* the license application is submitted.

• The industry argues that the actual performance of the LSS is unlikely to live up to the expectations of the parties because documents that should be in the data base will be missed entirely, and that some of the documents captured could easily be incomplete in their electronic form. This will lead to attacks on the accuracy and completeness of the data base. The Commission notes that the final rule contains several provisions intended to minimize and correct inaccuracies and incompleteness. Section 2.1009 requires each party to establish procedures to capture the required documents. This section also establishes an early and continuous certification process, in which a party's designated official must certify that the party is in compliance with document submission requirements of the rule. Section 2.1003(h)(2)(i) requires the LSS Administrator to begin monitoring DOE compliance with the document submission requirements well before the license application is submitted. Section 2.1004 provides a mechanism for amendments and additions to be made to the data base. In addition, the LSS will be operational before the license application is submitted, allowing time for any errors or omissions to be corrected. Furthermore, an image of all documents will be available as a backup for the electronic text. Finally, as noted above, the rule establishes a Pre-License Application Licensing Board to resolve any disputes over accuracy and completeness of documents before the license application is submitted.

• The industry argues that the vast quantities of data available in electronic full text will provide parties with the opportunity to generate even greater amounts of discovery. The Commission notes that the LSS rule establishes requirements for the submission of relevant documents in advance of the license application. Because of the substantial amount of information that will be provided, the Commission does not anticipate continual discovery requests for large amounts of additional documents. Furthermore, the Hearing Licensing Board is authorized to limit discovery, specifically taking into account the early availability of

[3] The Commission notes that the industry coalition's dissent on the final negotiating text was based on the same rationale—the cost of the LSS—that it had set forth at the initial meeting of the negotiating committee some ten months earlier.

information provided by the LSS, and compliance with the NWPA's three-year schedule. See §§ 2.1018(c), 2.1021(a)(5), 2.1022(a)(6).

• The industry argues that disputes over the use of written interrogatories are certain to "plague the licensing board and discovery master." Section 2.1018(a)(2) provides for the use of written interrogatories only if authorized by the discovery master or Hearing Licensing Board upon a showing that informal discovery, which, as indicated below, is limited to such matters as the names of witnesses, has failed. Furthermore, in ruling upon a motion to authorize written interrogatories, the discovery master, or the Hearing Licensing Board may consider whether the request creates the potential for unreasonably interfering with meeting the three-year schedule in the NWPA. For these reasons, the Commission does not believe that disputes over written interrogatories will "plague" the boards, or lengthen the licensing process.

• The industry argues that system failures will trigger action to bring the entire licensing process to a halt. The Commission does not anticipate that the LSS will be unavailable for critical periods or lengths of time. DOE will design and develop the LSS well in advance of the license application. This period also includes development of a prototype system, as well as testing of the LSS before it becomes operational. Furthermore, the DOE design, development, and testing program will be conducted with input from NRC and other affected parties. The Commission believes that the design, testing, and development process will eliminate the major causes of system failure before the hearing process begins.

In summary, the Commission does not agree with the industry opinion that the LSS would add time to the licensing process. The staff continues to believe that the LSS is the best alternative for providing a high quality and efficient review of the DOE license application within the schedule mandated by the NWPA. As noted above, this will be accomplished through—

• Eliminating the most burdensome and time-consuming aspect of the current system of document discovery—i.e., the physical production of documents after the license application has been filed—because the LSS will provide for the identification and submission of discoverable documents before the license application is submitted;

• Eliminating the equally burdensome and numerous FOIA requests for the same information that both DOE and the NRC will surely receive before and after the application is filed if the LSS does not become a reality;

• Enabling the comprehensive and early technical review of the millions of pages of relevant licensing material by the DOE and NRC staff, through the provision of electronic full text search capability, which will allow the quick identification of relevant documents and issues;

• Enabling the comprehensive and early review of the millions of pages of relevant licensing material by the potential parties to the proceeding, so as to permit the earlier submission of better focused contentions, resulting in a substantial saving of time during the proceeding;

• Providing for the electronic transmission of all filings during the hearing, thereby eliminating a significant amount of delay.

The Commission believes that any document management system for the HLW proceeding must meet all of these objectives in order for the Commission to meet the NWPA schedule, while still providing for a high quality review of the license application. No other alternative, including the industry microfiche proposal, will accomplish this.

As stated by the National Congress of American Indians (NCAI) in its review of the benefits of the LSS—

> The LSS benefit which is vitally important to potential intervenors—and of no interest to the industry—is its potential to facilitate the thoroughness of program reviews. Unlike the nuclear industry, Indian tribes, states and other potential intervenors view the NRC licensing for a repository to be more than a troublesome procedural hoop through which DOE must jump on its way to repository waste acceptance.
>
> Indian tribes, states, local governments and citizens' organizations that might become intervenors in that process have a responsibility to their respective constituents to see that the resolution of those questions is done as meaningfully and correctly as possible. In other words, these entities' primary interest in this entire program—one which is manifestly consistent with the general public interest—is to make sure that the Commission's final determinations in this matter are as nearly correct as possible.
>
> To discharge this responsibility, which is also mandated by the Nuclear Waste Policy Act ("NWPA") with respect to the host state and any affected Indian tribe, they must be intimately involved in the review of the program. To effectively participate in program reviews, the prospective intervenors must have excellent access to the information base the program is using. They do not now have even marginally adequate access to that information. The LSS—even a flawed, incomplete LSS—promises to vastly improve that access.

NCAI concluded that—

> the proposed LSS passes the cost/benefit analysis because the key benefit of improved access to program information will certainly be served by the LSS and the costs of the LSS are not a significant fraction of the overall waste program costs. We also support DOE's and NRC's conclusion that the LSS would shorten the licensing period for a repository and, in that respect, would be likely to reduce overall program costs rather than increase them.

One public commenter, the former NRC trial counsel, endorses the benefits of the LSS and agrees with the staff belief that "the LSS will facilitate greatly the objective of realizing an initial decision within 3 years of the filing of the application." This commenter goes on to state that "the HLW license hearings will be delayed substantially" without the LSS. This is due to the fact that the LSS rulemaking will remove document discovery as an obstacle to timely completion of the HLW proceeding by providing relevant documents well in advance of the license application. As further stated by this commenter—

> Potential parties will have access to the LSS well in advance of the time for submitting requests for a hearing. Thus, the time needed for prospective parties to digest pertinent information will not become a critical path matter because it should be largely completed before the prehearing process begins. Moreover, all hearing requesters should be better informed with respect to the subject matter, and they should be able to frame meaningful and material issues for litigation. . . . Finally, the establishment of the Pre-License Application Licensing Board to hear and rule on document production controversies should assure that the delay attendant to legal posturing over document production will not impact the hearing schedule. In sum, the proposed regulations would * * * remove one of the greatest causes of delay from the NRC adjudicatory hearing process.

The DOE benefit-cost analysis indicates that approximately $200 million would be saved for *each year* of licensing delay eliminated due to the LSS. The final rule establishes procedures for the HLW, including a model hearing schedule, that will allow the Commission to reach a decision on the construction authorization within the timeframe specified in section 114(d) of the NWPA. However, even if the process were to take up to one-third longer than the final rule envisions, the LSS would still result in eliminating substantial time from current licensing practice. Under these circumstancs, the benefits of the final rule would exceed the costs of implementing the LSS. Moreover, the Commission is pursuing still other methods for streamlining the licensing process, such as using

rulemaking to resolve substantive licensing issues before the license application is submitted.

The second part of the industry comments on the costs and benefits of the LSS is the adequacy of the DOE benefit-cost analysis. The industry does not believe that the DOE analysis is adequate for a number of reasons, primarily because the DOE analysis did not consider alternatives to the LSS such as the industry microfiche system. In addition, the industry notes that the estimated $200 million cost is only projected over a ten year period, and the cost is only presented in 1988 dollars. Finally, the industry claims that the size, complexity, and "revolutionary" nature of the LSS will significantly escalate the costs of the system.

In response, the Commission notes that the scope of the DOE benefit-cost analysis was determined in reference to the objectives of the LSS identified earlier—facilitating the discovery and review of relevant documents. The staff, DOE, and other participants on the negotiating committee did not believe that any alternative other than an electronic full text search system could satisfy these objectives, and thereby allow the Commission to meet the NWPA schedule, while still providing for a high quality review of the relevant licensing information. Therefore, the DOE did not evaluate the benefits and cost of alternatives that did not include an electronic full text search capability of the documents in the system.

Although the industry microfiche alternative might provide for the collection of relevant documents in advance of licensing, it does not provide for the electronic full text search *within* those documents, such as the 7000-page Site Characterization Plan. The Commission does not believe that the mere *availability* of documents in hard copy or microfiche without electronic full text search capability will permit an adequate substantive review of the documents in the HLW proceeding by the staff itself or any other party, nor will it permit the hearing to be completed within the NWPA timeframe. For example, in the 18-month period following submission of the license application, the current schedule calls for the NRC staff to review the application, to prepare its Safety Evaluation Report, and to evaluate and respond to contentions proffered by the parties in the hearing. The LSS furnishes an important tool for the staff to use to ensure that its review is both timely and comprehensive, and will enable the Staff to complete its review of both contested and uncontested issues without having an impact on the schedule of the adjudication.

NCAI, commenting on the full text search capability of the LSS, stated—

> The most important aspect of that access is the proposed full-text search capability of the LSS. That is where the nuclear industry's alternative, a microfiche-based system, falls far short of what is needed. The nuclear industry would implement an electronic index only to the relevant information, which would be stored and provided in microfiche form. Unfortunately, the usefulness of such systems is far too sensitive to the quality of the indexing. Particularly with respect to subject descriptors or abstracts, there needs to be near-perfect correspondence between the thought processes of the indexer and those of the subsequent searcher in order for the latter to find materials in an index-only system.
>
> Full-text search, on the other hand, provides much greater power and flexibility in accessing relevant information. Surveys cited by the NRC staff in support of the LSS rulemaking consistently showed greater accuracy and efficiency of searching in full-text plus header systems—such as is envisioned for the LSS—relative to other alternatives.

As noted by the State of Nevada in its review of the industry proposal, the system the industry recommends—

> would not more greatly assist the Commission in meeting its congressional time goals, and would not provide the parties with effective and efficient document discovery. Most importantly, it would not give the Commission the commensurate higher level of confidence that all issues have been fully explored and that the public health and safety will be protected before the Commission arrives at its construction authorization decision.

Furthermore, the State of Nevada believes that the industry microfiche alternative "fail[s] to take into account the fact that any other system, either hard copy or the microfiche based system which they [the industry] espouse, would be as labor intensive, potentially more time consuming, probably unwieldy, and more likely than not would involve as much cost as the proposed LSS." For example, a microfiche data base would have to be duplicated for each potential party as well as for each public document room. The latter, in particular, would require substantial additional physical space and personnel to oversee the microfiche library.

The DOE benefit-cost analysis was only projected over a ten year period because that period corresponds to the period where the major costs of system design and development, and document entry, as well as the benefits of the LSS, will be realized, i.e., from the pre-license application phase to the decision on the construction authorization. Although, the projected costs were expressed in 1988 dollars, so were the expected benefits. Therefore, the conclusions of the analysis would be the same whether in constant or adjusted dollars. Finally, the Commission does not agree with the industry statement that the LSS is a "revolutionary" system. There are many successful commercial information management systems such as Dialog, LEXIS, and Westlaw that provide full text search and retrieval of millions of pages. The U.S. Congress also has a data base (SCORPIO) that contains substantial legislative material in searchable full text.

Seventy percent of the $200 million cost for the LSS is for the labor associated with assembling and organizing the documents, converting them to electronic format, and preparing bibliographic headers. However, much of the cost associated with these activities will be incurred, in any event, as part of the records management function for the repository, including the costs for checking the document conversion for completeness and accuracy. Therefore, the Commission does not believe that the $200 million cost accurately represents the incremental cost attributable to the full text search capability of the LSS. Rather, the $200 million includes costs that would be incurred in any system of records selected by the agency for storing and retrieving documents pertinent to the HLW proceeding.

In addition, the LSS cost projections are sensitive to the actual volume of information to be entered and to the processing costs per page. Significant cost reductions may be achieved through competitive procurement of data entry services. Cost reductions may also be realized by scaling down the universe of documents to be entered into the LSS, as discussed below. In light of the fact that the elimination of even one year of licensing delay by use of the LSS would result in a savings of approximately $200 million, the cost of the LSS is reasonable. In addition, the projected $200 million cost over ten years is less than three percent of the total annual DOE budget for the high-level waste program.

Topical Guidelines. Several of the comments, explicitly or implicitly, addressed the size of the data base that would result from the use of the topical guidelines for determining what documents must go into the LSS. One commenter, the former NRC trial counsel, recommended that reasonable limits be established on the scope of document production, for example, excluding documents concerning

alternative sites or limiting the documents to those produced after the 1982 enactment of the NWPA, or to an earlier date when the primary research and development work being relied on by DOE was completed. According to this commenter, meaningful limits on document production should reduce the cost of, and the potential for delay in the use of, the LSS; and such limits may well provide the type of alternative sought by Commissioner Roberts. Limitation of the topical guidelines to the Yucca Mountain site was also recommended by another industry commenter. This commenter also recommended that the scope of documents should be further limited to the documents supporting a license application.

The topical guidelines were partially modeled after the Environmental Assessments prepared in connection with the DOE site selection process. The topical guidelines are necessarily broad, reflecting a concern by several participants on the negotiating committee that documents related to potential licensing issues not be excluded from the LSS until the Commission determined what would be the permissible scope of substantive licensing issues. As noted by the Commission in the Supplementary Information to the proposed rule, the topical guidelines will *not* be used for the purpose of determining the scope of contentions that can be offered in the HLW proceeding under § 2.1014. Participants on the negotiating committee fully agreed with this statement. As noted, their concern was to ensure that documents on *potential* licensing issues were not *prematurely* excluded.

The Commission is sympathetic to the need for excluding material that is not relevant to the licensing of the likely candidate site for the repository. Inasmuch as the existing scope of the topical guidelines (many of which *are* specifically limited to the Yucca Mountain site) was developed as part of the consensus process on the entire rulemaking, the staff believes that a reduction in scope should be discussed by the negotiating committee or its successor. The Topical Guidelines are not cast in stone. They are to be set forth as a Regulatory Guide developed by the NRC staff, rather than as part of the regulations themselves, and thus are to be accorded lesser status and legal effect. The Topical Guidelines set forth later in this Supplementary Information are interim guidelines to be used until a more precise set is issued in an NRC Regulatory Guide. In either case, the Commission would again emphasize that the topical guidelines will not be used for determining the scope of admissible contentions in the HLW licensing proceeding.

Morever, there are other possibilities for ensuring that the document production requirements do not become unwieldy. The rulemaking on the Commission's NEPA responsibilities will specify many of the areas that will be outside the scope of the hearing. After this rulemaking is finalized, the Commission could amend the topical guidelines accordingly. Until these issues are resolved, the identification and loading of selected categories of documents could be postponed. In effect, priority would be given to the identification and loading of documents directly relevant to the Yucca Mountain site, DOE contractor reports, or documents generated after DOE began investigations at Yucca Mountain. The Supplementary Information to the proposed LSS rule stated that the LSS Advisory Review Panel may develop recommendations to the Commission on whether particular categories of documentary material (e.g., those limited by date or subject) should still be included within the topical guidelines. The NRC LSS Internal Steering Committee will develop a list of priorities, as well as potential amendments to the topical guidelines, in preparation for discussion with the other affected participants.

On a final point, the Commission disagrees with the commenter that recommended limiting the data base to only documents supporting the license application. This would eliminate many of the documents available through the existing discovery process, thereby depriving parties of documents that they would normally have access to under the Commission's current rules. More important, it would deny DOE and the NRC staff comparable electronic access to the expected numerous technical documents prepared by Nevada's contractors on which the state will base its case.

Non-LSS Provisions. In addition to the provisions in the proposed rule that concerned the development and implementation of the LSS, the final rule also contains several revisions to the rules of practice that are not directly related to the LSS, but which should also provide for a more streamlined licensing process than the current licensing procedures. However, the Commission is committed to do everything it can to streamline its licensing process and at the same time conduct a thorough safety review of the Department of Energy's application to construct a high-level waste repository. The negotiators to this rulemaking have made a number of improvements to our existing procedures. However, more improvements may be necessary if the Commission is to meet the tight licensing deadline established by the Nuclear Waste Policy Act of 1982, as amended. By publishing this rule, the Commission is not ruling out further changes to its rules of practice, including further changes to the rules contained in the negotiated rulemaking.

The industry comments on the proposed rule contained several additional recommendations in this area. These same recommendations were also included in a memorandum that the industry originally presented to the negotiating committee on the LSS rule. Many of these recommendations were addressed by the negotiating committee and incorporated into the proposed LSS rule, although not always in the exact form proposed by the industry. The revisions to the rules of practice proposed in the industry comments on the LSS rule are those revisions that were not fully adopted by the negotiating committee. The industry recommendations are as follows—

- Establish a new threshold for contentions. According to the industry "NRC adjudicatory decisions have allowed the admission of contentions with no foundation and no semblance of factual support." Accordingly, the industry recommends that the NRC require that a party demonstrate that there is a genuine and substantial issue of disputed fact requiring a hearing for its resolution. This issue received extensive consideration by the negotiating committee. Many of the participants on the committee did not agree that the industry position reflected NRC practice since 1980, nor did they believe that a higher standard for contentions was necessary to exclude "frivolous issues," particularly in light of the early availability of information through the LSS. Furthermore, although the final LSS rule does not include the standard proposed by the industry, the final rule does require that the petition for intervention include a party's contentions, which must refer with particularity to the specific documentary material or absence thereof that provides the basis for the contention, and the specific regulatory or statutory requirement to which the contention is relevant. This provides a basis on which to reject clearly frivolous contentions. Moreover, contentions which rely on incorrect facts can be tested through existing summary dispostion procedures at the outset of the hearing.

As part of its efforts on regulatory reform, the Commission issued a proposed rule on July 3, 1986, that would amend certain provisions of its rules of practice, 51 FR 24365. The draft final rule on regulatory reform addresses standards for the admission of contentions, the elimination of unnecessary discovery against the NRC staff, the use of cross-examination plans, and the timing of motions for summary disposition. Section 2.1000 of the LSS rule cross-references any sections of general applicability in subpart G of Part 2 that will continue to apply to the HLW licensing proceeding. As such, all but one of the provisions in the draft final regulatory reform rule (Section 2.714, which requires contentions to show that a genuine dispute exists on an issue of law, fact, or policy), if adopted, will automatically apply to the HLW proceeding. The LSS rule contains a new provision on contentions, Section 2.1014, and consequently Section 2.714 would no longer apply to the HLW proceeding. The Commission intends to further evaluate the need to extend the "genuine issue of fact" standard to the HLW proceeding after its review of this provision in the draft final regulatory reform rule.

• Late contentions. The industry comments state that current NRC practice is "overly liberal in admitting contentions filed after the period for initial definition of contentions." The industry recommends that a new standard be established which would require an evidentiary showing that: (1) There is significant new information which would require a modification in facility design/construction to protect the public health and safety; and (2) such modification would substantially enhance such protection by improving overall safety.

The industry fails to substantiate its charge that the adjudicatory boards are too liberal in admitting late contentions. A review of all such decisions since 1980 reveals that less than 25 percent of late contentions have been admitted. Of those, the great majority were based on very special circumstances and thus understandably admitted (e.g., new TMI-accident-related regulatory requirements, prior unavailability of emergency plans, discovery of potentially serious safety and quality assurance problems.) Thus, the industry's premise is unsupported. Nonetheless, the negotiating committee deliberations on this issue resulted in new standards for certain types of late contentions. Any petitions to amend or add contentions made more than forty days after the issuance of the NRC Staff Safety Evaluation Report (SER) must include, in addition to the usual factors for late-filed contentions, a showing that the contention involves a significant safety or environmental issue or raises a material issue related to the performance evaluation anticipated by 10 CFR 60.112 or 60.113.

• Discovery. Citing as an example the local rules of only one federal district court (out of 101) the industry proposed that limitations be placed on the number of depositions and the time period during which those depositions may be taken. Section 2.1018 of the final rule, and the model schedule in the Supplementary Information of the final rule already limit deposition discovery to approximately 21-months. The Board is also authorized by the rules to prevent abuse of the discovery process. Further restrictions on deposition discovery were given extensive consideration during the negotiation. The magnitude of this proceeding and the need for meaningful public review of health and safety issues, however, make arbitrary limits on depositions, imposed by rule, inappropriate and unwarranted.

The industry also states that the informal discovery provisions contained in § 2.1018(a)(1) of the final rule will enable a party to "deluge DOE with informal requests for information not available in the LSS." The informal discovery procedures represent a method to allow parties to the hearing to obtain the type of information normally gathered through interrogatories (names of witnesses, nature of testimony, etc.) through a less onerous and less time-consuming method than the use of written interrogatories. As such, it will be confined to a narrower band of information than implied in the industry comment. Abuse of the informal discovery process can also be prevented by the Pre-License Application Licensing Board or the Hearing Licensing Board under § 2.1018(c) of the final rule. However, in order to minimize the potential for abuse of the informal discovery process, § 2.1018(a)(1) has been revised to include examples of the type of material that will be available through informal discovery.

• Intervention. According to the industry, the Commission "has allowed its licensing boards to grant intervention status to parties that failed to meet judicial standing requirements." According to the industry this "discretionary intervention" tends to "add additional parties to the proceeding, does not serve the public interest, complicates pre-hearing procedures, and should be removed." The Commission does not agree that discretionary intervention "does not serve the public interest" or "complicates pre-hearing procedures," and recommends against removing such discretion from the licensing boards. The Commission's licensing boards do follow judicial standards for intervention. However, the Commission does allow discretionary intervention under certain circumstances, and has established specific factors to guide a licensing board's determination on whether discretionary intervention should be permitted. *Portland General Electric Co.* (Pebble Springs Nuclear Plant, Units 1 and 2), CLI–76–27, 4 NRC 610, 616 (1976). Since *Pebble Springs*, discretionary intervention has been authorized only four times, and in one of those instances, the grant of intervention was later vacated as moot. It is also worth noting that, because the industry's interest in the HLW proceeding is economic, it may not satisfy the Commission's traditional, judicial test for standing and thus might well have to rely on the *Pebble Springs* doctrine to participate in the proceeding.

• Affirmative case on contentions. The industry recommends that the Commission require that a party sponsoring a contention present an affirmative evidentiary case for that contention. Under NRC case law, an intervenor does have the burden of going forward, but may do so by either direct evidence or by cross-examination, as to the issues raised by the intervenor's contentions. *Philadelphia Electric Co.* (Limerick Generating Station, Units 1 and 2), ALAB–262, 1 NRC 163, 191 (1975). The Commission believes that this more substantive proposal, which is beyond the scope of the instant rulemaking, warrants further consideration later, at the same time the Commission addresses the related issue of whether the threshold of contentions should be raised.

• Seriatim hearings. The industry recommends that the Commission direct the licensing board to resolve contentions on an ongoing basis and that internal agency appeals for these decisions need not await resolution of the last group of issues. As noted above, the proposed LSS rule already dramatically alters existing practice by *requiring* (rather than prohibiting) appeals from certain types of interlocutory orders, such as rulings on the admissibility and amendment of contentions and motions for summary disposition, to be filed within ten days (rather than at the conclusion of the proceeding). See § 2.1015. Further, under long established agency precedent,

rulings disposing of a major segment of a case are immediately appealable.

Negotiating Committee Review. The State of Nevada, the National Congress of American Indians, and Lincoln County, Nevada submitted written comments on the public comment letters. The State of Nevada supports the LSS rule as proposed. According to the State, "[t]he rule is the product of a very successful negotiation process, during which all major interests, except the utilities, engaged in significant compromises. The give and take resulted in a proposed electronic discovery and motions practice system which will enhance the parties' ability to fully inform the hearing panel, and thus the Commission, on the difficult issues involved in licensing a repository. It will therefore assist in meeting the Commission's ultimate health and safety responsibility." Furthermore, the State is convinced that the proposed rule will provide a greater possibility that the Commission can meet its congressional time goals, or at least reduce the time which would be necessary to reach a construction authorization decision than by using either traditional hard-copy discovery, or the industry's proposed microfiche based system. The State also emphasized that it had "agreed to relinquish traditional hard copy discovery rights, and in return received what we are confident is a vehicle which will allow for a more enhanced use of discovery, and thus a more effective means of participating in the licensing process, and assisting the Commission in fulfilling it[s] ultimate responsibility; that is, a construction authorization decision based on a full and complete airing of all of the complex and novel technical issues * * *".

The National Congress of American Indians continues to support the LSS, because the benefits to be derived—primarily in the form of improved access to program information—will greatly facilitate effective participation in the program on the part of Indian tribes and other potential intervenors. The cost of the system, while high, is justified by the benefits and is an insignificant fraction of overall nuclear waste program costs. NCAI supports the conclusion of the Department of Energy and the NRC Staff that the LSS will significantly shorten the time required to license a repository.

Furthermore, NCAI—

reaffirmed its commendation of the Commission for undertaking this rulemaking by negotiation and for including NCAI to represent national Indian interests in that negotiation. The result of the lengthy negotiation process necessarily represents a great deal of compromise on the part of all the parties. We do not like every aspect of the draft rule, but we certainly understand the rule and its derivation infinitely better than we would had we not been able to participate so thoroughly in its initial drafting. All those representing intervenor interests yielded on many points in the negotiations to accommodate the positions of the nuclear industry. We would not have done so in any case if we had known that the industry ultimately would not yield to accommodate the LSS concept as a whole.

The same considerations which led the Commission to undertake this rulemaking by negotiation—that the results of more thorough participation would yield a better and ore acceptable draft rule—should similarly lead the Commission to reject the nuclear industry's position in promulgating the final rule. The proposed system is admittedly elaborate and costly, but it promises to lead to more efficient and effective management of the vast quantity of information required for repository licensing and more meaningful participation in this important government process. The Commission should not be overly reluctant to engage in a bit of information age pioneering, as this is unquestionably the direction in which information management in complex government regulation and litigation is going. The costs are not out of line relative to overall program costs.

Lincoln County, one of the members of the Nevada local government coalition on the negotiating committee noted that—

The utilities appear to be requesting rulemaking and other administrative relief to expedite licensing in a manner which may jeopardize the full and effective participating rights of potentially affected parties. The NWPA provision calling for a three-year licensing period was enough of a time concession for the utilities. Any further concessions for the sake of expediency may cause harm to the balance of affected parties.

Coordination. On January 11, 1989, the Commission voted to establish an independent Office of the LSS Administrator reporting to the Commission for policy direction, and to the Chairman for day-to-day management supervision. In addition, the Commission renamed the current NRC LSS Negotiating Team as the NRC LSS Internal Steering Committee effective immediately. The Steering Committee is to serve as the focal point within the Commission to identify, develop, and coordinate internal requirements and procedures, and to represent NRC's interests in the LSS. In order to carry out these responsibilities, and to prepare for coordination with DOE on the design and development of the LSS, the Steering Committee has begun the preparation of a draft LSS implementation plan. The plan will address the following—

- Identification and prioritization of the LSS design and development issues that need to be addressed with DOE;
- Identification and prioritization of the issues that need to be addressed for implementation of the LSS within the NRC, including a delineation of the role of the LSS Administrator vis-a-vis the Steering Committee and the affected NRC Offices;
- Preparation of a draft Memorandum of Understanding between NRC and DOE that would delineate the responsibilities of the respective agencies in regard to the LSS;
- Preparation of a draft charter for the LSS Advisory Committee;
- A schedule for implementation of the plan;
- Proposed amendments to the topical guidelines.

The Commission would emphasize that, in order to accomplish the LSS objectives, DOE must have the LSS operational as far in advance of the submission of the license application as feasible. The Commission is somewhat concerned over the DOE statement in its comment on the proposed rule that—

The January 1991 date cited for availability of the Licensing Support System * * * is no longer a realistic date. Based on the findings of the preliminary design effort to date and on the best available estimates of an anticipated schedule of procurement for system hardware and software components, elements of the system will be available in late 1992, with comprehensive capabilities now estimated to be available in early 1993.

The Commission realizes that the schedule for submission of the DOE license application may also be delayed beyond the 1995 date now anticipated by DOE. However, until such a schedule adjustment is an actuality, DOE, with the assistance of NRC and the other affected parties, must make their best efforts to see that the LSS is operational as soon as practicable before the license application is submitted. In this regard, DOE, NRC, and other parties subject to the rule must now begin preparation for compliance with the document submission requirements in § 2.1003. Furthermore, the LSS Administrator's evaluation of DOE compliance, pursuant to § 2.1003(h)(2), begins six months after his or her appointment.

Additional Views of Commissioner Curtiss

For a number of reasons, discussed in more detail below, I have significant reservations about proceeding at this point with the so-called "non-LSS" portion of this rule, wherein the Negotiating Committee has recommended extensive changes to our Part 2 procedures, as those procedures will apply to the Department of Energy's application for a

construction authorization for the high-level waste repository.

First, it does not appear to me that the original charge to the Negotiating Committee envisioned that the Committee would address, in a wide-ranging manner, the so-called Part 2 procedural provisions that will govern the high-level waste proceeding, except to the extent that changes in these provisions proved to be necessary for the purpose of implementing the Licensing Support System (LSS). The rule before us includes a number of provisions that are necessary to implement the LSS; but it also includes a number of "non-LSS" provisions that are unrelated to the LSS and that, in my judgment, go far beyond the scope of the Committee's charge.

Second, we have not had a sufficient opportunity to reflect upon the "non-LSS" procedural changes that have been proposed—to ensure that the procedures are clear and ambiguous and to reach a decision as to whether, as a matter of policy, the approach reflected in the proposed procedures should be endorsed. My own view is that there is considerable ambiguity, reflected in part by the apparent lack of consensus on key issues that emerged in the February 7, 1989 Commission meeting, about the meaning of certain important provisions.

Third, my concerns in this regard have been heightened by the responses that we recently received from the Negotiating Committee members to the questions that I posed on February 24, 1989. In short, with the exception of the Industry Coalition, the Negotiating Committee members and the lead convenor and facilitator have individually declined to answer the questions, suggesting that inquiries about the purpose and intent of this rule somehow threaten the integrity of the negotiating process and will lead to the collapse of whatever consensus has been achieved.

In posing these questions, it was not my intent to plow new ground or raise new issues that go beyond the topics that are addressed in the proposed rule recommended by the Negotiating Committee in SECY–89–027. Indeed, in every instance, the questions concern the purpose, the intent, and the meaning of the procedural provisions contained *within the four corners of this rulemaking package* and involve matters that, in my judgment, need to be clarified if our objective here is to have a rational, well-understood set of procedures to govern the high-level waste adjudicatory proceeding. If these matters were discussed and addressed by the Negotiating Committee—and a consensus achieved—then the response should require no further negotiation. A simple reference to the text of the rule or to the minutes of the negotiations would suffice. On the other hand, if these matters did not receive the attention of the Negotiating Committee—or a consensus does not exist—then in my judgment that should give us pause about proceeding with changes that are not clearly understood. If we have any hope of meeting the three-year statutory schedule for the high-level waste proceeding, I think we should clear up these ambiguities now.

Whether a consensus was achieved or not, we are nevertheless entitled to a response from the Negotiating Committee about the purpose and intent of the rule that has been proposed for our consideration. We are ill-served by the Negotiating Committee's inability or unwillingness to respond to reasonable questions about the meaning and purpose of key provisions in this rule.[1]

Fourth and finally, there are a number of procedural changes that go beyond, or involve changes in, what the Negotiating Committee has proposed that warrant consideration (*see, e.g.*, Memorandum from Christine N. Kohl to William C. Parler, January 19, 1989; SECY–89–023, "Consideration of Revisions to the Commission's Rules of Practice in Order to Further Streamline the High-Level Waste Licensing Process", January 26, 1989). I am pleased that these additional changes will be coming to the Commission shortly for our consideration and I hope that we can move forward expeditiously with our deliberations on these additional changes. But it seems to me that it would be far preferable to make these changes all at one time and in a single package, where we can consider the policy matters related to our HLW procedures in a comprehensive and coordinated way, rather than through the bifurcated approach that we are now taking.

For the foregoing reasons, I would disapprove the "non-LSS" provisions of the rule (sections 2.1014–2.1023, 2.714, 2.722, 2.743, and 2.764, as well as the topical guidelines and the model timeline). I would approve those provisions of the rule that are directly related to implementation of the LSS (2.1000–2.1013).

The Final Rule

The final rule adds a new Subpart J to 10 CFR Part 2 setting forth the procedures that govern the Commission's HLW licensing proceeding, including the use of the LSS for the submission and management of documents in the proceeding. The final rule applies only to the HLW proceeding, and does not apply to licensing involving any other type of facility or activity licensed by the Commission. The rule will be applicable to all parties to the HLW licensing proceeding regardless of whether a particular party was a member of the negotiating committee. No substantive changes have been made to the rule as proposed.

Section 2.1000 Scope of Subpart

The final rule establishes a new Subpart J in 10 CFR Part 2 setting forth the procedures that govern the Commission's HLW licensing proceeding, including the use of the LSS for the submission and management of documents in the proceeding. Generally, the procedures in the new Subpart take precedence over the provisions of general applicability in 10 CFR Subpart G. However, § 2.1000 cross-references any sections of general applicability in Subpart G that will continue to apply to the HLW licensing proceeding. The final rule applies only to the HLW proceeding, and does not apply to licensing proceedings for any other type of facility or activity licensed by the Commission. The rule will be applicable to all parties to the HLW licensing proceeding regardless of whether a particular party was a member of the negotiating committee.

Section 2.1001 Definitions

Section 2.1001 sets forth the definitions of terms used throughout Subpart J. These definitions will be discussed with the relevant sections of the final rule.

Section 2.1002 High-level Waste Licensing Support System

Section 2.1002 describes the purpose and scope of the LSS. The LSS is intended to provide full text search capability of, or easy access to, the "documentary material" of DOE, NRC, other parties to the LHW licensing proceeding; government entities participating in the HLW proceeding as "interested governmental participants" under 10 CFR 2.715(c); persons who qualify as "potential parties" under § 2.1008; and their contractors ("parties," "interested governmental participants," and "potential parties," will be collectively referred to hereinafter as "LSS participants"). LSS participants must ensure that their contractors, consultants, grantees, or other agents, comply with the applicable requirements of Subpart J.

For the purposes of the information that will in the LSS, "documentary material" means any material or other information generated by or in the possession of an LSS participant that is relevant to, or likely to lead to the discovery of information that is relevant to, the licensing of the likely candidate site for a geologic repository. The identification of material that is within the universe of "relevant to, or likely to lead to the discovery of information that is relevant to, the licensing of the likely candidate site for a geologic repository" will be determined by the topical guidelines set forth in this Supplementary Information. In determining which *documents* must be placed in the LSS by a LSS participant, the document must fall within the definition of "documentary material" in

[1] Indeed, the position taken by the Negotiating Committee in response to the questions that have been posed about the purpose and intent of the rule leads me to question the wisdom of relying on the negotiated rulemaking process for future rulemaking initiatives.

§ 2.1001, i.e., it must be relevant to, or likely to lead to information that is relevant to, the licensing of the likely candidate for a geologic repository. Therefore, a document must not only fall within the topical guidelines, but also have a nexus to a geologic repository. It is also the Commission's intent to issue these topical guidelines as an NRC Regulatory Guide. The topical guidelines set forth later in this supplementary information are interim guidelines to be used until a more precise set is issued in an NRC regulatory guide. The Commission expects all LSS participants to make a good faith effort to identify the documentary material within the scope of § 2.1003. However, a rule of reason must be applied to an LSS participant's obligation to identify all documentary material within the scope of the topical guidelines. For example, DOE will not be expected to make an exhaustive search of its archival material that conceivable might be within the topical guidelines but has not been reviewed or consulted in any way in connection with DOE's work on its license application. It is also anticipated that the LSS Advisory Review Panel established pursuant to § 2.1011(e), in evaluating the implementation of the LSS, may make occasional recommendations to the Commission on whether particular categories of documentary material (e.g., those limited by date or subject) should be included within the topical guidelines.

Although the topical guidelines will guide the selection of relevant information for entry into the LSS, they will not be used for the purpose of determining the scope of contentions that can be offered in the HLW proceeding under proposed § 2.1014. The scope of contentions will be governed by the Commission's authority under relevant statutes and regulations.

Section 2.1002(d) specifies that Subpart J is not intented to affect any independent right of a potential party, interested governmental participant, or party to receive information or documents. These independent rights consists of statutory rights under such statutes as the Freedom of Information Act (FOIA), or the Nuclear Waste Policy Act, as amended, or rights derived from grant requirements such as those between DOE and the State of Nevada.

Section 2.1003 Submission of Material to the LSS

Section 2.1003 sets forth the requirements for the submission of documentary material by LSS participants to the LSS Administrator for entry into the LSS. LSS participants, excluding DOE and NRC, must submit an ASCII file, a bibliographic header, and an image for all documents generated by the LSS participant or its contractor after the LSS participant gains access to the LSS pursuant to either § 2.1008 or § 2.1014. Submission of these documents must be made reasonably contemporaneous with their creation. For documents generated or acquired before the LSS participant gains access to the LSS, the LSS participant need only submit a header and an image for each document. The LSS Administrator will be responsible for entering these documents into the LSS in searchable full text. DOE and NRC, the generators of the largest volumes of documentary material, will be responsible for submitting to the LSS Administrator ASCII files, bibliographic headers and images of documents within the scope of the topical guidelines. The format criteria for the submission and acceptance of ASCII, images, and headers will be initially established by DOE in concert with the LSS Advisory Committee established pursuant to proposed § 2.1011(e)(2), to be later supplemented as necessary by the LSS Administrator in concert with the LSS Advisory Review Panel.

The submission requirements of § 2.1003 generally apply only to final documents, e.g., a document bearing the signature of an employee of an LSS participant or its contractors. However, paragraphs (a) and (b) of § 2.1003 also require the submission of "circulated drafts" for entry into the LSS. A "circulated draft" means a nonfinal document circulated for supervisory concurrence or signature and in which the original author or others in the concurrence process have non-concurred. The intent of this exception to the general rule or final documents is to capture those documents to which there has been an unresolved objection by the author or other person in the internal management review process (the concurrence process) of an LSS participant or its contractor. In effect, the Commission and other government agencies who are LSS participants are waiving their deliberative process privilege for these circulated drafts. The objection or non-concurrence must be unresolved. Any draft documents to which such a formal, unresolved objection exists must be submitted for entry into the LSS. Although many of the LSS participants or their contractors do not have the same type of concurrence process as DOE and NRC, the Commission expects all LSS participants to make a good faith effort to apply the intent of this provision to their document approval process.

The requirement applies regardless of whether any final document ultimately emerges from the LSS participant's decision-making process. A determination not to issue a final document, or allowing a substantial period of time to elapse with no action being taken to issue a final document, shall be deemed to be the completion of the decision-making process. If a decision is made not to finalize a document to which there has been an objection, the draft of that document must be entered into the LSS after the decision-making process on the document has been completed, i.e., the requirements of § 2.1003 do not require a LSS participant to submit a circulated draft to the LSS while the internal decision-making process is ongoing. In addition, under § 2.1006(c), circulated drafts that are subject to withholding under a privilege or exception other than the deliberative process privilege (e.g., attorney work product), are not required to be submitted for entry in searchable full text to the LSS under § 2.1003.

As a general rule, all documentary material is to be in the LSS in searchable full text. However, the rule provides for exceptions to this general rule. Section 2.1003(c) addresses graphic-oriented documentary material that is not appropriate for entry into the Licensing Support System in searchable full text. Graphic-oriented documentary material is material that is printed, scripted, handwritten, or otherwise displayed in hard copy form, and is capable of being captured in electronic image by a digital scanning device. Graphic-oriented material includes raw data, computer runs, computer programs and codes, field notes, laboratory notes, maps, and photographs which have been printed, scripted, handwritten or otherwise displayed in any hard copy form and which, while capable of being captured in electronic image by a digital scanning device, may be captured and submitted to the LSS Administrator in any form of image, along with a bibliographic header. Section 2.1003(c) also addresses documentary material that is not suitable for entry into the Licensing Support System in either image or searchable full text. Such material shall be described in the Licensing Support System by a sufficiently descriptive bibliographic header. The timeframe for entry of graphic-oriented material, or material that is not suitable for entry in either image or searchable full text, will be established pursuant to the access protocols in § 2.1011(d)(10). In addition, submission of images will be determined by the protocols on digitizing equipment

established by the LSS Advisory Review Panel. However, in any case, this type of documentary material must be entered into the LSS after the principal investigator decides that the data are in a usable form, including the completion of quality assurance procedures. The access protocol should ensure that any collection or "package" of documentary material, as the term is used in § 2.1003(c)(3), which relates to a study, should be submitted reasonably contemporaneous with the completion of such a "package," including any quality assurance that may be required.

Section 2.1005 sets forth categories of documents that are to be completely excluded from the LSS, and § 2.1006 sets forth the categories of documents that may be withheld from entry into the LSS on the basis of a privilege or exception. The details of these provisions will be discussed below.

To ensure that progress is made in designing, developing and loading the LSS, § 2.1003(h) provides for evaluations of DOE compliance with the requirements of § 2.1003 at six month intervals. The DOE license application cannot be docketed under Subpart J, thus losing the benefits of Subpart J, unless the LSS Administrator certifies at least six months before the license application is submitted that DOE is in substantial compliance with the provisions of the Subpart. Although § 2.1003(h)(1) requires the certification decision six months before submission of the DOE license application, the Commission anticipates that the LSS participants will have access to the LSS well before the license application is submitted. The LSS Administrator's decision on DOE compliance may be reviewed by the Pre-License Application Licensing Board established pursuant to § 2.1010, if the Board receives a properly filed petition. Under § 2.1003 (a)(2) and (b)(2), LSS participants are required to submit any documentary material generated or acquired before the LSS participant is given access to the LSS ("backlog"), no later than six months before the license application for the repository is submitted. However, the Commission encourages LSS participants to submit this material for entry as soon as possible after they have been given access to the LSS.

In the event that the LSS Administrator cannot certify DOE compliance with Subpart J, DOE may either postpone the filing of the application until compliance is certified, or can file the license application for docketing under 10 CFR Part 2, Subpart G. In the latter event, the Commission would note that it will be unlikely to meet the three year NWPA timeframe for a decision on the issuance of a construction authorization, in the event of a contested adjudicatory proceeding. Although DOE may ultimately come into compliance with the provisions of Subpart J at some point after the license application has been docketed under Subpart G, the Commission may still not be able to certify that the statutory timeframe will be met. However, § 2.1003(h)(3)(ii) does authorize the Commission to specify the extent to which Subpart J will apply if DOE later comes into compliance. The Commission is optimistic that the effective implementation of the rule proposed in this notice will allow the Commission to meet the schedule set forth in section 114(d) of the NWPA.

Section 2.1004 Amendments and Additions

This section provides for the addition to, and amendment of, records submitted by the LSS participants. The submitter has sixty days to verify whether a document has been entered correctly in the pre-license application phase, and five days to verify correct entry after the license appplication has been submitted. Any errors in entry discovered during the sixty and five day periods may be corrected by the submitter. After the time period for verification has run, any errors may not be corrected by revising the original document. Rather, the submitter must submit a corrected version to the LSS Administrator, with a separate bibliographic header. Both the bibliographic header for the revised document and the original document must note that two versions of the document are in the LSS.

Section 2.1004 also addresses the issue of updates of documents that are already in the LSS. Updated pages must be submitted to the LSS Administrator for entry as a separate document with a separate bibliographic header. The bibliographic header of the original document must specify that an update is available. All the pages in a particular update will be entered as a single document.

Section 2.1004 addresses amendments and additions to the documentary material in the LSS. This section does not preclude the LSS Administrator from making revisions to headers necessary to maintain and enhance the usefulness of the header information. Such revisions would include the following—

- Updating assigned subject index terms as the thesaurus is enhanced and expanded,
- Where a field containing pointers to cross-reference related documents subsequently added to the database must be updated,
- Where the ability to annotate a document record to show later use(s) as exhibits to depositions and testimony may be required at a later time.

Section 2.1004(e) requires that any document that has been incorrectly excluded from the LSS must be submitted to the LSS Administrator for entry within two days of its identification by the LSS participant who is responsible for the submission of the document.

Section 2.1005 Exclusions

Section 2.1005 establishes several categories of documents that do not have to be entered into the LSS, either under the requirements of § 2.1003 or under the derivative discovery requirments of § 2.1019. These exclusions include documents typically referred to as official notice material; reference books and text books; administrative materials such as general distribution cover memoranda, budget, finance, personnel, and procurement materials; press clippings and press releases; junk mail; and classified material. The scope of work on a procurement related to repository siting, construction, or operation, or the transportation of spent nuclear fuel or high-level waste is not within the scope of these exclusions.

Section 2.1006 Privilege

The submission of documents to the LSS is subject to the traditional privileges from discovery recognized in NRC adjudicatory proceedings, as well as all the exceptions from disclosure contained in 10 CFR 2.790 of the Commission's regulations. These privileges and exceptions include the attorney-client privilege, the attorney work product privilege, the government's deliberative process exemption, protection for privileged or confidential commercial or financial information, and the protection of safeguards information. The Pre-License Application Licensing Board, pursuant to § 2.1010(b), will rule on any claims of withholding based on these privileges or exceptions. As in any NRC adjudicatory proceeding, the Board may rule that the release of privileged or excepted material is necessary to a proper decision in the proceeding, or may order the disclosure of a document under a protective order. Section 2.1006(a) extends the deliberative process privilege normally available to federal government agencies to state and local governments and Indian Tribes. Safeguards information is to be

protected under the provisions of 10 CFR 73.21. Subpart I of 10 CFR Part 2 will govern the protection and disclosure of any Restricted Data and National Security Information during the proceeding. The existence of any material of this type should be identified to the Licensing Board and the parties pursuant to 10 CFR 2.907 and is not subject to the requirements of § 2.1003. Accordingly, no headers need be submitted for Subpart I information.

Section 2.1007 Access

Section 2.1007 establishes the provisions for access to the LSS by the public and by LSS participants. In terms of public access, the NRC and DOE will provide public access terminals at their respective Public Document Rooms at headquarters in Washington, DC, at NRC regional offices, and at various locations in the vicinity of the likely candidate site for the repository. In the pre-license application phase, access to the LSS through these public access terminals will consist of full text search capability of the full headers for documents in the LSS. The NRC and DOE Public Document Rooms will provide access, consistent with current practice, to the paper copy or microfiche of the documents of that agency before access to the LSS is available (currently projected for January 1992). Once the LSS is operational, public access to the LSS headers will be available within the same timeframe that the headers and LSS documents are available to LSS participants. In addition, copies of specific DOE or NRC documents may be requested under the procedures of the agencies' Public Document Rooms and the FOIA regulations of the NRC, 10 CFR Part 9, or DOE, 10 CFR Part 1004. These regulations provide for a ten day response time to requests, 10 CFR 9.25(e) and 10 CFR 1004.5(d)(1), and the waiver of copying fees to qualified persons, 10 CFR 9.39 and 10 CFR 1004.9(a). Public access to the full text of all documents in the LSS, except for documents withheld from disclosure under section 2.1006, shall be provided after the notice of hearing is issued for the HLW licensing proceeding. DOE and NRC will ensure that adequate terminal access facilities are provided at the public document rooms.

Remote access to the LSS from individual computer facilities will be available to LSS participants both during the pre-license application phase and after the notice of hearing has been issued. The cost of the computer facility and the telephone connect charge must be borne by the LSS participant. However, they will not be assessed a central processing unit (CPU) charge for access to the LSS. LSS participants will be able to file an electronic request for paper copies of LSS documents from their individual computer facilities, and also will be able to file an electronic request for a fee waiver when requesting paper copies of documents in the LSS. This waiver is currently available to qualified persons or groups seeking a fee waiver for copies of NRC documents who submit a written request to the Commission under the Commission's Freedom of Information Act (FOIA) regulations in 10 CFR Part 9. The criteria in 10 CFR 9.39 would be used to determine if the requestor should be granted a fee waiver. Section 2.1007(c)(4) would authorize the Commission to grant a generic fee waiver to a qualifying LSS participant after the initial request for a fee waiver has been made.

Documents in the LSS will not be considered NRC agency records solely by virtue of the NRC being the LSS Administrator. However, any of those documents that were generated by or submitted to the NRC as part of the NRC's licensing responsibility for the repository will be NRC agency records. As noted above, documents considered agency records may be requested under a FOIA request to the NRC. Similarly, DOE records may be requested from DOE under a FOIA request, and the records of any other governmental entity that may be obligated to provide documents by virtue of a freedom of information statute (e.g., a State agency) may be requested. It is anticipated that the public availability of headers for LSS documents will facilitate freedom of information requests and responses.

Section 2.1008 Potential Parties

Section 2.1008 establishes the procedures for a person becoming a potential party during the pre-license application phase, thereby gaining access to the LSS during this period. Upon a petition from an interested person, the Pre-License Application Licensing Board, established pursuant to § 2.1010, will determine in accordance with § 2.1008(c) if the person meets the criteria in § 2.1008(b). These criteria consist of the factors for determining intervention status under § 2.1014(c) or the criteria in 10 CFR 2.715 for interested governmental participation, both as evaluated in reference to the topical guidelines set forth below.

A grant of access to the LSS pursuant to § 2.1008 before an application is filed does not carry a presumption that a potential party will be admitted as a party after an application is filed under § 2.1014 or as an interested governmental participant under 10 CFR 2.715. Although § 2.1014(c)(4) of the proposed rule provided that the Hearing Licensing Board would consider pre-license application access to the LSS as one factor in ruling on petitions for intervention, this provision has been deleted. Under § 2.1014(c), the Board must still consider the nature of the petitioner's right under the Atomic Energy Act; the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and the possible effect of any order that may be entered in the proceeding on the petitioner's interest. Therefore, the Commission did not believe that pre-license application access would have any meaningful effect on the Board's determination on intervention petitions. It should be emphasized that a petitioner must also satisfy § 2.1014(a)(2) in regard to an admissible contention in order to participate in the proceeding. An LSS participant's access to the LSS obligates it to comply with the regulations in Subpart J, including compliance with all orders of the Pre-License Application Licensing Board.

Section 2.1009 Procedures

Section 2.1009 specifies the procedures each LSS participant must follow to ensure implementation of the requirements in Subpart J, including establishing procedures to ensure that documentary material is identified and submitted for entry into the LSS. Each LSS participant must identify a specific individual as the LSS point-of-contact. This individual must certify, at six month intervals, that all documentary material for which the LSS participant is responsible under this subpart has been identified and submitted to the LSS.

Section 2.1010 Pre-License Application Licensing Board

Section 2.1010 establishes an NRC Pre-License Application Licensing Board to rule on requests for access to the LSS during the pre-license application phase, and to resolve disputes over the entry of documents and the development and implementation of the LSS by DOE and the LSS Administrator. The Board will be appointed six months before access to the LSS is scheduled to become available. The Board possesses the same general power as other NFC Licensing Boards possess under 10 CFR 2.718 and 10 CFR 2.721(d). In order to gain access to the LSS during the pre-license application phase, an LSS participant must agree to comply with all orders of the Pre-License Application Licensings Board, and all LSS regulations. Practice before the PALB is essentially a motions practice, akin to

that during the normal discovery, pre-hearing phase in a Part 50 proceeding before a licensing board. Oral presentations are not precluded, but rather will be left to the discretion of the board (as is now the case), depending on the nature of the dispute. See, for example, §§ 2.1010 (d) and (e), 2.1015, and 2.1016.

Section 2.1011 LSS Management and Administration

Section 2.1011 establishes an LSS Administrator who will be responsible for managing, operating, and maintaining the LSS. Because the LSS will contain in electronic form, the documentary material constituting the Commission's docket and official record for the repository licensing proceeding, and because use of the LSS will be an integral part of the Commission's adjudicatory hearing on the license application, the NRC will serve as the LSS Administrator. In order to avoid any conflict-of-interest problems, the LSS Administrator cannot be any person or organizational unit that either represents the U.S. Nuclear Regulatory Commission staff as a party to the high-level waste licensing proceeding or a part of the management chain reporting to the Director of the Office of Nuclear Material Safety and Safeguards. The Commission has decided to establish an independent Office of the LSS Administrator reporting to the Commission for policy direction and to the Chairman for day-to-day management supervision. The LSS Administrator (like other Commission-level offices) will report to the Commission for overall policy direction on all LSS matters *except* the certification of DOE compliance required by § 2.1033(h)(1). The LSS Administrator will make that determination *on his/her own,* subject to formal adjudicatory review (upon request) by the Pre-License Application Licensing Board (§ 2.1010(a)(1)), the Appeal Board (§ 2.1015(b)(i)), and, finally, the Commission itself (§ 2.1015(e)).

On a related issue, with the exception of the Commission in its role as LSS Administrator (see the definition of "LSS Administrator in § 2.1001), the LSS cannot reside in any computer system that is controlled by any LSS participant, including its contractors, and cannot be physically located on the premises of any LSS participant or its contractors.

The LSS is to be designed and developed by DOE consistent with the requirements in Subpart J. This responsibility includes all procurement of hardware and software. However, the design and development of the LSS by DOE must be undertaken in consultation with the LSS Administrator. After the LSS has been designed and becomes operational, all redesign and procurement by DOE must be with the concurrence of the LSS Administrator.

Section 2.1011(e) provides for the establishment of an LSS Advisory Review Panel, which will be chartered under the Federal Advisory Committee Act, to advise DOE on the design and development of the LSS, and to advise the LSS Administrator on the implementation of the LSS. The LSS Administrator appoints the members of the Advisory Review Panel from members of the Licensing Support System Advisory Committee established pursuant to § 2.1011(e)(2) within sixty days after the LSS Administrator has been designated. The Licensing Support System Advisory Committee will be composed of the State of Nevada, the coalition of affected units of local government in Nevada that served on the negotiating committee, DOE, NRC, the National Congress of American Indians, the coalition of national environmental groups that served on the negotiating committee, and other members as the Commission may designate pursuant to the balanced membership requirements of FACA. Because DOE is now in the process of designing the LSS, the Advisory Review Panel is not yet available to provide advice and recommendations to DOE. In the interim period between publication of the final rule and appointment of the Advisory Review Panel by the LSS Administrator, the LSS Advisory Commitee will perform the functions of the Advisory Review Panel set forth in § 2.1011(e).

It is the Commission's intent that, after the commencement of the hearing, the primary focus of the Advisory Review Panel will be on broad, long-term, technical issues. Any immediate problems with the functioning of the LSS during the hearing will be addressed by the LSS Administrator or the Hearing Licensing Board.

It is anticipated that the DOE and NRC will enter into a Memorandum of Understanding (MOU), consistent with the requirements of the rule, on the design and development of the LSS.

Section 2.1011(d) sets forth the responsibilities of the LSS Administrator including providing the necessary personnel, materials, and services for the operation and maintenance of the LSS, and entering the documentary material submitted pursuant to section 2.1003 in searchable full text, as appropriate.

Section 2.1012 Compliance

Section 2.1012 establishes provisions to ensure compliance with the requirements of Subpart J, particularly the document submission requirements of § 2.1003. DOE may not submit the license application for docketing under Subpart J unless the LSS Administrator certifies that DOE is in substantial and timely compliance with § 2.1003. In addition, under § 2.1012(b)(1), no person may be granted party or interested governmental participant status in the hearing if it is not in substantial and timely compliance with the requirements of § 2.1003. A person who is not in substantial and timely compliance at the time specified for the submission of petitions to intervene or to become an interested governmental participant, may later come into compliance and be admitted to the hearing, assuming they meet all the other requirements in § 2.1014 or 10 CFR 2.715(c) for admission. However, persons admitted to the hearing under this provision must take the proceeding as they find it. The Hearing Licensing Board will not entertain any requests from such a person to delay the proceeding in order for that person to compensate for time missed in the hearing. Section 2.1012(d) provides for the termination or suspension of an LSS participant's access rights if it is in noncompliance with any applicable order of the Pre-License Application Licensing Board or the Hearing Licensing Board. However, any loss of access under this section does not relieve an LSS participant of its responsibilities in connection with the service of pleadings under § 2.1013 of this subpart.

Section 2.1013 Use of LSS During Adjudicatory Proceeding

Section 2.1013 establishes procedures for the electronic submission of pleadings during the hearing, or during the pre-license application phase for practice before the Pre-License Application Licensing Board under § 2.1010, for the electronic transmission of Board and Commission issuances and orders, as well as for on-line access to the LSS during the hearing. Under § 2.1013(a) the Secretary of the Commission maintains the official docket pursuant to the requirements of 10 CFR 2.702. In this regard, each potential party, party, or interested governmental participant must submit a signed paper copy of each electronic adjudicatory filing to the Secretary. The staff would emphasize that section 2.1003 also applies to the submission of pleadings during the hearing. Therefore,

an ASC II file, a header, and an image of the pleading must also be submitted to the LSS Administrator. The final rule gives the Secretary the flexibility to establish the official docket in either hard copy or electronic form depending on the details of LSS design and the records management requirements of the Federal Archives. Absent good cause, all exhibits tendered during the hearing must have already been entered into the LSS prior to the commencement of that portion of the hearing where the exhibit is to be offered.

Section 2.1014 Intervention

Section 2.1014 establishes the standards for intervention in the HLW proceeding. Section 2.1014 incorporates several of the provisions currently in the 10 CFR 2.714 general standards for intervention. Accordingly, any provisions of § 2.1014 that remain unchanged from the 10 CFR 2.714 provisions are to be interpreted according to the existing practice. Section 2.1014(a) requires petitions for intervention and proposed contentions to be filed at the same time, as well as petitions to participate under § 2.715(c)—both within thirty days after the notice of hearing. In addition to the factors now in 10 CFR 2.714(a)(2), § 2.1014(a)(2) requires the petition to reference with particularity the specific documentary material, or absence thereof, that provides the basis for the contention, and the specific regulatory or statutory requirement to which the contention is relevant. This codifies existing Commission practice in regard to contentions.

Section 2.1014(a)(4) allows the adding or amending of contentions, including contentions based on the NRC Staff Safety Evaluation Report (SER). Contentions added or amended before the issuance of the SER will be evaluated according to the factors for nontimely filings in § 2.1014(a)(1). Contentions based on information or issues raised in the SER must be made within forty days after the issuance of the SER and will be evaluated according to the factors in § 2.1014(a)(1). The SER is to be issued within eighteen months after the license application is docketed. Any petitions to amend or add contentions made more than forty days after the issuance of the SER, in addition to the factors for nontimely filing in § 2.1014(a)(1), must include a showing that the contention involves a significant safety or environmental issue or raises a material issue related to the performance evaluation anticipated by 10 CFR 60.112 or 10 CFR 60.113. In this context, "material" may involve items that are material to demonstrating compliance with §§ 60.112 or 60.113 but which in and of themselves may not constitute a significant safety or environmental issue.

Although § 2.1014(a)(4) places some added restrictions on the amending or adding of contentions compared to 10 CFR 2.714, the Commission believes that the early availability of documents through access to the LSS will facilitate the preparation of timely and better based contentions at the outset of the proceeding, as compared to the traditional NRC licensing proceeding where contentions must be prepared without the benefit of prior discovery.

Section 2.1014(c) establishes the standards for permitting intervention in the HLW proceeding. Intervention is permitted as a matter of right by an affected unit of local government as defined in section 2(31) of the NWPA or by any affected Indian Tribe as defined in 10 CFR Part 60 of the Commission's regulations. The State of Nevada, like DOE or the NRC, is automatically a party to the HLW proceeding, assuming that a Nevada site is the subject of the DOE license application. All other petitions to intervene will be evaluated according to the factors in § 2.1014(c)(1) through (3).

Section 2.1015 Appeals

Section 2.1015 sets forth the procedures for appealing decisions of the Pre-License Application Licensing Board or of the Hearing Licensing Board. Unlike the existing appeals process, appeals from certain types of interlocutory orders, such as rulings or the admissibility of contentions, must be filed within ten days, rather than at the conclusion of the proceeding.

Section 2.1016 Motions

Section 2.1016 establishes the procedures for motions practice in the HLW proceeding. The final rule does not contain a provision similar to 10 CFR 2.730(d) in regard to oral arguments on motions. However, this omission is not intended to change existing practice, i.e., requests for oral argument on substantive motions are liberally granted. It is within the discretion of the Board to allow arguments on motions under 10 CFR 2.755.

Section 2.1017 Computation of Time

Section 2.1017 specifies the computation of time for an act or an event for the HLW licensing proceeding. Because of the availability of the electronic transmission of pleadings through the LSS, one day instead of five days is allowed for the transmission of documents in response to the service of a notice or other document. This will save substantial time during the hearing. The use of electronic transmission is addressed in § 2.1013. If the LSS is unavailable for more than four access hours of any day that would normally be counted in the computation of the time for filing, that day will not be counted in the computation of time. However, this would not include periods of LSS unavailability due to a malfunction of the LSS participant's equipment or to the operation of that equipment.

Section 2.1018 Discovery

Section 2.1018 specifies the scope and timing of discovery in the HLW Licensing proceeding. The LSS provides the document discovery in the HLW licensing proceeding, supplemented by the derivative discovery in § 2.1019. Discovery is limited to access to the documentary material in the LSS; entry upon land for inspection and access to raw data; oral depositions; requests for admissions; and informal requests for information. These informal requests would be for the type of information normally gathered through the use of written interrogatories, such as the names of all party's witnesses and the subjects they will address. Therefore, the final rule does not generally provide for the use of written interrogatories or depositions upon written questions. However, if the informal discovery process does not satisfy a request for information, § 2.1018(a)(2) provides a mechanism for the use of written interrogatories or depositions upon written questions, by order of a Discovery Master appointed under § 2.1018(g). If no Discovery Master has been appointed, the Hearing Licensing Board itself may consider these petitions. Although informal discovery may begin in the pre-license application phase, an order compelling discovery through written interrogatories or through depositions on written questions can be issued by the Discovery Master or the Hearing Licensing Board only after the license application has been docketed.

The required showing of substantial need in regard to discovery for an LSS participant's "representatives" in § 2.1018(b)(2) does not include "consultants" to a LSS participant, unless the consultant's responsibilities are to assist in preparation for litigation.

Section 2.1018(c) empowers the Board to issue an order to protect a party from abuse of the discovery process. As noted earlier, the objective of the negotiated rulemaking is to provide for the effective review of and hearing of the DOE license application within the three year time period specified in

section 114(d) of the NWPA. Consistent with this objective, § 2.1018(c) includes criteria to prevent abuse of the discovery process from frustrating this objective. In ruling on motions to protect a party from a particular discovery request, the Board may consider any "undue delay" that would result from the discovery request, as well as the failure to respond to a discovery request. Under this criterion, the Board will review any motion for a protective order from a particular discovery request, including a request for a written deposition, to determine whether the request creates the potential for unreasonably interfering with meeting the three year schedule. When a party or an interested governmental participant reasonably believes that the Board has not ruled in accordance with this rule and its underlying policy, it may seek review pursuant to directed certification under § 2.718(i) of this part. The Commission itself may entertain such requests and will apply the criteria for granting directed certification liberally. The Hearing Licensing Board or Discovery Master may also consider undue delay as a basis for granting a petition for the use of written interrogatories or depositions on written questions under § 2.1018(a)(2).

In addition, §§ 2.1021 and 2.1022, on the first and second pre-hearing conferences respectively, provide for the establishment of discovery schedules by the Board. In establishing these discovery schedules, the Board must consider the objective of meeting the three-year schedule specified in the NWPA, as well as the early availability of information made possible by the Licensing Support System. Furthermore, the Board should exercise all due diligence to ensure that discovery is completed within two years of the notice of hearing. However, this could not prevent the Board from establishing a schedule that provided for less than a continuous two-year period of discovery, or determining whether any discovery is necessary after the second pre-hearing conference.

Section 2.1018(f) anticipates the application of the traditional sanctions by the Licensing Board for failure to respond to a discovery request, including the issuance of an order for a response or answer to a discovery request.

Section 2.1019 Depositions

Section 2.1019 provides for discovery through the taking of depositions. Section 2.1019 basically follows the content of the general deposition rule in 10 CFR 2.740a. However, § 2.1019(i) provides for the derivative discovery of documents during the deposition. This provision establishes requirements for the disclosure, and entry into the LSS, of material in a deponent's possession that would not be required to be initially entered into the LSS under § 2.1003. This includes personal records, travel vouchers, speeches, preliminary drafts, and marginalia. "Preliminary drafts" means any nonfinal document that is not a circulated draft, i.e., on which no formal, unresolved objection or nonconcurrence has been made. "Marginalia" means handwritten, printed, or other types of notations added to a document, excluding underlining and highlighting.

Section 2.1020 Entry Upon Land for Inspection

Section 2.1020 establishes the procedures for parties to gain access to the land or property in the possession or control of another party or its contractor for the purpose of inspection and access to raw data. However, this provision should not be construed as expanding any of the rights contained in section 116 or section 118 of the NWPA, or any other applicable statutory or regulatory restrictions, related to site investigation.

Section 2.1021 First Prehearing Conference

Section 2.1021 establishes a first pre-hearing conference in the HLW proceeding. The first pre-hearing conference will identify the key issues in the proceeding, and consider petitions for intervention.

Section 2.1022 Second Prehearing Conference

Section 2.1022 establishes a second pre-hearing conference in the HLW licensing proceeding. The second pre-hearing conference is to be held not later than seventy days after the NRC staff Safety Evaluation Report is issued. The second pre-hearing conference will consider new or amended contentions, stipulations and admissions of fact, identification of witnesses, and the setting of a hearing schedule.

Section 2.1023 Immediate Effectiveness

Section 2.1023 provides for an immediate effectiveness review of the Licensing Board's initial decision on the issuance of a construction authorization. The Commission's existing regulations in 10 CFR 2.764 do not provide for an immediate effectiveness review. Rather 10 CFR 2.764 requires a Commission decision on the substantive merits of the Licensing Board decision before a construction authorization decision can be final. Section 2.1023 would authorize the Director of the NRC Office of Nuclear Material Safety and Safeguards to allow DOE to proceed with construction, assuming a favorable Licensing Board decision, if the Commission did not suspend the Licensing Board decision after its supervisory immediate effectiveness review, or the Appeal Board did not stay the effectiveness of the initial decision under 10 CFR 2.788. The Appeal Board and the Commission would then undertake a review of the substantive merits of the initial Licensing Board decision. Issuance of the construction authorization under these circumstances would be the event that tolls the time period for determining whether the NWPA three year time frame for the decision on the construction authorization had been satisfied.

Schedule

In order to assist the Hearing Licensing Board in establishing a schedule for the HLW proceeding that will facilitate meeting the timeframe specified in the NWPA for a Commission decision on construction authorization, the Commission has prepared the following model timeline. This timeline is intended for general guidance only, and is not intended to suggest any predisposition by the Commission on the merits of DOE's future license application.

Day	Regulation (10 CFR)	Action
0	2.101(f)(8), 2.105(a)(5)	FR Notice of Hearing.
30	2.1014(a)(1)	Pet. to intervene/request for hearing. w, contentions.
	2.715(c)	Pet. for status as interested govt. participant (IGP).
50	2.1014(b)	Answers to intervention & IGP petitions.
70	2.1021	1st Prehearing Conference.
100		1st Prehearing Conference Order: identifies participants in proceeding, admits contentions, and sets discovery and other schedules.
	2.1018(b)(1), 2.1019	Deposition discovery begins.
110	2.1015(b)	Appeals from 1st Prehearing Conference Order, w/ briefs.
120	2.1015(b)	Briefs in opposition to appeals.
150		AB order ruling on appeals from 1st Prehearing Conference Order.
548		NRC staff issues SER.
588	2.1014(a)(4)	Petitions to amend contentions based on SER.
608	2.1014(b)	Answers to petitions to amend SER-related contentions.
618	2.1022	2nd Prehearing Conference.

Day	Regulation (10 CFR)	Action
648		2nd Prehearing Conference Order: rules on amended contentions, sets any further discovery schedule, and sets schedule for prefiled testimony and hearing.
658	2.1015(b)	Appeals from 2nd Prehearing Conference Order, w/ briefs.
668	2.1015(b)	Briefs in opposition to appeals.
698		AB order ruling on appeals from 2nd Prehearing Conference Order.
700	2.749 (set by LB)	Final motions for summary disposition.
720	2.749	Replies to final motions for summary disposition.
730	Supp. Info.	Discovery complete.
740		LB order on final motions for summary disposition.
750	2.1015(b)	Appeals from final summary disposition order, w/ briefs.
760		Evidentiary hearing begins.
	2.1015(b)	Briefs in opposition to appeals from final summary disposition orders.
790		AB order on appeals from final summary disposition orders.
850		Evidentiary hearing ends.
880	2.754(a)(1)	Applicant's proposed findings.
890	2.754(a)(2)	Other parties' (except NRC staff's) proposed findings.
900	2.754(a)(2)	NRC staff's proposed findings.
905	2.754(a)(3)	Applicant's reply to proposed findings.
995	2.760	Initial decision.
1005	2.788(a), 2.762(a), 2.1015(c)	Stay motions to AB Notices of Appeal.
1015	2.788(d)	Replies to stay motions.
1035		AB ruling on stay motion.
	2.762(b)	Appellant's briefs.
1045	2.788(a)	Stay motions to Commission.
1055	2.788(d)	Replies to stay motions.
1065	2.762(c)	Appellee's brief.
1075	2.762(c)	NRC staff brief.
1095	2.1023, Supp. Info	Completion of NMSS and Commission supervisory review; Commission ruling on any stay motions; issuance of construction authorization; NWPA 3-year period tolled.
1105	2.763	Oral argument on appeals.
1165		Appeal Board decision.
1180	2.1015(e), 2.786(b)(1)	Petitions for Commission review.
1190	2.786(b)(3)	Replies to petitions.
1250		Commission decision.

Topical Guidelines

The following topical guidelines are to be used for identifying the documentary material that should be submitted by LSS participants for entry into the LSS under section 2.1003. The topical guidelines will also be used by the Pre-License Application Licensing Board for evaluating petitions for access to the LSS during the pre-license application phase under § 2.1008.

I. Categories of Documents

—Technical reports and analyses including those developed by contractors
—QA/QC records including qualification and training records
—External correspondence
—Internal memoranda
—Meeting minutes, including DOE/NRC meetings, Commission meetings
—Drafts (i.e., those submitted for decision beyond the first level of management or similar criterion)
—Congressional Q's & A's
—"Regulatory" documents related to HLW site selection and licensing, such as:
  —Draft and final environmental assessments
  —Site characterization plans
  —Site characterization study plans
  —Site characterization progress reports
  —Issue resolution reports
  —Rulemakings
  —Public and agency comments on documents
  —Response to public comments
  —Environmental Impact Statement, Comment Response Document, and related references
  —License Application (LA), LA data base, and related references
  —Topical reports, data, and data analysis
  —Recommendation Report to President
  —Notice of Disapproval, if submitted

II. General Topics

1. Any document pertaining to the location and potential of valuable natural resources, hydrology, geophysics, tectonics (including volcanism), geomorphology, seismic activity, atomic energy defense activities, proximity to water supplies, proximity to populations, the effect upon the rights of users of water, proximity to components of the National Park System, the National Wildlife Refuge System, the National Wildlife and Scenic River System, the National Wilderness Preservation System, or National Forest Lands, proximity to sites where high-level radioactive waste and spent nuclear fuel is generated or temporarily stored, spent fuel and nuclear waste transportation, safety factors involved in moving spent fuel or nuclear waste to a repository, the cost and impact of transporting spent fuel and nuclear waste to a repository site, the advantages of regional distribution in siting of repositories, and various geologic media in which sites for repositories may be located.

2. Any document related to repository design, siting, construction, or operation, or the transportation of spent nuclear fuel and high-level nuclear waste, not categorized as an "excluded document", generated by or in the possession of any contractor of the Department of Energy, the Nuclear Regulatory Commission, or any other party to the HLW licensing proceeding.

3. All documents related to the physical attributes of the Basin and Range Province of the continental United States.

4. Any document listing and/or considering any site or location other than Yucca Mountain as a possible location for a high level nuclear waste repository, or any alternative technology to deep geologic disposal.

5. Any document analyzing the effect of the development of a repository at Yucca Mountain on the rights of users of water in the Armagosa ground-water basin in Nevada.

6. Any document analyzing the health and safety implications to the people and environment of the transportation of spent fuel between locations where spent fuel is generated or stored and Yucca Mountain, Nevada, or any other site nominated for repository characterization on May 28, 1986, including, but not limited to:

a. Any analysis of possible human error in the manufacture of spent fuel casks;

b. Any analysis of the actual population density along all of any specific projected routes of travel;

c. Any analysis of releases from any actual radioactive material transportation incidents;

d. Any analysis of the emergency response time in any actual radioactive materials transportation incident;

e. Any actual accident data on any specific projected routes of travel;

f. Any calculations or projections on the probabilities of accidents on any specific projected routes of travel;

g. Any data on the physical properties or containment capabilities of spent fuel casks which have been used or which are projected to be used at any hypothetical or actual projected repository;

h. Any analysis of modeling of the containment capabilities of spent fuel casks under a stress scenario;

i. Any analysis or comparison of spent fuel casks projected to be used against the spent fuel cask certification standards of the Nuclear Regulatory Commission;

j. Any analysis of the containment capabilities of spent fuel casks containing spent fuel which has been burned up over an extended period.

7. Any document analyzing or comparing Yucca Mountain, Nevada, with any other site in the same geohydrologic setting.

8. Any document relating to potential interference or incompatibility between a Yucca Mountain, Nevada, high-level nuclear waste repository and atomic energy activities at the Nevada Test Site and Nellis Airforce base.

9. Any document related to the land status, use or ownership of Yucca Mountain, Nevada.

10. Any document considering or analyzing the attributes or detriments of any engineered barrier upon the radionuclide isolation capability of Yucca Mountain, Nevada, or any other site considered.

11. Any document evaluating the effect of extended fuel burn-up on Yucca Mountain, Nevada's adequacy as a repository site for disposal of spent fuel or upon the design of any such theoretical repository.

12. Any document analyzing or investigating the potential for discharge or radionuclides into the Death Valley National Monument.

13. Any document analyzing the recharge of the underlying saturated zone or the hydroconductivity of the unsaturated zone at Yucca Mountain.

14. Any document containing any data or analysis of volcanism in the geologic setting of which Yucca Mountain is a part.

15. Any document containing any data or analysis of tectonic events at Yucca Mountain, or pertaining to the tectonic framework of the Yucca Mountain area or any document containing any data or analysis of faults with or without surface expression in the area of Yucca Mountain.

16. Any document containing instructions or other limitations on the scope of work to be performed by Department of Energy personnel or contractor's personnel.

17. Any document pertaining to prevention or control of human intrusion at the Yucca Mountain site.

III. Specific Topics

1. The Site
A. Location, General Appearance and Terrain, and Present Use
B. Geologic Conditions
1. Stratigraphy and volcanic history of the Yucca Mountain area
a. Caldera evolution and genesis of ash flows
b. Timber Mountain Tuff
c. Paintbrush Tuff
d. Tuffaceous beds of Calico Hills
e. Crater Flat Tuff
f. Older tuffs
g. Sedimentary units
h. Basalts
2. Structure
3. Seismicity
4. Energy and mineral resources
a. Energy resources
b. Metals
c. Nonmetals
5. Paleontology
6. Mineralology
7. Geomorphology
8. Tectonics
a. Faulting
b. Stress
c. Uplift/subsidence
d. Volcanism
C. Hydrologic Conditions
1. Surface water
2. Ground water
a. Ground water movement
b. Ground water quality
3. Present and projected water use in the area
4. Groundwater resources
5. Climatology
6. Metearology
D. Geochemistry
1. Rock chemistry of the overlying and underlying host units
2. Water chemistry of unsaturated or saturated zones
3. Alteration
4. Retardation and transport
E. Environmental Setting
1. Land use
a. Federal use
b. Agricultural
i. Grazing land
ii. Cropland
c. Mining
d. Recreation
e. Private and commercial development
2. Terrestrial and aquatic ecosystems
a. Terrestrial vegetation
i. Larrea-Ambrosia
ii. Larrea-Ephedra or Larrea-Lycium
iii. Coleogyne
iv. Mixed transition
v. Grassland-burn site
b. Terrestrial wildlife
i. Mammals
ii. Birds
iii. Reptiles
c. Special-interest species
d. Aquatic ecosystems
3. Air quality and weather conditions: Air quality
4. Noise
5. Aesthetic resources
6. Archaeological, cultural, and historical resources
7. Radiological background
a. Monitoring program
b. Dose assessment
F. Transportation
1. Highway infrastructure and current use
2. Railroad infrastructure and current use
G. Socioeconomic Conditions
1. Economic conditions
a. Nye County
b. Clark County
c. Lincoln County
d. Methodology
2. Population density and distribution
a. Populations of the State of Nevada
b. Population of Nye County
c. Population of Clark County
d. Population of Lincoln County
3. Community services
a. Housing
b. Education
c. Water supply
d. Waste-water treatment
e. Solid waste
f. Energy utilities
g. Public safety services
h. Medical and social services
i. Library facilities
j. Parks and recreation
4. Social conditions
a. Existing social organization and structure
i. Rural social organization and social structure
ii. Social organization and structure in urban Clark County
b. Culture and lifestyle
i. Rural culture
ii. Urban culture
c. Community attributes
d. Attitudes and perceptions toward the repository
5. Fiscal and governmental structure
2. Expected Effects of the Site Characterization Activities
A. Site Characterization Activities
1. Field studies
a. Exploratory drilling
b. Geophysical surveys
c. Geologic mapping
d. Standard operating practices for reclamation of areas disturbed by field studies
e. trenching
2. Exploratory shaft facility
a. Surface facilities
b. Exploratory shaft and underground workings
c. Secondary egress shaft
d. Exploratory shaft testing program
e. Final disposition
f. Standard operating practices that would minimize potential environmental damage
3. Other studies
a. Geodetic surveys
b. Horizontal core drilling
c. Studies of past hydrologic conditions
d. Studies of tectonics, seismicity, and volcanism
e. Studies of seismicity induced by weapons testing
f. Field experiments in G-Tunnel facilities
g. Laboratory studies
h. Waste package design, testing, and analysis
B. Expected Effects of Site Characterization
1. Expected effects on the environment
a. Geology, hydrology, land use and surface soils
i. Geology
ii. Hydrology
iii. Land use
iv. Surface soils
b. Ecosystems
c. Air quality
d. Noise
e. Aesthetics

f. Archaeological, cultural, and historical resources
2. Socioeconomic and transportation conditions
a. Economic conditions
i. Employment
ii. Materials
b. Population density and distribution
c. Community services
d. Social conditions
e. Fiscal and governmental structure
f. Transportation
3. Worker safety
4. Irreversible and irretrievable commitment of resources
C. Alternative Site Characterization Activities
3. Regional and Local Effects of Locating a Repository at the Site
A. The Repository
1. Construction
a. The surface facilities
b. Access to the subsurface
c. The subsurface facilities
d. Other construction
i. Access route
ii. Railroad
iii. Mined rock handling and storage facilities
iv. Shafts and other facilities
e. Utilities
2. Operations
a. Emplacement phase
i. Waste receipt
ii. Waste emplacement
b. Caretaker phase
3. Retrievability
4. Decommissioning and closure
5. Schedule and labor force
6. Material and resource requirements
B. Expected Effects on the Physical Environment
1. Geologic impacts
2. Hydrologic impacts
3. Land use
4. Ecosystems
5. Air quality
a. Ambient air-quality regulations
b. Construction
c. Operations
d. Decommissioning and closure
6. Noise
a. Construction
b. Operations
c. Decommissioning and closure
7. Aesthetic resources
8. Archaeological, cultural, and historical resources
9. Radiological effects
a. Construction
b. Operation
i. Worker exposure during normal operation
ii. Public exposure during normal operation
iii. Accidental exposure during operation
C. Expected Effects of Transportation Activities
1. Transportation of people and materials
a. Highway impacts
i. Construction
ii. Operations
iii. Decommissioning
b. Railroad impacts
2. Transportation of nuclear wastes
a. Shipment and routing nuclear waste shipments
i. National shipment and routing
ii. Regional shipment and routing
b. Radiological impacts
i. National impacts
ii. Regional impacts
iii. Maximally exposed individual impacts
c. Nonradiological impacts
i. National impacts
ii. Regional impacts
d. Risk summary
i. National risk summary
ii. Regional risk summary
e. Costs of nuclear waste transportation
f. Emergency response
D. Expected Effects on Socioeconomic Conditions
1. Economic conditions
a. Labor
b. Materials and resources
c. Cost
d. Income
e. Land use
f. Tourism
2. Population density and distribution
3. Community services
a. Housing
b. Education
c. Water supply
d. Waste-water treatment
e. Public safety services
f. Medical services
g. Transportation
4. Social conditions
a. Social structure and social organization
i. Standard effects on social structure and social organization
ii. Special effects on social structure and social organization
b. Culture and lifestyle
c. Attitudes and perceptions
5. Fiscal conditions and government structure
4. Suitability of the Yucca Mountain Site for Site Characterization and for Development as a Repository
A. Suitability of the Yucca Mountain Site for Development as a Repository: Evaluation Against the Guidelines That Do Not Require Site Characterization
1. Technical guidelines
a. Postclosure site ownership and control
i. Data relevant to the evaluation
ii. Favorable condition
iii. Potentially adverse condition
iv. Evaluation and conclusion for the qualifying condition on the postclosure site ownership and control guidelines
b. Population density and distribution
i. Data relevant to the evaluation
ii. Favorable condition
iii. Potentially adverse condition
iv. Disqualifying condition
v. Evaluation and conclusion for the qualifying condition on the population density and distribution guideline
c. Preclosure site ownership and control
i. Data relevant to the evaluation
ii. Favorable condition
iii. Potentially adverse condition
iv. Evaluation and conclusion for the qualifying condition on the preclosure site ownership and control guideline
d. Meteorology
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Evaluation and conclusion for the qualifying condition on the meteorology guideline
e. Offsite installations and operations
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Disqualifying conditions
v. Evaluation and conclusion for the qualifying condition on the offsite installations operations guideline
f. Environmental quality
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Disqualifying condition
v. Evaluation and conclusion for the qualifying condition on the environmental quality guidelines
g. Socioeconomic impacts
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Disqualifying condition
v. Evaluation and conclusion for the qualifying condition on the socioeconomic guideline
h. Transportation
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Evaluation and conclusion for the qualifying condition on the transportation guideline
2. Preclosure System
a. Preclosure system: radiological safety
i. Data relevant to the evaluation
ii. Evaluation of the Yucca Mountain site
iii. Conclusion for the qualifying condition on the preclosure system quideline radiological safety
b. Preclosure system: environment, socioeconomics, and transportation
i. Data relevant to the evaluation
ii. Evaluation of the Yucca Mountain site
iii. Conclusion for the qualifying condition on the preclosure system guideline: environment, socioeconomics, and transportation
3. Postclosure technical
a. Geohydrology
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Disqualifying condition
v. Evaluation and conclusion for the qualifying condition on the postclosure geohydrology guideline
b. Geochemistry
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Evaluation and conclusion for the qualifying condition on the postclosure geochemistry guideline
v. Plans for site characterization
c. Rock characteristics
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Evaluation and conclusion for the qualifying conditions on the postclosure rock characteristics guideline
d. Climatic changes
i. Data relevant to the evaluation
ii. Favorable conditions

iii. Potentially adverse conditions
iv. Evaluation and conclusion for the climate changes qualifying condition
e. Erosion
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Disqualifying conditions
f. Dissolution
i. Data relevant to the evaluation
ii. Favorable condition
iii. Potentially adverse condition
iv. Disqualifying condition
v. Evaluation and Conclusion for the qualifying condition on the postclosure and dissolution guideline
g. Tectonics
i. Data relevant to the evaluation
ii. Favorable condition
iii. Potentially adverse condition
iv. Disqualifying condition
v. Evaluation and conclusion for the qualifying condition on the postclosure tectonics guideline
h. Human interference: natural resources and site ownership and control
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Disqualifying conditions
v. Evaluation and conclusion for the qualifying condition on the postclosure human interference and natural resources technical guideline
4. Postclosure system
a. Evaluation of the Yucca Mountain Site
i. Quantitative analysis
ii. Qualitative analysis
b. Summary and conclusion for the qualifying condition on the postclosure system guideline
5. Preclosure technical
a. Surface characteristics
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Evaluation and conclusion for the qualifying condition on the postclosure surface characteristics guideline
b. Rock characteristics
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse conditions
iv. Disqualifying condition
v. Evaluation and conclusion for the qualifying condition on the postclosure rock characteristics guideline
c. Hydrology
i. Data relevant to the evaluation
ii. Favorable conditions
iii. Potentially adverse condition
iv. Disqualifying condition
v. Evaluation and conclusion for the qualifying condition on the postclosure hydrology guideline
g. Tectonics
i. Data relevant to the evaluation
ii. Favorable condition
iii. Potentially adverse conditions
iv. Disqualifying condition
v. Evaluation and conclusion for the qualifying condition on the postclosure tectonics guideline
6. Ease and cost of siting, construction, operation, and closure
a. Data relevant to the evaluation
b. Evaluation
c. Conclusions for the qualifying condition on the ease and cost of siting, construction, operation, and closure guideline
7. Conclusion regarding suitability of the Yucca Mountain Site for site characterization
B. Performance Analyses
1. Preclosure radiological safety assessments
a. Preclosure radiation protection standards
b. Methods for preclosure radiological assessment
i. Radiological assessment of construction activities
ii. Radiological assessement of normal operations
iii. Radiological assessment of accidental releases
2. Preliminary analysis of postclosure performance
a. Subsystem description
i. Engineered barrier subsystem
ii. The natural barrier subsystem
b. Preliminary performance analyses of the major components of the system
i. The waste package lifetime
ii. Release rate from the engineered barrier subsystem
c. Preliminary system performance description and analysis
d. Comparisons with regulatory performance objectives
e. Preliminary evaluation of disruptive events: disruptive natural processes
f. Conclusions
5. Transportation
A. Regulations Related to Safeguards
1. Safeguards
2. Conclusion
B. Packagings
1. Packaging design, testing, and analysis
2. Types of packaging
a. Spent fuel
b. Casks for defense high-level waste and West Valley high-level waste
c. Casks for use from an MRS to the repository
3. Possible future developments
a. Mode-specific regulations
b. Overweight truck casks
c. Rod consolidation
d. Advanced handling concepts
e. Combination storage/shipping casks
C. Potential Hazards of Transportation
1. Potential consequences to an individual exposed to a maximum extent
a. Normal transport
b. Accidents
2. Potential consequences to a large population from very severe transportation accidents
3. Risk assessment
a. Outline of method for estimating population risks
b. Computational models and methods for population risks
c. Changes to the analytical models and methods for population risks
d. Transportation scenarios evaluated for risk analysis
e. Assumption about wastes
f. Operational considerations for use in risk analysis
g. Values for factors needed to calculate population risks
h. Results of population risk analyses
j. Uncertainties
4. Risks associated with defective cask construction, lack of quality assurance, inadequate maintenance and human error
D. Cost Analysis
1. Outline method
2. Assumptions
3. Models
4. Cost estimates
5. Limitations of results
E. Barge Transport to Repositories
F. Effect of a Monitored Retrievable Storage Facility on Transportation Estimates
G. Effect of At-Reactor Rod Consolidation on Transportation Estimates
H. Criteria for Applying Transportation Guideline
I. DOE Responsibilities for Transportation Safety
1. Prenotification
2. Emergency response
3. Insurance coverage for transportation accidents
J. Modal Mix
1. Train shipments
a. Ordinary
b. Dedicated train
2. Truck shipments
a. Legal weight
b. Overweight

Environmental Impact: Categorical Exclusion

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

Paperwork Reduction Act Statement

This rule does not contain information collection requirements that are subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.).

Regulatory Analysis

The DOE analysis of the costs and benefits of the LSS (U.S. Department of Energy, "Licensing Support System Benefit-Cost Analysis" July, 1988) and companion DOE reports ("Preliminary Needs Analysis;" "Preliminary Data Scope Analysis;" and "Conceptual Design Analysis;") are available for inspection in the NRC Public Document Room, 2120 L Street NW., Washington, DC. Single copies may be obtained from Francis X. Cameron, Office of General Counsel, U.S. Nuclear Regulatory Commission, Washington DC, 20555; Telephone: (301)–492–1623.

Regulatory Flexibility Analysis

In accordance with the Regulatory Flexibility Act of 1980 (5 U.S.C. 605(b)),

the Commission certifies that this rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. The final rule affects participants in the Commission's HLW licensing proceeding. The substantial majority of these participants do not fall within the scope of the definition of "small entities" set forth in the Regulatory Flexibility Act or the Small Business Size Standards set out in regulations issued by the Small Business Administration at 13 CFR Part 121.

Backfit Analysis

The NRC has determined that the backfit rule, 10 CFR 50.109, does not apply to this rule and, therefore, that a backfit analysis is not required for this rule because these amendments do not involve any provisions which would impose backfits as defined in 10 CFR 50.109(a)(1).

List of Subjects in 10 CFR Part 2

Administrative practice and procedure. Antitrust, Byproduct material, Classified information, Environmental protection, Nuclear materials, Nuclear power plants and reactors, Penalty, Sex discrimination, Source material, Special nuclear material, Waste treatment and disposal.

For the reasons set out in the preamble and under the authority of the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and 5 U.S.C. 552 and 553, the NRC is adopting the following amendments to 10 CFR Part 2.

PART 2—RULES OF PRACTICE FOR DOMESTIC LICENSING PROCEEDINGS

1. The authority citation for Part 2 continues to read as follows:

Authority: Secs. 161, 181, 68 Stat. 948, 953, as amended (42 U.S.C. 2201, 2231); sec. 191, as amended, Pub. L. 87–615, 76 Stat. 409 (42 U.S.C. 2241); sec. 201, 88 Stat. 1242, as amended (42 U.S.C. 5841); 5 U.S.C. 552.

Section 2.101 also issued under secs. 53, 62, 63, 81, 103, 104, 105, 68 Stat. 930, 932, 933, 935, 936, 937, 938, as amended (42 U.S.C. 2073, 2092, 2093, 2111, 2133, 2134, 2135); sec. 102, Pub. L. 91–190, 83 Satat. 853, as amended (42 U.S.C. 4332); sec. 301, 88 Stat. 1248 (42 U.S.C. 5871). Sections 2.102, 2.103, 2.104, 2.105, 2.721 also issued under secs. 102, 103, 104, 105, 183, 189, 68 Stat. 936, 937, 938, 954, 955, as amended (42 U.S.C. 2132, 2133, 2134, 2135, 2233, 2239). Section 2.105 also issued under Pub. L. 97–415, 96 Stat. 2073 (42 U.S.C. 2239). Sections 2.200–2.206 also issued under secs. 186, 234, 68 Stat. 955, 83 Stat. 444, as amended (42 U.S.C. 2236, 2282); sec. 206, 88 Stat. 1246 (42 U.S.C. 5846). Sections 2.600–2.606 also issued under sec. 102, Pub. L. 91–190, 83 Stat. 853, as amended (42 U.S.C. 4332). Sections 2.700a, 2.719 also issued under 5 U.S.C. 554. Sections 2.754, 2.760, 2.770, 2.780 also issued under 5 U.S.C. 557. Section 2.764 and Table 1A of Appendix C also issued under secs. 135, 141, Pub. L. 97–425, 96 Stat. 2232, 2241 (42 U.S.C. 10155, 10161). Section 2.790 also issued under sec. 103, 68 Stat. 936, as amended (42 U.S.C. 2133) and 5 U.S.C. 552. Sections 2.800 and 2.808 also issued under 5 U.S.C. 553. Section 2.809 also issued under 5 U.S.C. 553 and sec. 29, Pub. L. 85–256, 71 Stat. 579, as amended (42 U.S.C. 2039). Subpart K also issued under sec. 189, 68 Stat. 955 (42 U.S.C. 2239); sec. 134, Pub. L. 97–425, 96 Stat. 2230 (42 U.S.C. 10154). Appendix A also issued under sec. 6, Pub. L. 91–560, 84 Stat. 1473 (42 U.S.C. 2135). Appendix B also issued under sec. 10, Pub. L. 99–240, 99 Stat. 1842 (42 U.S.C. 2021b et seq.).

2. Section 2.700 is revised to read as follows:

§ 2.700 Scope of subpart.

The general rules of this subpart govern procedure in all adjudications initiated by the issuance of an order to show cause, an order pursuant to § 2.205(e), a notice of hearing, a notice of proposed action pursuant to section 2.105, or a notice issued pursuant to § 2.102(d)(3). The procedure applicable to the proceeding on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area are set forth in Subpart J.

3. A new paragraph (i) is added to § 2.714 to read as follows:

§ 2.714 Intervention

* * * * *

(1) The provisions of this section do not apply to license applications docketed under subpart J of this part.

4. In § 2.722, paragraph (a)(4) is added to read as follows:

§ 2.722 Special assistants to the presiding officer.

(a) * * *

(4) Discovery Master to rule on the matters specified in § 2.1018(a)(2) of this part.

* * * * *

5. In § 2.743, paragraph (f) is revised to read as follows:

§ 2.743 Evidence.

* * * * *

(f) *Exhibits.* A written exhibit will not be received in evidence unless the original and two copies are offered and a copy is furnished to each party, or the parties have been previously furnished with copies or the presiding officer directs otherwise. The presiding officer may permit a party to replace with a true copy an original document admitted in evidence. Exhibits in the proceeding on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area are governed by § 2.1013 of this part.

* * * * *

§ 2.764 [Amended]

6. In § 2.764, paragraph (d) is removed.

7. In Part 2, a new Subpart J is added to read as follows:

Subpart J—Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository

Sec.

2.1000 Scope of subpart.
2.1001 Definitions.
2.1002 High-level Waste Licensing Support System.
2.1003 Submission of material to the LSS.
2.1004 Amendments and additions.
2.1005 Exclusions.
2.1006 Privilege.
2.1007 Access.
2.1008 Potential parties.
2.1009 Procedures.
2.1010 Pre-License Application Licensing Board.
2.1011 LSS management and administration.
2.1012 Compliance.
2.1013 Use of LSS during adjudicatory proceeding.
2.1014 Intervention.
2.1015 Appeals.
2.1016 Motions.
2.1017 Computation of time.
2.1018 Discovery.
2.1019 Depositions.
2.1020 Entry upon land for inspection.
2.1021 First prehearing conference.
2.1022 Second prehearing conference.
2.1023 Immediate effectiveness.

Subpart J—Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository

§ 2.1000 Scope of subpart.

The rules in this subpart govern the procedure for applications for a license to receive and possess high-level radioactive waste at a geologic repository operations area noticed pursuant to § 2.101(f)(8) or § 2.105(a)(5) of this part. The procedures in this subpart take precedence over the 10 CFR Subpart G, rules of general applicability, except for the following provisions: §§ 2.702, 2.703, 2.704, 2.707, 2,709, 2.711, 2.713, 2.715, 2.715a, 2.717, 2.718, 2.720, 2.721, 2.722, 2.732, 2.733, 2.734, 2.742, 2.743, 2.749, 2.750, 2.751, 2.753, 2.754, 2.755, 2.756, 2.757, 2.758, 2.759, 2.760, 2.761, 2.762, 2.763, 2.770, 2.771, 2.772, 2.780, 2.781, 2.785, 2.786, 2.787, 2.788, and 2.790.

§ 2.1001 Definitions.

"ASCII File" means a computerized text file conforming to the American Standard Code for Information

Interchange which represent characters and symbols.

"Bibliographic header" means the minimum series of descriptive fields that a potential party, interested governmental participant, or party must submit with a document or other material. The bibliographic header fields are a subset of the fields in the full header.

"Circulated draft" means a nonfinal document circulated for supervisory concurrence or signature in which the original author or others in the concurrence process have non-concurred. A "circulated draft" meeting the above criterion includes a draft of a document that eventually becomes a final document, and a draft of a document that does not become a final document due to either a decision not to finalize the document or the passage of a substantial period of time in which no action has been taken on the document.

"Document" means any written, printed, recorded, magnetic, graphic matter, or other documentary material, regardless of form or characteristic.

"Documentary material" means any material or other information that is relevant to, or likely to lead to the discovery of information that is relevant to, the licensing of the likely candidate site for a geologic repository. The scope of documentary material shall be guided by the topical guidelines in the applicable NRC Regulatory Guide.

"DOE" means the U.S. Department of Energy or its duly authorized representatives.

"Full header" means the series of descriptive fields and subject terms given to a document or other material.

"Image" means a visual likeness of a document, presented on a paper copy, microform, or a bit-map on optical or magnetic media.

"Interested governmental participant" means any person admitted under § 2.715(c) of this part to the proceeding on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter.

"LSS Administrator" means the person within the U.S. Nuclear Regulatory Commission responsible for administration, management, and operation of the Licensing Support System. The LSS Administrator shall not be in any organizational unit that either represents the U.S. Nuclear Regulatory Commission staff as a party to the high-level waste licensing proceeding or is a part of the management chain reporting to the Director of the Office of Nuclear Material Safety and Safeguards. For purposes of this subpart the organizational unit within the NRC selected to be the LSS Administrator shall not be considered to be a party to the proceeding.

"Marginalia" means handwritten, printed, or other types of notations added to a document excluding underlining and highlighting.

"NRC" means the U.S. Nuclear Regulatory Commission or its duly authorized representatives.

"Party" for purposes of this subpart means the DOE, the NRC staff, the host State and any affected Indian Tribe in accordance with § 60.63(a) of this chapter, and a person admitted under § 2.1014 of this subpart to the proceeding on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter; provided that a host State or affected Indian Tribe shall file a list of contentions in accordance with the provisions of § 2.1014(a)(2) (ii), (iii), and (iv) of this subpart.

"Personal record" means a document in the possession of an individual associated with a party, interested governmental participant, or potential party that was not required to be created or retained by the party, interested governmental participant, or potential party, and can be retained or discarded at the possessor's sole discretion, or documents of a personal nature that are not associated with any business of the party, interested governmental participant, or potential party.

"Potential party" means any person who, during the period before the issuance of the first pre-hearing conference order under § 2.1021(d) of this subpart, is granted access to the Licensing Support System and who consents to comply with the regulations set forth in Subpart J of this part, including the authority of the Pre-License Application Licensing Board established pursuant to § 2.1010 of this subpart.

"Pre-license application phase" means the time period before the license application to receive and possess high-level radioactive waste at a geologic repository operations area is docketed under section 2.101(f)(3) of this part.

"Preliminary draft" means any nonfinal document that is not a circulated draft.

"Searchable full text" means the electronic indexed entry of a document in ASCII into the Licensing Support System that allows the identification of specific words or groups of words within a text file.

§ 2.1002 High-level waste Licensing Support System.

(a) The Licensing Support System is an electronic information management system containing the documentary material of the DOE and its contractors, and the documentary material of all other parties, interested governmental participants and potential parties and their contractors. Access to the Licensing Support System by the parties, interested governmental participants, and potential parties provides the document discovery in the proceeding. The Licensing Support System provides for the electronic transmission of filings by the parties during the high-level waste proceeding, and orders and decisions of the Commission and Commission adjudicatory boards related to the proceeding.

(b) The Licensing Support System shall include documentary material not privileged under § 2.1006 or excluded under § 2.1005 of this subpart.

(c) The participation of the host State in the Licensing Support System during the pre-license application phase shall not have any affect on the State's exercise of its disapproval rights under section 116(b)(2) of the Nuclear Waste Policy Act, as amended, 42 U.S.C. 10136(b)(2).

(d) This subpart shall not affect any independent right of a potential party, interested governmental participant or party to receive information.

§ 2.1003 Submission of material to the LSS.

(a) Subject to the exclusions in § 2.1005 of this subpart and paragraphs (c) and (d) of this section, each potential party, interested governmental participant or party, with the exception of the DOE and the NRC, shall submit to the LSS Administrator—

(1) Subject to paragraph (a)(3) of this section, an ASCII file, an image, and a bibliographic header, reasonably contemporaneous with its creation or acquisition, for all documentary material (including circulated drafts but excluding preliminary drafts) generated by, or at the direction of, or acquired by, a potential party, interested governmental participant, or party after the date on which such potential party, interested governmental participant or party is given access to the Licensing Support System.

(2) An image, a bibliographic header, and, if available, an ASCII file, no later than six months before the license application is submitted under § 60.22 of this chapter, for all documentary material (including circulated drafts but excluding preliminary drafts), generated

by, or at the direction of, or acquired by, a potential party, interested governmental participant, or party, on or before the date on which such potential party, interested governmental participant, or party was given access to the Licensing Support System.

(3) An image and bibliographic header for documentary material included under paragraphs (a)(1) of this section that were acquired from a person that is not a potential party, party, or interested governmental participant.

(b) Subject to the exclusions in § 2.1005 of this subpart, and subject to paragraphs (c) and (d) of this section, the DOE and the NRC shall submit to the LSS Administrator—

(1) An ASCII file, an image, and a bibliographic header, reasonably contemporaneous with its creation or acquisition, for all documentary material (including circulated drafts but excluding preliminary drafts) generated by, or at the direction of, or acquired by, the DOE or the NRC after the date on which the Licensing Support System is available for access.

(2) An ASCII file, an image, and a bibliographic header no later than six months before the license application is submitted under § 60.22 of this chapter for all documentary material (including circulated drafts but excluding preliminary drafts) generated by, or at the direction of, or acquired by, the DOE or the NRC on or before the date on which the Licensing Support System is available for access.

(c)(1) Each potential party, interested governmental participant, or party shall submit, subject to the claims of privilege in § 2.1006, an image and a bibliographic header, in a time frame to be established by the access protocols under § 2.1011(d)(10) of this subpart, for all graphic oriented documentary material. Graphic-oriented documentary material includes, raw data, computer runs, computer programs and codes, field notes, laboratory notes, maps, diagrams and photographs which have been printed, scripted, hand written or otherwise displayed in any hard copy form and which, while capable of being captured in electronic image by a digital scanning device, may be captured and submitted to the LSS Administrator in any form of image. Text embedded within these documents need not be separately entered in searchable full text. Such graphic-oriented documents may include: Calibration procedures, logs, guidelines, data and discrepancies; Gauge, meter and computer settings; Probe locations; Logging intervals and rates; Data logs in whatever form captured; Text data sheets; Equations ands sampling rates; Sensor data and procedures; Data Descriptions; Field and laboratory notebooks; Analog computer, meter or other device print-outs; Digital computer print-outs; Photographs; Graphs, plots, strip charts, sketches; Descriptive material related to the information above.

(2) Each potential party, interested governmental participant, or party, in a time frame to be established by the access protocols under § 2.1011(d)(10) of this subpart, shall submit, subject to the claims of privilege in § 2.1006, only a bibliographic header for each item of documentary material that is not suitable for entry into the Licensing Support System in image or searchable full text. The header shall include all required fields and shall sufficiently describe the information and references to related information and access protocols. Whenever any documentary material is transferred to some other media, a new header shall be supplied. Any documentary material for which a header only has been supplied to the system shall be made available to any other party, potential party or interested governmental participant through the access protocols determined by the LSS Administrator under § 2.1011(d)(10) or through entry upon land for inspection and other purposes pursuant to § 2.1020.

(3) Whenever documentary material described in paragraphs (c)(1) or (c)(2) of this section has been collected or used in conjunction with other such information to analyze, critique, support or justify any particular technical or scientific conclusion, or relates to other documentary material as part of the same scope of technical work or investigation, then an appropriate bibliographic header shall be submitted for a table of contents describing that package of information, and documentary material contained within that package shall be named and identified.

(d) Each potential party, interested governmental participant, or party shall submit a bibliographic header for each documentary material—

(1) For which a claim of privilege is asserted; or

(2) Which constitutes confidential financial or commercial information; or

(3) Which constitutes safeguards information under § 73.21 of this Chapter.

(e) In addition to the submission of documentary material under paragraphs (a) and (b) of this section, potential parties, interested governmental participants, or parties may request that another potential party's, interested governmental participant's, party's, or third party's documentary material be entered into the Licensing Support System in searchable full text if they or the other potential party, interested governmental participant, or party intend to rely on such documentary material during the licensing proceeding.

(f) Submission of ASCII files, images, and bibliographic headers shall be in accordance with established criteria.

(g) Basic licensing documents generated by DOE, such as the Site Characterization Plan, the Environmental Impact Statement, and the license application, or by NRC such as the Site Characterization Analysis, and the Safety Evaluation Report, shall be submitted to the LSS Administrator by the respective agency that generated the document.

(h)(1) Docketing of the application for a license to receive and possess high-level radioactive waste at a geologic repository operations area shall not be permitted under Subpart J of this part unless the LSS Administrator has certified, at least six months in advance of the submission of the license application, that the DOE has substantially complied with its obligations under this section.

(2)(i) The LSS Administrator shall evaluate the extent of the DOE's compliance with the provisions of this section at six month intervals beginning six months after his or her appointment under § 2.1011 of this subpart.

(ii) The LSS Administrator shall issue a written report of his or her evaluation of DOE compliance under paragraph (h)(1) of this section. The report shall include recommendations to the DOE on any actions necessary to achieve substantial compliance pursuant to paragraph (h)(1) of this section.

(iii) Potential parties may submit comments on the report prepared pursuant to paragraph (h)(2)(ii) of this section to the LSS Administrator.

(3)(i) In the event that the LSS Administrator does not certify substantial compliance under paragraph (h)(1) of this section, the proceeding on the application for a license to receive and possess high-level radioactive waste at a geologic repository operations area shall be governed by Subpart G of this part.

(ii) If, subsequent to the submission of such application under Subpart G of this part, the LSS Administrator issues the certification described in paragraph (h)(1) of this section, the Commission may, upon request by any party or interested governmental participant to the proceeding, specify the extent to which the provisions of Subpart J of this part may be used in the proceeding.

§ 2.1004 Amendments and additions.

(a) Within sixty days after a document has been entered into the Licensing Support System by the LSS Administrator during the pre-license application phase, and within five days after a document has been entered into the Licensing Support System by the LSS Administrator after the license application has been docketed, the submitter shall make reasonable efforts to verify that the document has been entered correctly, and shall notify the LSS Administrator of any errors in entry.

(b) After the time period specified for verification in paragraph (a) of this section has expired, a submitter who desires to amend an incorrect document shall—

(1) Submit the corrected version to the LSS Administrator for entry as a separate document; and

(2) Submit a bibliographic header for the corrected version that identifies all revisions to the corrected version.

(3) The LSS Administrator shall ensure that the bibliographic header for the original document specifies that a corrected version is also in the Licensing Support System.

(c)(1) A submitter shall submit any revised pages of a document in the Licensing Support System to the LSS Administrator for entry into the Licensing Support System as a separate document.

(2) The LSS Administrator shall ensure that the bibliographic header for the original document specifies that revisions have been entered into the Licensing Support System.

(d) Any document that has been incorrectly excluded from the Licensing Support System must be submitted to the LSS Administrator by the potential party, interested governmental participant, or party responsible for the submission of the document within two days after its exclusion has been identified unless some other time is approved by the Pre-License Application Licensing Board or the Licensing Board established for the high-level waste proceeding, hereinafter the "Hearing Licensing Board"; provided, however, that the time for submittal under this paragraph will be stayed pending Board action on a motion to extend the time of submittal.

§ 2.1005 Exclusions.

The following material is excluded from entry into the Licensing Support System, either through initial entry pursuant to § 2.1003 of this subpart, or through derivative discovery pursuant to § 2.1019(i) of this subpart—

(a) Official notice materials;

(b) Reference books and text books;

(c) Material pertaining exclusively to administration, such as material related to budgets, financial management, personnel, office space, general distribution memoranda, or procurement, except for the scope of work on a procurement related to repository siting, construction, or operation, or to the transportation of spent nuclear fuel or high-level waste;

(d) Press clippings and press releases;

(e) Junk mail;

(f) Preferences cited in contractor reports that are readily available;

(g) Classified material subject to Subpart I of this Part.

§ 2.1006 Privilege.

(a) Subject to the requirements in § 2.1003(d) of this subpart, the traditional discovery privileges recognized in NRC adjudicatory proceedings and the exceptions from disclosure in § 2.790 of this part may be asserted by potential parties, interested governmental participants, and parties. In addition to Federal agencies, the deliberative process privilege may also be asserted by State and local government entities and Indian Tribes.

(b) Any document for which a claim of privilege is asserted but is denied in whole or in part by the Pre-license Application Licensing Board or the Hearing Licensing Board shall be submitted by the party, interested governmental participant, or potential party that asserted the claim to—

(1) The LSS Administrator for entry into the Licensing Support System into an open access file; or

(2) To the LSS Administrator or to the Board, for entry into a Protective Order file, if the Board so directs under § 2.1010(b) or § 2.1018(c) of this subpart.

(c) Notwithstanding any availability of the deliberative process privilege under paragraph (a) of this section, circulated drafts not otherwise privileged shall be submitted for entry into the Licensing Support System pursuant to §§ 2.1003(a) and 2.1003(b) of this subpart.

§ 2.1007 Access.

(a)(1) Terminals for access to full headers for all documents in the Licensing Support System during the pre-license application phase, and images of the non-privileged documents of DOE, shall be provided at the headquarters of DOE, and at all DOE Local Public Document Rooms established in the vicinity of the likely candidate site for a geologic repository.

(2) Terminals for access to full headers for all documents in the Licensing Support System during the pre-license application phase, and images of the non-privielged documents of NRC, shall be provided at the headquarters Public Document Room of NRC, and at all NRC Local Public Document Rooms established in the vicinity of the likely candidate site for a geologic repository, and at the NRC Regional Offices, including the Uranium Recovery Field Office in Denver, Colorado.

(3) The access terminals specified in paragraphs (a)(1) and (a)(2) of this section shall include terminals at Las Vegas, Nevada; Reno, Nevada; Carson City, Nevada; Nye County, Nevada; and Lincoln County, Nevada.

(4) The headers specified in paragraphs (a)(1) and (a)(2) of this section shall be available at the same time that those headers are made available to the potential parties, parties, and interested governmental participants.

(5) Public access to the searchable full text and images of all the documents in the Licensing Support System, not privileged under section 2.1006, shall be provided by the LSS Administrator at all the locations specified in paragraphs (a)(1) and (a)(2) of this section after a notice of hearing has been issued pursuant to § 2.101(f)(8) or § 2.105(a)(5) on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area.

(b) Public availability of paper copies of the records specified in paragraph (a) of this section, as well as duplication fees, and fee waiver for those records, will be governed by the Freedom of Information Act regulations of the respective agencies.

(c) Access to the Licensing Support System for potential parties, interested governmental participants, and parties will be provided in the following manner—

(1) Full text search capability through dial-up access from remote locations at the requestor's expense;

(2) Image access at remote locations at the requestor's expense;

(3) The capability to electronically request a paper copy of a document at the time of search;

(4) Generic fee waiver for the paper copy requested under paragraph (c)(3) of this section for requestors who meet the criteria in § 9.41 of this chapter.

(d) Documents submitted to the LSS Administrator for entry into the Licensing Support System shall not be considered as agency records of the LSS Administrator for purposes of the Freedom of Information Act (FOIA), 5 U.S.C. 552, and shall remain under the

custody and control of the agency or organization that submitted the documents to the LSS Administrator. Requests for access pursuant to the FOIA to documents submitted by a Federal agency shall be transmitted to that Federal agency.

§ 2.1008 Potential parties.

(a) A person may petition the Pre-License Application Licensing Board established pursuant to § 2.1010 of this subpart for access to the Licensing Support System.

(b) A petition must set forth with particularity the interest of the petitioner in gaining access to the Licensing Support System with particular reference to—

(1) The factors set out in § 2.1014(c)(1), (2), and (3) of this subpart as determined in reference to the topical guidelines in the applicable NRC Regulatory Guide; or

(2) The criteria in § 2.715(c) of this part as determined in reference to the topical guidelines in the applicable NRC Regulatory Guide.

(c) The Pre-License Application Licensing Board shall, in ruling on a petition for access, consider the factors set forth in paragraph (b) of this section.

(d) Any person whose petition for access is approved pursuant to paragraph (c) of this section shall comply with the regulations set forth in this subpart, including § 2.1003, and agree to comply with the orders of the Pre-License Application Licensing Board established pursuant to § 2.1010 of this subpart.

§ 2.1009 Procedures.

(a) Each potential party, interested governmental participant, or party shall—

(1) Designate an official who will be responsible for administration of its Licensing Support System responsibilities;

(2) Establish procedures to implement the requirements in § 2.1003 of this subpart;

(3) Provide training to its staff on the procedures for implementation of Licensing Support System responsibilities;

(4) Ensure that all documents carry the submitter's unique identification number;

(5) Cooperate with the advisory review process established by the LSS Administrator pursuant to § 2.1011(e) of this subpart.

(b) The responsible official designated pursuant to paragraph (a)(1) of this section shall certify to the LSS Administrator, at six month intervals designated by the LSS Administrator, that the procedures specified in paragraph (a)(2) of this section have been implemented, and that to the best of his or her knowledge, the documentary material specified in § 2.1003 of this subpart has been identified and submitted to the Licensing Support System.

§ 2.1010 Pre-License Application Licensing Board.

(a)(1) A Pre-License Application Licensing Board designated by the Commission shall rule on all petitions for access to the Licensing Support System submitted under § 2.1008 of this subpart; disputes over the entry of documents during the pre-license application phase, including disputes relating to relevance and privilege; disputes relating to the LSS Administrator's decision on substantial compliance pursuant to § 2.1003(h) of this subpart; discovery disputes; disputes relating to access to the Licensing Support System; disputes relating to the design and development of the Licensing Support System by DOE or the operation of the Licensing Support System by the LSS Administrator under § 2.1011 of this subpart, including disputes relating to the implementation of the recommendations of the LSS Advisory Review Panel established under § 2.1011(e) of this subpart.

(2) The Pre-License Application Licensing Board shall be designated six months before access to the Licensing Support System is scheduled to be available.

(b) The Board shall rule on any claim of document withholding to determine—

(1) Whether it is documentary material within the scope of this subpart;

(2) Whether the material is excluded from entry into the Licensing Support System under § 2.1005 of this subpart;

(3) Whether the material is privileged or otherwise excepted from disclosure under section 2.1006 of this subpart;

(4) If privileged, whether it is an absolute or qualified privilege;

(5) If qualified, whether the document should be disclosed because it is necessary to a proper decision in the proceeding;

(6) Whether the material should be disclosed under a protective order containing such protective terms and conditions (including affidavits of non-disclosure) as may be necessary and appropriate to limit the disclosure to potential participants, interested governmental participants and parties in the proceeding, or to their qualified witnesses and counsel. When Safeguards Information protected from disclosure under section 147 of the Atomic Energy Act, as amended, is received and possessed by a potential party, interested governmental participant, or party, other than the Commission staff, it shall also be protected according to the requirements of § 73.21 of this chapter. The Board may also prescribe such additional procedures as will effectively safeguard and prevent disclosure of Safeguards Information to unauthorized persons with minimum impairment of the procedural rights which would be available if Safeguards Information were not involved. In addition to any other sanction that may be imposed by the Board for violation of an order issued pursuant to this paragraph, violation of an order pertaining to the disclosure of Safeguards Information protected from disclosure under section 147 of the Atomic Energy Act, as amended, may be subject to a civil penalty imposed pursuant to § 2.205 of this part. For the purpose of imposing the criminal penalties contained in section 223 of the Atomic Energy Act, as amended, any order issued pursuant to this paragraph with respect to Safeguards Information shall be deemed an order issued under section 161b of the Atomic Energy Act.

(c) Upon a final determination that the material is relevant, and not privileged, exempt from disclosure, or otherwise exempt from entry into the Licensing Support System under § 2.1005 of this subpart, the potential party, interested governmental participant, or party who asserted the claim of withholding must submit the document to the LSS Administrator within two days for entry into the Licensing Support System.

(d) The service of all pleadings, discovery requests and answers, orders, and decisions during the pre-license application phase shall be made according to the procedures specified in § 2.1013(c) of this subpart.

(e) the Pre-License Application Licensing Board shall possess all the general powers specified in §§ 2.721(d) and 2.718 of this part.

§ 2.1011 LSS Management and administration.

(a) The Licensing Support System shall be administered by the LSS Administrator who will be designated within sixty days after the effective date of the rule.

(b)(1) Consistent with the requirements in this subpart, and in consultation with the LSS Administrator, DOE shall be responsible for the design and development of the computer system necessary to implement the Licensing Support

System, including the procurement of computer hardware and software, and, with the concurrence of the LSS Administrator, the follow-on redesign and procurement of equipment necessary to maintain the Licensing Support System.

(2) With respect to the procurement undertaken pursuant to paragraph (b)(1) of this section, a representative of the LSS Administrator shall participate as a member of the Source Evaluation Panel for such procurement.

(3) DOE shall implement consensus advice from the LSS Advisory Review Panel under paragraph (f)(1) of this section that is consistent with the requirements of this subpart.

(c)(1) The Licensing Support System, described in § 2.1002, shall not be part of any computer system that is controlled by any party, interested governmental participant, or potential party, including DOE and its contractors, or that is physically located on the premises of any party, interested governmental participant, or potential party, including DOE and that of its contractors.

(2) Nothing in this subpart shall preclude DOE, NRC, or any other party, potential party, or interested governmental participant, from using the Licensing Support System computer facility for a records management system for documentary material independent of the Licensing Support System.

(d) The LSS Administrator shall be responsible for the management and administration of the Licensing Support System, including the responsibility to—

(1) Implement the consensus advice of the LSS Advisory Review Panel under paragraph (f) of this section that is consistent with the requirements of this subpart;

(2) Provide the necessary personnel, materials, and services for operation and maintenance of the Licensing Support System;

(3) Identify and recommend to DOE any redesign or procurement actions necessary to ensure that the design and operation of the Licensing Support System meets the objectives of this subpart;

(4) Make a concurrence decision, within thirty days of a request from DOE, on any redesign and related procurement performed by DOE under paragraph (b) of this section;

(5) Consult with DOE on the design and development of the Licensing Support System under paragraph (b) of this section;

(6) Evaluate and certify compliance with the requirements of this subpart under § 2.1003(h);

(7) Ensure LSS availability and the integrity of the LSS data base;

(8) Receive and enter the documentary material specified in § 2.1003 of this subpart into the Licensing Support System in the appropriate format;

(9) Maintain security for the Licensing Support System data base, including assigning user password security codes;

(10) Establish access protocols for raw data, field notes, and other items covered by § 2.1003(c) of this subpart;

(11) Maintain the thesaurus and authority tables for the Licensing Support System;

(12) Establish and implement a training program for Licensing Support System users;

(13) Provide support staff to assist users of the Licensing Support System;

(14) Other duties as specified in this subpart or necessary for Licensing Support System operation and maintenance.

(e)(1) The LSS Administrator shall establish an LSS Advisory Review Panel composed of the LSS Advisory Committee members identified in paragraph (e)(2) of this section who wish to serve within sixty days after designation of the LSS Administrator pursuant to paragraph (a) of this section. The LSS Administrator shall have the authority to appoint additional representatives to the Advisory Review Panel consistent with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App. I, giving particular consideration to potential parties, parties, and interested governmental participants who were not members of the NRC HLW Licensing Support System Advisory Committee.

(2) Pending the establishment of the LSS Advisory Review Panel under paragraph (e)(1) of this section, the NRC will establish a Licensing Support System Advisory Committee whose membership will initially include the State of Nevada, a coalition of affected units of local government in Nevada who were on the NRC High-Level Waste Licensing Support System Advisory Committee, DOE, NRC, the National Congress of American Indians, the coalition of national environmenal groups who were on the NRC High-Level Waste Licensing Support System Advisory Committee and such other members as the Commission may from time to time designate to perform the responsibilities in paragraph (f) of this section.

(f)(1) The LSS Advisory Review Panel shall provide advice to—(i) DOE on the fundamental issues of the design and development of the computer system necessary to implement the Licensing Support System under paragraph (b) of this section; and

(ii) The LSS Administrator or the operation and maintenance of the Licensing Support System under paragraph (d) of this section.

(2) The responsibilities of the LSS Advisory Review Panel shall include advice on—(i) Format standards for the submission of documentary material to the Licensing Support System by the parties, interested governmental participants, or potential parties, such as ASCII files, bibliographic headers, and images;

(ii) The procedures and standards for the electronic transmission of filings, orders, and decisions during both the pre-license application phase and the high-level waste licensing proceeding;

(iii) Access protocols for raw data, field notes, and other items covered by § 2.1003(c) of this subpart;

(iv) A thesaurus and authority tables;

(v) Reasonable requirements for headers, the control of duplication, retrieval, display, image delivery, query response, and "user friendly" design;

(vi) Other duties as specified in this subpart or as directed by the LSS Administrator.

§ 2.1012 Compliance.

(a) In addition to the requirements of § 2.101(f) of this part, the Director of the NPC Office of Nuclear Materials Safety and Safeguards may determine that the tendered application is not acceptable for docketing under this subpart, if the LSS Administrator has not issued the certification described in § 2.1003(h)(1) of this part.

(b)(1) A person, including a potential party granted access to the Licensing Support System under § 2.1008 of this subpart, shall not be granted party status under § 2.1014 of this part, or status as an interested governmental participant under § 2.715(c) of this part, if it cannot demonstrate substantial and timely compliance with ther requirements of § 2.1003 of this subpart at the time it requests participation in the high-level waste licensing proceeding under either § 2.1014 or § 2.715(c) of this part.

(2) A person denied party status or interested governmental participant status under paragraph (b)(1) of this section may request party status or interested governmental participant status upon a showing of subsequent compliance with the requirements of § 2.1003 of this subpart. Admission of such a party or interested governmental participant under § 2.1014 of this subpart or § 2.715(c) of this part, respectively, shall be conditioned on

accepting the status of the proceeding at the time of admission.

(c) The Hearing Licensing Board shall not make a finding of substantial and timely compliance pursuant to paragraph (b) of this subpart for any person who is not in compliance with all applicable orders of the Pre-License Application Licensing Board established pursuant to § 2.1010 of this subpart.

(d) Access to the Licensing Support System may be suspended or terminated by the Pre-license Application Licensing Board or the Hearing Licensing Board for any potential party, interested governmental participant or party who is in noncompliance with any applicable order of the Pre-license Application Licensing Board or the Hearing Licensing Board or the requirements of this subpart.

§ 2.1013 Use of LSS during the adjudicatory proceeding.

(a)(1) Pursuant to § 2.702, the Secretary of the NRC will maintain the official docket of the proceeding on the application for a license to receive and possess waste at a geologic repository operations area.

(2) Commencing with the docketing of the license application to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter, the LSS Administrator shall establish a file within the Licensing Support System to contain the official record materials of the high-level radioactive waste licensing proceeding in searchable full text, or for material that is not suitable for entry in searchable full text, by header and image, as appropriate.

(b) Absent good cause, all exhibits tendered during the hearing must have been entered into the Licensing Support System before the commencement of that portion of the hearing in which the exhibit will be offered. The official record file in the Licensing Support System will contain a list of all exhibits, showing where in the transcript each was marked for identification and where it was received into evidence or rejected. Transcripts will be entered into the Licensing Support System by the LSS Administrator on a daily basis in order to provide next-day availability at the hearing.

(c)(1) All filings in the adjudicatory proceeding on the license application to receive and possess high-level radioactive waste at a geologic respository operations area pursuant to Part 60 of this chapter shall be transmitted electronically by the submitter to the board(s), parties, the LSS Administrator, and the Secretary, according to established format requirements. Parties and interested governmental participants will be required to use a password security code for the electronic transmission of these documents.

(2) Filings required to be served shall be served upon either the parties and interested governmental participants, or their designated representatives. When a party or interested governmental participant has appeared by attorney, service must be made upon the attorney of record.

(3) Service upon a party or interested governmental participant is completed when the sender receives electronic acknowledgment ("delivery receipt") that the electronic submission has been placed in the recipient's electronic mailbox.

(4) Proof of service, stating the name and address of the person on whom served and the manner and date of service, shall be shown for each document filed, by—

(i) Electronic acknowledgment ("delivery receipt"); or

(ii) The affidavit of the person making the service; or

(iii) The certificate of counsel.

(5) One signed paper copy of each filing shall be served promptly on the Secretary by regular mail pursuant to the requirements of § 2.708 and 2.701 of this part.

(6) All Board and Commission issuances and orders will be transmitted electronically to the parties, interested governmental participants, and the LSS Administration.

(d) Online access to the Licensing Support System, including a Protective Order File if authorized by a Board, shall be provided to the board(s), the representatives of the parties and interested governmental participants, and the witnesses while testifying, for use during the hearing. Use of paper copy and other images will also be permitted at the hearing.

§ 2.1014 Intervention.

(a)(1) Any person whose interest may be affected by a proceeding on the application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter and who desires to participate as a party shall file a written petition for leave to intervene. In a proceeding noticed pursuant to § 2.105 of this part, any person whose interest may be affected may also request a hearing. The petition and/or request, and any request to participate under § 2.715(c) of this part, shall be filed within thirty days after the publication of the notice of hearing in the **Federal Register**. Nontimely filings will not be entertained absent a determination by the Commission, or the Hearing Licensing Board designated to rule on the petition and/or request, that the petition and/or request should be granted based upon a balancing of the following factors, in addition to satisfying those set out in paragraphs (a)(2) and (c) of this section:

(i) Good cause, if any, for failure to file on time;

(ii) The availability of other means whereby the petitioner's interest will be protected;

(iii) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record;

(iv) The extent to which the petitioner's interest will be represented by existing parties;

(v) The extent to which the petitioner's participation will broaden the issues or delay the proceeding.

(2) The petition shall set forth with particularity—

(i) The interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding, including the reasons why petitioner should be permitted to intervene, with particular reference to the factors in paragraph (c) of this section;

(ii) A list of the contentions that petitioner seeks to have litigated in the matter, and the bases for each contention set forth with reasonable specificity;

(iii) Reference to the specific documentary material, or the absence thereof that provides a basis for each contention; and

(iv) As to each contention, the specific regulatory or statutory requirement to which the contention is relevant.

(3) Any petitioner who fails to satisfy paragraphs (a)(2) (ii), (iii), and (iv) of this section with respect to at least one contention shall not be permitted to participate as a party.

(4) Any party may amend its contentions specified in paragraph (a)(2)(ii) of this section. The Hearing Licensing Board shall rule on any petition to amend such contentions based on the balancing of the factors specified in paragraph (a)(1) of this section. Petitions to amend that are based on information or issues raised in the Safety Evaluation Report (SER) issued by the NRC staff shall be made no later than forty days after the issuance of the SER. Any petition to amend contentions that is filed after this time shall include, in addition to the factors specified in paragraph (a)(1) of this section, a showing that a significant

safety or environmental issue is involved or that the amended contention raises a material issue related to the performance evaluation anticipated by §§ 60.112 and 60.113 of this chapter.

(b) Any party or interested governmental participant may file an answer to a petition for leave to intervene or a petition to amend contentions within twenty days after service of the petition.

(c) Subject to paragraph (a)(3) of this section, the Commission, or the Hearing Licensing Board designated to rule on petitions to intervene and/or requests for hearing shall permit intervention, in any hearing on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area, by an affected unit of local government as defined in section 2(31) of the Nuclear Waste Policy Act of 1982, as amended, 42 U.S.C. 10101. In all other circumstances, the Commission or Board shall, in ruling on a petition for leave to intervene, consider the following factors, among other things:

(1) The nature of the petitioner's right under the Atomic Energy Act to be made a party to the proceeding;

(2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding;

(3) The possible effect of any order that may be entered in the proceeding on the petitioner's interest;

(d) An order permitting intervention and/or directing a hearing may be conditioned on such terms as the Commission, or the designated Hearing Licensing Board may direct in the interests of:

(1) Restricting irrelevant, duplicative, or repetitive evidence and argument,

(2) Having common interests represented by a spokesman, and

(3) Retaining authority to determine priorities and control the compass of the hearing.

(e) In any case in which, after consideration of the factors set forth in paragraph (c) of this section, the Commission or the Hearing Licensing Board finds that the petitioner's interest is limited to one or more of the issues involved in the proceeding, any order allowing intervention shall limit the petitioner's participation accordingly.

(f) A person permitted to intervene becomes a party to the proceeding, subject to any limitations imposed pursuant to paragraph (e) of this section.

(g) Unless otherwise expressly provided in the order allowing intervention, the granting of a petition for leave to intervene does not change or enlarge the issues specified in the notice of hearing.

§ 2.1015 Appeals.

(a) No appeals from any Board order or decision issued under this subpart are permitted, except as prescribed in paragraphs (b), (c), (d), and (e) of this section.

(b) A notice of appeal from (1) a Pre-License Application Licensing Board order issued pursuant to § 2.1010 of this subpart, (2) a Hearing Licensing Board First or Second Prehearing Conference Order issued pursuant to § 2.1021 or § 2.1022 of this subpart, (3) a Hearing Licensing Board order granting or denying a motion for summary disposition issued in accordance with § 2.749 of this part, or (4) a Hearing Licensing Board order granting or denying a petition to amend one or more contentions pursuant to § 2.1014(a)(4) of this subpart, shall be filed with the Atomic Safety and Licensing Appeal Board no later than ten (10) days after service of the order. A supporting brief shall accompany the notice of appeal. Any other party, interested governmental participant, or potential party may file a brief in opposition to the appeal no later than ten days after service of the appeal.

(c) Appeals from a Hearing Licensing Boards initial decision or partial initial decision shall be filed and briefed before the Atomic Safety and Licensing Appeal Board in accordance with the requirements of § 2.762 of this part.

(d) When, in the judgment of a Board, prompt appellate review of an order not immediately appealable under paragraph (b) of this section is necessary to prevent detriment to the public interest or unusual delay or expense, the Board may refer the ruling promptly to the Appeal Board or Commission, as appropriate, and shall provide notice of this referral to the parties, interested governmental participants, or potential parties. The parties, interested governmental participants, or potential parties may also request that the Board certify, pursuant to § 2.718(i) of this part, rulings not immediately appealable under paragraph (b) of this section.

(e) A party, interested governmental participant, or potential party may seek Commission review of any Appeal Board decision or order issued under this section in accordance with the procedures in § 2.786(b) of this part.

(f) Unless otherwise ordered, the filing of an appeal, petition for review, referral, or request for certification of a ruling shall not stay the proceeding or extend the time for the performance of any act.

§ 2.1016 Motions.

(a) All motions shall be addressed to the Commission or, when a proceeding is pending before a Board, to the Board. All motions, unless made orally on the record, shall be filed according to the provisions of § 2.1013(c) of this subpart.

(b) A motion shall state with particularity the grounds and the relief sought, and shall be accompanied by any affidavits or other evidence relied on, and, as appropriate, a proposed form of order.

(c) Within ten days after service of a motion a party, potential party, or interested governmental participant may file an answer in support of or in opposition to the motion, accompanied by affidavits or other evidence. The moving party shall have no right to reply, except as permitted by the Board or the Secretary or the Assistant Secretary.

(d) The Board may dispose of motions either by order or by ruling orally during the course of a prehearing conference or hearing.

(e) Where the motion in question is a motion to compel discovery under § 2.720(h)(2) of this part or § 2.1018(f) of this subpart, parties, potential parties, and interested governmental participants may file answers to the motion pursuant to paragraph (c) of this section. The Board in its discretion, may order that the answer be given orally during a telephone conference or other prehearing conference, rather than filed electronically. If responses are given over the telephone the Board shall issue a written order on the motion which summarizes the views presented by the parties, potential parties, and interested governmental participants unless the conference has been transcribed. This does not preclude the Board from issuing a prior oral ruling on the matter which is effective at the time of its issuance, provided that the terms of the ruling are incorporated in the subsequent written order.

§ 2.1017 Computation of time.

In computing any period of time, the day of the act, event, or default after which the designated period of time begins to run is not included. The last day of the period so computed is included unless it is a Saturday, Sunday, or legal holiday at the place where the action or event is to occur, in which event the period runs until the end of the next day which is neither a Saturday, Sunday, nor holiday. Whenever a party, potential party, or interested governmental participant, has the right or is required to do some act within a prescribed period after the service of a

notice or other document upon it, one day shall be added to the prescribed period. If the Licensing Support System is unavailable for more than four access hours of any day that would be counted in the computation of time, that day will not be counted in the computation of time.

§ 2.1018 Discovery.

(a)(1) Parties, potential parties, and interested governmental participants in the high-level waste licensing proceeding may obtain discovery by one or more of the following methods: Access to the documentary material in the Licensing Support System submitted pursuant to § 2.1003 of this subpart; entry upon land for inspection, access to raw data, or other purposes pursuant to § 2.1020 of this subpart; access to, or the production of, copies of documentary material for which bibliographic headers only have been submitted pursuant to § 2.1003 (c) and (d) of this subpart; depositions upon oral examination pursuant to § 2.1019 of this subpart; requests for admission pursuant to § 2.742 of this subpart; informal requests for information not available in the Licensing Support System, such as the names of witnesses and the subjects they plan to address; and interrogatories and depositions upon written questions, as provided in paragraph (a)(2) of this section.

(2) Interrogatories and depositions upon written questions may be authorized by order of the discovery master appointed under paragraph (g) of this section, or if no discovery master has been appointed, by order of the Hearing Licensing Board, in the event that the parties are unable, after informal good faith efforts, to resolve a dispute in a timely fashion concerning the production of information.

(b)(1) Parties, potential parties, and interested governmental participants, pursuant to the methods set forth in paragraph (a) of this section, may obtain discovery regarding any matter, not privileged, which is relevant to the licensing of the likely candidate site for a geologic repository, whether it relates to the claim or defense of the person seeking discovery or to the claim or defense of any other person. Except for discovery pursuant to §§ 2.1018(a)(2) and 2.1019 of this subpart, all other discovery shall begin during the pre-license application phase. Discovery pursuant to §§ 2.1018(a)(2) and 2.1019 of this subpart shall begin after the issuance of the first pre-hearing conference order under § 2.1021 of this subpart, and shall be limited to the issues defined in that order or subsequent amendments to the order. It is not ground for objection that the information sought will be inadmissible at the hearing if the information sought appears reasonably calculated to lead to the discovery of admissible evidence.

(2) A party, potential party, or interested governmental participant may obtain discovery of documentary material otherwise discoverable under paragraph (b)(1) of this section and prepared in anticipation of, or for the hearing by, or for another party's, potential party's, or interested governmental participant's representative (including its attorney, surety, indemnitor, insurer, or similar agent) only upon a showing that the party, potential party, or interested governmental participant seeking discovery has substantial need of the materials in the preparation of its case and that it is unable without undue hardship to obtain the substantial equivalent of the materials by other means. In ordering discovery of these materials when the required showing has been made, the Board shall protect against disclosure of the mental impressions, conclusions, opinions, or legal theories of an attorney or other representative of a party, potential party, or interested governmental participant concerning the proceeding.

(c) Upon motion by a party, potential party, interested governmental participant, or the person from whom discovery is sought, and for good cause shown, the Board may make any order that justice requires to protect a party, potential party, interested governmental participant, or other person from annoyance, embarrassment, oppression, or undue burden, delay, or expense, including one or more of the following: (1) That the discovery not be had; (2) that the discovery may be had only on specified terms and conditions, including a designation of the time or place; (3) that the discovery may be had only by a method of discovery other than that selected by the party, potential party, or interested governmental participant seeking discovery; (4) that certain matters not be inquired into, or that the scope of discovery be limited to certain matters; (5) that discovery be conducted with no one present except persons designated by the Board; (6) that, subject to the provisions of § 2.790 of this part, a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way; (7) that studies and evaluations not be prepared. If the motion for a protective order is denied in whole or in part, the Board may, on such terms and conditions as are just, order that any party, potential party, interested governmental participant or other person provide or permit discovery.

(d) Except as provided in paragraph (b) of this section, and unless the Board upon motion, for the convenience of parties, potential parties, interested governmental participants, and witnesses and in the interest of justice, orders otherwise, methods of discovery may be used in any sequence, and the fact that a party, potential party, or interested governmental participant is conducting discovery, whether by deposition or otherwise, shall not operate to delay any other party's, potential party's, or interested governmental participant's discovery.

(e) A party, potential party, or interested governmental participant who has included all documentary material relevant to any discovery request in the Licensing Support System or who has responded to a request for discovery with a response that was complete when made is under no duty to supplement its response to include information thereafter acquired, except as follows:

(1) To the extent that written interrogatories are authorized pursuant to paragraph (a)(2) of this section, a party or interested governmental participant is under a duty to seasonably supplement its response to any question directly addressed to (i) the identity and location of persons having knowledge of discoverable matters, and (ii) the identity of each person expected to be called as an expert witness at the hearing, the subject matter on which the witness is expected to testify, and the substance of the witness's testimony.

(2) A party, potential party, or interested governmental participant is under a duty seasonably to amend a prior response if it obtains information upon the basis of which (i) it knows that the response was incorrect when made, or (ii) it knows that the response though correct when made is no longer true and the circumstances are such that a failure to amend the response is in substance a knowing concealment.

(3) A duty to supplement responses may be imposed by order of the Board of agreement to the parties, potential parties, and interested governmental participants.

(f)(1) If a deponent of a party, potential party, or interested governmental participant upon whom a request for discovery is served fails to respond or objects to the request, or any part thereof, the party, potential party, or interested governmental participant submitting the request or taking the

deposition may move the Board, within five days after the date of the response or after failure to respond to the request, for an order compelling a response in accordance with the request. The motion shall set forth the nature of the questions or the request, the response or objection of the party, potential party, interested governmental participant, or other person upon whom the request was served, and arguments in support of the motion. For purposes of this paragraph, an evasive or incomplete answer or response shall be treated as a failure to answer or respond. Failure to answer or respond shall not be excused on the ground that the discovery sought is objectionable unless the person, party, potential party, or interested governmental participant failing to answer or respond has applied for a protective order pursuant to paragraph (c) of this section.

(2) In ruling on a motion made pursuant to this section, the Board may make such a protective order as it is authorized to make on a motion made pursuant to paragraph (c) of this section.

(3) An independent request for issuance of a subpoena may be directed to a nonparty for production of documents. This section does not apply to requests for the testimony of the NRC regulatory staff pursuant to § 2.720(h)(2)(i) of this part.

(g) The Hearing Licensing Board pursuant to § 2.722 of this part may appoint a discovery master to resolve disputes between parties concerning informal requests for information as provided in paragraphs (a)(1) and (a)(2) of this section.

§ 2.1019 Depositions.

(a) Any party or interested governmental participant desiring to take the testimony of any person by deposition on oral examination shall, without leave of the Commission or the Hearing Licensing Board, give reasonable notice in writing to every other party and interested governmental participant, to the person to be examined, and to the Hearing Licensing Board of the proposed time and place of taking the deposition; the name and address of each person to be examined, if known, or if the name is not known, a general description sufficient to identify him or her or the class or group to which he or she belongs, the matters upon which each person will be examined and the name or descriptive title and address of the officer before whom the deposition is to be taken.

(b) Within the United States, a deposition may be taken before any officer authorized to administer oaths by the laws of the United States or of the place where the examination is held. Outside of the United States, a deposition may be taken before a secretary of an embassy or legation, a consul general, vice consul or consular agent of the United States, or a person authorized to administer oaths designated by the Commission. Depositions may be conducted by telephone or by video teleconference at the option of the party or interested governmental participant taking the deposition.

(c) The deponent shall be sworn or shall affirm before any questions are put to him or her. Examination and cross-examination shall proceed as at a hearing. Each question propounded shall be recorded and the answer taken down in the words of the witness. Objections on questions of evidence shall be noted in short form without the arguments. The officer shall not decide on the competency, materiality, or relevancy of evidence but shall record the evidence subject to objection. Objections on questions of evidence not made before the officer shall not be deemed waived unless the ground of the objection is one which might have been obviated or removed if presented at that time.

(d) When the testimony is fully transcribed, the deposition shall be submitted to the deponent for examination and signature unless the deponent is ill or cannot be found or refuses to sign. The officer shall certify the deposition or, if the deposition is not signed by the deponent, shall certify the reasons for the failure to sign, and shall promptly transmit the deposition to the LSS Administrator for submission into the Licensing Support System.

(e) Where the deposition is to be taken on written questions as authorized under § 2.1018(a)(2) of this subpart, the party or interested governmental participant taking the deposition shall serve a copy of the questions, showing each question separately and consecutively numbered, on every other party and interested governmental participant with a notice stating the name and address of the person who is to answer them, and the name, description, title, and address of the officer before whom they are to be asked. Within ten days after service, any other party or interested governmental participant may serve cross-questions. The questions, cross-questions, and answers shall be recorded and signed, and the deposition certified, returned, and transmitted to the LSS Administrator as in the case of a deposition on oral examination.

(f) A deposition will not become a part of the evidentiary record in the hearing unless received in evidence. If only part of a deposition is offered in evidence by a party or interested governmental participant, any other party or interested governmental participant may introduce any other parts. A party or interested governmental participant shall not be deemed to make a person its own witness for any purpose by taking his or her deposition.

(g) A deponent whose deposition is taken and the officer taking a deposition shall be entitled to the same fees as are paid for like services in the district courts of the United States, to be paid by the party or interested governmental participant at whose instance the deposition is taken.

(h) The deponent may be accompanied, represented, and advised by legal counsel.

(i)(1) After receiving written notice of the deposition under paragraph (a) or paragraph (e) of this section, and ten days before the scheduled date of the deposition, the deponent shall submit an index of all documents in his or her possession, relevant to the subject matter of the deposition, including the categories of documents set forth in paragraph (i)(2) of this section, to all parties and interested governmental participants. The index shall identify those records which have already been entered into the Licensing Support System. All documents that are not identical to documents already in the Licensing Support System, whether by reason of subsequent modification or by the addition of notations, shall be treated as separate documents.

(2) The following material is excluded from initial entry into the Licensing Support System, but is subject to derivative discovery under paragraph (i)(1) of this section—

(i) Personal records;

(ii) Travel vouchers;

(iii) Speeches;

(iv) Preliminary drafts;

(v) Marginalia.

(3) Subject to paragraph (i)(6) of this section, any party or interested governmental participant may request from the deponent a paper copy of any or all of the documents on the index that have not already been entered into the Licensing Support System.

(4) Subject to paragraph (i)(6) of this section, the deponent shall bring a paper copy of all documents on the index that the deposing party or interested governmental participant requests that have not already been entered into the Licensing Support System to an oral deposition conducted pursuant to paragraph (a) of this section, or in the case of a deposition taken on written

questions pursuant to paragraph (e) of this section, shall submit such documents with the certified deposition.

(5) Subject to paragraph (i)(6) of this section, a party or interested governmental participant may request that any or all documents on the index that have not already been entered into the Licensing Support System, and on which it intends to rely at hearing, be entered into the LSS by the deponent.

(6) The deposing party or interested governmental participant shall assume the responsibility for the obligations set forth in paragraphs (i)(1), (i)(3), (i)(4), and (i)(5) of this section when deposing someone other than a party or interested governmental participant.

(j) In a proceeding in which the NRC is a party, the NRC staff will make available one or more witnesses designated by the Executive Director for Operations, for oral examination at the hearing or on deposition regarding any matter, not privileged, which is relevant to the issues in the proceeding. The attendance and testimony of the Commissioners and named NRC personnel at a hearing or on deposition may not be required by the Board, by subpoena or otherwise: Provided, That the Board may, upon a showing of exceptional circumstances, such as a case in which a particular named NRC employee has direct personal knowledge of a material fact not known to the witnesses made available by the Executive Director for Operations, require the attendance and testimony of named NRC personnel.

§ 2.1020 Entry upon land for inspection.

(a) Any party, potential party, or interested governmental participant may serve on any other party, potential party, or interested governmental participant a request to permit entry upon designated land or other property in the possession or control of the party, potential party, or interested governmental participant upon whom the request is served for the purpose of access to raw data, inspection and measuring, surveying, photographing, testing, or sampling the property or any designated object or operation thereon, within the scope of § 2.1018 of this subpart.

(b) The request may be served on any party, potential party, or interested governmental participant without leave of the Commission or the Board.

(c) The request shall describe with reasonable particularity the land or other property to be inspected either by individual item or by category. The request shall specify a reasonable time, place, and manner of making the inspection and performing the related acts.

(d) The party, potential party, or interested governmental participant upon whom the request is served shall serve on the party, potential party, or interested governmental participant submitting the request a written response within ten days after the service of the request. The response shall state, with respect to each item or category, that inspection and related activities will be permitted as requested, unless the request is objected to, in which case the reasons for objection shall be stated. If objection is made to part of an item or category, the part shall be specified.

§ 2.1021 First prehearing conference.

(a) In any proceeding involving an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to Part 60 of this chapter the Commission or the Hearing Licensing Board will direct the parties, interested governmetal participants and any petitioners for intervention, or their counsel, to appear at a specified time and place, within seventy days after the notice of hearing is published, or such other time as the Commission or the Hearing Licensing Board may deem appropriate, for a conference to:

(1) Permit identification of the key issues in the proceeding;

(2) Take any steps necessary for further identification of the issues;

(3) Consider all intervention petitions to allow the Hearing Licensing Board to make such preliminary or final determination as to the parties and interested governmental participants, as may be appropriate;

(4) Establish a schedule for further actions in the proceeding; and

(5) Establish a discovery schedule for the proceeding taking into account the objective of meeting the three year time schedule specified in section 114(d) of the Nuclear Waste Policy Act of 1982, as amended, 42 U.S.C. 10134(d).

(b) The Board may order any further formal and informal conferences among the parties and interested governmental participants including teleconferences, to the extent that it considers that such a conference would expedite the proceeding.

(c) A prehearing conference held pursuant to this section shall be stenographically reported.

(d) The Board shall enter an order which recites the action taken at the conference, the schedule for further actions in the proceeding, and any agreements by the parties, and which identifies the key issues in the proceeding, makes a preliminary or final determination as to the parties and interested governmental participants in the proceeding, and provides for the submission of status reports on discovery.

§ 2.1022 Second prehearing conference.

(a) The Commission or the Hearing Licensing Board in a proceeding on an application for a license to receive and possess high-level radioactive waste at a geologic repository operations area shall direct the parties, interested governmental participants, or their counsel to appear at a specified time and place not later than seventy days after the Safety Evaluation Report is issued by the NRC staff for a conference to consider:

(1) Any amended contentions submitted under § 2.1014(a)(4) of this subpart;

(2) Simplification, clarification, and specification of the issues;

(3) The obtaining of stipulations and admissions of fact and of the contents and authenticity of documents to avoid unnecessary proof;

(4) Identification of witnesses and the limitation of the number of expert witnesses, and other steps to expedite the presentation of evidence;

(5) The setting of a hearing schedule;

(6) Establishing a discovery schedule for the proceeding taking into account the objective of meeting the three year time schedule specified in section 114(d) of the Nuclear Waste Policy Act of 1982, as amended, 42 U.S.C. 10134(d); and

(7) Such other matters as may aid in the orderly disposition of the proceeding.

(b) A prehearing conference held pursuant to this section shall be stenographically reported.

(c) The Board shall enter an order which recites the action taken at the conference and the agreements by the parties, limits the issues or defines the matters in controversy to be determined in the proceeding, sets a discovery schedule, and sets the hearing schedule.

§ 2.1023 Immediate effectiveness.

(a) Pending review and final decision by the Commission, an initial decision resolving all issues before the Hearing Licensing Board in favor of issuance or amendment of a construction authorization pursuant to § 60.31 of this

chapter or a license to receive and possess high-level radioactive waste at a geologic repository operations area pursuant to § 60.41 of this chapter, will be immediately effective upon issuance except—

(1) As provided in any order issued in accordance with § 2.788 of this part that stays the effectiveness of an initial decision; or

(2) As otherwise provided by the Commission in special circumstances.

(b) The Director of Nuclear Material Safety and Safegurds, notwithstanding the filing or pendency of an appeal or a petition for review pursuant to § 2.1015 of this subpart, promptly shall issue a construction authorization or a license to receive and possess high-level radioactive waste at a geologic respository operations area, or amendments thereto, following an initial decision resolving all issues before the Hearing Licensing Board in favor of the licensing action, upon making the appropriate licensing findings, except—

(1) As provided in paragraph (c) of this section; or

(2) As provided in any order issued in accordance with § 2.788 of this part that stays the effectiveness of an initial decision; or

(3) As otherwise provided by the Commission in special circumstances.

(c)(1) Before the Director of Nuclear Material Safety and Safeguards may issue a construction authorization or a license to receive and possess waste at a geologic repository operations area in accordance with paragraph (b) of this section, the Commission, in the exercise of its supervisory authority over agency proceedings, shall undertake and complete a supervisory examination of those issues contested in the proceeding before the Hearing Licensing Board to consider whether there is any significant basis for doubting that the facility will be constructed or operated with adequate protection of the public health and safety, and whether the Commission should take action to suspend or to otherwise condition the effectiveness of a Hearing Licensing Board decision that resolves contested issues in a proceeding in favor of issuing a construction authorization or a license to receive and possess high-level radioactive waste at a geologic repository operations area. This supervisory examination is not part of the adjudicatory proceeding. The Commission shall notify the Director in writing when its supervisory examination conducted in accordance with this paragraph has been completed.

(2) Before the Director of Nuclear Material Safety and Safeguards issues a construction authorization or a license to receive and possess high-level radioactive waste at a geologic repository operations area, the Commission shall review those issues that have not been contested in the proceeding before the Hearing Licensing Board but about which the Director must make appropriate findings prior to the issuance of such a license. The Director shall issue a construction authorization or a license to receive and possess high-level radioactive waste at a geologic repository operations area only after written notification from the Commission of its completion of its review under this paragraph and of its determination that it is appropriate for the Director to issue such a construction authorization or license. This Commission review of uncontested issues is not part of the adjudicatory proceeding.

(3) No suspension of the effectiveness of a Hearing Licensing Board's initial decision or postponement of the Director's issuance of a construction authorization or license that results from a Commission supervisory examination of contested issues under paragraph (c)(1) of this section or a review of uncontested issues under paragraph (c)(2) of this section will be entered except in writing with a statement of the reasons. Such suspension or postponement will be limited to such period as is necessary for the Commission to resolve the matters at issue. If the supervisory examination results in a suspension of the effectiveness of the Hearing Licensing Board's initial decision under paragraph (c)(1) of this section, the Commission will take review of the decision sua sponte and further proceedings relative to the contested matters at issue will be in accordance with procedures for participation by the DOE, the NRC staff, or other parties and interested governmental participants to the Hearing Licensing Board proceeding established by the Commission in its written statement of reasons. If a postponement results from a review under paragraph (c)(2) of this section, comments on the uncontested matters at issue may be filed by the DOE within ten days of service of the Commission's written statement.

Dated at Rockville, MD this 7th day of April, 1989.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 89-8828 Filed 4-13-89; 8:45 am]

BILLING CODE 7590-01-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1204

Administrative Authority and Policy

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule, removal of regulation.

SUMMARY: NASA is amending 14 CFR Part 1204 by removing Subpart 1204.12, "Debriefing of Unsuccessful Companies in Competitive Negotiated Procurements," since it will be published in the Federal Acquisition Regulation System as 48 CFR 18-25.1003.

EFFECTIVE DATE: March 20, 1989.

ADDRESS: Assistant Administrator for Procurement, Code HP, NASA Headquarters, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: William J. Maraist, 202-453-2105.

SUPPLEMENTARY INFORMATION:

List of Subjects in 14 CFR Part 1204

Airports, Authority delegation (Government agencies), Federal buildings and facilities, Government contracts, Government employees, Government procurement, Grant programs science and technology, Labor unions, Security measures, Small business.

PART 1204—[AMENDED]

Subpart 1204.12—[Removed and Reserved]

14 CFR Part 1204 Subpart 1204.12 (consisting of §§ 1204.1200 through 1204.1202) is hereby removed and reserved.

James C. Fletcher,

Administrator.

April 7, 1989.

[FR Doc. 89-8905 Filed 4-13-89; 8:45 am]

BILLING CODE 7510-01-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2610

Payment of Premiums; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Interim rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's interim regulation on Payment of Premiums, which was published on June 30, 1988 (53 FR 24906). Appendix B to the

interim regulation contains a table setting forth the interest rates that are required by statute to be used in valuing a plan's vested benefits for purposes of determining the amount of the premium due to the PBGC. This amendment adds to that table the interest rate applicable to plan years beginning in April 1989.

EFFECTIVE DATE: April 14, 1989.

FOR FURTHER INFORMATION CONTACT: Harold J. Ashner, Senior Counsel, Office of the General Counsel (Code 22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; telephone 202–778–8823 (202–778–8859 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: Section 9331 of the Omnibus Budget Reconciliation Act of 1987, Pub. L. 100–203, amended section 4006 of the Employee Retirement Income Security Act of 1974 ("ERISA") to establish a two-part premium structure for single-employer plans, *i.e.*, a flat rate per capita assessment and a variable rate assessment based on a plan's unfunded vested benefits, effective for plan years beginning on or after January 1, 1988. Under amended ERISA section 4006(a)(3)(E)(iii)(II), the interest rate used in valuing a plan's vested benefits for purposes of determining the amount of the plan's unfunded vested benefits must equal 80% of the annual yield on 30-year Treasury securities for the month preceding the month in which the plan year begins.

The Pension Benefit Guaranty Corporation's (the "PBGC's") interim regulation on Payment of Premiums (53 FR 24906 (June 30, 1988)) implements these new premium rules. Under § 2610.23(b)(1) of the regulation, the interest rate for valuing vested benefits is determined by reference to the annual yield for 30-year Treasury constant maturities as reported in Federal Reserve Statistical Release G.13 and H.15. The required interest rate for a given "premium payment year" (the plan year for which the premium is being paid) is 80% of this rate for the calendar month preceding the calendar month in which the premium payment year begins. As a convenience, the PBGC established an Appendix B to the interim regulation containing a table setting forth the required interest rates for premium payment years beginning in January 1988 and thereafter.

The PBGC is amending Appendix B to add the required interest rate for premium payment years beginning in April 1989. Appendix B to the interim regulation does not prescribe the required interest rates for valuing vested benefits. These rates are prescribed by section 4006(a)(3)(E)(iii)(II) of ERISA and § 2610.23(b)(1) of the regulation. The purpose of Appendix B is merely to collect and to republish these rates in a convenient place. Thus, the interest rates in Appendix B are informational only. Accordingly, the PBGC finds that notice of and public comment on this amendment would be unnecessary and contrary to the public interest. See 5 U.S.C. 553(b). For these same reasons, the PBGC also finds that good cause exists for making these amendments effective immediately. See 5 U.S.C. 553(d)(3).

The PBGC has determined that this amendment is not a "major rule" within the meaning of Executive Order 12291, because it 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 this amendment, 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, and Pensions.

In consideration of the foregoing, Appendix B to 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 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1306, 1307, as amended by sec. 9331, Pub. L. 100–203, 101 Stat. 1330.

2. Appendix B to Part 2610 is amended by adding to the table of interest rates therein a new entry to read as follows. The explanatory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates for Valuing Vested Benefits

The following table lists the required interest rates to be used in valuing a plan's vested benefits under § 2610.23(b) and in calculating a plan's adjusted vested benefits under § 2610.23(c)(1):

For premium payment years beginning in—	Required interest rate [1]
• • • • •	
April 1989	7.34

[1] The required interest rate listed above is equal to 80% of the annual yield for 30-year Treasury constant maturities, as reported in Federal Reserve Statistical Release G.13 and H.15, for the calendar month preceding the calendar month in which the premium payment year begins.

Issued in Washington, DC, on this 11th day of April, 1989.

Royal S. Dellinger,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 89–8912 Filed 4–13–89; 8:45 am]

BILLING CODE 7708-01-M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal (29 CFR Part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of May 1989.

EFFECTIVE DATE: May 1, 1989.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street, NW., Washington, DC 20006; 202–778–8820 (202–778–8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in

this amendment reflect market conditions that are as nearly current as possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (*See* 5 U.S.C. § 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of $100 million or more; or create a major increase in costs or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, Part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 276—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for Part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) *Interest rates.*

For valuation dates occurring in the month	The values of i_k are.—															
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}	i_n
. . .																
May 1989	.09875	.095	.09	.085	.08	.07375	.07375	.07375	.07375	.07375	.0675	.0675	.0675	.0675	.0675	.06

Issued at Washington, DC, on this 10th day of April 1989.

Royal S. Dellinger,

Acting Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 89-8911 Filed 4-13-89; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Department of the Air Force

32 CFR Part 806b

[Air Force Reg. 12-35]

Air Force Privacy Act Program; Correction

AGENCY: Department of the Air Force. DoD.

ACTION: Final rule; correction.

SUMMARY: In the April 4, 1989 issue of the **Federal Register**, FR Doc. 89-7766 was published at 54 FR 13521 as a final rule. Several errors appeared in the regulatory text and this document corrects those typographical errors.

EFFECTIVE DATE: April 4, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. Aurelio Nepa, Jr., Staff Director, Defense Privacy Office, Room 205, 400 Army Navy Drive, Arlington, VA 22202-2830. Telephone (202) 694-3027; Autovon: 224-3027.

L.M. Bynum,

Alternate Federal Register Liaison Officer, Department of Defense.

April 7, 1989

PART 806b—[AMENDED]

§ 806b.13 [Corrected]

1. In § 806b.13, paragraph (b)(2) is correctly redesignated paragraph (b)(20).

2. In correctly redesignated paragraph (b)(20)(i), the heading "*Exception.*" is removed and the heading "*Exemption.*" is added.

[FR Doc. 89-8827 Filed 4-13-89; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[CGD 88-075]
RIN 2115-AD07

Mississippi River; Regulated Navigation Area

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This final rule amends the recordkeeping requirements for barge fleeting facilities on the lower Mississippi River. The Coast Guard has concluded that the requirement to record the identification of towboats moving barges in or out of a fleeting facility is no longer necessary for its oversight of fleeting facility operations. This amendment will reduce the information collection burden imposed on the public.

EFFECTIVE DATE: This rule is effective May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Ensign Mont E. McMillen, Office of Navigation Safety and Waterway Services, telephone (202) 267-0357 between 7:00 a.m. and 3:30 p.m., Monday through Friday, except holidays.

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this rule are: Ensign Mont E. McMillen, Project Officer, Office of Navigation Safety and Waterway Services, Coast Guard Headquarters; and Christena G. Green, Project Counsel, Office of Chief Counsel, Coast Guard Headquarters.

Background

The regulations for barge fleeting facilities were adopted in 1975 (40 FR 56430) with the establishment of the Regulated Navigation Area between Miles 88 and 127 of the Mississippi River, under the authority of the Ports and Waterways Safety Act of 1972. They were first published in Part 128 of Title 33, CFR. The requirements for barge fleeting facilities were approved by the Office of Management and Budget in 1981 and were reauthorized by OMB in December, 1983 and January, 1987. In 1982 all regulations governing safety zones, security zones, and regulated navigation areas were consolidated in Part 165 of Title 33 (47 FR 29659).

The purpose of the barge fleeting regulations, including the recordkeeping requirements contained in 33 CFR 165.803(i), is to ensure that the operators

of barge fleeting facilities follow the proper mooring and inspection procedures, in order to prevent barges from breaking away from a fleeting facility and creating a hazard in a very congested area of the Mississippi River. Fleeting facility records provide documentary evidence that inspections are being made and aid in the investigation of any occurrences of runaway barges. However, the Coast Guard has found that recording the name of the tugboat which moves a barge into, within, or out of a facility is no longer necessary to its oversight activities. The Coast Guard is, therefore, deleting the reporting requirement.

Additionally, the note immediately following 33 CFR 165.803(i) has been revised to delete the reference to the OMB Control Number for the barge fleeting recordkeeping requirements. This number is set out in 33 CFR Part 4, OMB Control Numbers Assigned Pursuant to the Paperwork Reduction Act.

Comment

In response to the Notice of Proposed Rulemaking, (53 FR 48653) the Coast Guard received one comment from a large, local facility operator which was in favor of the amendment. Citing the hundreds of shifts which occur daily, the barge line company called the amendment "a step in the right direction" towards lessening the information collection and paperwork burden placed upon barge fleeting facility operators.

Regulatory Evaluation

This rule is considered to be nonmajor under Executive Order 12291 and nonsignificant under DOT 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 final rule is part of the continuing effort to reduce the paperwork burden on the public in accordance with the Paperwork Reduction Act of 1981. The reduction in recordkeeping requirements should result in lower costs in terms of both time and money to the operators of fleeting facilities. Therefore, the Coast Guard certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Federalism

This rule has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and has been determined to have insufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons set forth in the Preamble, 33 CFR Part 165 is amended as set forth below.

PART 165—[AMENDED]

1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5.

2. Section 165.803 is amended by removing paragraph (i)(4) and by revising the note immediately following paragraph (i) to read as follows:

§ 165.803 Mississippi River—regulated navigation area.

* * * * *

(i) * * *

Note: The requirements in paragraph (i)(3) of this section for the listing of hazardous cargo refer to cargoes regulated by Subchapters D and O of Chapter I, Title 46, Code of Federal Regulations.

* * * * *

Signed: March 22, 1989.

R. T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 89–8855 Filed 4–13–89; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[FRL–3552–4]

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

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: Today's rulemaking takes final action to redesignate Wichita, Kansas, from nonattainment to attainment with respect to carbon monoxide (CO). This action is in response to a request submitted on July 22, 1988, from the Kansas Department of Health and Environment (KDHE). As a result of this rulemaking all areas in the state of Kansas will be attainment for CO. EPA is using the direct-to-final procedure for this rulemaking.

EFFECTIVE DATE: This rulemaking will become effective June 13, 1989, unless someone notifies EPA that they wish to make adverse or critical comments by May 15, 1989.

ADDRESSES: Copies of the state submission are available for public inspection at the Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, during normal business hours. Copies of the state submittal are also available at the Kansas Department of Health and Environment, Bureau of Air Quality and Radiation Control, Forbes Field, Topeka, Kansas 66620; and Public Information Reference Unit, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Robert J. Chanslor at (913) 236–2893; FTS 757–2893.

SUPPLEMENTARY INFORMATION: On March 3, 1978 (43 FR 8964), EPA designated a portion of Wichita, Kansas, nonattainment with respect to the CO primary National Ambient Air Quality Standard (NAAQS) as required by section 107(d) of the Clean Air Act, as amended in 1977 (Act). Section 107(d) of the Act requires that areas be designated attainment, nonattainment, or unclassifiable. A nonattainment area is one with air quality worse than a national standard. An attainment area is one with air quality equal to or better than a national standard. An unclassified region is one for which there is insufficient data upon which to determine whether an area is attainment or nonattainment.

The state submitted a CO plan for Wichita on April 16, 1981. This plan was approved by EPA on January 22, 1982 (47 FR 3113). On February 3, 1983 (48 FR 4972), EPA identified Wichita, Kansas, as a nonattainment area unlikely to attain the CO standard by the December 31, 1982, statutory attainment date. This determination was based upon violations of the standard measured in 1980, 1981, and 1982.

On February 29, 1984, EPA notified the state of Kansas under authority of section 110(a)(2)(H) of the Act that the CO State Implementation Plan (SIP) for Wichita was substantially inadequate to attain the CO standard. EPA extended the time required under section 110(c)(1)(C) for plan revision to one year. In response to the call for a SIP revision, the state of Kansas submitted a

revised CO SIP for Wichita on March 1, 1985. There are no significant stationary CO sources in Wichita; thus, the plan depended upon transportation control measures (TCM) for CO emissions reductions.

The plan submitted in 1985 contained one TCM, a commitment to continue a voluntary inspection and maintenance program through 1986, and a modeling analysis as part of the plan's attainment demonstration. EPA proposed approval of the revised CO plan on December 20, 1985 (50 FR 51887). The 1985 plan revision contained a contingency plan in the event that should further violations occur, other TCMs would be implemented. Along with the plan was a request for redesignation to attainment.

Two events occurred which prevented final approval of the 1985 SIP revision and the redesignation. The city discontinued the TCM, and monitoring data were inadequate to support a redesignation to attainment. In addition, violations of the standard were measured in March 1986.

On September 3, 1987, the KDHE submitted supplemental material applicable to the Wichita CO SIP. The city of Wichita adopted two new TCMs to replace the one discontinued in 1986. For further discussion of these measures, the reader is referred to the proposed rulemaking of March 3, 1988 (53 FR 10399). Final approval of the Wichita CO SIP was published on October 28, 1988 (53 FR 43691). Thus, the state of Kansas has a fully approved CO SIP for the city of Wichita.

On July 22, 1988, the KDHE submitted a request that EPA redesignate Wichita from nonattainment to attainment with respect to the CO air quality standard. Included with the request is air quality data representing eight consecutive quarters of measured data showing no violations of the NAAQS for CO.

EPA's policy for redesignation of CO nonattainment areas requires eight consecutive quarters of air quality data showing no violation of the CO standard and an approved attainment demonstration. Alternatively, EPA will accept four quarters of data with a modeling demonstration that projects the CO standard will not be violated in the future.

EPA's approval of the Wichita SIP revision on October 28, 1988, provides the approved attainment demonstration. The air quality data satisfy the eight quarters of data portion of the redesignation policy. Additionally, the plan revision included modeling which projected continued air quality which would not violate the CO standard. EPA believes that the redesignation policy for CO has been satisfied in the case of Wichita, Kansas.

The EPA-proposed post-87 ozone/CO policy, as discussed in the **Federal Register** on November 24, 1987, and June 6, 1988, applies to nonattainment areas based upon air quality data for the period January 1986 through December 1987. This would include Wichita, Kansas, because the last recorded violation was in March 1986. However, as discussed above, there are now at least eight consecutive quarters of CO data showing no violations of the NAAQS.

EPA received three comment letters pertaining to the June 6, 1988, **Federal Register** notice, which proposed to designate Wichita nonattainment for CO and possible sanctions on highway construction in the Wichita area. Two commenters asked that EPA reconsider the proposed nonattainment designation because more recent data showed no CO violations for eight consecutive quarters. A third commenter questioned EPA's authority to impose sanctions on highway construction and stated that highway improvements would contribute to reduced CO concentrations in the Wichita area.

Today's action redesignates Wichita from nonattainment to attainment with respect to CO. Thus, in effect, EPA is following the suggestions of the first two commenters. The third commenter's argument is moot, because redesignating Wichita to attainment obviates the possibility of sanctions in the near term.

EPA approved the Wichita CO SIP on October 28, 1988 (53 FR 43691). The state's redesignation request of June 22, 1988, was supported with data showing no violations of the CO NAAQS for eight consecutive quarters. Thus, the EPA's CO redesignation policy requirements have been satisfied. Today's action also withdraws that part of the June 6, 1988, notice that proposed to retain Wichita as nonattainment for CO. This action effectively removes Wichita, Kansas, from Table B of the June 6, 1988, notice of areas proposed to be designated nonattainment for CO.

ACTION: EPA approves the state's request to redesignate Wichita, Kansas, from nonattainment to attainment with respect to NAAQS for CO.

The public should be advised that this action will be effective June 13, 1989. However, if notice is received within 30 days that someone wishes to make adverse or critical comments, this action will be withdrawn and two subsequent notices will be published prior to the effective date. One notice will withdraw final action and another will begin a new rulemaking by announcing a proposal of action and establishing a comment period.

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

Under 5 U.S.C. 605(b), I certify that this redesignation will not have a significant impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Clean Air Act, as amended, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 13, 1989. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7642.

Date: March 29, 1989.

William K. Reilly,

Administrator.

Part 81 of Chapter I, Title 40

40 CFR Part 81, Subpart C, is amended as follows:

PART 81—[AMENDED]

Subpart C—Section 107 Attainment Status Designations

1. The authority citation for Part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. The CO table in section 81.317, Kansas, is amended by revising the entry for "Sedgwick County" to read as follows:

§ 81.317 Kansas.

* * * * *

KANSAS—CO

Designated area	Does not meet primary standards	Cannot be classified or better than national standards
* * * * *		
Sedgwick County.	 X	
* * * * *		

* * * * *

[FR Doc. 89–8996 Filed 4–13–89; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 88-396; FCC 89-89]

Broadcast Television Services; Network Affiliation Agreements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, through this *Report and Order* (*R&O*), eliminates § 73.658(c) of its Rules. This section established a two-year limit on the duration of affiliation agreements between television station licensees and television networks, and barred networks and stations from entering into affiliation agreements more than six months prior to the time the term of the agreement was to commence. This rule was deleted because the Commission found that the arbitrary time limit specified in the rule is unnecessary and could, in fact, be having negative effects.

EFFECTIVE DATE: May 15, 1989.

ADDRESS: Federal Communication Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David E. Horowitz, Mass Media Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* MM Docket No. 88-396, adopted March 16, 1989, and released April 7, 1989. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Docket Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, (202) 857-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. In this decision, the Commission eliminates § 73.658(c) of its Rules. This section, the term of affiliation rule, established a two-year limit on the duration of affiliation agreements between television station licensees and television networks, and barred networks and stations from entering into affiliation agreements more than six months prior to the time the term of the agreement was to commence.

2. Section 73.658(c) was enacted as one of the "chain broadcasting" rules. In general, these rules were enacted to limit the ability of the then existing networks to exact from their affiliates contract terms that the Commission felt tended to perpetuate the advantages those networks held over competitors. The two-year rule, in particular, was adopted in response to the Commission's concern that without a limit, the networks would enter into lengthy affiliation agreements in order to "tie up" existing broadcast outlets so that new networks would have no stations with which to affiliate. The Commission believed that mandating shorter terms of affiliation would give these developing networks meaningful access to programming outlets, thus permitting the growth of such networks and hopefully resulting in a larger supply of programming and a gain in programming quality as more networks competed equally for the stations' time.

3. This review was initiated by *Notice of Proposed Rule Making* (*Notice*) (53 FR 38308, September 30, 1988), in order to determine whether the two-year rule, which was adopted in 1945, is currently functioning as intended and whether the continuation of this restriction in the present market environment is still necessary. Although the rule had not been subject to formal Commission review since its adoption, in 1977 the Commission eliminated the corresponding two-year rule for radio, along with most of the other chain broadcasting rules as they applied to radio. (*See Report, Statement of Policy and Order* in Docket No. 20721, 42 FR 16415, March 28, 1977.) At that time, the Commission cited the tremendous change in the radio industry, particularly the increased number of stations and networks and the decreased economic importance of networks to their affiliated stations, as the reason for eliminating the term of affiliation rule (and other chain broadcasting rules) in the radio industry. In 1980, an extensive Commission staff review of the network rules also recommended modification of the two-year rule for television, indicating that the rule did not effectively accomplish its intended goals and might be adversely affecting the television industry.

4. The *Notice* in this proceeding also suggested that, just as changes in the radio marketplace warranted elimination in 1977 of the two-year rule for radio, changes in the television marketplace might now warrant elimination or modification of the rule for television. The *Notice* sought comment on the impact of eliminating the rule, and in the alternative, whether modification of the rule would be preferable. In the latter instance, commenters were asked to suggest appropriate modifications.

5. The *Notice* elicited five comments and two reply comments, all strongly supportive of complete eliminatioin of the two-year rule. The consensus was that the rule is not only anachronistic and unnecessary in today's television industry, but also that it has a considerable negative impact on both stations and networks. Although some of the arguments made in support of eliminating the two-year term of affiliation rule raised issues far beyond the scope of this proceeding, we believe that the commenters made a persuasive case that the rule is no longer necessary and may work against the goals that the rule was designed to achieve. For example, we do not believe that in today's competitive environment, the major networks will be able to "tie up" existing broadcast outlets so as to undermine competition by newer emerging networks. In addition, the two-year rule may, in fact, be impeding the newer networks' ability to compete, especially in the start up phase of operations; financing could be easier to secure if a network can obtain longer term affiliation agreements that provide assurances of a steady market for its programming. Moreover, we find no public interest benefit in continuing the present restriction. While it is difficult to know the extent to which longer term contracts would in fact arise, particularly for the larger established networks, there appears to be a significant potential public benefit in allowing networks and their affiliates, including in particular the newer developing networks and their affiliates, to reach their own balance as to what term of affiliation should be agreed upon. Because the rule was initially adopted to assist in the development of new networks, it is particularly appropriate that it not be retained if it is having a contrary effect in the current market environment.

6. In addition to the negative effects of this rule on new networks, we believe there is considerable public benefit in acting to facilitate those developments that will assist existing affiliates and networks in synchronizing their economic and competitive interests and will aid their effective participation in the increasingly diverse and competitive video marketplace of the future. Although our system of broadcasting is based on a structure that involves numerous local broadcast station outlets, it has been recognized from the time network regulations were first considered that the networking operations are of great importance, because of their reach and efficiency, in providing the public with news,

information, and entertainment programming. The efficiency and responsiveness of such operations depends, however, on a partnership between the network and its numerous affiliates. The additional flexibility provided by the elimination of the two-year rule should, we believe, be of some assistance to networks and their affiliates in assuring that this partnership functions effectively.

7. In sum, we find that the record supports our initial evaluation in the *Notice* that the two-year rule should be eliminated to allow networks and stations to negotiate the term of affiliation agreements in accordance with their business judgments. The initial considerations that prompted the adoption of the rule have been greatly eroded by developments in the intervening years, such as the increased diversity and complexity of the video marketplace. Indeed, in today's video marketplace, the rule may even be detrimental to the network and station interests that it was intended to protect, limiting these entities' flexibility to negotiate agreements that will permit them to respond to an increasingly competitive marketplace and to better serve the public.

Final Regulatory Flexibility Analysis Statement

8. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 605, we conclude that the adopted rule modifications will have a positive impact on many small entities, by giving them greater flexibility in negotiating with networks on the term for which affiliation agreements will run, thus creating a greater opportunity for a steady supply of programming, which may make it easier to obtain financial backing necessary to construct or improve facilities and easier to attract advertisers.

9. The Secretary shall cause a copy of this *Report and Order*, including the Final Regulatory Flexibility Analysis, to be sent to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with Paragraph 603(a) of the Regulatory Flexibility Act (Pub. L. No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 et seq., (1981)).

Paperwork Reduction Act Statement

10. The action contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements; and will not increase or decrease burden hours imposed on the public.

Ordering Clauses

11. Authority for the rule changes adopted herein is contained in Sections 4 (i) and (j), and 301, 303, 308, and 309 of the Communications Act of 1934, as amended.

12. Accordingly, it is *ordered*, That pursuant to the Administrative Procedure Act, 5 U.S.C. 553(d)(1), the amendments to the Commission's Rules and Regulations adopted herein, as set forth below shall become effective 30 days from the date this *Report and Order* is published in the **Federal Register**.

13. *It is further ordered*, That this proceeding is terminated.

List of Subjects in 47 CFR Part 73

Television broadcasting.

Rule Amendment

47 CFR Part 73 is amended as follows:

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

Authority: 47 USC sections 154 and 303.

15. Section 73.658 is amended by removing the text of paragraph (c) and marking it reserved.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89-9005 Filed 4-13-89; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-144; FCC 89-62]

FM Broadcast Service; Review of Technical Parameters for FM Allocation, FM Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission establishes a uniform protection level (36 mV/m) to serve as a basis for the intermediate frequency minimum distance separation requirements applicable to FM broadcast stations, and amends 47 CFR Part 73 by (1) adjusting the existing requirements to meet the uniform protection level and (2) establishing a new requirement to address a previously unidentified potential source of interference. These actions will result in more reasonable and consistent treatment of FM station applications, and will provide appropriate protection from interference for FM receivers.

EFFECTIVE DATE: May 17, 1989.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: B.C. "Jay" Jackson, Jr., Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: Following is a summary of Commission's *Third Report and Order* in MM Docket No. 86-144, adopted February 15, 1989 and released April 10, 1989. The full text of this action is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this action may also be purchased from the Commission's copy contractors, International Transcription Services, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of the Third Report and Order

1. This order addresses the last of a number of technical rule revisions that became necessary as a result of the creation of three new FM broadcast station classes in BC Docket 80-90 (*Report and Order*, 48 FR 29486, June 27, 1983). It amends 47 CFR Part 73 to provide a uniform level of protection from intermediate frequency ("IF") interference. IF interference degrades FM reception, and in severe cases can prevent reception by a susceptible receiver of most or all of the FM stations in the area.

2. Specifically, this order adjusts the required minimum separation distances for IF-related FM stations to prevent overlap of their predicted 36 mV/m median field strength contours, regardless of the station classes. Two FM stations are IF-related if their assigned frequencies are 10.6 or 10.8 MHz (53 or 54 channels) apart. Also, a new separation requirement applicable only to FM Channel 253 (98.5 MHz) and TV Channel 6 is adopted, based on the same protection criterion, because the aural carrier (at 87.75 MHz) from a TV station on Channel 6 is IF-related to FM channel 253 (98.5 MHz).

3. This proceeding was initiated in 1986 by a *Notice of Proposed Rule Making* (*Notice*) (51 FR 15927, April 29, 1986) to refine certain rules that were affected by previous action in BC Docket No. 80-90. A *First Report and Order* (52 FR 8259, March 17, 1987) resolved two issues raised in the *Notice*. Five remaining proposals were addressed in a *Second Report and Order* (*Second Report*) (52 FR 37786, October 9, 1987). Four of these were resolved in the *Second Report*, but action on the fifth, concerning IF distance separation requirements for the newly created station classes, was deferred until

additional information could be obtained.

4. If distance separation requirements are contained in 47 CFR 73.207, which specifies, by station class, the minimum distance that each FM station must be separated from other IF-related FM stations. The distances specified for Classes A, B, and C (the original classes) were intended to avoid the overlap of 20 mV/m field strength contours (*see Report and Order* in Docket No. 15934, 30 FR 8680, July 9, 1965). However, the specified distances are insufficient to prevent such overlap. Nevertheless, lack of evidence of IF interference suggests that the existing lesser separations have provided adequate protection.

5. In BC Docket 80–90, the Commission applied the existing IF separation distances for the large Class B and C stations to the new intermediate size classes B1, C2, and C1. Consequently, stations in there new classes must currently meet the same requirements as the largest stations, even though they generally operate with lower effective radiated power and antenna height above average terrain. Therefore, in the *Notice* it was proposed to reduce the separations for the new classes to those necessary to provide a 30 mV/m protection level. (Preventing overlap of two stations' 30 mV/m contours is referred to herein as a "30 mV/m protection level.") This proposal was based on the current rules for the old classes, which provide protection levels varying approximately from 24 mV/m to 36 mV/m (30 being halfway between 24 and 36). The purpose of this proposal was simply to provide approximately the same protection level for these new classes as has existed for Class A, B and C stations since 1965. However, in the *Second Report*, the Commission found the record developed in response to the *Notice* with regard to the issue of IF separations to be inconclusive, and concluded that adoption then of distances based on the 30 mV/m protection level would have been premature.

6. In March 1988, the Commission issued a *Further Notice of Proposed Rule Making* (*Further Notice*) (53 FR 10259, March 30, 1988) with the goal of developing a more comprehensive record concerning the IF issue. The *Further Notice* also expanded the scope of the proposal to include consideration of existing IF distance separation requirements applicable to the pre-BC Docket 80–90 FM station classes (A, B and C) and possible new IF minimum distance separation requirements applicable to TV Channel 6 allotments and assignments in the vicinity of FM Channel 253 allotments and assignments (and vice versa).

7. In the *Further Notice*, revised IF minimum distance separation requirements were proposed for all FM station classes and for TV Channel 6 and FM Channel 253 stations based on a uniform protection level of 36 mV/m, which is the least restrictive of the current protection levels. Interested parties, particularly receiver manufacturers and organizations representing them, were invited to submit any additional data or test results either supporting or opposing on technical grounds the choice of 36 mV/m, or to suggest an alternative protection level.

8. Fourteen parties filed formal comments in response to the *Further Notice* and five submitted replies. The majority support the proposal generally, but several oppose it or suggest modifications.

9. *Discussion.* Currently, FCC rules and policies with regard to FM IF interference result in arbitrarily varying levels of protection and thus are technically inconsistent. The minimum spacings now required in 47 CFR 73.207 for IF-related stations provide different protection levels for various FM station class combinations. The distances for Classes B1 and C1 were not based on any calculated standard but were simply taken from the next larger classes (Class B and C, respectively) as a temporary measure in BC Docket 80–90. Licensees of grandfathered short-spaced stations and other applicants requesting a waiver of the IF distance separation requirements currently must show, among other things, that a proposed modification would not cause the overlap of the 20 mV/m predicted median field strength contours of IF-related stations. Finally, there are currently no requirements at all for the TV Channel 6–FM Channel 253 IF relationship, which presents at least as much potential for IF interference as do the pure FM requirements.

10. In the *Further Notice*, the Commission stated that no technical justification could be found for the disparate treatment of these similar situations. Furthermore, the Commission has seen nothing in the record in this proceeding to persuade it otherwise. An FM receiver does not need more protection from two IF-related Class B1 stations than from two IF-related Class A stations. Nor does this same receiver need less protection from TV 6–Channel 253 IF interference than it does from two IF-related Class C1 stations. The Commission believes that its technical allotment and assignment requirements should be based upon reasonably derived and consistently applied technical standards. In cases involving unique or unusual circumstances the Commission may consider waivers of technical rules, however, even in these cases the Commission believes that a clear understanding by all parties of the technical principles underlying the rule for which the waiver is sought is essential to the proper disposition of such requests. The Commission concludes that one specific protection level for IF interference should be selected and applied uniformly.

11. Obviously, there is a trade-off between protection level and site flexibility. That is, a lower level of protection permits shorter separations, which in turn allow a greater number of potential transmitter sites. Some commenters allege that this trade-off should never favor site flexibility unless it is proven that service to the public has been reduced. Others argue that the benefits to be gained, in terms of site flexibility, are limited. However, the Commission believes that licensees of certain classes of FM stations should not be unnecessarily constrained by an inconsistent technical standard, while others, operating under a less restrictive standard, do not appear to have experienced any significant problems over the years.

12. In view of years of actual operation by some classes of FM stations under requirements resulting in a protection level of 36 mV/m, the Commission believes that this level is sufficient to protect receivers currently in use. Receiver manufacturers are encouraged to design receivers that are immune to IF interference, as the record indicates this can be done without making such receivers significantly more expensive. Although some commenters recommend that the current distances be retained, the Commission sees no public benefit to retaining the technically inconsistent distances. Accordingly, the Commission is revising the required minimum FM IF spacings as proposed in the *Further Notice*. Furthermore, because the aural transmitter of a TV station operating on Channel 6 is similar to an FM station with regard to potential for IF interference, the Commission is adding a new requirement to address this interference potential.

13. In view of the recent proposal to increase the maximum permitted effective radiated power of Class A FM stations (*see Notice of Proposed Rule Making* in MM Docket 88–375, 53 FR 38743, October 3, 1988), licensees of these stations should be aware that,

although the minimum IF distance separation requirements for Class A stations is not increased herein, the Commission will do so in order to maintain the 36 mV/m protection level if the proposed power increase is ultimately adopted.

14. An analysis of FCC FM licensing records reveals that there are currently 22 pairs of IF-related licensed FM stations that are short-spaced under the current rule. Under the revised rule, 12 of these 22 station pairs will no longer be short-spaced, and will be subject to applicable IF distance separation requirements. The remaining short-spaced stations may continue to operate as authorized, however, applications to modify these stations in ways that increase the area of overlap of the stations' 36 mV/m median field strength contours will not be accepted.

15. A similar analysis using both the TV and FM engineering databases reveals 7 locations where a TV Channel 6 and FM Channel 253 are short-spaced under the new requirement. These stations may continue to operate as authorized, however, applications to modify these stations in ways that increase the area of overlap of the FM station's 36 mV/m median field strength contour and the 36 mV/m contour of the TV station's aural transmitter will not be accepted.

16. The Commission has previously determined that section 605(b) of the Regulatory Flexibility Act of 1980 (Pub. L. 96-354) does not apply to this rule making proceeding because it will not have a significant economic impact on a substantial number of small entities.

17. The actions contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or record keeping, labeling, disclosure, or record retention requirements, and they will not incrase or decrease burden hours imposed on the public.

18. Authority for the action taken herein is contained in sections 4(i), 303(f) and 303(r) of the Communications Act of 1934, as amended. Accordingly, *It is ordered* That Part 73 of the Commission's Rules and Regulations are amended, as set forth below. *It is further ordered,* That this proceeding is terminated.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

List of Subjects in 47 CFR Part 73

Radio Broadcasting, FM Broadcast stations, Minimum distance separation requirements.

For the reasons set forth in the preamble, 47 CFR Part 73 is amended as follows:

PART 73—[AMENDED]

1. The authority citation for 47 CFR Part 73 continues to read as follows:

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

2. 47 CFR 73.207 is amended by revising Table A in paragraph (b)(1), and by adding a new paragraph (c). In Table A, the first three columns, entitled "Co-channel", "200 kHz", and "400/600 kHz" remain unchanged. The fourth column, entitled "10.6/10.8 MHz", is revised to read as follows:

§ 73.207 Minimum distance separation between stations.

* * * * *

(b) * * *

(1) * * *

Table A—Minimum Distance Separation Requirements in Kilometers (Miles)

Relation	Co-channel	200 kHz	400/600 kHz	10.6/10.8 MHz
A to A	* * *	* * *	* * *	8(5)
A to B1	* * *	* * *	* * *	11(6)
A to B	* * *	* * *	* * *	14(9)
A to C2	* * *	* * *	* * *	14(9)
A to C1	* * *	* * *	* * *	21(13)
A to C	* * *	* * *	* * *	28(17)
B1 to B1	* * *	* * *	* * *	14(9)
B1 to B	* * *	* * *	* * *	17(11)
B1 to C2	* * *	* * *	* * *	17(11)
B1 to C1	* * *	* * *	* * *	24(15)
B1 to C	* * *	* * *	* * *	31(19)
B to B	* * *	* * *	* * *	20(12)
B to C2	* * *	* * *	* * *	20(12)
B to C1	* * *	* * *	* * *	27(17)
B to C	* * *	* * *	* * *	35(22)
C2 to C2	* * *	* * *	* * *	20(12)
C2 to C1	* * *	* * *	* * *	27(17)
C2 to C	* * *	* * *	* * *	35(22)
C1 to C1	* * *	* * *	* * *	34(21)
C1 to C	* * *	* * *	* * *	41(25)
C to C	* * *	* * *	* * *	48(30)

* * * * *

(c) The distances listed below apply only to allotments and assignments on Channel 253 (98.5 MHz). The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments where the following minimum distances (between transmitter sites, in kilometers) from any TV Channel 6 allotment or assignment are not met:

Minimum Distance Separation From TV Channel 6 (82–88 MHz)

FM Class	TV Zone I	TV Zones II & III
A	16	20
B1	19	23
B	22	26
C2	22	26
C1	29	33
C	36	41

3. 47 CFR 73.213 is amended by redesignating the existing text as paragraph (a) and adding a new paragraph (b) to read as follows:

§ 73.213 Grandfathered short-spaced stations.

* * * * *

(b) Stations at locations authorized prior to May 17, 1989, that did not meet the IF separation distances required by § 73.207 and have remained short-spaced since that time may be modified or relocated provided that the overlap area of the two stations' 36 mV/m field strength contours is not increased.

4. 47 CFR 73.610 is amended by adding a new paragraph (f) to read as follows:

§ 73.610 Minimum distance separations between stations.

* * * * *

(f) The distances listed below apply only to allotments and assignments on Channel 6 (82–88 MHz). The Commission will not accept petitions to amend the Table of Allotments, applications for new stations, or applications to change the channel or location of existing assignments where the following minimum distances (between transmitter sites, in kilometers) from any FM Channel 253 allotment or assignment are not met:

Minimum Distance Separation From FM Channel 253 (98.5 MHz)

FM Class	TV Zone I	TV Zones II & III
A	16	20
B1	19	23
B	22	26
C2	22	26
C1	29	33
C	36	41

[FR Doc. 89–8913 Filed 4–13–89; 8:45 am]
BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Threatened Status of Hexastylis naniflora (Dwarf-flowered Heartleaf

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Service determines *Hexastylis naniflora* to be a threatened species under authority of the Endangered Species Act of 1973, as amended (Act). This species is known only from a small portion of the upper piedmont of southern North Carolina and adjacent South Carolina. Most of the known populations are threatened by residential and industrial development, conversion of habitat to pasture or small ponds, timber harvesting, or cattle grazing. This action will implement the protection of the Act.

EFFECTIVE DATE: May 15, 1989.

ADDRESSES: The complete file for this rule is available for inspection, by appointment, during normal business hours at the Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801.

FOR FURTHER INFORMATION CONTACT: Mr. Robert R. Currie at the above address (704/259–0321 or FTS 672–0321).

SUPPLEMENTARY INFORMATION:

Background

Hexastylis naniflora is a rare low-growing herbaceous plant in the birthwort family (Aristolochiaceae). The species was described by Blomquist (1957) in his revision of the North American members of the genus *Hexastylis*. The plant's heart-shaped leaves are dark green in color, evergreen and leathery, and are supported by long thin petioles from a subsurface rhizome. Maximum height rarely exceeds 15 centimeters (6 inches). The jug-shaped flowers are usually beige to dark brown in color and appear from mid-March to early June. The flowers are small and inconspicuous and are found near the base of the petioles. The fruit matures from mid-May to early July (Blomquist 1957, Gaddy 1980, 1981). *Hexastylis naniflora* grows in acidic soils along bluffs and adjacent slopes, in boggy areas next to streams and creekheads, and along the slopes of nearby hillsides and ravines (Gaddy 1980, 1981). The species is distinguished from other members of the genus *Hexastylis* by its small flowers and its distinctive habitat.

Hexastylis naniflora is known only from an eight-county area in the upper piedmont of North Carolina and adjacent South Carolina. There are 24 known populations of this species. The following summary of the known distribution of *Hexastylis naniflora*, by State and county, is extracted primarily from Gaddy (1980, 1981). Additional information was supplied by Rayner (South Carolina Wildlife and Marine Resources Department, personal communication, 1986, 1987), Mansberg (North Carolina Department of Natural Resources and Community Development, personal communication, 1986, 1987), and Newberry (University of South Carolina at Spartanburg, personal communication, 1987).

South Carolina

Cherokee County supports only one population of approximately 150 plants. The plants are growing in an area which has been adversely impacted by siltation from road construction.

Greenville County supports eight populations of *Hexastylis naniflora*. The populations vary in size from 50 to several hundred individuals. Most of the populations are adjacent to the rapidly expanding Greenville urban area or its suburbs and are threatened by loss of habitat to residential, commercial, or industrial construction. Agricultural activities, such as conversion of woodlands to pasture or construction of small ponds, also threaten the species. Timber harvesting, except for small, selective cuts, would also adversely impact the species.

Spartanburg County supports three populations of the species. One of these contains 2 individuals, one contains 75 individuals, and the last contains approximately 1,400 individuals. The largest population in the county once contained over 4,000 plants; however, 64 percent of the population was destroyed by reservoir construction. Most of the remaining plants in this population are being protected from further destruction by the City of Spartanburg (commissioners of public works). The smallest population (two plants) is within the right-of-way of the planned relocation of an interstate highway. The population of 75 plants has been adversely impacted by soil erosion caused by grazing cattle.

North Carolina

Cleveland County contains three populations. One of these supports only 10 plants and occurs on a poor quality site. The other 2 populations contain about 200 plants each. These two larger populations are threatened by timber harvesting, conversion of their habitat to pasture or small ponds, and cattle grazing.

Catawba County supports one large, healthy population of over 1,000 plants. This site has been protected to a limited extent through the Natural Areas Registry Program of the North Carolina Natural Heritage Program. This program alerts cooperative landowners to the significance of natural features on their property. It does not, however, provide long-term protection from the threats facing most populations of *Hexastylis naniflora*.

Burke County contains 3 populations, varying in size from 10 to approximately 500 individuals. The smallest population is on a poor quality site that is littered

with trash. The two larger populations remain vulnerable to loss or adverse modification of their habitat.

Rutherford County currently contains three populations of *Hexastylis naniflora*. A fourth population was recently destroyed by road construction. The largest population, containing over 1,000 plants, is a registered natural area and thereby receives limited short-term protection. The smaller populations, 60 and 250 individuals respectively, are threatened by the same activities previously mentioned.

There are three records of *Hexastylis naniflora* from Lincoln County. One population has not been recently verified and may be lost, one has been destroyed, and the last contains about 160 healthy plants. The site supporting these plants has been selectively logged and remains vulnerable to destruction by clear-cutting of timber and other previously referred to activities.

Federal government actions on this species began with section 12 of the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), which directed the Secretary of the Smithsonian Institution to prepare a report on those plants considered to be endangered, threatened, or extinct. This report, designated as House Document No. 94–51, was presented to Congress on January 9, 1975. On July 1, 1975, the Service published a notice (40 FR 27823) which formally accepted the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act. By accepting this report as a petition, the Service also acknowledged its intention to review the status of those plant taxa named within the report. *Hexastylis naniflora* was included in the Smithsonian report and the July 1, 1975, notice of review. On June 16, 1976, the Service published a proposed rule (41 FR 24523) to determine approximately 1,700 vascular plant taxa to be endagered species pursuant to section 4 of the Act; *Hexastylis naniflora* was included in this proposal.

The 1978 amendments to the Act required that all proposals over 2 years old be withdrawn. On December 10, 1979 (44 FR 70796), the Service published a notice withdrawing plants proposed on June 16, 1976. In 1979 the Service also funded a status survey for this species with the final status report being completed in 1980. Based upon the information provided in the status report, *Hexastylis naniflora* was included as a category 1 species in the December 15, 1980, revised notice of review for native plants (45 FR 82480). *Hexastylis naniflora* was again included as a category 1 species in the September 27, 1985, publication of an updated notice of review for native plants (50 FR 39526). Category 1 species are those for which the Service currently has on file information to support the proposed addition of the species to the Federal list of endangered and threatened species. Publication of proposed rules for some of these species has been delayed because of the large number of species within this category.

Section 4(b)(3)(B) of the Act, as amended in 1982, requires the Secretary to make certain findings on pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. This was the case for *Hexastylis naniflora* because of the acceptance of the 1975 Smithsonian report as a petition. In 1983, 1984, 1985, 1986, and 1987, the Service found that the petitioned listing of *Hexastylis naniflora* was warranted but precluded by other listing actions of a higher priority and that additional data on vulnerability and threats was still being gathered.

On April 21, 1988, the Service published (53 FR 13223) a proposal to list *Hexastylis naniflora* as a threatened species. That proposal constituted the final finding as required by the 1982 amendments to the Endangered Species Act.

Summary of Comments and Recommendations

In the April 21, 1988, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices inviting public comment were published in the *Greenville News* (Greenville County), *Spartanburg Herald* (Spartanburg County), *Gaffney Ledger* (Cherokee County), *Shelby Star* (Cleveland County), *Hickory Daily Record* (Catawba County), *Lincoln Times* (Lincoln County), *News Herald* (Burke County), and *Daily Courier* (Rutherford County). One comment was received in response to the proposed rule. The Catawba County manager's office stated that it knew of no conflicts between county projects and protection of the Catawba County site. They outlined several protective measures that may be applicable to the population and stated that the county did not object to designation of *Hexastylis naniflora* as a threatened species. The States of North Carolina and South Carolina had previously expressed their support for the addition of the species to the Federal list.

The Service concurs with the conclusion that *Hexastylis naniflora* merits protection under the Act. The Service has evaluated the available information on the status of, and threats to, this species and believes that threatened status is appropriate.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that *Hexastylis naniflora* should be classified as a threatened species. Procedures found at section 4(a)(1) of the Act and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Hexastylis naniflora* Blomquist (dwarf-flowered heartleaf) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Gaddy (1981) found that much of the habitat that *Hexastylis naniflora* prefers has been destroyed by peach orchards, pastures, housing developments, and ponds. During searches for additional populations of the species, Gaddy (1981) discovered that many small ponds had been constructed at what were formerly springy creekheads. Many of these areas may have supported the species prior to being impounded.

A large number of the known *Hexastylis naniflora* populations occur near expanding urban areas and are threatened by the residential, commercial, and industrial development associated with this growth. Populations occurring in more rural areas are threatened by habitat alteration or loss from land conversion to pasture or other agricultural uses, cattle grazing, intensive timber harvesting, residential construction, and construction of small ponds. Only four populations currently receive some form of protection. The City of Spartanburg, South Carolina, through a policy statement issued by the commissioners of public works, has agreed to protect most of the largest South Carolina population. Two of the larger North Carolina populations are registered natural areas under the North Carolina Natural Heritage Program, and one South Carolina population is registered by The Nature Conservancy.

These populations thereby receive short-term protection from loss or alteration. Registry agreements are, however, nonbinding; and these three populations remain vulnerable to destruction in the long-term.

B. *Overutilization for commercial, recreational, scientific, or educational purposes. Hexastylis naniflora* is not currently a significant component of the commercial trade in native plants; however, the species has potential for horticultural use, and publicity surrounding the listing of the species could generate an increased demand.

C. *Disease or predation.* Not applicable to this species at this time.

D. *The inadequacy of existing regulatory mechanisms. Hexastylis naniflora* is listed as an endangered species in North Carolina and is afforded legal protection in that State. North Carolina General Statute 19–B, 202.12–202.19, provides State-listed plants protection from intrastate trade without a permit and provides for monitoring and management of populations of listed species. Although unofficially recognized as an endangered component of South Carolina's flora by the South Carolina Wildlife and Marine Resources Department, *Hexastylis naniflora* has no official protection status in the State. Section 404 of the Clean Water Act could potentially provide some protection for the dwarf-flowered heartleaf's habitat; however, most of the sites where it occurs do not meet the wetlands criteria of the Clean Water Act. The Endangered Species Act will provide additional protection for *Hexastylis naniflora.*

E. *Other natural or manmade factors affecting its continued existence.* Several of the known populations of *Hexastylis naniflora* occur on steep ravine slopes which also support stands of mixed hardwoods with an understory of mountain laurel (*Kalmia latiflora*) or *Rhododendron spp.* These stands are often very dense and reduce the amount of light reaching the *Hexastylis naniflora* plants growing below. Under these conditions the plants often show reduced vigor and reduced flower and fruit production. Careful, selective logging or natural tree fall and limited understory removal would open up these populations to more light. Additional light, if not accompanied by increased siltation from the intensive soil disturbances associated with forest clear-cutting, probably would benefit these populations (Gaddy 1981).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Hexastylis naniflora* as a threatened species. Threatened status seems appropriate because of the number of populations that currently exist and the protection provided to several of the larger populations. Critical habitat is not being designated for the reasons discussed below.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. Most populations of this species are small, and loss of even a few individuals to activities such as collection for scientific purposes could extirpate the species from some locations. Taking of listed plants is only regulated by the Act in case of removal, reduction to possession, and malicious damage or destruction from lands under Federal jurisdiction; and removal, cutting, digging up, or destroying in knowing violation of any state law or regulation, including state criminal tresspass law. Publication of critical habitat descriptions and maps would increase the vulnerability of the species without significantly increasing protection. The owners and managers of all the known populations of *Hexastylis naniflora* will be made aware of the plant's location and of the importance of protecting the plant and its habitat. Protection of this species' habitat will be addressed through the recovery process and through the Section 7 jeopardy standard. No additional benefits would result from a determination of critical habitat. Therefore, the Service concludes that it is not prudent to designate critical habitat for *Hexastylis naniflora.*

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the States and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into consultation with the Service. All of the known populations of *Hexastylis naniflora* are on privately or municipally owned land. The only known Federal activity that may affect this species is the relocation of an interstate highway in South Carolina. A small population consisting of two clumps of plants may be lost during construction of this project. It is not expected that this loss, if it should occur, will significantly affect the survival and recovery of *Hexastylis naniflora.*

The Act and its implementing regulations found at 50 CFR 17.71 and 17.72 set forth a series of general trade prohibitions and exceptions that apply to all threatened plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.71, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce it to possession from areas under Federal jurisdiction. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. In addition, for listed plants the 1988 amendments (Pub. L. 100–478) to the Act prohibit their malicious damage or destruction on Federal lands, and their removal, cutting, digging up, or damaging or destroying in knowing violation of any state law or regulation, including state criminal trespass law. Certain exceptions can apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving threatened species under

certain circumstances. It is anticipated that few trade permits will ever be sought or issued, since *Hexastylis naniflora* is not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 27329, Central Station, Washington, DC 20038–7329 (202/343–4955).

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Blomquist, H.L. 1957. A revision of *Hexastylis* of North America. Brittonia 8(4):255–281.

Gaddy, L.L. 1980. Status report on *Hexastylis naniflora* Blomquist. Unpublished report prepared under contract to the U.S. Fish and Wildlife Service, Southeast Region, Atlanta, GA. 32 pp.

Gaddy, L.L. 1981. The status of *Hexastylis naniflora* Blomquist in North Carolina. Unpublished report prepared under contract to the Plant Conservation Program, North Carolina Department of Agriculture. 63 pp.

Author

The primary author of this proposed rule is Mr. Robert R. Currie, Asheville Field Office, U.S. Fish and Wildlife Service, 100 Otis Street, Room 224, Asheville, North Carolina 28801 (704/259–0321 or FTS 672–0321).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Regulation Promulgation

Accordingly, Part 17, Subchapter B, of chapter I, Title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under Aristolochiaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
*	*	*	*	*	*	
Aristolochiaceae—Heartleaf family:						
Hexastylis naniflora	Dwarf-flowered heartleaf	U.S.A. (NC, SC)	T	347	NA	NA

Dated: March 14, 1989.

Becky Norton Dunlop,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89–8899 Filed 4–13–89; 8:45 am]

BILLING CODE 4310–55–M

Proposed Rules

Federal Register
Vol. 54, No. 71
Friday, April 14, 1989

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

Animal and Plant Health Inspection Service

9 CFR Part 92

[Docket No. 89-058]

Importation of Porcine Semen From China

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of reopening and extension of comment period.

SUMMARY: We are reopening and extending the comment period for a proposed rule regarding procedures for the importation into the United States of swine semen from China. The proposed rule contains testing and other requirements to ensure that swine semen imported from China does not transmit rinderpest, foot-and-mouth disease, or other dangerous diseases. Extending the comment period will give interested persons additional time to prepare comments.

DATE: Consideration will be given only to written comments that are postmarked or received on or before May 1, 1989.

ADDRESSES: Send an original and two copies of written comments to Helene R. Wright, Chief, Regulatory Analysis and Development, PPD, APHIS, USDA, Room 866, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket No. 89-201. Comments received may be inspected at USDA, Room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Dr. Samuel S. Richeson, Senior Staff Veterinarian, Import-Export Animals Staff, Veterinary Services, APHIS, USDA, Room 759, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8144.

SUPPLEMENTARY INFORMATION: The regulations in 9 CFR Part 92 set forth, among other things, the conditions under which animal semen from countries affected with rinderpest or foot-and-mouth disease may be imported into the United States. On March 28, 1989, we published in the **Federal Register** (54 FR 12639-12642, Docket 89-021) a proposal to amend the regulations contained in § 92.4(d), by adding certain requirements specifically designed for importation of porcine semen from China. Comments on the proposal were to be postmarked or received on or before April 12, 1989.

The National Pork Producers Council requested an extension to the comment period in order to allow their membership adequate time to react to the proposal and develop responses. The Council noted that some of their members have concerns about the proposed rule in the areas of disease risk and introduction of new genetic varieties into United States swine populations.

In response to this request, we are reopening and extending the comment period for our proposed rule. We will consider all written comments on this docket that are postmarked or received on or before May 1, 1989. The new deadline will give interested persons additional time to prepare comments.

Done in Washington, DC, this 11th day of April 1989.

James W. Glosser,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 89-9072 Filed 4-13-89; 8:45 am]
BILLING CODE 3410-34-M

SELECTIVE SERVICE SYSTEM

32 CFR Part 1656

Selective Service Regulations; Registrant Processing Procedures

AGENCY: Selective Service System.

ACTION: Proposed rule.

SUMMARY: Procedures for the processing of registrants under the Military Selective Service Act (50 U.S.C. App. 451 et seq.) are revised to assure greater fairness and efficiency in administration in the processing of registrants.

DATES: *Comment Date:* Written comments received on or before June 12, 1989, will be considered. *Effective date:* Subject to the comments received, the amendment is proposed to become effective upon publication in the **Federal Register** of a final rule.

ADDRESS: Written comments to: Selective Service System, ATTN: General Counsel, Washington, DC 20435.

FOR FURTHER INFORMATION CONTACT: Henry N. Williams, General Counsel, Washington, DC 20435, Phone (202) 724-1167.

SUPPLEMENTARY INFORMATION CONTACT: This amendment to Selective Service Regulations is published pursuant to section 13(b) of the Military Selective Service Act (50 U.S.C. App. 463(b)) and Executive Order 11623. These Regulations implement the Military Selective Service Act (50 U.S.C. App. 451 et seq.).

Discussion of Proposed Regulations

The removal of 32 CFR 1656.5(a)(1)(iii) is indicated by 1 CFR 8.1(a) (Jan. 1, 1988) as amended by 54 FR 9677 (March 7, 1989) because it was declared "null and void" by Pub. L. 99-500 section 101(g).

Interested persons are invited to submit written comments on the proposed regulation. All written comments received in response to this notice of proposed rulemaking will be available for public inspection in the Office of the General Counsel from 9:00 a.m. to 4:00 p.m. Monday through Friday, except legal holidays.

As required by Executive Order 12291, I have determined that this proposed rule is not a "Major" rule and therefore does not require a Regulatory Impact Analysis.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601-612), I have determined that this regulation does not have a significant economic impact on a substantial number of small entities.

List of Subjects in 32 CFR Part 1656

Armed forces—draft.

Dated: April 7, 1989.

Samuel K. Lessey Jr.,

Director of Selective Service.

The proposed regulation is:

PART 1656—ALTERNATIVE SERVICE

The authority citation for Part 1656 continues to read as follows:

Authority: Military Selective Service Act 50, U.S.C. App. 451 et. seq.; E.O. 11623.

§ 1656.5 [Amended]

Section 1656.5(a)(1)(iii) is removed and reserved.

[FR Doc. 89-8890 Filed 4-13-89; 8:45 am]
BILLING CODE 8015-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[FRL-3554-8; EPA Docket No. AM027DE]

Delaware; Proposed SO_2 Control Strategy for Delmarva Power and Light Co.; Indian River Plant

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This rulemaking action proposes to approve the incorporation of a Conciliatory Order into Delaware's Sulfur Dioxide State Implementation Plan (SIP). Delaware has requested that EPA propose approval of this action which is designed to reduce ambient sulfur dioxide (SO_2) levels around Delmarva Power & Light Company's Indian River power plant. The Conciliatory Order addresses the discovery that the (SO_2) National Ambient Air Quality Standards (NAAQS) have not been attained in the area of the Delmarva Power and Light plant. Delaware has requested that EPA propose approval of this Order during the period in which the State is completing its own administrative action on the Order. This kind of proposal, called "parallel processing," can permit EPA, where appropriate, to Federally approve SIP revisions shortly after they are enacted at the State level.

DATE: Comments must be received on or before May 15, 1989.

ADDRESSES: Copies of the proposed SIP revision and the accompanying support documents are available for public inspection during normal business hours at the following locations:

U.S. Environmental Protection Agency, Region III, Air Management Division, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Joseph W. Kunz.

Delaware Department of Natural Resources and Environmental Control, Division of Environmental Control, Air Resources Section, 89 Kings Highway, P.O. Box 1401, Dover, DE 19901, Attn: Mr. Robert French.

EPA is soliciting public comments on this notice and on issues relevant to EPA's proposed action. Comments will be considered before taking final action. Interested parties may participate in the Federal rulemaking proceedings by submitting written comments to Mr. Joseph W. Kunz, Chief, Projects Management Section (3AM11) at the EPA Region III address stated above. Please reference the EPA Docket number found at the heading of this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Kelley A. Yost (3AM11) at the EPA Region III address above or call (215) 597-2746. The commercial and FTS numbers are the same.

SUPPLEMENTARY INFORMATION: Delmarva Power and Light Company owns and operates four coal fired units at the Indian River power plant located near Millsboro, Delaware. Unit 1 became operational in 1957 and is a 89 megawatt unit burning 2% sulfur coal. Unit 2 is the same as unit 1, coming on-line in 1959. Both of the Units' stacks are 230 feet high and are located east of the 150 foot high boilerhouse. Unit 3 is a 162 megawatt unit put into service in 1970, and uses the same 2% sulfur fuel as Units 1 and 2. The stack height of Unit 3 is 385 feet and is 80 feet east of the 163 foot high boilerhouse. Unit 4, the newest and largest boiler operates at 412 megawatts, and burns 0.7% sulfur coal. During certain meteorological conditions, SO_2 concentrations have been monitored that exceed the National Ambient Air Quality Standards (NAAQS) for SO_2. These exceedances have been monitored at the above facility since 1980.

During the period from 1980 through 1985, DP&L's Warwick monitoring station recorded 33 exceedances of the primary national air quality standard for SO_2 (.14 ppm). The highest concentration occurred in 1985 at .24ppm, 71% above the national air quality standard. The average exceedance concentration during this period was .19 ppm, 13% above the National Standard.

For the secondary standard (.5 ppm), 4 exceedances occurred between March 1981 and April 1982. The highest concentration was .59 ppm, 4% above the standard. The average exceedance concentration was .51 ppm, 3% above the standard.

These high SO_2 concentrations can be attributed to the aerodynamic building downwash effect of the boilerhouse structures on the plumes of Units 1, 2, and 3 (Kilkelly Environmental Associates Report, Characterization of Ambient Sulfur Dioxide Concentration at the Delmarva Power and Light Company Indian River Station, March 1986).

Good Engineering Practice (GEP) Stack Height

GEP stack height is defined as the height necessary to ensure that emissions from a stack do not result in excessive concentrations of any air contaminant in the immediate vicinity of the source as a result of atmospheric downwash, eddies or wakes which may be created by the source itself, nearby structures or nearby terrain. GEP stack height is determined to be the greater of:

1. 65 meters, measured from the ground-level elevation at the base of the stack;

2. (i) For stacks in existence on January 12, 1979, and for which the owner or operator had obtained all applicable permits or approvals required under 40 CFR Parts 51 and 52, $Hg=2.5H$, provided the owner or operator produces evidence that this equation was actually relied on in establishing emission limitation;

(ii) For all other stacks, $Hg=H+1.5L$, where Hg=good engineering practice stack height measured from the ground-level elevation at the base of the stack. H=height of nearby structure(s) measured from the ground-level elevation at the base of the stack. L=lesser dimension, height or projected width, of nearby structure(s) provided that the EPA, State or local control agency may require the use of a field study or fluid model to verify GEP stack height for the source; or

3. The height demonstrated by a fluid model or a field study approved by the EPA, State or local control agency which ensures that the emissions from a stack do not result in excessive concentrations of any air pollutant as a result of atmospheric downwash, wakes or eddy effects created by the source itself, nearby structures or nearby terrain features.

The Indian River Units 1, 2, and 3 are below GEP formula height and meet the criteria to justify raising the stacks to GEP (See 50 FR 27892. Support documentation is based on the Kilkelly Report cited earlier). In addition to the raising of stack height, there are other control options such as lower sulfur coal and SO_2 control technology which are viable control options at comparable costs and comparable implementation times.

The Delaware Department of Natural Resources and Environmental Control (DNREC) has prepared a draft Conciliatory Order which contains

requirements for Delmarva Power and Light Company that, if complied with, will result in reductions of SO_2 concentrations measured and modeled in the vicinity of the Indian River facility. EPA worked with DNREC on a matrix of possible alternatives for demonstrating attainment including use of lower sulfur fuels, stack height extensions, control technologies as well as the use of GEP stacks. Each potential solution was analyzed based upon several criteria including technical feasibility, economics, environmental impact and implementation time constraints. The proposed Conciliatory Order is conditioned on submittal of a modeling protocol from the company, using one of the alternatives. In working with Delaware on earlier drafts of the Order, EPA made several comments. EPA's major concerns included:

1. The Order should include detailed interim milestones with final compliance being as expeditiously as practicable, and no later than three years from the date of any final EPA approval of the Order as a revision to the Delaware SIP.

2. The Order should include provisions for an enforceable emission limit as well as provisions for implementation of the chosen control strategy.

3. The Order/proposed SIP revision must be accompanied by a showing that it provides for the attainment of the primarySO_2 standard as expeditiously as practicable but in any case, no later than three years from the date of any EPA approval of the SIP revision.

The State considered EPA's concerns and has now prepared a draft Conciliatory Order which, in EPA's view, can be finally approved by EPA under section 110(a)(2) of the Act if the Order is finally adopted by Delaware prior to final EPA action and if the submittal meets the requirements of section 110(a)(2)(A) regarding the time by which it provides for attainment of the SO_2 standard at the time of EPA's final action. On June 24, 1988, the State submitted the latest draft Order to EPA and requested that EPA propose approval as a parallel action to Delaware's finalization of its own action on the Order.

Proposed Order/SIP Revision

The major provisions of Delaware's proposed SIP revision include:

1. Implementation of a control strategy consisting of a change in the sulfur content of the coal, raising the stack height of the affected units, or a combination of both of these strategies. A determination of the most feasible strategy was made by DP&L on April 29, 1988. DP&L proposes to construct a two flue, 525 foot chimney to service Units 1 and 2, and to continue to utilize the existing 385 foot Unit 3 chimney. This is pursuant to the DNREC's proposed Conciliatory Order, SO_2 exceedance solution number four, using a 525 foot chimney to service Units 1 and 2, at 2% fuel sulfur content and a 385 foot Unit 3 chimney at 2% fuel sulfur content. The company will only receive credit for a 500 foot stack height for Units 1 and 2, the remaining 25 feet is strictly voluntary by the company. Modeling for an attainment demonstration was done using the 500 foot GEP height chimney for Units 1 and 2, without considering the merged gas streams.

2. By September 1, 1988, DP&L must submit an application for a permit to construct the selected solution.

3. DP&L must enter into a contract with an architect engineer for implementation of the selected solution, within 60 days of the effective date of the construction permit issued by Delaware.

4. Progress towards final compliance is set forth in a compliance schedule which contains interim milestone dates.

a. Complete preliminary engineering/design, May 1, 1989.

b. Complete 80% final engineering/design, May 1, 1990.

c. Place major purchase orders, July 1, 1990.

d. Commence mobilization for construction, February 1, 1990.

e. Complete construction of shell and liners, October 1, 1991.

f. Complete modification, tie-in and startup, February 29, 1992.

g. Achieve and demonstrate final compliance, February 29, 1992.

5. DP&L must file quarterly written reports with the DNREC on the progress achieved under the schedule.

6. The compliance of Units 1, 2, and 3 shall be determined by coal sampling analysis for sulfur content. Compliance shall be determined on a 24-hour basis using procedures approved by the Department.

7. DP&L shall keep appropriate records of coal sulfur content compliance tests and report such data in a manner to be approved by the Department (DNREC).

Attainment Demonstration

In March 1986, DP&L submitted a report of a modeling demonstration that construction of two-flue 500 foot stack at the Indian River facility would ensure attainment and maintenance of the SO_2 NAAQS. The conclusion of that report was a major factor in the final decision by DP&L to raise the stack height as the Indian River control strategy. However, this was not consistent with current EPA guidelines.

On November 1, 1988, DP&L submitted a new attainment demonstration consistent with current EPA modeling guidelines based upon their April 29, 1988 alternative decision. The attainment demonstration was completed using GEP required height of 500 feet. EPA has reviewed this demonstration and has determined that it is consistent with current modeling guidelines and successfully demonstrates that the SO_2 NAAQS will be attained and maintained. The attainment demonstration is available as part of the Technical Support Documentation in the SIP docket number (AM027DE).

Compliance Determination

One of the requirements of the Conciliatory Order was to establish a monitoring method that was capable of showing compliance on at least a 24 hour averaging basis. Monitoring methods that would be acceptable include: (1) in-stack continuous SO_2 emission monitors, or (2) coal sampling and analysis done in accordance with EPA's Method 19 found at 40 CFR 60 Appendix A, or (3) coal sampling and analysis done in accordance with the State of Pennsylvania's recommended method, as found in the State of Pennsylvania's Continuous Source Monitoring Manual. Another method could also be acceptable if it were shown to be of equivalent accuracy to those listed above. Delaware was required to submit whatever monitoring method is chosen to EPA for approval as a revision to the Delaware SIP to assure that both EPA and Delaware will have legal authority to require its use.

On December 8, 1988, EPA, received a letter from DNREC, stating that DP&L has chosen U.S. EPA Method 19 coal sampling and analysis procedures at its Indian River Station, when it goes into operation next year. This commitment satisfies Part B, number 6, of the notice portion of the Conciliatory Order. Since Method 19 is an EPA approved coal sampling and analysis procedure, no public hearing is needed.

Stack Height Remand

The EPA's stack height regulations were challenged in *NRDC* v. *Thomas*, 838 F.2d 1224 (D.C. Cir. 1988). On January 22, 1988, the U.S. Court of Appeals for the D.C. Circuit issued its decision affirming the regulations in large part, but remanding three provisions to the EPA for reconsideration. These are:

1. Grandfathering pre-October 11, 1983 within-formula stack height increases from demonstration requirements (40 CFR 51.100(kk)(2));

2. Dispersion credit for sources originially designed and constructed with merged or multiflue stacks (40 CFR 51.100(hh)(2)(ii)(A)); and

3. Grandfathering pre-1979 use of the refined H+1.5L formula (40 CFR 51.100(ii)(2)).

These three provisions are not applicable in this case.

Public Hearing

On August 31, 1988, DP&L, submitted an application to construct and operating a multiflue chimney at the Indian River Station, in satisfaction of Part B, number 3, of the Notice portion of the Conciliatory Order. On November 29, 1988, a public hearing was held by DNREC on the permit application. In response to the testimonies received at the hearing, DNREC issued a construction/operating permit on February 15, 1989, approving the construction of a 500 foot stack.

EPA Action

EPA proposes approval of the provisions of this proposed Conciliatory Order as a revision to the Delaware SIP. The Regional Administrator's decision to propose approval of this revision is based on a determination that the amendment meets the requirements of the Clean Air Act and 40 CFR 51, Requirements for Preparation, Adoption, and Submittal of the State Implementation Plans.

The public is invited to submit comments on the proposed SIP revision. All comments submitted within 30 days of publication of this Notice will be considered in the Administrator's decision to approve or disapprove this proposed SIP revision.

The public is invited to submit comments on the proposed SIP revision. All comments submitted within 30 days of publication of this Notice will be considered in the Administrator's decision to approve or disapprove this proposed SIP revision.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Reporting and recordkeeping requirements, Sulfur dioxide

Authority: 42 U.S.C. 7401–7642.

Date: September 2, 1988.

James M. Seif,

Regional Administrator.

Editorial Note: This document was received by the Office of the Federal Register on April 11, 1989.

[FR Doc. 89–8997 Filed 4–13–89; 8:45 am]

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40 CFR Part 261

[SW-FRL-3555-1]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusion

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA or Agency) today is proposing to grant a petition submitted by the EPA Combustion Research Facility (CRF), Jefferson, Arkansas, to exclude the scrubber water generated at its facility (during the incineration of still bottoms from the Vertac facility in Jacksonville, Arkansas) from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 268, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific" basis from the hazardous waste lists. Today's proposed decision is based on an evaluation of waste-specific information provided by the petitioner. The Agency is also proposing the application of several general modeling scenarios to evaluate the waste-specific information provided by the petitioner. These scenarios have been used in evaluating this petition to estimate the concentration of hazardous constituents released from the petitioned waste, once it is disposed.

DATES: EPA is requesting public comments on today's proposed decision and on the applicability of the modeling scenarios used to evaluate the petition. Comments will be accepted until May 30, 1989. Comments postmarked after the close of the comment period will be stamped "late".

Any person may request a hearing on this proposed decision and/or the modeling scenarios used to evaluate the petition by filing a request with Joseph Carra, whose address appears below, by May 1, 1989. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send three copies of your comments to EPA. Two copies should be sent to the Docket Clerk, Office of Solid Waste (OS–305), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A third copy should be sent to Jim Kent, Variances Section, Assistance Branch, PSPD/OSW (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Identify your comments at the top with this regulatory docket number: "F–89–CREP–FFFFF".

Requests for a hearing should be addressed to Joseph Carra, Director, Permits and State Programs Division, Office of Solid Waste (OS–340), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The RCRA regulatory docket for this proposed rule is located at the U.S. Environmental Protection Agency, 401 M Street SW., (Room M2427), Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Call (202) 475–9327 for appointments. The public may copy material from any regulatory docket at a cost of $0.15 per page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline, toll free at (800) 424–9346, or at (202) 382–3000. For technical information concerning this notice, contact Mr. Terry Grist, Office of Solid Waste (OS–343), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–4782.

SUPPLEMENTARY INFORMATION

I. Background

A. Authority

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit one or more of the characteristics of hazardous wastes identified in Subpart C of Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure (EP) toxicity) or meet the criteria for listing contained in 40 CFR 261.11(a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials,

industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To have their wastes excluded, petitioners must show that wastes generated at their facilities do not meet any of the criteria for which the wastes were listed. See 40 CFR 260.22(a) and the background documents for the listed wastes. In addition, the Hazardous and Solid Waste Amendments (HSWA) of 1984 require the Agency to consider any factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics (*i.e.*, ignitability, reactivity, corrosivity, and EP toxicity), and must present sufficient information for the Agency to determine whether the waste contains any other toxicants at hazardous levels. See 40 CFR 260.22(a), 42 U.S.C. 6921(f), and the background documents for the listed wastes. Although wastes which are "delisted" (*i.e.*, excluded) have been evaluated to determine whether or not they exhibit any of the characteristics of hazardous waste, generators remain obligated to determine whether or not their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes and mixtures containing hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. See 40 CFR 262.3 (c) and (d)(2). The substantive standard for "delisting" a treatment residue or a mixture is the same as previously described for listed wastes.

B. Approach Used to Evaluate This Petition

In making a delisting determination, the Agency evaluates each petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). If the Agency believes that the waste remains hazardous based on the factors for which the waste was originally listed, EPA will propose to deny the petition. If, however, the Agency agrees with the petitioner that the waste is non-hazardous with respect to the original listing criteria, EPA then will evaluate the waste with respect to other factors or criteria, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. The Agency considers whether the waste is acutely toxic, and considers the toxicity of the constituents, the concentration of the constituents in the waste, their tendency to migrate and to bioaccumulate, their persistence in the environment once released from the waste, plausible and specific types of management of the petitioned waste, the quantities of waste generated, and any other additional factors which may characterize the petitioned waste. The Agency is proposing to use such information to identify plausible exposure routes for hazardous constituents present in the waste and to determine the potential impact of the unregulated disposal of CRF's petitioned waste on human health and the environment.

The Agency also considers the applicability of ground-water monitoring data to its evaluation of delisting petitions. In this case, the Agency determined that, because the waste is currently stored in above-ground tanks, ground-water monitoring data collected from the petitioner's facility would not characterize the effects of the petitioned waste on the underlying aquifer. Therefore, the Agency did not request ground-water monitoring data. Finally, the Hazardous and Solid Waste Amendments of 1984 specifically require the Agency to provide notice and an opportunity for comment before granting or denying a final exclusion. Thus, a final decision will not be made until all public comments (including those at requested hearings, if any) on today's proposal are addressed.

II. Disposition of Petition

Environmental Protection Agency, Combustion Research Facility, Jefferson, Arkansas

1. Petition for Exclusion

The EPA Office of Research and Development submitted a petition to exclude, on a one-time basis, scrubber water generated from the incineration of dioxin-contaminated distillation bottoms at the Combustion Research Facility (CRF), located in Jefferson, Arkansas. The distillation bottoms, referred to as the "Vertac waste", originated from the production of 2,4,5-trichlorophenol by the Vertac Chemical Company, located in Jacksonville, Arkansas. CRF incinerated this material as part of a research program to study the feasibility of incinerating hazardous waste. The petitioned scrubber water is listed as EPA Hazardous Waste No. F020—"Wastes (except wastewater and spent carbon from hydrogen chloride purification) from the production or manufacturing use (as a reactant, chemical intermediate, or component in a formulating process) of tri- or tetrachlorophenol, or of intermediates used to produce their pesticide derivatives". The listed constituents for EPA Hazardous Waste No. F020 are tetra- and pentachlorodibenzo-p-dioxins; tetra- and pentachlorodibenzofurans; and tri- and tetrachlorophenols and their chlorophenoxy derivative acids, esters, ethers, amines, and other salts.

CRF petitioned to exclude its incineration scrubber water because it does not believe that the waste meets the criteria of the listing. CRF further believes that the waste is not hazardous for any other reason (*i.e.*, there are no additional hazardous constituents or factors that could cause the waste to be hazardous). Review of this petition included consideration of the original listing criteria, as well as the additional factors required by the Hazardous and Solid Waste Amendments of 1984. See Section 222 of the Amendments, 42 USC 6921(f), and 40 CFR 260.22(d)(2)–(4). Today's proposal to grant this petition for delisting is the result of the Agency's evaluation of CRF's petition.

2. Background

CRF originally petitioned the Agency to downgrade the scrubber water under 40 CFR 260.20 from "acutely hazardous" to "toxic". A proposal to grant this petition was published in the Federal Register on June 3, 1986 (see 51 FR 19859). The basis for this original proposal was the low levels of dioxin (less than 10 ppt) detected in two of four samples (dioxin was not detected in the other two samples). Under the proposal, the scrubber water was to remain listed as a toxic hazardous waste because, at that time, no demonstration was made to show that it did not exhibit any of the characteristics of hazardous wastes or that it did not contain any other toxicants at levels of regulatory concern. CRF subsequently conducted additional analyses on representative samples of the scrubber water because of questions concerning the validity of the original analytical results. Upon examining the original analytical results, CRF suspected that dioxin laboratory contamination was present because of an unusual distribution of tetrachlorinated dibenzo-p-dioxins (TCDDs) isomers; in the laboratory

report, all of the TCDD isomers were reported as 2,3,7,8-TCDD rather than the expected mixture of isomers. See letter from R.E. Mournighan to Dr. Waterland, April 9, 1987, in the docket to this notice for additional information. Based on these additional analyses, CRF requested that the Agency not finalize the original proposal and instead consider CRF's request for a full delisting. The original proposal also proposed to downgrade all future scrubber waters from the incineration of listed dioxin-containing waste generated by CRF, contingent upon certain testing requirements. This notice serves to withdraw the proposed downgrade for CRF's scrubber waters. CRF intends to petition separately for delisting of these future wastes on a waste-by-waste basis.

In support of its delisting petition, CRF submitted (1) a detailed description of its incinerator, including schematic diagrams, an engineering description, and the incinerator operating conditions; (2) a description of the "Vertac waste" that was incinerated; (3) results from total constituent analyses of the scrubber water for the EP toxic metals and nickel; (4) results from total constituent analyses of the scrubber water for 40 CFR Part 261 Appendix VIII organics; and (5) analytical test results on chlorinated dioxin and furan (CDD/CDF) concentrations in the scrubber water.

The original proposal to downgrade CRF's waste contained complete descriptions of the incinerator and the conditions of the trial burn which generated the scrubber water. These descriptions, which are still accurate, were published previously (see 51 FR 19859) and therefore are not repeated in today's notice. The petitioned waste has not undergone further treatment since the time of the original proposal.

To collect representative samples of liquid wastes like CRF's, petitioners are normally requested to collect a minimum of four representative samples comprising independent grab samples collected over time or area (*e.g.*, grab samples collected every hour and composited by shift). See "Test Methods for Evaluating Solid Waste: Physical/Chemical Methods", U.S. EPA, Office of Solid Waste and Emergency Response, Publication SW-846 (third edition), November 1986, and "Petitions to Delist Hazardous Waste—A Guidance Manual", U.S. EPA, Office of Solid Waste, (EPA/530-SW-85-003), April 1985.

CRF collected a total of twenty six samples drawn from the two storage tanks which hold the entire volume of petitioned scrubber water. Six samples were collected and analyzed in August 1986 for use in the trial burn report (two samples for metals analysis, two samples for organics analysis, and two samples for chlorinated dibenzo-p-dioxins and chlorinated dibenzofurans (CDD/CDF) analysis). Twenty additional samples were collected over two days in November 1987 to support the delisting petition (eight samples for metals analysis, eight samples for organics analysis, and four samples for CDD/CDF analysis). For both sampling events, the tanks were recirculated for over eight hours prior to sampling. CRF claims that, due to the mixing and the nature of the petitioned waste, the waste is not variable and analyses from samples drawn in this fashion are representative of the scrubber water constituent concentrations.

3. Agency Analysis

CRF submitted analytical data which quantified the Appendix VIII constituents, including dioxin, likely to be present in the scrubber water, as well as total constituent analyses for the EP toxic metals and nickel. CRF used EPA Publication SW-846 Methods 6010 and 7470 to quantify the total constituent concentrations of the EP toxic metals and nickel in its waste. CRF used Methods 601 and 602 ("Methods for Organic Chemical Analysis of Water and Waste by GC and GCHPLC", Longbottom and Lichtenberg, EPA EMSL/Cincinnati, 1982) and SW-846 Method 8270 to quantify the total constituent concentration of Appendix VIII hazardous constituents in its waste. All dioxin analyses were conducted according to Method 8290 for high resolution gas chromatography/high resolution mass spectrometry (HRGC/HRMS) analysis. The maximum constituent concentrations of the metals, organics, and dioxin are summarized in Tables 1, 2, and 3, respectively. Detection limits represent the lowest concentrations quantifiable by CRF, when using the appropriate EPA analytical methods to analyze its waste. (Detection limits may vary according to the waste and waste matrix being analyzed, *i.e.*, the "cleanliness" of waste matrices varies and "dirty" waste matrices may cause interferences, thus raising the detection limits.) Based on information submitted by CRF in its petition, none of the samples exhibited the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21 through 261.23.

TABLE 1.—MAXIMUM TOTAL TOXIC METALS CONCENTRATIONS (MG/L) SCRUBBER WATER

Constituents	Concentrations
Arsenic	<0.05
Barium	0.16
Cadmium	<0.01
Chromium	<0.05
Lead	1.0
Mercury	<0.002
Nickel	1.0
Selenium	<0.05
Silver	<0.05

< Denotes that the constituent was not detected at the detection limit specified in the table.

TABLE 2.—MAXIMUM TOTAL ORGANIC CONSTITUENT CONCENTRATIONS (MG/L) SCRUBBER WATER

Constituents	Concentrations
Acenaphthene	<0.01
Acenaphthylene	<0.01
Anthracene	<0.01
Benzene	<0.052
Benzo(a)anthracene	<0.01
Benzo(b)fluoroanthene	<0.01
Benzo(k)fluoroanthene	<0.01
Benzo(g,h,i)perylene	<0.01
Benzo(a)pyrene	<0.01
Bis(2-chloroethoxy)methane	<0.01
Bis(2)-chloroethyl)either	<0.01
Bis(2)-chloroisopropyl)ether	<0.01
Bis(2-ethylhexyl)phthalate	<0.01
Bromodichloromethane	<0.12
Bromoform	<0.19
4-Bromophenyl phenyl ether	<0.01
Butyl benzyl phthalate	<0.01
Carbon tetrachloride	<0.009
Chlorobenzene	<0.064
Chloroform	<0.10
4-Chloro-3-methylphenol	<0.02
2-Chloronaphthalene	<0.01
2-Chlorophenol	<0.01
4-Chlorophenyl phenyl ether	<0.01
Chrysene	<0.01
Dibenzo(a,h)anthracene	<0.01
Di-n-butyl phthalate	<0.01
1,2-Dichlorobenzene	<0.0068
1,3-Dichlorobenzene	<0.069
1,4-Dichlorobenzene	<0.049
3,3'-Dichlorobenzidene	<0.02
1,1-Dichloroethane	0.0064
1,2-Dichlorethane	<0.065
1,1-Dichloroethylene	<0.062
trans-1,2-Dichloroethylene	<0.06
2,4-Dichlorophenol	<0.01
1,2-Dichloropropane	<0.067
trans-1,3-Dichloropropene	<0.007
Diethylphthalate	<0.01
2,4-dimethylphenol	<0.01
Dimethylphthalate	<0.01
4,6-Dinitro-2-methylphenol	<0.05
2,4-Dinitrophenol	<0.05
2,4-Dinitrotoluene	<0.01
2,6-Dinitrotoluene	<0.01
Di-n-octyl phthalate	<0.01
Ethyl benzene	<0.048
Fluoranthene	<0.01
Fluorene	<0.01
Hexachlorobenzene	<0.01
Hexachlorobutadiene	<0.01
Hexachlorocyclopentadiene	<0.01
Hexachloroethane	<0.01
Isophorone	<0.01

TABLE 2.—MAXIMUM TOTAL ORGANIC CONSTITUENT CONCENTRATIONS (MG/L) SCRUBBER WATER—Continued

Constituents	Concentrations
Indeno(1,2,3-cd)pyrene	<0.01
Naphthalene	<0.01
Nitrobenzene	<0.01
2-Nitrophenol	<0.01
4-Nitophenol	<0.05
N-Nitrosodiphenylamine	<0.01
N-Nitrosodi-n-propylamine	<0.01
Pentachlorophenol	<0.05
Phenanthrene	<0.01
Phenol	<0.01
Pyrene	<0.01
Toluene	<0.049
1,2,4-Trichlorobenzene	<0.01
1,1,1-Trichloroethane	<0.0726
1,1,2-Trichloroethane	<0.23
Trichloroethylene	<0.086
2,4,6-Trichlorophenol	<0.01

< Denotes that the constituent was not detected at the detection limit specified in the table.

TABLE 3.—CDD AND CDF CONCENTRATIONS SCRUBBER WATER

(Parts per trillion (ppt))

Constituents	Concentrations
2,3,7,8-TCDD	<0.02
TetraCDD (TCDD)	<0.02
PentaCDD (PeCDD)	<0.05
HexaCDD (HxCDD)	<0.2
2,3,7,8-TCDF	<0.01
TetraCDF (TCDF)	<0.16
PentaCDF (PeCDF)	<0.08
HexaCDF (HxCDF)	<0.03

< Denotes that the constituent was not detected at the detection limit specified in the table

CRF stated that its petition covers approximately 7,000 gallons of scrubber water currently stored in two blowdown tanks. The Agency reviews a petitioner's estimates and, on occasion, has requested a petitioner to re-evaluate estimated waste volume. EPA accepts CRF's estimate of 7,000 gallons (approximately 100 cubic yards).

4. Agency Evaluation

As shown in Tables 1, 2, and 3, the only detected constituents in CRF's waste are barium, lead, nickel, 1,1-dichloroethane and TCDF. The Agency evaluated the five detected constituents in CRF's waste in a two-step process. First, the Agency compared the detected levels directly to the health-based levels used for delisting purposes. Table 4 summarizes these detected values and the relevant health-based levels of regulatory concern. The Agency then further evaluated the three constituents which were detected in the waste above their respective health-based levels. The Agency did not evaluate the remaining constituents listed in Tables 1, 2, and 3 because they were not detected in CRF's waste using the appropriate analytical methods. The Agency believes that it is inappropriate to evaluate non-detectable concentrations of a constituent of concern if the non-detectable value was obtained using the appropriate analytical method. Specifically, if a constituent cannot be detected (when using the appropriate analytical method), the Agency assumes that the constituent is not present and therefore does not present a threat to either human health or the environment.

TABLE 4.—MAXIMUM DETECTED HAZARDOUS CONSTITUENTS IN SCRUBBER WATER AND LEVELS OF REGULATORY CONCERN (MG/L)

Constituents	Concentrations	Levels of Regulatory Concern [1]
Barium	0.16	1.0
1,1-Dichloroethane	0.0064	0.00038
Lead	1.0	0.05
Nickel	1.0	0.5
TCDD equivalent of detected TCDF [2]	0.1×10^{-9}	0.2×10^{-9}

[1] See "Docket Report on Health-Based Regulatory Levels and Solubilities Used in the Evaluation of Delisting Petitions," June 8, 1988, located in the RCRA public docket.

[2] A TCDD equivalent is calculated by multiplying all detected concentrations of tetra-, penta-, and hexa-chlorinated dioxins and furans by weighting factors and summing them to estimate a 2,3,7,8-TCDD equivalent concentration. The calculation of TCDD toxicity equivalents, equivalent factors, and their derivation are described in "Interim Procedures for Estimating Risks Associated with Exposures to Mixtures of Chlorinated Dibenzo-p-Dioxins and -Dibenzofurans (CDDs and CDFs)", U.S. EPA, Risk Assessment Forum, EPA/625/3-87/012, March, 1987.

Comparing the concentrations of the detected constituents directly to the health-based standards provides a worst-case test of whether the waste control be ingested directly. EPA believes it is highly unlikely that this type of waste would ever be ingested directly.

The detected barium and TCDF levels are below the health-based levels used in delisting decision-making. The detected TCDF isomer is not chlorinated at the most toxic 2, 3, 7, and 8 molecular positions of TCDF. The Agency evaluated the detected concentration of TCDF (0.16 ppt) by applying the applicable 2,3,7,8-TCDD toxicity equivalent factor (0.001 for non-2,3,7,8-subtituted compounds) and comparing the resultant equivalent (0.16 parts per quadrillion (ppq)) to the Agency's health-based level for 2,3,7,8-TCDD (0.2 ppq). Because the resultant TCDD equivalent is below the health-based level, the Agency believes that the detected levels of TCDF are not of regulatory concern.

The maximum detected lead concentration (1.0 mg/l) and maximum detected nickel concentration (1.0 mg/l) are above their respective health-based levels. In order to evaluate whether or not these detections cause the waste to be hazardous, the Agency considered the various possible exposure scenarios for this type of waste. These scenarios included (1) spillage on the ground which could impact ground water, (2) discharge through sewers to a publicly owned treatment works (POTW), subsequent discharge to surface waters, and exposure through ingestion of surface water, and (3) discharge to surface water under the National Pollutant Discharge Elimination System (NPDES), and exposure through ingestion of surface water.

The Agency believes that each of these potential exposure scenarios would result in the reduction of the detected levels of lead, nickel and 1,1-dichloroethane in CRF's waste to well below their respective health-based levels, particularly in light of the finite, small volume petitioned wastewater involved. Specifically, the Agency considered the concentration reduction that might occur if the waste were spilled on the ground and introduced directly to the ground water (*i.e.*, no unsaturated zone), by using the Agency's vertical and horizontal spread (VHS) model (see 50 FR 7882, February 26, 1985 and 50 FR 48896, November 27, 1985). The inputs to the model included the volume of scrubber water and the maximum reported concentrations of lead, nickel, and 1,1-dichloroethane. As shown in Table 5, the results of the model (*i.e.*, the calculated compliance-point concentration) predict a groundwater dilution factor of 32, resulting in maximum concentrations at the compliance point (or hypothetical drinking water well) below the health-based levels used in delisting decision-making.

TABLE 5.—VHS MODEL COMPLIANCE-POINT CONCENTRATIONS (PPM) SCRUBBER WATER

Constituents	Compliance-Point Concentrations	Levels of Regulatory Concern
Barium	0.005	1.0
1,1-Dichloroethane	0.0002	0.0004
Lead	0.3	0.05
Nickel	0.03	0.5
TCDD Equivalent	3.0×10^{-12}	0.2×10^{-9}

The Agency conducted worst-case evaluations of potential exposure due to discharge to surface water via a POTW

or NPDES permit. If the CRF scrubber water were discharged under these worst-case conditions, the in-stream mixing would rapidly reduce levels of lead, nickel, and 1,1-dichloroethane to below analytical detection limits. For these scenarios, the wates may also be subject to additional treatment due to the applicable regulations under the Clean Water Act, including pretreatment standards and NPDES permit standards. Furthermore, additional treatment would occur at water treatment facilities as required by the Safe Drinking Water Act prior to ingestion.

For example, the typical dilution afforded by discharge to a POTW is illustrated by considering the average influent POTW flow of 2 million gallons per day (JRB Associates, "Assessment of the Impacts of Industrial Discharges on Publicly Owned Treatment Works", prepared for the Office of Water, January 1982). If an average POTW were to reveive all of the CRF scrubbed water in one day, the wastewater would be diluted by a factor of 285, resulting in maximum concentrations in the effluent below the health-based levels used in delisting decision-making. Similarly, the typical dilution afforded by discharge of the scrubber water to surface waters in illustrated by considering typical instream dilution factors for industrial dischargers. The Agency calculated dilution factors for low stream flow conditions for over 23,000 industrial dischargers. The mean worst-case dilution associated with low stream flow rates (*i.e,* stream flow rate divided by discharge volume) is over 66,000. See the docket to this proposal for details of these analyses.

The Agency concluded after reviewing CRF's petition that no other hazardous constituents of concern other than those tested for are likely to be present in CRF's waste. In addition, because of the nature of the waste, the Agency does not believe that CRF's waste exhibits any of the characteristics of ignitability, corrosivity, or reactivity. See 40 CFR 261.21 through 261.23.

5. Conclusion

The Agency believes that CRF's scrubber water is non-hazardous. The Agency believes that the constituent concentrations in the waste are not variable, consider the sampling procedures used by CRF to be adequate, and believes that the reported analytical data are representative of the scrubber water because: (1) The entire volume of petitioned waste was available for sampling and analysis (*i.e.*, waste composition variation in the further is not possible), and (2) the tanks were well mixed prior to and during sampling. The Agency, therefore, believes that the twenty six samples taken from the two blowdown storage tanks adequately represent any variations which may occur in the scrubber water. As discussed above, the Agency believes that the three constituents which exceed health-based levels in the waste samples would be subject to sufficient treatment, dilution, or attenuation in the possible exposure scenarios to reduce detected levels to well below the health-based levels.

The Agency, therefore, is proposing that CRF's waste be considered non-hazardous, as it should not present a harzard to either human health or the environment. The Agency proposes to grant an exclusion to the EPA Combustion Research Facility, located in Jefferson, Arkansas, for its scrubber water described in its petition as EPA Hazardous Waste No. F020. If the proposed rule becomes effective, the scrubber water would no longer be subject to regulation under 40 CFR Parts 262 through 268 and the permitting standards of 40 CFR Part 270.

If made final, the exclusion will apply only to the stored wastes covered by the original demonstration. Because this is a proposed one-time exclusion for the volume of scrubber water covered in its petition and evaluation by the Agency, CRF may modify the operation of its incineration in the future without altering the regulatory status of the scrubber water proposed for exclusion, so long as the scrubber water is not combined with hazardous wastes. Any new scrubber waters generated by CRF from the incineration of hazardous wastes would remain hazardous unless and until a separate delisting petition were granted.

Although management of the waste covered by this petition would be relieved from Subtitle C jurisdiction upon final promulgation of an exclusion, the generator of a delisted waste must either treat, store, or dispose of the waste in an on-site facility, or ensure that the waste is delivered to an off-site storage, treatment, or disposal facility, either of which is permitted, licensed, or registered by a State to manage municipal or industrial solid waste. Alternatively, the delisted waste may be delivered to a facility that beneficially uses or reuses, or legitimately recycles or reclaims the waste, or treats the waste prior to such beneficial use, reuse, recycling, or reclamation.

III. Effective Date

This rule, if promulgated, will become effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here, because this rule, if promulgated, would reduce the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense that would be imposed on this petitioner by an effective date six months after promulgation and the fact that a six-month deadline is not necessary to achieve the purpose of Section 3010, EPA believes that this exclusion should be effective immediately upon promulgation. These reasons also provide a basis for making this rule effective immediately, upon promulgation, under the Administrative Procedures, Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant an exclusion is not major, since its effect, if promulgated, would be to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction would be achieved by excluding waste generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its waste as non-hazardous. There is no additional impact, therefore, due to today's rule. This proposal is not a major regulation, therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rule-making for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small business, small organizations, and small governmental jurisdictions) The Administrator or delegated representative may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment, if promulgated, will not have an adverse economic impact on small entities since its effect would be to reduce the overall costs of EPA's hazardous waste regulations and would be limited to one facility. Accordingly, I hereby certify that this proposed regulation, if promulgated, will not have

a significant economic impact on a substantial number of small entities. This regulation, therefore, does not require a regulatory flexibility analysis.

VI. Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this proposed rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980 (Pub. L. 96-511, 44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control Number 2050-0053.

List of Subjects in 40 CFR Part 261

Hazardous materials, Waste treatment and disposal, Recycling.

Dated: April 4, 1989.

Jeffery D. Denit,

Deputy Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Part 261 Table 1 of Appendix IX, add the following wastestream in alphabetical order:

Appendix IX—Wastes Excluded Under § 260.20 and § 260.22.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste Description
•	•	•
U.S. EPA Combustion Research Facility.	Jefferson, Arkansas.	One-time exclusion for scrubber water (EPA Hazardous Waste No. F020) generated in 1985 from the incineration of Vertac still bottoms.
•	•	•

[FR Doc. 89-8999 Filed 4-13-89; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 110

Vaccine Information Materials

AGENCY: Centers for Disease Control (CDC), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Extension of comment period on proposed rule; availability of reference list.

SUMMARY: On March 3, 1989, CDC published in the **Federal Register** (54 FR 9180) a notice of proposed rulemaking (NPRM) pertaining to the development and distribution of vaccine information materials required under Title XXI, section 2126 of the PHS Act. The NPRM includes vaccine information materials as three appendices; Appendix A(1) Diphtheria, Tetanus, and Pertussis; Appendix A(2) Measles, Mumps, and Rubella; and Appendix A(3) Poliomyelitis. The preamble of the proposed rule indicated that a public hearing would be announced and established a 90 day comment period. A subsequent notice in the **Federal Register**, was published on March 21, 1989 (54 FR 11547) announcing a public hearing at CDC in Atlanta on April 17, 1989. This notice extends the comment period by 90 days and informs interested parties that a list of references used in developing the contents of the appendices will be available during and after the hearing.

DATES: The comment period is extended to August 29, 1989.

FOR FURTHER INFORMATION CONTACT: Walter A. Orenstein, M.D., Director, Division of Immunization, Center for Prevention Services, Centers for Disease Control, Mailstop E-05, Atlanta, Georgia 30333, telephone (404) 639-1880.

SUPPLEMENTARY INFORMATION: The NPRM published earlier invited written comments and required such comments to be received on or before May 31, 1989. Due to public interest expressed, the date by which comments must be received is hereby extended to August 29, 1989.

Copies of the list of references used in developing the proposed vaccine information materials will be available at the public hearing on April 17. Copies may also be requested by writing to Dr. Orenstein after the hearing date.

Dated: April 10, 1989.

Robert L. Foster,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 89-8897 Filed 4-13-89; 8:45 am]

BILLING CODE 4160-18-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Endangered Status for Cassia mirabilis

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Service proposes to determine *Cassia mirabilis* (no common name) to be an endangered species pursuant to the Endangered Species Act (Act) of 1973, as amended. *Cassia mirabilis* is a plant that is endemic to the silica sands of northern Puerto Rico and is now limited to three sites in this area. The species is affected by sand extraction, the expansion of residential areas, and industrial development. This proposal, if made final, would implement the Federal protection and recovery provisions afforded by the Act. The Service seeks data and comments from the public on this proposal.

DATES: Comments from all interested parties must be received by June 13, 1989. Public hearing requests must be received by May 30, 1989.

ADDRESSES: Comments and materials concerning this proposal, and requests for public hearing, should be sent to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622. Comments and materials received will be available for public inspection, by appointment, at this office during normal business hours, and at the Service's Southeast Regional Office, Suite 1282, 75 Spring Street, SW., Atlanta, Georgia 30303.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Silander at the Caribbean Field Office address (809/851-7297) or Mr. Tom Turnipseed at the Atlanta Regional Office address (404/331-3583 or FTS 242-3583).

SUPPLEMENTARY INFORMATION:

Background

Cassia mirabilis was first collected by Dr. Agustin Stahl in the mid-nineteenth century. In 1899, Mr. Edward Heller collected the species in Vega Baja, an

area of silica sands. Data obtained from herbarium collections indicate that this species was at one time common throughout the silica sands of the north coast of Puerto Rico (Vivaldi and Woodbury 1981). However, urban, industrial, and agricultural expansion has resulted in the restriction of the species to two areas in Dorado, and scattered populations along the southern shore of the Tortuguero Lagoon.

Although *Cassia mirabilis* has been placed by various authors in both *Cassia*, as a species, and *Chamaecrista*, as a variety (*Chamaecrista glandulosa* var. *mirabilis*) and a species (*Chamaecrista mirabilis*); Liogier and Martorell (1982), in their flora of Puerto Rico and adjacent islands retain the taxon as a species in the genus *Cassia*.

Cassia mirabilis is a prostrate, ascending or erect shrub which may reach more than 30 inches (1 meter) in height. The leaves are alternate, evenly one-pinnate, ⅛ to ¼ inches (3 to 5 millimeters) long, with some scattered-whitish hairs. The petioles have one to two stipitate glands. Flowers are yellow, solitary, ¾ inches (about 2 centimeters) in diameter, with one petal much larger than the others. Mature fruits (legumes) are glabrous, linear, 1 to 1 ½ inches (2.5 to 4 centimeters) long, ¼ inch (5 millimeters) wide, flat, elastically dehiscent, and 12 to 15 seeded. The species is endemic to the silica sands of the northern coast of Puerto Rico. These sands are fine, white, highly permeable and strongly acid. They are underlain by an impermeable hardpan located approximately 12 to 16 inches (30 to 40 centimeters) below the surface. Many species are found in Puerto Rico only on these white siliceous sands. Although a dry evergreen or littoral forest is found in the area, *Cassia mirabilis* is restricted to the open areas.

Cassia mirabilis was recommended for Federal listing by the Smithsonian Institution (Ayensu and DeFilipps 1978). The species was included among the plants being considered as endangered or threatened species by the Service, as published in the **Federal Register** (45 FR 82480) dated December 15 1980; the November 28, 1983, update (48 FR 53680) of the 1980 notice; and the September 27, 1985, revised notice (50 FR 39526). The species was designated Category 1 (species for which the Service has substantial information supporting the appropriateness of proposing to list them as endangered or threatened) in each of the three notices.

In a notice published in the **Federal Register** on February 15, 1983 (48 FR 6752), the Service reported the earlier acceptance of the new taxa in the Smithsonian's 1978 book as under petition within the context of section 4(b)(3)(A) of the Act, as amended in 1982. The Service subsequently made annual findings in each October of 1983 through 1988 that listing *Cassia mirabilis* was warranted but precluded by other pending listing actions of a higher priority, and that additional data on vulnerability and threats were still being gathered. This proposed rule constitutes the final finding that is required.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal lists. A species may be determined to be endangered or threatened due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cassia mirabilis* (no common name) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Destruction and modification of habitat have been, and continue to be, significant factors reducing the numbers of *Cassia mirabilis*. Once distributed throughout the silica sands in northern Puerto Rico, it is now restricted to the southern shore of Toriuguero Lagoon and two sites in the Dorado area. One Dorado site has been proposed for the construction of a large office building complex. Present use of this site for grazing does not appear to adversely affect the species. A second, small population in Dorado, recently discovered during a routine evaluation of a local highway project by the Puerto Rico Department of Natural Resources, will soon be transplanted to save it from complete destruction. The Tortuguero populations, the largest, are threatened by sand extraction, squatters, and the dumping of trash in this area.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Taking for these purposes has not been a documented factor in the decline of this species.

C. *Disease or predation.* Disease and predation have not been documented as factors in the decline of this species.

D. *The inadequacy of existing regulatory mechanisms.* The Commonwealth of Puerto Rico has adopted a regulation that recognizes and provides protection for certain Commonwealth listed species. However, *Cassia mirabilis* is not yet on the Commonwealth list. Federal listing would provide interim protection and, if the species is ultimately placed on the Commonwealth list, enhance its protection and possibilities for funding needed research.

E. *Other natural or manmade factors affecting its continued existence.* One of the most important factors affecting the continued survival of *Cassia mirabilis* is its limited distribution. Only 150 to 200 plants are known to occur in 3 areas. One population, unless transplanted successfully, is destined to be eliminated by road construction. Although the Tortuguero Lagoon area is designated by the Puerto Rico Department of Natural Resources as a Natural Reserve, the land remains in private ownership. Continued intensive land alteration could result in the extinction of the species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to propose this rule. Based on this evaluation, the preferred action is to list *Cassia mirabilis* as endangered. The species is restricted to only three locations on the siliceous sands of the north coast, all of which are subject to habitat destruction and modification. Therefore, endangered rather than threatened status seems an accurate assessment of the species' condition. The reasons for not proposing critical habitat for this species are discussed below in the "Critical Habitat" section.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate any habitat of a species which is considered to be critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not prudent for this species at this time. The number of individuals of *Cassia mirabilis* is sufficiently small that vandalism could seriously affect the survival of the species. Publication of critical habitat descriptions and maps in the **Federal Register** would increase the likelihood of such activities. The Service believes that Federal involvement in the areas where this plant occurs can be identified without the designation of critical habitat. All involved parties and landowners either have been or will be notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will also be addressed through the recovery process and through the section 7 jeopardy standard.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, Commonwealth, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the Commonwealth, and requires that recovery actions be carried out for all listed species. Such actions are initiated by the Service following listing. The protection required of Federal agencies and the prohibitions against taking are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR Part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is subsequently listed, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may adversely affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. No critical habitat is being proposed for *Cassia mirabilis*, as discussed above. Federal involvement is not expected where the species is known to occur.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. All trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, would apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export any endangered plant, transport it in interstate or foreign commerce in the course a commercial activity, sell or offer it for sale in interstate or foreign commerce, or remove it from areas under Federal jurisdiction and reduce it to possession. In addition, for listed plants the 1988 amendments (Pub. L. 100–478) to the Act prohibit their malicious damage or destruction on Federal lands, and their removal, cutting, digging up, or damaging or destroying in knowing violation of any State law or regulation, including state criminal tresspass law. Certain exceptions can apply to agents of the Service and Commonwealth conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances. It is anticipated that few trade permits for *Cassia mirabilis* will ever be sought or issued, since the species is not known to be in cultivation and is uncommon in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, P.O. Box 27329, Central Station, Washington, DC 20038–7329 (202/343–4955).

Public Comments Solicited

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, any comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning any aspect of this proposed rule are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to *Cassia mirabilis;*

(2) The location of any additional populations of *Cassia mirabilis*, and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act;

(3) Additional information concerning the range and distribution of this species; and

(4) Current or planned activities in the subject areas and their possible impacts on *Cassia mirabilis.*

Final promulgation of the regulation on *Cassia mirabilis* will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of a final regulation that differs from this proposal.

The Endangered Species Act provides for a public hearing on this proposal, if requeated. Requests must be filed within 45 days of the proposal. Such requests must be made in writing and addressed to the Field Supervisor, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boqueron, Puerto Rico 00622.

National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the **Federal Register** on October 25, 1983 (48 FR 49244).

References Cited

Ayensu, E.S. and R.A. Defilipps. 1978. Endangered and threatened plants of the United States. Smithsonian Institution and World Wildlife Fund, Washington, DC xv + 403 pp.

Liogier, H.A., and L.F. Martorell. 1982. Flora of Puerto Rico and adjacent islands: a systematic synopsis. University of Puerto Rico, Rio Piedras, Puerto Rico. 3421 pp.

Vivaldi, J.L., and R.O. Woodbury. 1981. Status report on *Chamaecrista glandulosa* var. *mirabilis* (Pollard) Irwin & Barneby. Unpublished status report submitted to the U.S. Fish and Wildlife Service, Atlanta, Georgia. 36 pp.

Author

The primary author of this proposed rule is Ms. Susan Silander, Caribbean Field Office, U.S. Fish and Wildlife Service, P.O. Box 491, Boquerón, Puerto Rico 00622 (809/851–7297).

List of Subjects in 50 CFR Part 17

Endangered and threatened wildlife, Fish, Marine mammals, Plants (agriculture).

Proposed Regulation Promulgation

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for Part 17 continues to read as follows:

Authority: Pub. L. 93–205, 87 Stat. 884; Pub. L. 94–359, 90 Stat. 911; Pub. L. 95–632, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411; Pub. L. 100–478, 102 Stat. 2306; Pub. L. 100–653, 102 Stat. 3825 (16 U.S.C. 1531 *et seq.*); Pub. L. 99–625, 100 Stat. 3500, unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical

order under Caesalpiniaceae, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

(h) * * *

* * * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Caesalpiniaceae-Cassia family:						
*	*	*	*	*	*	
Cassia mirabilis	None	U.S.A. (PR)	E		NA	NA

Dated: March 16, 1989.

Becky Norton Dunlop,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 89-8900 Filed 4-13-89; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 54, No. 71
Friday, April 14, 1989

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

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

Cancellation of the Designation Issued to Agricultural Seed Laboratories, Inc., Phoenix, AZ, and Request for Comments on Needs for Service in Geographic Area Currently Assigned to That Agency

AGENCY: Federal Grain Inspection Service (Service).

ACTION: Notice and request for comments.

SUMMARY: This notice announces that Agricultural Seed Laboratories, Inc. (Agri Seed), has requested and been granted cancellation of its designation effective April 15, 1989, and requests comments from interested parties on the need for locally-provided service in the geographic area currently assigned to Agri Seed.

DATE: Comments must be postmarked on or before May 30, 1989.

ADDRESS: Comments must be submitted in writing to Lewis Lebakken, Jr., RM, FGIS, USDA, Room 0628 South Building, P.O. Box 96454, Washington, DC 20090–6454.

Telemail users may respond to [LLEBAKKEN/FGIS/USDA] telemail.
Telex users may respond as follows:
To: Lewis Lebakken
TLX: 7607351, ANS: FGIS UC.

All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Lewis Lebakken, Jr., telephone (202) 475–3428.

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12291 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Agri Seed, located at 212 S. 25th Avenue, Phoenix, AZ 85009, was designated under the Act as an official agency on January 1, 1988, to provide official inspection functions. The geographic area presently assigned to Agri Seed is La Paz, Maricopa, Pinal, and Yuma Counties, Arizona.

Agri Seed's designation terminaties December 31, 1990; however, Agri Seed requested the cancellation of its designation, effective April 15, 1989. The Service has granted Agri Seed's request for cancellation.

This notice provides interested persons the opportunity to present their comments concerning the need for locally-provided service in Agri Seed's area. Current inspection volumes have dropped from a high of 842 total inspections performed during fiscal year 1986, with approximately 90% being performed on a submitted sample basis; to a low of 390 total inspections performed during fiscal year 1988, with approximately 92% being submitted. Submitted samples may be sent to any official agency for inspection and certification.

Commenters are encouraged to give reasons for and include pertinent data concerning their views and comments. All comments must be submitted to the Resources Management Division, at the above address.

Requests for service from persons or firms located within Agri Seed's area should be directed to the FGIS Plainview Field Office at (806) 293–4482. The Field Office will arrange for service to be provided by neighboring official agencies.

Pub. L. 94–582, 90 Stat. 2867, as amended (7 U.S.C. 71 *et seq.*)

Date: April 11, 1989.

J. T. Abshier,

Director, Compliance Division.

[FR Doc. 89–9087 Filed 4–13–89; 8:45 am]

BILLING CODE 3410-EN-M

Forest Service

Intent To Prepare Environmental Impact Statement; Trail Creek Timber Sale, Beaverhead National Forest, Beaverhead County, MT

ACTION: .Revision of a notice of intent to prepare an Environmental Impact Statement, published Thursday, September 15, 1988 in Volume 53, No. 179 of the **Federal Register.**

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to analyze and disclose the environmental impacts of a proposal to harvest and regenerate timber, construct, and reconstruct roads, and manage access in portions of the Trail Creek area of the Wisdom District, Beaverhead National Forest, Beaverhead County, Montana. This is a revision of the September 15, 1989 Notice of Intent which indicated that the EIS would address all potential management practices scheduled in the Trail Creek area for the period 1989 to 1995. Other potential management practices listed in the original Notice of Intent included trail construction and reconstruction, trail head construction and improvement, watershed and fisheries improvement, and construction of interpretive facilities.

This EIS will tier to the Beaverhead Forest Land and Resource Management plan of April 1986, which provides overall guidance in achieving the desired future condition for the area. The purpose and goal for the proposed actions are to help satisfy short-term demands for timber, to maintain a continuous supply of timber in the future, and to provide big game habitat.

Because a significant amount of scoping has occurred since the original Notice of Intent, no additional formal comment period is planned prior to the release of the Draft Environmental Impact Statement [DEIS]. Comment and suggestion will be accepted on the issues, alternative, or impacts of alternatives from now until the end of the 45 day comment period on the DEIS.

DATE: Comments concerning the proposed management activities were to have been received by October 15, 1988 (refer to original NOI) in order to be used in preparing the DEIS. Additional comments will be accepted until 45 days after filing of the DEIS with the Environmental Protection Agency (40 CFR 1506.10(c)). These comments will be used in preparing the DEIS or the final EIS depending on the timing of the comment.

ADDRESS: Send written comments to Ronald Prichard, Forest Supervisor, 610 N. Montana Street, Dillon, MT 59725.

FOR FURTHER INFORMATION CONTACT: Questions concerning the proposed activities and the EIS should be made to Pete Bengeyfield, Interdisciplinary Team leader, or Dennis Havig, District Ranger, Beaverhead National Forest, Box 238, Wisdom, Montana 59761.

SUPPLEMENTARY INFORMATION: The Land and Resource Management Plan for the Beaverhead National Forest provides the overall guidance for management activities in the potentially affected area through its goals, objectives, standards and guidelines, and management area direction. The areas of proposed timber harvest, regeneration and road construction/reconstruction will occur within Forest Plan Management Areas 16, 20, 21, and 26.

Management Area Descriptions

Management Area 16—Areas that are available and suitable for timber management with other important resource values.

Management Area 20—Same as management area 19 except that timber management will be at moderate levels permitting cultural treatments.

Management Area 21—A variety of forested lands with high wildlife values such as summer range, elk calving areas, security cover or limited winter range; outside of existing range allotments; classified as suitable for timber management.

Management Area 26—Areas of key wildlife summer or winter range on a variety of physical environments; where included in existing livestock allotments, livestock will be controlled to protect wildlife; classified as suitable for timber management and will be managed at low intensity levels to minimize conflicts with wildlife.

Proposed timber harvest, regeneration and road construction/reconstruction would occur in lower Sawpit Creek, near the Anderson Mountain road, in upper Elk Creek, in upper Prairie Creek and near the confluence of Trail and Joseph Creeks.

The analysis will consider a range of alternatives. One of these will be the "no-action" alternative, in which all harvest and regeneration activities would not be implemented. Other alternatives will examine various levels and locations of harvest and regeneration in response to issues, goals and objectives.

Two RARE II roadless areas are located within the Trail Creek area and could be affected by the proposed timber harvest regeneration and road construction. The potentially affected roadless areas are, the Beaver Lake roadless area 1–003 (portion 1–003a) and the Anderson Mountain roadless area #1–942 which is located on both the Beaverhead and Salmon National Forest. The Beaver Lake roadless area totals 13,474 acres, the west portion 1–003a totals 7,926 acres. The Anderson Mountain roadless area #1–942 totals 48,451 acres of which 30,331 acres is located on the Beaverhead National Forest.

The Forest Service will analyze and document the direct, indirect, and cumulative environmental effects of the alternatives. In addition, the EIS will disclose the analysis of site specific mitigation measures, their effectiveness and a plan to measure their effectiveness.

Scoping has already been conducted through individual and public meetings beginning in the spring of 1988. The Montana Department of Fish, Wildlife and Parks has contributed to the analysis. At this point, future public participation will be especially important in the review of the draft EIS. However, people may visit with Forest Service officials at any time during the analysis and prior to the decision.

The DEIS is expected to be filed with the Environmental Protection Agency (EPA) and available for public review in April 1989. At that time the EPA will publish a notice of availability of the DEIS in the **Federal Register**. After a 45-day public comment period, the comments received will be analyzed and considered by the Forest Service in the final environmental impact statement (FEIS). The FEIS is scheduled to be completed by August, 1989. The Forest Service will respond in the FEIS to the comments received on the DEIS. The Forest Supervisor who is the responsible official for this EIS will make a decision regarding this proposal considering the comments, responses and environmental consequences discussed in the FEIS, and applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

Ronald Prichard, Forest Supervisor of the Beaverhead National Forest, is the Responsible Official.

Ronald C. Prichard,

Forest Supervisor, Beaverhead National Forest.

Date: April 7, 1989.

Stillwater Mining Company Precious Metals Smelter, Custer National Forest, MT

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The Department of State Lands, State of Montana, as lead agency, and the USDA, Forest Service, Custer National Forest, Beartooth Ranger District will cooperatively prepare an Environmental Impact Statement to disclose the environmental effects of a proposed precious metals smelter at the existing Stillwater Mine (Permit No. 00118), located near Nye, Montana in Stillwater County.

A proposed amendment to Stillwater Mining Company's (SMC) Plan of Operations has been prepared and submitted to the cooperating agencies. The amendment to Permit No. 0018 would provide for incorporation of a precious metals smelter within SMC's existing facilities. The purpose of the proposed smelter would be to process platinum group metals (PGM) concentrate from SMC's existing mine and mill. The facility would be designed with aditional capacity to process concentrate from a second PGM mine proposed for location on the East Boulder River, should it become operational in the mid–1990's.

Federal, State and local agencies, potential developers, and other individuals or organizations who may be interested in or affected by the decision are invited to participate in the scoping process. This process will include:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.
4. Identification of additional reasonable alternatives.
5. Determination of potential cooperating agencies and assignment of responsibilities.

The Forest Service and Department of State Lands will hold public meetings during the scoping process. The time and location of these meetings will be determined and all interested publics will be notified at a later date through the local, news media.

ADDRESSES: Written comments, suggestions or questions concerning the Environmental Impact Statement should be sent to Mr. Kit Walther, Montana Department of State Lands, 1625 11th Avenue, Capitol Station, Helena, Montana, 59620, or the District Ranger, Beartooth Ranger District, Route 2, Box 3420, Red Lodge, Montana, 59068.

SUPPLEMENTARY INFORMATION: A range of alternatives will be considered. One of these will be the "no action" alternative in which the proposed action would not be implemented.

The State of Montana and the Forest Service will analyze and document the direct, indirect and cumulative effects of the alternatives. In addition the EIS will

contain an analysis of appropriate mitigation measures.

Public participation will be important during the analysis. Two periods of time are identified for the receipt of comments on the analysis. They are during the scoping process and during the review period for the draft environmental impact statement. The draft environmental impact statement is expected to be available for public review in six to ten months.

Mr. Kit Walther, Chief, Hard Rock Bureau, Montana Department of State Lands, and Curtis W. Bates, Supervisor, Custer National Forest are the responsible officials.

Curtis W. Bates,

Forest Supervisor.

Date: April 7, 1989.

[FR Doc. 89-8877 Filed 4-13-89; 8:45 am]

BILLNING CODE 3410-11-M

Eagle Peak-Buzzard Timber Sales; Gila National Forest, NM

AGENCY: Forest Service, USDA.

ACTION: Notice of Intent to Prepare an Environmental Impact Statement.

SUMMARY: The Department of Agriculture, Forest Service will prepare an environmental impact statement for the proposed Eagle Peak-Buzzard timber sales on the Reserve Ranger District, Gila National Forest, Reserve, New Mexico.

The proposed Eagle Peak-Buzzard timber sales are included in the Gila Forest Plan. Scoping, data collection and analysis have been in progress for several years.

The scoping process has included public meetings, personal telephone conversations, interviews, and letters. The environmental analysis progressed to the point of identifying alternatives when it was determined that the intensity of the controversy over the effects of the proposal was considered significant. Gila National Forest Supervisor, David Dahl, decided to prepare an environmental impact statement.

A range of alternatives will be considered. A no action alternative will consider no timber harvest. Other alternatives will include management themes emphasizing: maintaining existing old-growth and unroaded areas; managing the entire area for timber stand health and productivity; managing for timber stand health and productivity in just those units less than 40% slope that can be tractor logged; habitat diversity for emphasis, threatened, endangered, and sensitive wildlife species; maximizing revenue and minimizing costs; and other alternatives that may be developed as the process continues.

Federal, State, local agencies, organizations, and individuals have participated in the scoping process. Additional scoping will be conducted so that any additional agencies, organizations, or individuals may participate. This process includes:

1. Identification of potential issues.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a previous environmental review.

The analysis is expected to take about 2 months. The draft environmental impact statement should be available for public review in July, 1989. The final environmental impact statement is scheduled to be completed by October, 1989.

David Dahl, Forest Supervisor, Gila National Forest is the responsible official.

DATE: Comments concerning the scope of the analysis should be received by May 15, 1989.

ADDRESSES: Written comments and suggestions concerning the analysis should be sent to Michael Gardner, District Ranger, P.O. Box 170, Reserve, New Mexico 87830, by May 15, 1989.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and environmental impact statement should be directed to Jim Dunham or Mike Gardner, phone 505-533-6231.

David W. Dahl,

Forest Supervisor.

Date: April 5, 1989.

[FR Doc. 89-8878 Filed 4-13-89; 8:45 am]

BILLING CODE 3410-11-M

Soil Conservation Service

Finding of No Significant Impact; Huachuca City Critical Area Treatment RC&D Measure, Arizona

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service procedures (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Huachuca City Critical Area Treatment RC&D Measure, Cochise, Arizona.

FOR FURTHER INFORMATION CONTACT: Charles R. Adams, State Conservationist, Soil Conservation Service, 201 East Indianola, Suite 200, Phoenix, Arizona, 85012, telephone (602) 241-2247.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Charles R. Adams, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The measure concerns protecting sewage ponds from eroding banks along the Babocomari River, in Cochise County, Arizona. Relocating the ponds is not practical due to land ownership. EPA regulations and clean water law would be violated if the ponds are washed out. Rail and wire fences will be installed to protect the banks. Vegetation will be planted for wildlife habitat and bank protection.

The Notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Bart Ambrose.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

Charles R. Adams,

State Conservationist.

("This activity is listed in the catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials").

[FR Doc. 89-8876 Filed 4-13-89; 8:45 am]

BILLING CODE 3410-16-M

Finding of No Significant Impact; Middlebourne Park Critical Area Treatment and Land Drainage RC&D Measure Plan; West Virginia

AGENCY: Soil Conservation Service, USDA.

ACTION: Notice of finding of no significant impact.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for the Middlebourne Park Critical Area Treatment and Land Drainage RC&D Measure, Town of Middlebourne, Tyler County, West Virginia.

FOR FURTHER INFORMATION CONTACT: Rollin N. Swank, State Conservationist, Soil Conservation Service, 75 High Street, Morgantown, West Virginia 26505, telephone 304–291–4151.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Mr. Rollin N. Swan, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The purpose of the measure is critical area treatment and land drainage. The measure is designed to stabilize by regrading and shaping, and revegetating approximately 3.0 acres of land that has an average erosion rate of 7 tons per acre per year. Conservation practices include subsurface drains, grassed waterway, and seeding.

The Notice of a Finding of No Significant Impact (FONSI) has been fowarded to the Environmental Protection Agency and to various Federal, State, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Rollin N. Swank, State Conservationist.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register.**

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.901—Resource Conservation and Development—and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.)

Rollin N. Swank,

State Conservationist.

April 6, 1989.

[FR Doc. 89–8935 Filed 4–13–89; 8:45 am]

BILLING CODE 3410–16–M

COMMISSION ON CIVIL RIGHTS

Wisconsin Advisory Committee; Agenda and Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Wisconsin Advisory Committee on the Commission will convene at 9:00 a.m. and adjourn at 6:00 p.m., on Thursday, April 27, 1989, at the Howard Johnson Lodge, 2001 North Mountain Road, Wausau, Wisconsin. The purpose of the meeting is to receive information on the nature and extent of any injustices or discrimination against Chippewa Indians resulting from community resentment of Indian hunting and fishing treaty rights and their enforcement.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson James L. Baughman, or William F. Muldrow, Acting Director of the Central Regional Division (816) 426–5253, (TDD 816/426–5009). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC April 7, 1989.

Melvin L. Jenkins,

Acting Staff Director.

[FR Doc. 89–8929 Filed 4–13–89; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: October 1989 School Enrollment Supplement
Form Number: CPS–1
Agency Approval Number: 0607–0464
Type of Request: Reinstatement
Burden: 7,467 hours
Number of Respondents: 56,000
Avg Hours Per Response: 8 minutes
Needs and Uses: The Bureau of the Census uses the School Enrollment Supplement to obtain school enrollment data for persons 3 years of age or older. The data collected provide basic information on enrollment status of various segments of the population necessary for policy formation and implementation
Affected Public: Individuals or Households
Frequency: On occasion
Respondent's Obligation: Voluntary
OMB Desk Officer: Don Arbuckle, 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 H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 10, 1989

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89–8869 Filed 4–13–89; 8:45 am]

BILLING CODE 3510–07–M

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census
Title: The 1990 Census of the United States—Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and Palau (if required)
Form Number: D–2A G; D–2A AS; D–2A CNMI; D–20B PI; D–21 PI; D–31 AS/CNMI; D–2A P; D–31 P
Type of Request: New Collection
Burden: 36,312
Number of Respondents: 56,000
Avg Hours Per Response: 39 minutes
Needs and Uses: The 1990 Decennial Census will cover the population and housing characteristics of all residents in Guam, American Samoa, the Commonwealth of the Northern

Mariana Islands, and possibly Palau. The data collected will be used by the Census Bureau to allocate territorial and Federal Funds and by the private sector in planning and decision making

Affected Public: Individuals or Households

Frequency: One time only

Respondent's Obligation: Mandatory

OMB Desk Officer: Don Arbuckle, 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 H6622, 14th and Constitution Avenue NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Don Arbuckle, OMB Desk Officer, Room 3208, New Executive Office Building, Washington, DC 20503.

Dated: April 10, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89–8870 Filed 4–13–89; 8:45 am]

BILLING CODE 3510–07–M

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: Patent and Trademark Office (PTO)

Title: Practice Before the Patent and Trademark Office

Form Number: Agency—N/A; OMB—0651–0017

Type of Request: Extension of the expiration date

Burden: 205 respondents; 1,808 reporting and recordkeeping hours. Average hours per response is 9 hours.

Needs and Uses: PTO regulations prescribe a code of conduct for agents, attorneys, or other persons representing applicants or other parties before the PTO. Information required is used to investigate and, where appropriate, prosecute violations of the PTO Code of Professional Responsibility

Affected Public: Individuals, businesses or other for-profit institutions, Federal agencies or employees

Frequency: Recordkeeping/on occasion

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Robert Veeder, 395–3785.

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 Robert Veeder, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: April 10, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89–8871 Filed 4–13–89; 8:45 am]

BILLING CODE 3510–07–M

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: Bureau of Export Administration

Title: Technical Data Letter of Explanation/Special Provisions

Form Number: Export Administration Regulations, Section 779.5(d), (e), OMB–00694–0047

Type of Request: Revision of a currently approved collection

Burden: 2,685 respondents; 3,665 reporting/recordkeeping hours. The times range from 15 minutes to 2 hours for each response with an average time per response of 1 hour, 20 minutes.

Needs and Uses: This collection of information is a letter of explanation to accompany an application for a license to export technical data. The term "technical data" is used for any kind of information for development, production, or use of any product. These letters and the specific documentation for technical data for specific commodities are needed to clearly define the type of technical data to be exported and to give a complete disclosure of the transaction

Affected Public: Businesses or other for-profit institutions; small businesses or organizations

Frequency: On occasion

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: John Horrigan, 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearnace 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 John Horrigan, OMB Desk Officer, Room 3208 New Executive Office Building, Washington, DC 20503.

Dated: April 10, 1989.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 89–8916 Filed 4–13–89; 8:45 am]

BILLING CODE 3510–CW–M

Bureau of Export Administration

Transportation and Related Equipment Technical Advisory Committee; Partially Closed Meeting

A meeting of the Transportation and Related Equipment Technical Advisory Committee will be held May 18, 1989, 9:30 a.m. in the Federal Building, 11000 Wilshire Boulevard, Room 11104, Los Angeles, California. The Committee advises the Office of Technology & Policy Analysis with respect to technical questions which affect the level of export controls applicable to transportation and related equipment or technology.

General Session

1. Opening Remarks by the Chairman.
2. Introduction of Members and Visitors.
3. Presentation of Papers or Comments by the Public.
4. Subcommittee Structure.
5. Expanding Membership.
6. Expanded Role of the Department of Commerce in Technology Transfer Issues as Exemplified in the FSX Case.

Executive Session

7. Discussion of matters properly classified under Executive Order 12356, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The general session of the meeting will be open to the public and a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

The Assistant Secretary for Administration, with the concurrence of

the delegate of the General Counsel, formally determined on January 13, 1989, pursuant to section 10(d) of the Federal Advisory Committee Act, as amended that the series of meetings or portions of meetings of the Committee and of any Subcommittees thereof, dealing with the classified materials listed in 5 U.S.C. 552b(c)(1) shall be exempt from the provisions relating to public meetings found in section 10 (a)(1) and (a)(3), of the Federal Advisory Committee Act. The remaining series of meetings or portions thereof will be open to the public.

A copy of the Notice of Determination to close meetings or portions of meetings of the Committee is available for public inspection and copying in the Central Reference and Records Inspection Facility, Room 6628, U.S. Department of Commerce, Washington, D.C. For further information or copies of the minutes call Ruth D. Fitts 202–377–4959.

Date: April 10, 1989.

Betty Anne Ferrell,

Director, Technical Advisory Committee Unit, Office of Technology & Policy Analysis.

[FR Doc. 89–8918 Filed 4–13–89; 8:45 am]

BILLING CODE 3510-DT-M

International Trade Administration

Rice University, et al.; Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 2841, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86–222. *Applicant:* Rice University, Houston, TX 77251. *Instrument:* Stopped-Flow Spectrophotometer, Model SF–51 with Accessories. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice at 53 FR 22844, June 23, 1986. *Reasons for this Decision:* The foreign instrument permits investigation of reactions employing highly corrosive reagents.

Docket Number: 87–223. *Applicant:* Research Triangle Institute, Research Triangle Park, NC 27709. *Instrument:* Ultra-High Vacuum Surface Analysis System, Model LHS–12.

Manufacturer: Leybold-Heraeus Vacuum Products Inc., West Germany. *Intended Use:* See notice at 53 FR 30942, August 18, 1987. *Reasons for this Decision:* The foreign instrument provides an integrated sample preparation chamber (heating/cooling, sample transfer) and the capability to perform XPS, UPS, AES, PLES, ISS, depth profiling and physical imaging spectroscopy.

Docket Number: 87–233. *Applicant:* University of California, Los Angeles, CA 90024–1569. *Instrument:* Surface Analysis System, Model XSAM 800. *Manufacturer:* Kratos Analytical, United Kingdom. *Intended Use:* See notice at 53 FR 30939, August 18, 1987. *Reasons for this Decision:* The foreign instrument permits multi-analysis of single samples (SAM, XPS, SIMS or ISS) and is capable of detecting both positively and negatively charged particles.

Docket Number: 87–252. *Applicant:* University of Alabama in Huntsville, Huntsville, Alabama 35899. *Instrument:* Spectrometer, Model XSAM 800. *Manufacturer:* Kratos Analytical, United Kingdom. *Intended Use:* See notice at 53 FR 30941, August 18, 1987. *Reasons for this Decision:* The foreign instrument is capable of providing signal intensities of 250 000 cps, signal-to-noise ratios of 100:1 at 10 kV.

Docket Number: 88–278. *Applicant:* University of Illinois, Urbana, IL 61801. *Instrument:* Pulsed UV & Dye Laser, Model LPX205i/FL 3002. *Manufacturer:* Lambda Physik, West Germany. *Intended Use:* See notice at 53 FR 39495, October 7, 1988. *Reasons for this Decision:* The foreign instrument provides the necessary power/energy conversion efficiency and beam divergence (0.5 milliradian).

Docket Number: 88–280. *Applicant:* University of Hawaii, Honolulu, HI 96822. *Instruments:* Automated Wavelength-Dispersive X-Ray Fluorescence Spectrometry System, Model SRS 303 and Agitating Fusion Furnace with Accessories. *Manufacturers:* Siemens Energy and Automation Inc, West Germany and Sietronics Pty. Ltd., Australia, respectively. *Intended Use:* See notice at 53 FR 43462, October 27, 1988. *Reasons for this Decision:* The foreign article is an ancillary device used to simultaneously provide uniform homogeneity of several prepared samples.

Docket Number: 88–295. *Applicant:* Norfolk State University, Norfolk, VA 23504. *Instrument:* Temperature Jump Spectrophotometer. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* See notice at 53 FR 43464, October 27, 1988. *Reasons for this Decision:* The foreign instrument permits the study of induced reactions relaxation times in the range of 100 μs to 100 ms.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as each is intended to be used, is being manufactured in the United States. The capability of each of the foreign instruments described above is pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 89–8873 Filed 4–13–89; 8:45 am]

BILLING CODE 3510-DS-M

Short-Supply Review on Certain Slabs; Request for Comments

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice and request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-Australia, U.S.-Austria, U.S.-Brazil, U.S.-EC, U.S.-Hungary, U.S.-Korea, U.S.-Poland, U.S.-Spain, and U.S.-Trinidad & Tobago Arrangements Concerning Trade in Certain Steel Products, Article 7 of the U.S.-Romania and U.S.-Venezuela Arrangements Concerning Trade in Certain Steel Products, Article 8 of the U.S.-Mexico and U.S.-Finland Understandings Concerning Trade in Certain Steel Products, and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products, with respect to certain carbon steel slabs used in the production of steel sheet.

DATE: Comments must be submitted no later than May 15, 1989.

ADDRESS: Send all comments to Nicholas C. Tolerico, Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-Australia, U.S.-Austria, U.S.-Brazil, U.S.-EC, U.S.-Hungary, U.S.-Korea, U.S.-Poland, U.S.-Spain, and

U.S.-Trinidad & Tobago Arrangements Concerning Trade in Certain Steel Products, Article 7 of the U.S.-Romania and U.S.-Venezuela Arrangements Concerning Trade in Certain Steel Products, Article 8 of the U.S.-Mexico and U.S.-Finland Understandings Concerning Trade in Certain Steel Products, and Paragraph 8 of the U.S.-Japan Arrangement Concerning Trade in Certain Steel Products provide that if the U.S. determines that, because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the United States for a particular product, (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products.

We have received a short-supply request for certain C1006 and C1010 carbon steel slabs used in the manufacture of hot- and cold-rolled sheet. The slabs are 7.5 to 8.5 inches in thickness, 28.0 to 49.5 inches in width, and 216 to 218 inches in length.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than April 24, 1989. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietary portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce at the above address.

April 6, 1989.

Timothy N. Bergan,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-8872 Filed 4-13-89; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of Requests for Bilateral Consultations With the Government of Thailand on Certain Cotton and Man-Made Fiber Textile Products

April 10, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority. Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Article 3 of the Arrangement Regarding International Trade in Textiles.

On March 31, 1989, the Government of the United States requested consultations with the Government of Thailand regarding cotton and man-made textile products in Categories 313, 315, 335, 341/641, 628 and 638/639, produced or manufactured in Thailand.

The purpose of this notice is to advise the public that, if no solution is agreed upon in consultations with Thailand, the Committee for the Implementation of Textile Agreements may later establish limits for the entry and withdrawal from warehouse for consumption of textile products in Categories 313, 315, 335, 341/641, 628 and 638/639, produced or manufactured in Thailand and exported during the twelve-month period which began on March 31, 1989 and extends through March 30, 1990, at the following levels:

Category	Call levels
313	11,712,810 square meters.
315	15,375,452 square meters.
335	46,578 dozen.
341/641	376,081 dozen.
628	4,368,357 square meters.
638/639	1,722,290 dozen.

Summary market statements concerning these categories follow this notice.

Anyone wishing to comment or provide data or information regarding the treatment of Categories 313, 315, 335, 341/641, 628 and 638/639, or to comment on domestic production or availability of products included in these categories, is invited to submit 10 copies of such comments or information to James H. Babb, Chairman, Committee for the Implementation of Textile Agreements, U.S. Department of Commerce, Washington, DC 20230.

Because the exact timing of the consultations is not yet certain, comments should be submitted promptly. Comments or information submitted in response to this notice will be available for public inspection in the Office of Textile and Apparel, Room H3100, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Further comment may be invited regarding particular comments or information received from the public which the Committee for the Implementation of Textile Agreements considers appropriate for further consideration.

The solicitation of comments regarding any aspect of the agreement or the implementation thereof is not a waiver in any respect of the exemption contained in 5 U.S.C. 553(a)(1) relating to matters which constitute "a foreign affairs function of the United States."

The United States remains committed to finding a solution concerning Categories 313, 315, 335, 341/641, 628 and 638/639. Should such a solution be reached in consultations with the Government of Thailand, further notice will be published in the Federal Register.

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 53 FR 44937, published on November 7, 1988).

James H. Babb,

Chairman, Committee for the Implementation of Textile Agreements.

Thailand—Market Statement

Category 313—Cotton Sheeting

March 1989

Summary and Conclusions

U.S. imports of cotton sheeting—Category 313—from Thailand were 1,594 thousand square meters in January 1989, three times the 502 thousand square meters imported in January 1988. Thailand is the second largest uncontrolled supplier of these fabrics.

The U.S. market for cotton sheeting is being disrupted by the sharp and substantial increase of imports from Thailand.

U.S. Production and Market Share

U.S. production of cotton sheeting declined in 123,164 thousand square meters in the fourth quarter of 1988 from 127,104 thousand square meters in the third quarter of 1988, a 3 percent decline. Fourth quarter production was 16 percent lower than the first quarter 1988 production level of 145,881 thousand square meters.

The U.S. producers' share of the cotton sheeting market declined from 66 percent in the first quarter 1988 to 60 percent in the fourth quarter 1988.

Imports and Import Penetration

U.S. imports of Category 313 doubled in January 1989, reaching 43,919 thousand square meters from 22,164 thousand square meters imported in January 1988. During 1988, imports increased 12 percent, from 73,908

thousand square meters in the first quarter 1988 to 82,504 thousand square meters in the fourth quarter 1988.

The ratio of imports to domestic production increased from 51 percent during the first quarter to 67 percent during the fourth quarter 1988.

Duty-Paid Value and U.S. Producers' Price

Approximately 87 percent of Category 313 imports from Thailand during 1988 entered under TSUSA Number 320.1934 wholly cotton sheeting, weighing less than 5 oz. per square of 10 yarn count. This fabric entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable fabrics.

Thailand—Market Statement Category 315—Cotton Printcloth

March 1989.

Summary and Conclusions

U.S. imports of cotton printcloth—Category 315—from Thailand surged to 1,665,956 square meters in January 1989. Thailand was the fifth largest supplier of Category 315 and the largest uncontrolled supplier, accounting for 6 percent of total imports in January 1989. There were no imports from Thailand in January 1988.

The U.S. market for cotton printcloth is being disrupted by the sharp and substantial increase of imports from Thailand.

U.S. Production and Market Share

U.S. production of cotton printcloth declined to 77,760 thousand square meters in the fourth quarter of 1988 from 84,338 thousand square meters in the third quarter of 1988, a 7.8 percent decline. Fourth quarter production was 27 percent lower than the first quarter 1988 production level of 106,245 thousand square meters.

The U.S. producers' share of the cotton printcloth market declined from 76 percent in the first quarter 1988 to 52 percent in the fourth quarter 1988.

Imports and Import Penetration

U.S. imports of Category 315 more than doubled in January 1989, reaching 26,391 thousand square meters from 10,342 thousand square meters imported in January 1988. During 1988, imports increased 111 percent, from 33,721 thousand square meters in the first quarter 1988 to 71,008 thousand square meters in the fourth quarter 1988.

The ratio of imports to domestic production tripled from 31.7 percent during the first quarter to 91.3 percent during the fourth quarter 1988.

Duty-Paid Value and U.S. Producers' Price

Approximately 66 percent of Category 315 imports from Thailand during 1988 entered under TSUSA Numbers 326.2927 and 326.3927—chief value cotton printcloth, gray, of 20's and 30's yarn count. These fabrics entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable fabrics.

Category 335—Women's and Girls' Cotton Coats

Thailand—Market Statement

March 1989.

Summary and Conclusions

U.S. imports of women's and girls' cotton coats (Category 335) from Thailand increased steeply in the month of January 1989, reaching 3,236 dozen, double the 1,594 dozen imported in the month of January 1988. During the year ending January 1989, imports of Category 335 from Thailand reached 48,221 dozen, 13 percent above the 42,504 dozen imported during the same period in 1988.

The U.S. market for women's and girls' cotton coats is being disrupted by surging imports from Thailand.

U.S. Production, Import Penetration and Market Share

In the year ending September 1988 U.S. production of women's and girls; cotton coats declined 38 percent from calendar year 1987, falling from 1,250,000 dozen to 778,000 dozen. During this same period imports also decreased, but the ratio of imports to domestic production in Category 335 increased to 280 percent in the year ending September 1988, up from 207 percent in 1987. The U.S. manufacturers' share of this market declined from 33 percent in 1987 to 26 percent in the year ending September 1988.

Duty-Paid Value and U.S. Producers' Price

Approximately 64 percent of Category 335 imports from Thailand during calendar year 1988 entered under TSUSA numbers 384.3715—women's cotton woven raincoats, ¾ length or longer, other than those of corduroy or velveteen, not ornamented; and 384.3777—other women's cotton woven coats, not ornamented. These garments entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable garments.

Thailand—Market Statement

Category 341/641—Women's and Girls' Cotton and Man-Made Fiber Woven Shirts and Blouses

March 1989.

Summary and Conclusions

U.S. imports of women's and girls' cotton and man-made fiber woven shirts and blouses (Category 341/641) from Thailand increased steeply in the month of January 1989, reaching 51,218 dozen, 74 percent above the 29,508 dozen imported in the month of January 1988. Imports from Thailand in January 1989 alone are already 19 percent of their calendar year 1988 import level.

The U.S. market for women's and girls' cotton and man-made fiber woven shirts and blouses is being disrupted by surging imports from Thailand.

U.S Production, Import Penetration and Market Share

Between 1982 and 1986 U.S. production of women's and girls' cotton and man-made fiber woven shorts and blouses remained relatively flat while imports more than doubled, reaching a record level while imports more than doubled, reaching a record level in 1986. The ratio of imports to domestic production in Category 341/641 increased to 100 percent in 1986, up from 49 percent in 1982. The U.S. manufacturers' share of this market declined by 17 percentage points dropping from 67 percent in 1982 to 50 percent in 1986. In 1987, U.S. production dropped sharply falling nine percent below the 1986 level to its lowest level in the decade. Although imports in 1987 declined from their 1986 record level, they remained at the second highest ever.

U.S. production was down 26 percent in the first nine months of 1988. The year ending September 1988 production level fell to 18,146,000 dozen, 27 percent below the 1986 level. The import to production ratio increased to 113 percent in the year ending September 1988 while the U.S. manufacturers' share of the market fell to 47 percent.

Duty-Paid Value and U.S. Producers' Price

Approximately 71 percent of Category 341/641 imports from Thailand during calendar year 1988 entered under TSUSA numbers 384.4614—women's cotton woven blouses, other than those of poplin, broadcloth and those with two or more colors in the warp and/or the filing, not ornamented; 394.2308—women's man-made fiber woven blouses and shirts, other than those with two or more colors in the warp and/or the filling, ornamented; and 384.9115—women's man-made fiber woven blouses and shirts, other than those with two or more colors in the warp and-or the filling, not ornamented. These blouses and shirts entered the U.S. at duty-paid landed values below U.S. producers' prices for comparable blouses and shirts.

Thailand—Market Statement

Category 628—Man-Made Fiber Twill and Sateen Stape-Filament Fabric

March 1989

Summary and Conclusions

U.S. imports of man-made fiber twill and sateen staple/filament fabric (Category 628) from Thailand surged to 4,407,232 square meters during the year ending January 1989. Thailand became the second largest supplier of these fabrics in 1988, accounting for 37 percent of the total imports. There were no imports from Thailand in 1987. In 1986 Thailand shipped 891,869 square meters accounting for seven percent of total Category 628 imports.

The U.S. market for man-made fiber twill and sateen staple/filament fabric is being disrupted by the sharp and substantial increase of imports from Thailand.

U.S. Production, Market Share, and Import Penetration

U.S production of man-made fiber twill and sateen/filament fabric dropped from 137 million square meters in 1986 to 126 million square meters in 1987, an 8 percent decline. U.S. production remained flat through the first three quarters of 198 compared to the January-September 1987 level. U.S. imports on the other hand increased by 46 percent in the first three quarters of 1988.

This import surge is attributed to Thailand. U.S imports in Category 628 increased by 3.3 million square meters in the first three quarters of 1988 compared to the same period

in 1987. Thailand's imports during this period increased by 4.1 million square meters.

During the nine month period, January-September 1988, the U.S. producers' share of the market for domestically produced and imported man/made fiber twill and sateen staple/filament fabric fell to 90 percent, three percentage points below their 93 percent share during January-September 1987. During these same periods, the ratio of imports to domestic production increased from eight percent to eleven percent.

U.S. imports of Category 628 reached 11.4 million square meters during the year ending January 1989, three percent above the 11.0 million square meters imported during the year ending January 1988. Imports from Thailand during the year ending January 1989 accounted for 39 percent of total imports. In volume terms, Category 628 imports increased by 348,000 square meters during year ending January 1989 over the year ending January 1988. Thailand's increase was 4.4 million square meters.

Duty-Paid Value and U.S. Producers' Price

Virtually all of Category 628 imports from Thailand during 1988 entered under TSUSA number 338.5965, woven sateen and twill fabric weighing no more than 5 oz. per square yard. This fabric entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable fabrics.

Thailand—Market Statement

Category 638/639—Man-Made Fiber Knit Shirts—and Blouses

March 1989.

Summary and Conclusions

U.S. imports of man-made fiber knit shirts and blouses (Category 638/639) from Thailand increased steeply in the month of January 1989, reaching 222,560 dozen, double the 111, 679 dozen imported in the month of January 1988. Imports from Thailand in January 1989 alone are already 23 percent of their calendar year 1988 import level. Thailand is the sixth largest supplier and the largest uncontrolled supplier of man-made fiber knit shorts and blouses accounting for six percent of total imports in the month of January 1989.

The U.S. market for man-made fiber knit shirts and blouses is being disrupted by surging imports from Thailand.

U.S. Production, Import Penetration and Market Share

Between 1982 and the year ending September 1988 U.S. production of man-made fiber knit shorts and blouses declined 25 percent, falling from 57,668,000 dozen to 43,529,000 dozen. During this same period imports increased from 21,075,000 dozen to 24,158,000 dozen, an increase of 15 percent. The ratio of imports to domestic production in Category 638/639 increased to 56 percent in the year ending September 1988, up from 37 percent in 1982. The U.S. manufacturers' share of this market declined from 73 percent in 1982 to 64 percent in the year ending September 1988.

Duty-Paid Value and U.S. Producers' Price

Approximately 63 percent of Category 638/639 imports from Thailand during calendar year 1988 entered under TSUSA numbers 384.1841—women's man-made fiber knit shirts, other than T-shirts, ornamented 384.8012—women's man-made fiber knit blouses, other than tank tops, not ornamented; and 384.8045—women's man-made fiber knit shirts, other than T-shirts, not ornamented. These shirts and blouses entered the U.S. at landed duty-paid values below U.S. producers' prices for comparable shirts and blouses.

[FR Doc. 89-8917 Filed 4-13-89; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 8-9 May 1989.

Time of Meeting: 0800-1600 hours.

Place: Fort Lee, Virginia.

Agenda: The Army Science Board Ad Hoc Subgroup for Army Analysis will meet with personnel at the TRADOC Logistics Center to discuss the role of the Log Center in integration of analysis. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). The classified and unclassified matters and proprietary information to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-8932 Filed 4-13-89; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Date of Meeting: 10 May 1989.

Time of Meeting: 0800-1700 hours.

Place: Fort Bragg, North Carolina.

Agenda: The Army Science Board Ad Hoc Subgroup on Space Systems will meet for classified briefings and discussions. The subgroup is tasked with a comprehensive review of space concepts, technology, and related issues. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 2, subsection 10(d). Contact the Army Science Board Administrative Officer, Sally Warner, for further information at 202-695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-8933 Filed 4-13-89; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: 12 May 1989.

Time of Meeting: 0800-1800 hours.

Place: The Pentagon, Washington, DC.

Agenda: The Army Science Board Ad Hoc Subgroup on U.S. Army Institute for Environmental Medicine Effectiveness Review will hold its second meeting. This meeting will be hosted by Commander, U.S. Army Medical Research and Development Command. The panel will provide independent observations on potential and actual performance of the laboratory. The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. Contact the Army Science Board Administrative Officer, Sally Warner, for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 89-8934 Filed 4-13-89; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board.

ACTION: Notice of meeting.

SUMMARY: In the notice published April 7, 1989 on page 14131 of the **Federal Register**, the statement, the Executive Committee of the National Assessment Governing Board will meet via teleconference on Friday April 28, 1989 from 2:00 p.m. until the completion of business, is corrected to read the Reporting, Analysis and Dissemination Committee of the National Assessment Governing Board will meet via teleconference on Friday April 28, 1989

from 2:00 p.m. until the completion of business.

Dated: April 10, 1989.

Bruno V. Manno,

Acting Assistant Secretary for Educational Research and Improvement.

[FR Doc. 89-8833 Filed 4-13-89; 8:45 am]

BILLING CODE 4000-01-M

National Council on Vocational Education; Public Meeting

AGENCY: National Council on Vocational Education.

ACTION: Notice of public meeting of the council.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Council on Vocational Education. It also describes the functions of the Council. Notice of this meeting is required under Section 10(a)(2) of the Federal Advisory Committee Act, and is intended to notify the general public of its opportunity to attend.

DATE: April 30, 1989—6:00 p.m. to 8:00 p.m.; May 1, 1989—9:30 a.m. to 3:30 p.m.

ADDRESS: Embassy Suites Hotel, 1250 22nd Street NW., Washington, DC 20037.

April 30, 1989—Chairman Farley's Suite
May 1, 1989—Diplomat Room, (202) 857-3388.

SUPPLEMENTARY INFORMATION: The National Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968, Pub. L. 90-576.

The Council is established to:

(A) Advise the President, the Congress, and the Secretary of Education concerning the administration of, preparation of general regulations for, and operation of, vocational education programs supported with assistance under this title;

(B) Review the administration and operation of vocational education programs under this title, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports of its findings and recommendations (including recommendations for changes in the provisions of this title) to the Secretary for transmittal to Congress; and

(C) Conduct independent evaluations of programs carried out under this title and publish and distribute the results thereof.

Agenda: The proposed agenda will include: a discussion of the Council Initiatives including the Occupational Competencies Reports, the Annual Report, the National Awareness Campaign and the Reauthorization of the Carl D. Perkins Act.

FOR FURTHER INFORMATION CONTACT: Dr. Joyce Winterton, Executive Director, 330 C Street SW., MES—Suite 4080, Washington, DC 20202-7580, (202) 732-1884.

Records are kept of all Council proceedings, and are available for public inspection at the above address from the hours of 9:00 a.m. to 4:30 p.m.

Signed at Washington, DC April 10, 1989.

Joyce Winterton,

Executive Director.

[FR Doc. 89-8896 Filed 4-13-89; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Financial Assistance Award; Intent To Award Grant to Copperlock, Inc.

AGENCY: Department of Energy.

ACTION: Notice of unsolicited financial assistance award.

SUMMARY: The Department of Energy announces that pursuant to 10 CFR 600.14, it is making a financial assistance award based on an unsolicited application under Grant Number DE-FG01-89CE15441 to Copperlock, Inc. in the development of an invention entitled "Method and Apparatus for Applying Metal Cladding on Surfaces and Products Formed Thereby." The technology prevents the growth of marine life on the surfaces of vessels and structures in contact with ocean waters.

Scope: This grant will aid in the further development of a patented technique for application of long-lined copper alloy claddings to prevent the fouling of undersea surfaces with marine growth. The objectives to be achieved include: the selection and testing of bond coat (electrically insulating layer between strucutre and copper alloy protective coat) materials for steel, fiberglass, concrete and wood; optimize coating applicaion equipment to operate at production levels over large surfaces; develop "in-mold" process for applying coatings to fiberglass hulls during production; improving bond coating application methods; evaluation of improved coatings and techniques; analysis of potential markets. The probability of attaining these objectives is very high as several years have been spent by the personnel involved in this project in the development of the invention to its current position.

Eligibility: Based on receipt of an unsolicited application, eligibility of this award is being limited to Copperlock, Inc. Mr. Alexander A. Bosna, CEO of Copperlock, the inventor, has 30 years experience in manufacturing research and development, including nuclear, robotics and aerospace organizations. The inventor and his partners hold the basis patents on this coating process. It has been determined that this project has high technical merit, which will not only result in substantial energy savings but will also reduce the number of ships required to perform a given level of fleet operations by reducing maintenance requirements and thereby increase their availability.

The term of this grant shall be two years from the effective date of award.

FOR FURTHER INFORMATION CONTACT: U.S. Department of Energy, Office of Procurement Operations, Attn: Rosemarie H. Marshall, 1000 Independence Avenue SW., Washington, DC 20585.

Thomas S. Keefe, Director,

Contract Operations Division "B", Office of Procurement Operations.

[FR Doc. 89-8891 Filed 4-13-89; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER89-306-000 et al.]

Pacific Gas and Electric Co. et al.; Electric Rate, Small Power Production, and Interlocking Directorate filings

Take notice that the following filings have been made with the Commission:

1. Pacific Gas and Electric Company

[Docket No. ER89-306-000]

April 5, 1989.

Take notice that on March 30, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing, as a change in rate schedule, an Amendment to Parts I and II of Appendix A to the Interconnection Agreement (Rate Schedule FERC No. 114) Between Pacific Gas and Electric Company and the City and County of San Francisco regarding rate treatment, for Diablo Canyon Nuclear Power Plant, Units Nos. 1 and 2.

City and PG&E have previously agreed to a mechanism and methodology for calculation and allocation of Diablo Canyon Nuclear Power Plant Unit Nos. 1 and 2 (Diablo) costs to City on a basis similar to that which the Parties anticipated the Public Utilities Commission of the State of California (CPUC) might adopt, as set forth in Sections 1, 2 and 3 of part II of Appendix A which was accepted for

filing by the FERC on March 31, 1988, FERC Docket No. ER88–217–000 (1988 Diablo Agreement).

On December 19, 1988, the CPUC issued Decision No. 88–12–083 which approved a settlement reached by parties to the CPUC's Diablo ratemaking proceeding (CPUC Settlement). The CPUC Settlement provides a performance-based mechanism and methodology for PG&E's recovery of costs related to the construction, ownership and operation of Diablo.

Parts I and II as amended establish a rate treatment for Diablo which is consistent with the CPUC Settlement, pursuant to the 1988 Diablo Agreement.

Copies of this filing were served upon the City and County of San Francisco and the Public Utilities Commission of the State of California.

Comment date: April 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Pennsylvania-New Jersey-Maryland Interconnection (PJM) Agreement

[Docket No. ER89–297–000]

April 5, 1989.

Take notice that on March 28, 1989, the Pennsylvania-New Jersey-Maryland (PJM) Interconnection filed, on behalf of the parties to the PJM Agreement, Revision No. 10 to Schedule 4.01 of that Agreement.

The purpose of this filing is to increase the rate applicable to capacity deficiency transactions determined in accordance with the PJM Agreement. The new rate is to become effective with the beginning of the next 12-month Planning Period on June 1, 1989. No changes in facilities are proposed in this filing.

Comment date: April 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Potomac Electric Power Company

[Docket No. ER89–299–000]

April 5, 1989.

Take notice that on March 28, 1989, Potomac Electric Power Company (Pepco) tendered for filing a fourth amendment to its full requirements service agreement (Pepco FERC Rate Schedule No. 34) with Southern Maryland Electric Cooperative, Inc. (Smeco), Pepco's wholesale electricity requirements customers, to implement a new facility and capacity credit agreement with Smeco whereby Smeco will own and construct a 77 megawatt combustion turbine on its system for operation by June 1, 1991, which Pepco will operate and maintain for a 25 year period thereafter for capacity payment by Pepco credit to Smeco's bill for requirements service. The fourth amendment implements the new monthly capacity credit for billing purposes and defines a new point of interconnection at the combustion turbine; the existing rates for requirements service are not changed.

Pepco requests an effective date of May 1, 1989, in order that the construction phase under the facility and capacity credit agreement may commence according to schedule, and therefore also requests waiver of the Commission's notice requirements.

Comment date: April 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Pacific Gas and Electric Company

[Docket No. ER89–298–000]

April 5, 1989.

Take notice that on March 28, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing a change in rate schedule for Rate Schedule FERC No. 108, a contract with the City of Santa Clara, California (City) entitled "System Bulk Power Sale and Purchase Agreement Between City of Santa Clara and Pacific Gas and Electric Company" (Agreement). The Agreement and its appendices were accepted by the Commission on September 23, 1987 in Docket No. ER87–498–000 and contain capacity and energy rates for firm, baseload power sold to City by PG&E.

PG&E proposes to change the energy rate pursuant to Appendix A of the Agreement from 24.8 mills to 25.5 mills based on the New 1989 Average Thermal Cost Index. Since the increase is under $1,000,000 and City consents to this filing. PG&E is filing in accordance with the Commission's regulations. In addition, PG&E is requesting a waiver of the Commission's notice requirements so that the energy rate change may become effective on April 1, 1989 as agreed to the Agreement.

Copies of this filing were served upon City and the California Public Utilities Commission.

Comment date: April 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Pacific Gas and Electric Company

[Docket No. ER89–300–000]

April 5, 1989.

Take notice that on March 29, 1989, Pacific Gas and Electric Company (PG&E) tendered for filing changes to Rage Schedule FERC No. R–1 with the City of Redding (Redding).

The rate schedule change proposes to increase the maximum level of contractual power deliveries to Redding and to add a new delivery point. The rate schedule change also proposes an incentive rate for Unauthorized Power Flows to prevent Redding from exceeding its contractually defined level of service.

PG&E has requested that the proposed rate schedule change be allowed to become effective as of May 29, 1989.

Comment date: April 19, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. Delmarva Power & Light Company

[Docket No. ER89–317–000]

April 6, 1989.

Take notice that Delmarva Power & Light Company on March 31, 1989, tendered for filing a Supplement to the Transmission Service Agreement between Conowingo Power Company and Delmarva. The Supplement makes the following revisions to the existing agreement:

(a) Increases the interconnection capability from 60,000 kW up to 20,000 kW in any hour.

(b) Changes the percentage applied to Conowingo Power Company's historical peak in Article II from 12% to 15%.

Delmarva has requested an effective date of June 1, 1989.

Delmarva states that the reason for the revised Agreement is to provide for an increase in the capability limit of the 138 kV point of delivery of power to Conowingo from Philadelphia Electric Company through Delmarva.

Copies of the filing were served on Conowingo Power Company and its parent, Philadelphia Electric Company, the Delaware Public Service Commission, and the Maryland Public Service Commission.

Comment date: April 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

7. Georgia Power Company

[Docket No. ER89–315–000]

April 6, 1989.

Take notice that on March 31, 1989, Georgia Power Company (Georgia Power) tendered for filing a rate schedule change for transmission service provided pursuant to the contract between it and the Administrator of the Southeastern Power Administration (SEPA) acting on behalf of the United States Government, Department of Energy, dated as of January 29, 1985 (Georgia Power's FERC Rate Schedule FERC No. 819). The rate change provides for a decrease (from 16% to 14%) in the return on common equity component of the formulary rate for transmission service incorporated in the contract.

Georgia Power requests an effective date of June 1, 1989.

Comment date: April 24, 1989, in accordance with Standard Paragraph E at the end of this document.

8. Alabama Power Company

[Docket No. ER89-314-000]

April 6, 1989

Take notice that on March 31, 1989, Alabama Power Company (Alabama) tendered for filing a rate schedule change for the transmission services provided pursuant to the contract dated January 29, 1985 between Alabama and the Southeastern Power Administration, acting on behalf of the United States of America, Department of Energy. The rate schedule change provides for a decrease (from 16% to 15%) in the return for transmission services incorporated in the contract.

Comment date: April 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

9. Southern California Edison Company

[Docket No. ER89-313-000]

April 6, 1989

Take notice that on March 31, 1989, Southern California Edison Company (Edison) tendered for filing a Notice of Cancellation of Rate Schedule FERC No. 229, Edison-Vernon LADWP Firm Transmission Service Agreement.

Edison requests an effective date of June 1, 1989.

Comment date: April 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

10. Gulf Power Company

[Docket No. ER89-316-000]

April 6, 1989.

Take notice that on March 31, 1989, Gulf Power Company tendered for filing a rate schedule change for the transmission services provided pursuant to the contract dated January 29, 1985 between Gulf Power Company and the Southeastern Power Administration, acting on behalf of the United States of America, Department of Energy. The rate schedule change provides for a decrease (from 16% to 14%) in the return on common equity component of the formulary rate for transmission services incorporated in the contract.

Comment date: April 24, 1989, in accordance with Standard Paragraph E at the end of this notice.

11. Ormesa Geothermal

[Docket No. QF88-532-001]

April 6, 1989

On March 21, 1989, Ormesa Geothermal (Applicant), of 610 East Glendale Avenue, Sparks, Nevada 89431, submitted for filing an application for recertification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's regulations. No determination has been made that the submittal constitutes a complete filing.

The facility is a geothermal facility that will be located in the East Mesa Known Geothermal Resource Area in Imperial County, California. The Facility will include heat exchangers, turbines, generators, pipelines, and other associated equipment. The Facility will also include a 2.5 mile-long, 13.8 kV tie line to deliver power to a transmission line connected to Imperial Irrigation District ("District") and a 16 percent pro rata undivided interest in interconnection facilities to be used solely to carry the qualifying output of other qualifying facilities to purchasing utilities. The primary energy source will be geothermal fluids. The net electric power production capacity of the facility will be 6.4 MW.

Comment date: Thirty days from publication in the **Federal Register**, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8838 Filed 4-13-88; 8:45 am]

BILLING CODE 6717-01-M

Correction

April 10, 1989

On April 5, 1989, at 53 FR 13733, the lead docket number for the group of notices beginning with Docket Nos. ER89-297-000, *et al.*, should have read "Docket Nos. ER89-279-000, *et al.*"

Lois D. Cashell,

Secretary.

[FR Doc. 89-8924 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP89-1141-000, et al.]

Tennessee Gas Pipeline Company, et al.; Natural Gas Certificate Filings

April 7, 1989.

Take notice that the following filings have been made with the Commission:

1. Tennessee Gas Pipeline Company

[Docket No. CP89-1141-000]

Take notice that on April 5, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP89-1141-000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for TXG Gas Marketing Company (TXG), a marketer, under the blanket certificate issued in Docket No. CP87-115-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Tennessee states that pursuant to a transportation agreement dated February 7, 1989, under its Rate Schedule IT, it proposes to transport up to 300,000 dekatherms (dt) per day equivalent of natural gas for TXG. Tennessee states that it would transport the gas from receipt points located in the states of Louisiana, Texas, Mississippi, New Jersey, Ohio, Kentucky, Arkansas and Alabama, and deliver such gas to delivery points located in the states of Louisiana, Texas, Mississsippi, Alabama, New Jersey, Tennessee, West Virginia, Ohio, Pennsylvania, Kentucky, Massachusetts, New York, Connecticut, and Arkansas. Tennessee further states that the ultimate delivery points are located in the states of Texas, Louisiana, Arkansas, Mississippi, Alabama, Georgia, Florida, South Carolina, North Carolina, Maryland, Virginia, Indiana, Illinois, Ohio, Kentucky, Pennsylvania, New York, Oklahoma, Iowa, Michigan, Massachusetts, Tennessee, New Jersey, Vermont, New Hampshire, Kansas, Missouri, West Virginia and Connecticut.

Tennessee advises that service under § 284.223(a) commenced March 1, 1989, as reported in Docket No. ST89-2822-000 (filed March 29, 1989). Tennessee

further advises that it would transport 300,000 dt on an average day and 109,500,000 dt annually.

Comment date: May 22, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. Union Exploration Partners, Ltd.

[Docket No. CI88-487-000]

Take notice that on March 20, 1989, Union Exploration Partners, Ltd. (applicant) filed an amendment to its application in the captioned docket to sell natural gas in interstate commerce to Columbia Gas Transmission Corporation (Columbia) pursuant to section 7 of the Natural Gas Act. The previous application, based on a July 22, 1980 sales contract, was filed June 7, 1988, and duly noticed (53 FR 23788, June 24, 1988). Applicant's current filing consists of an amendment to the July 22, 1980 contract.

The contract amendment, dated October 1, 1988, (1) changes the daily contract quantity to 60 percent of applicant's delivery capacity, (2) requires Columbia to take at least 40 percent of applicant's daily delivery capacity, (3) provides that Columbia will, upon request of applicant, release any gas under the agreement in excess of that being taken by Columbia and assist in providing transportation for such gas, and (4) provides for redetermination of the price and waiver of affidavits or offers of credit under sections 284.8(f) or 284.9(f) of the Commission's regulations for transportation by Columbia or released gas.

Comment date: April 14, 1989, in accordance with Standard Paragraph J at the end of this notice.

3. Northwest Pipeline Corporation

[Docket No. CP89-1125-000]

Take notice that on March 31, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-1125-000 a request pursuant to Sections 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport natural gas for Pacific Cogeneration and Great Western Malting Company (Pacific Cogeneration), an end user of natural gas, under Northwest's blanket certificate issued in Docket No. CP86-578-000 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.

Northwest proposes to transport, on an interruptible basis, up to 6,000 MMBtu of natural gas equivalent per day for Pacific Cogeneration pursuant to a gas transportation agreement dated July 13, 1988, as amended on December 5, 1988, between Northwest and Pacific Cogeneration. Northwest would receive the gas at any receipt point on its system and redeliver equivalent volumes, less fuel and lost and unaccounted for volumes, at any delivery point on its system.

Northwest further states that the estimated average daily and annual quantities would be 600 MMBtu and 220,000 MMBtu, respectively. Service under § 284.223(a) commenced on February 25, 1989, as reported in Docket No. ST89-2789-000, it is stated.

Comment date: May 22, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. Colorado Interstate Gas Company

[Docket No. CP89-1096-000]

Take notice that on March 29, 1989, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP89-1096-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas for Trigen Resources Corporation (Trigen), a marketer of natural gas, under its blanket certificate issued in Docket No. CP86-589-000, *et al.*, 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.

CIG states that it would transport up to 10,000 Mcf per day of natural gas for Trigen pursuant to a Transportation Service Agreement dated February 1, 1989, between CIG and Trigen. CIG further states that it would receive the natural gas from various existing points of receipt on its system in Wyoming, Oklahoma and Colorado and redeliver the natural gas less fuel gas and lost and unaccounted—for gas, for the account of Trigen in Adams, Douglas and Arapahoe Counties, Colorado. CIG indicates the estimated average daily and annual quantities would be 5,000 Mcf and 1.8 Bcf, respectively.

CIG states that it commenced the transportation of natural gas for Trigen on February 8, 1989, at Docket No. ST89-2650-000, for a 120-day period pursuant to § 284.223(a) of the Commission's Regulations (18 CFR 284.223(a)).

Comment date: May 22, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. Northwest Pipeline Corporation

[Docket No. CP89-1123-000]

Take notice that on March 31, 1989, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP89-1123-000, a request, pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205), for authorization to provide interruptible transportation service for Quinoco Trading Company, Inc. (Quinoco), a marketer of natural gas, under Northwest's blanket certificate issued in Docket No. CP86-578-000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Northwest states that, pursuant to a transportation service agreement dated January 6, 1987, as amended June 15, 1988, it proposes to transport up to 2,000 MMBtu per day of natural gas for Quinoco under its Rate Schedule TI-1. Northwest proposes to transport the subject gas from wells located in Rio Arriba and San Juan Counties, New Mexico to the existing LaJara point of interconnection with El Paso Natural Gas Company in Rio Arriba County, New Mexico. Northwest estimates that the average day, and annual transportation volumes would be 200 MMBtu and 70,000 MMBtu, respectively. Northwest advises that the services commenced February 1, 1989, as reported in Docket No. ST89-2790-000, pursuant to § 284.223(a) of the Commission's Regulations.

Comment date: May 22, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Natural Gas Pipeline Company of America

[Docket No. CP89-1138-000]

Take notice that on April 4, 1989, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois, 60148, filed in Docket No. CP89-1138-000 a request pursuant to the notice procedure in §§ 157.205 and 284.223 of the Commission's Regulations for authority to transport, on an interruptible basis, up to a maximum of 500,000 MMBtu (plus any additional volumes accepted pursuant to the overrun provisions of Natural's Rate Schedule ITS) for Hadson Gas Systems, Inc. (Hadson), a marketer of natural gas. The receipt points are located in Louisiana, Offshore Louisiana, Texas, Offshore Texas, Oklahoma and Kansas and the delivery points are located in Texas, Oklahoma, Louisiana, New

Mexico, Colorado and Illinois. Transportation would be preformed under Natural's blanket certificate issued in Docket No. CP86–582–000 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.

Natural commenced the transportation of natural gas for Hadson on February 1, 1989 at Docket No. ST89–2940 for a one hundred and twenty (120) day period ending June 1, 1989, pursuant to § 284.223(a)(1) of the Commission's Regulations and the blanket certificate issued to Natural in Docket No. CP89–582–000. Natural proposes to continue this service in accordance with §§ 284.221 and 284.223(b).

Comment date: May 22, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. K N Energy, Inc.

[Docket No. CP89–1136–000]

Take notice that on April 4, 1989, K N Energy, Inc. (K N), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP89–1136–000 a request pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct and operate sales taps for the delivery of gas to end users under the certificates issued in Docket Nos. CP83–140–000 and CP83–140–001 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.

K N states that it proposes to construct and operate sales taps to 6 end users located along its jurisdictional pipeline in Sheridan and Thomas Counties, Kansas, and Boone, Custer and Phelps Counties, Nebraska. The end use of the gas is stated to be for irrigation and electrical power generation purposes. K N states that the proposes sales taps are not prohibited by any of its tariffs and that the additional taps will have no significant impact on K N's peak day and annual deliveries.

Comment date: May 22, 1989, in accordance with Standard Paragraph G at the end of this notice.

8. United Gas Pipe Line Company

[Docket No. CP89–1144–000]

Take notice that on April 5, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1144–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Centran Corporation (Centran), a marketer, under the blanket certificate issued in Docket No. CP88–6–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement dated December 12, 1988, under its Rate Schedule ITS, it proposes to transport up to 10,039 MMBtu per day equivalent of natural gas for Centran. United states that it would transport the gas from multiple receipt points as shown in Exhibit "A" of the transportation agreement and would deliver the gas to multiple delivery points shown in Exhibit "B" of the agreement.

United advises that service under § 284.223(a) commenced February 13, 1989, as reported in Docket No. ST89–2765 (filed March 21, 1989). United further advises that it would transport 10, 039 MMBtu on an average day and 3,664,385 MMBtu annually.

Comment date: May 22, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. United Gas Pipe Line Company

[Docket No. CP89–1146–000]

Take notice that on April 5, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP89–1146–000 a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to provide an interruptible transportation service for Brock Gas Systems and Equipment, Inc. (Brock), a producer, under the blanket certificate issued in Docket No. CP88–6–000, pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

United states that pursuant to a transportation agreement dated October 12, 1988, as amended on February 13, 1989, under its Rate Schedule ITS, it proposes to transport up to 49,533 MMBtu per day equivalent of natural gas for Brock. United states that it would transport the gas from multiple receipt points as shown in Exhibit "A" of the transportation agreement and would deliver the gas to multiple delivery points shown in Exhibit "B" of the agreement.

United advises that service under § 284.223(a) commenced February 28, 1989, as reported in Docket No. ST89–2729 (filed March 20, 1989). United further advises that it would transport 49,533 MMBtu on an average day and 18,079,436 MMBtu annually.

Comment date: May 22, 1989, in accordance with Standard Paragraph G at the end of this notice.

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 therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Standard Paragraph

Any person desiring to be heard or make any protest with reference to said filings 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). 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 protestants parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a motion to intervene in accordance with the Commission's rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89–8922 Filed 4–13–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TQ89–2–23–000]

Eastern Shore Natural Gas Co.; Proposed Changes in FERC Gas Tariff

April 7, 1989.

Take notice that Eastern Shore Natural Gas Company (ESNG) tendered for filing on April 3, 1989 certain revised tariff sheets included in Appendix A attached to the filing. Such sheets are proposed to be effective May 1, 1989.

ESNG states that the purpose of the revised tariff sheets is twofold: (1) To implement ESNG's Quarterly Purchased Gas Adjustment filing and (2) to implement new surcharge rates (Demand 1, Demand 2, and Commodity, respectively).

ESNG further states that such tariff sheets are being filed pursuant to §§ 154.308 and 154.310 of the Commission's regulations and section 21 of the General Terms and Conditions of ESNG's FERC Gas Tariff to reflect changes in ESNG's jurisdictional rates. The sales rates set forth thereon reflect a decrease of $0.4116 per dt in the Commodity Charge; a decrease of $0.0344 per dt in the Demand Charge 1; and a decrease of $0.0006 per dt in the Demand Charge 2; all as measured against ESNG's previously scheduled PGA filing in Docket No. TQ89-1-23-001 as filed on January 9, 1989 and approved to be effective February 1, 1989. As measured against ESNG's currently effective sales rates as filed on March 29, 1989 in Docket No. TF89-3-23-000 to be effective April 1, 1989 the sales rates filed herein reflect an increase of $0.2006 per dt in the Commodity Charge; a decrease of $0.0344 per dt in the Demand Charge 1; and a decrease of $0.0006 per dt in the Demand Charge 2.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before April 14, 1989 Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8839 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL89-20-001]

Kentucky Utilities Co.; Filing

April 6, 1989.

Take notice that on March 13, 1989, Kentucky Utilities Company (KU) tendered for filing a request for waiver of FERC Regulation 35.14 to provide for a "KU-Coal Ridge December 22, 1983 Coal Contract Buy-out Recovery Plan" in the Company's fuel adjustment clause applicable to certain wholesale rate schedules. Amortization of the cost of the coal contract buy-out is proposed to begin effective October 1, 1988, therefore, KU requests waiver of the Commission's notice requirements.

Copies of this filing have been sent to all customers served on the related wholesale rate schedules and the Public Service Commission of Kentucky.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before April 20, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8865 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-139-000]

Michigan Gas Storage Co.; Filing

April 10, 1989.

Take notice that on March 31, 1989, Michigan Gas Storage Company (MGSC) filed a letter to notify the Commission that it has been flowing through and will flow through to its sole resale customer upstream pipeline take-or-pay buyout and buydown costs incurred by MGSC to its only pipeline supplier, Panhandle Eastern Pipe Line Company (Panhandle), pursuant to the terms of its cost-of-service tariff provisions. MGSC believes that no special filing to accomplish this flow-through is required.

MGSC states it is engaged in the businesses of transporting storing, purchasing and sale of natural gas in interstate commerce under authorization granted by and subject to the jurisdiction of the Commission. MGSC is a wholly-owned subsidiary of Consumers Power Company (Consumers Power), a public utility rendering natural gas service to over 1.3 million customers in the State of Michigan. Consumers Power is the only resale customer of MGSC.

MGSC states that its Commission approved tariff permits it to "demand and receive from Consumers Power Company rates and charges calculated on a current monthly cost of service basis. . . ." MGSC FERC Gas Tariff, Original Volume No. 1, Substitute Ninth Revised Sheet No. S. This tariff provision encompasses the upstream pipeline take-or-pay buyout and buydown costs incurred by MGSC under Commission-approved tariff provisions of Panhandle. MGSC states that it has no direct take-or-pay liability and no special tariff filing is required for it to collect these charges under the Statement of Policy promulgated by Commission Order No. 500.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such motions or protests should be filed on or before April 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8919 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-131-000]

Natural Gas Pipeline Co. of America; Changes in FERC Gas Tariff

April 7, 1989.

Take notice that on March 31, 1989, Natural Gas Pipeline Company of America (Natural) filed Original Sheet Nos. 171 and 172, Second Revised Sheet No. 166, and First Revised Sheet No. 168 to be a part of its FERC Gas Tariff, Third Revised Volume No. 1. The proposed effective date of the revised tariff sheets is May 1, 1989. The purpose of this filing is: (1) To revise Natural's tariff to incorporate a procedure for flow-through of take-or-pay and contract reformation costs from upstream pipeline suppliers in accordance with 18 CFR 2.104(e), including a related change

in the termination of Natural's cost recovery program, and (2) to apply these procedures to the flow-through of such costs from Colorado Interstate Gas Company (CIG).

Natural proposes to flow through its allocated portion of CIG Costs to its customers by using the direct-billing method of recovery. Costs will be allocated among Natural's customers based on past purchase deficiencies using the same Base and Deficiency Periods as CIG used in its filing. Natural's tariff incorporates procedures to permit recovery of future take-or-pay settlement costs assessed by CIG and its upstream suppliers or by other upstream pipeline suppliers to Natural.

Natural requests any waivers of the Commission's Regulations as are necessary to allow the tendered tariff sheets to become effective May 1, 1989. A copy of the filing was mailed to Natural's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or to protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211. All such motions or protests must be filed on or before April 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8840 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-136-000]

Northern Natural Gas Co.; Division of Enron Corp.; Proposed Changes in FERC Gas Tariff

April 7, 1989.

Take notice that Northern Natural Gas Company (Northern) on March 31, 1989 tendered for filing as a part of its FERC Gas Tariff Third Revised Volume No. 1 and Original Volume No. 2, certain tariff sheets to be effective May 1, 1989.

Northern states that the above-referenced tariff sheets are being filed to institute a Transition Cost Recovery Mechanism (TCR) under § 2.104 of the Commission's Regulations. Under the filing, Northern is proposing to absorb 25% of its transition costs and to recover 25% of such costs, plus interest, through a fixed monthly charge (TCR Monthly Fee) applicable to its firm sales customers and to recover the remaining 50% of such costs, plus interest, through a volumetric surcharge (TCR Surcharge) designed over total throughput.

Northern has requested that the Commission accept the tariff sheets containing the TCR Mechanism, to become effective May 1, 1989. These tariff sheets provide that Northern will commence charging the TCR Monthly Fee and TCR Surcharge on October 1, 1989.

Northern states that copies of the filing were served upon all of its customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Commission, 825 North Capitol Street NE., Washington, DC 20426, by April 14, 1989, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8841 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. GP84-42-000]

The Oil Conservation Division of the State of New Mexico; Preliminary Finding on Negative Notices of Determinations

Before Commissioners: Martha O. Hesse, Chairman; Charles G. Stalon, Charles A. Trabandit, Elizabeth Anne Moler and Jerry J. Langdon.

On May 31, 1984, the Oil Conservation Division of the State of New Mexico (New Mexico) notified the Commission that eight natural gas wells located in Lea County, New Mexcio, do not qualify as stripper gas wells under section 108 of the Natural Gas Policy Act of 1978 (NGPA).[1] New Mexico states that gas produced from each well either exceeds that 60 Mcf/day limit for the 90-day qualifying period or the 12-month period used to establish the maximum efficient rate of flow (MER) for the well or exceeds the applicable gas/oil ratio in § 271.803(b) of the regulations.[2] The gas produced from the subject wells is processed in a plant for the extraction of natural gas liquids, and the residue gas volumes are less than wellhead volumes of gas. New Mexico, however uses the higher "raw" gas wellhead volumes to calculate the average daily production.

On July 6, 1984, Gulf Oil Corporation (now Chevron U.S.A. Inc.) filed a protest stating that New Mexico's determinations were erroneous because 271.804(a)(2) of the Commission's regulations permits production to be measured either before or after the extraction of natural gas liquids.[3] Gulf supports its argument by quoting the NGPA Conference Report which states that "The 60 Mcf per day measurement is intended to be applied after extraction of natural gas liquids; production of natural gas liquids does not disqualify a well from qualifying as a natural gas stripper well."[4] Accordingly, Gulf urges that production from the wells did not exceed the maximum and the wells qualified as stripper well.

On July 13, 1984, Commission staff sent New Mexico a letter tolling the effectiveness of the negative determinations and advising it that Commission regulations permit production to be measured either before or after the extraction of natural gas liquids. Staff noted that production from the subject wells, when measured after natural gas liquids were extracted, meet the stripper well requirements. The letter requested a statement explaining

[1] 15 U.S.C. 3318 (1982). Under section 108 a well may qualify as a stripper well if it produces no more than an average of 60 Mcf per day of nonassociated natural gas per production day during the preceding 90-day production period provided that the well produced at its maximum efficient rate of flow (MER) during such period. For purposes of establishing an MER, § 271.807(b) of the regulations provides that 12 months of production may be used if that data shows that production did not exceed an average of 60 Mcf per production day during the period.

[2] 18 CFR 271.803(b) (1988). That section specifies the maximum amounts of oil that a stripper well can produce during the qualifying period which vary with the amount of gas produced:

Daily gas average during 90-day production period	Allowable oil production (BBL/Day)
50 Mcf to 60 Mcf	1 BBL.
30 Mcf or more but less than 50 Mcf	2 BBL.
Less than 30 Mcf	3BBL.

[3] 18 CFR 271.804(a)(2) (1985). That section provides that "Production may be measured either before or after the extraction of natural gas liquids."

[4] H.R. REP. No. 95-1752, 95th Cong., 2d. Sess. 89, reprinted in 1978 U.S. CODE CONG. & AD. NEWS 8983, 9005.

the basis for the negative determinations. No response was received at that time.

On March 10, 1988 staff sent New Mexico another letter. In it staff (a) informed New Mexico of the Commission's position that the production volumes from the subject wells when measured after the extraction of natural gas liquids meet the stripper well requirements; (b) submitted staff's calculations, consistent with the Commission's decision in *Ladd Petroleum Corp.*,[5] showing that the 90-day and 12-month averages for each well meet the requirements of the Commission's stripper well regulations; and (c) requested New Mexico to consider making affirmative determinations for the wells. On May 27, 1988, New Mexico responded by stating that it does not believe the subject wells qualify under section 108 of the NGPA, and declining the Commission's suggestion to reconsider the prior negative determination.

As the attached appendix shows,[6] if production is measured after the extraction of liquids as permitted by the Commission's regulations, the wells qualify as stripper wells. Because the Commission's regulations are controlling, we find that the eight negative notices of determinations submitted by New Mexico are not supported by substantial evidence. Accordingly, the Commission issues this preliminary finding under section 275.202 of the Commission's regulations.[7] Under § 275.202(f), New Mexico or any person may, within 30 days after issuance of this preliminary finding, submit written comments and request an informal conference with the Commission staff.

The Commission orders:

(A) Under § 275.202(a) of the Commission's regulations, the Commission finds that the eight negative notices of determinations submitted by New Mexico in this docket are not supported by substantial evidence in the record on which the determinations were made.

(B) Within 30 days from the date of this order, New Mexico, Gulf, or any other interested party may submit comments or request an informal conference with Commission staff.

By the Commission.

Lois D. Cashell,

Secretary.

[5] In Ladd Petroleum Corporation, 24 FERC ¶ 61,117 (1983) the Commission concluded that Congress, in determining what constitutes "non-associated natural gas," intended that volumes of liquids hydrocarbons produced from a well would not disqualify a well as a stripper well.

[6] The attached appendix also shows New Mexico's calculations using wellhead volumes.

[7] 18 CFR 275.202 (1988).

APPENDIX—NEW MEXICO NOTICES OF DETERMINATION

JD Number and well name	Wellhead volumes [1]				Residue volumes [2]		
	9-day Mcf/Day	12-month Mcf/Day	Actual oil production BBL/Day	Allowable oil production BBL/Day	90-day/ Mcf/Day	12-month Mcf/Day	Allowable oil production BBL/Day
JD84-35969, E.A. Sticher #3	54.12	56.84	1.7	1	42.6	46.5	2
JD84-35970, Central Drinkard Unit #156	39.05	32.65	2.39	2	29.3	3.26	3
JD84-35971, Central Drinkard Unit #403	45.25	76.41	[3]		38.4	46.6	
JD84-35972, Harry Leondard (NCT-D) #1	35.31	32.63	2.12	2	25.3	29.4	3
JD84-35973, Harry Leonard (NCT-FH) #4	30.92	26.24	2.59	2	22.2	24.0	3
JD84-35974, 34.19 #36.19	34.19	36.19	2.82	2	24.4	24.9	3
JD84-35975, Arnott Ramsay (NCT-C) #10	60.27	73.53	1.67	0	43.9	53.9	2
JD84-35976, Central Drinkard Unit #411	65.91	66.94	[3]		34.1	54.6	

[1] Wellhead volumes computed by New Mexico.
[2] Residue volumes computed by staff.
[3] None.

[FR Doc. 89-8923 Filed 4-13-89; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. RP89-144-000]

Pacific Interstate Offshore Co.; Compliance Filing of Proposed Changes in FERC Gas Tariff

April 7, 1989.

Take notice that Pacific Interstate Offshore Company ("PIOC") on April 3, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective May 1, 1989:

Original Sheet Nos. 6 through 19 and 105 through 108
Original Sheet Nos. 18-A, 18-B, 18-C, 21-A, 26-A and 31-A
First Revised Sheet Nos. 1, 20 and 22 through 34
Second Revised Sheet No. 2

PIOC states that the tariff sheets are being filed to comply with Orders issued by the Commission on December 9, 1988 (Order No. 509) and February 21, 1989 (Order No. 509A) in the above-docketed proceeding. PIOC is adding new Rate Schedules IT-1 and FT-1 to comply with § 284.305(e) of the Commission's Regulations which requires Outer Continental Shelf pipelines to file tariff provisions to provide firm and interruptible transportation and state the rules by which capacity will be allocated in the event requests for transportation exceed available capacity.

Copies of the filing were served on PIOC's customer, interested State Commission, producers near its facilities, and all parties who have indicated an interest since the issuance of the Commission's Orders. PIOC further indicated that its "open season" will commence April 1, 1989 and continue until April 20.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protest should be filed on or before April 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8842 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-143-000]

Pacific Offshore Pipeline Co.; Compliance Filing of Proposed Changes in FERC Gas Tariff

April 7, 1989.

Take notice that Pacific Offshore Pipeline Company ("POPCO") on April 3, 1989, tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1, to be effective May 1, 1989:

Original Sheet Nos. 8 through 19 and 105 through 108
Original Sheet Nos. 18-A, 18-B, 18-C, 18-D, 18-E, 18-F, 18-G, 22-A, 22-B, 25-A and 28-A
First Revised Sheet Nos. 2, 23 through 26, 28 and 31 through 34
Second Revised Sheet Nos. 1, 20, 21, and 22

POPCO states that the tariff sheets are being filed to comply with Orders issued by the Commission on December 9, 1988 (Order No. 509) and February 21, 1989 (Order No. 509A) in the above-docketed proceeding. POPCO is adding new Rate Schedules IT-1 and FT-1 to comply with § 284.305(e) of the Commission's Regulations which requires Outer Continental Shelf pipelines to file tariff provisions to provide firm and interruptible transportation and state the rules by which capacity will be allocated in the event requests for transportation exceed available capacity.

Copies of the filing were served on POPCO's customer, interested State Commission, producers near its facilities, and all parties who have indicated an interest since the issuance of the Commission's Orders. POPCO further indicated that its "open season" will commence April 1, 1989 and continue until April 20.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE. Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protest should be filed on or before April 14, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8843 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-125-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

April 7, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on March 31, 1989 tendered for filing the following proposed changes to its FERC Gas Tariff, original Volume No. 1:

Original Sheet No. 3-C.19
Original Sheet No. 3-C.20
Original Sheet No. 3-C.21
Second Revised Sheet No. 43-14

Panhandle proposed a May 1, 1989 effective date.

Panhandle states that the foregoing tariff sheets are being filed pursuant to Order No. 500 to recover additional take-or-pay settlement and contract reformation cost fixed surcharges which its pipeline supplier, Trunkline Gas Company, billed to Panhandle. As a downstream pipeline, Panhandle proposes to recover such costs on an as-billed basis, pursuant to § 2.104[e] of the Commission's General Policy and Interpretations. For fixed costs billed to Panhandle by its pipeline supplier, Panhandle will allocate such costs to its customers utilizing the same deficiency-based formula which its pipeline suplier utilized in allocating its fixed-charge take-or-pay settlement and contract reformation costs to Panhandle.

Panhandle further states that in light of the flow-through nature of this filing and the fact that no change in the allocation methodology proposed in Docket No. RP88-240-000 and in Docket No. RP89-10-000 is contained in this filing and because consolidation is sought herein, Panhandle sees no basis for expending oportunities for parties seeking to contest prudence. Thus, Panhandle suggests that no additional opportunity to contest prudence be permitted. In the alternative, Panhandle suggests that prudence elections be required to be made no later than 30 days from the date of a Commission order permitting these proposed tariff sheets to become effective. Panhandle expressly reserves the right, in the event of any such elections, to subject any unsuccessful litigant to such additional costs as the Commission may permit. For these purposes an unsuccessful litigant would include any party electing to contest prudence, customers subject to the ratesetting jurisdiction of a regulatory body which contests prudence, customers located within a state which has a state chartered consumer advocacy agency which contests prudence, as well as indirect customers.

In addition, Panhandle notes that its upstream pipeline suplier has proposed language on its revised tariff sheets respecting the "litigation exception" which may serve to permit later Order No. 500-type charges to Panhandle. Panhandle expressly reserves the right to make additional filings to recover such costs in the even such charges are sought to be recovered from Panhandle or if the sunset date for Order No. 500 type filings is extended.

Copies of the filing were served upon Panhandle's jurisdictional sales customers, interested state commissions and the parties in Docket No. RP88-262-000.

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 Rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before April 14, 1989. 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 Panhandle's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8844 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-134-000]

Panhandle Eastern Pipe Line Co.; Proposed Changes in FERC Gas Tariff

April 7, 1989.

Take notice that Panhandle Eastern Pipe Line Company (Panhandle) on March 31, 1989 tendered for filing the following proposed changes to its FERC Gas tariff, Original Volume No. 1:

Original Sheet No. 3-C.16
Original Sheet No. 3-C.17
Original Sheet No. 3-C.18
Third Revised Sheet No. 43-12

The subject tariff sheets bear an issue date of March 31, 1989, and a proposed effective date of May 1, 1989.

Panhandle states this filing reflects fixed demand surcharges to effectuate the recovery of 50% of take-or-pay buyout and buydowns of gas purchase arrangements with producer suppliers as described below. The take-or-pay settlement costs to be recovered in the instant filing reflect (i) verbal or written obligations to pay as of March 31, 1989, the instant filing date, not previously permitted to be recovered in the earlier filings and (ii) non-cash consideration agreed to be provided in partial settlement of take-or-pay buyout and buydown exposure permitted by Commission Order No. 500.

Panhandle states the additional fixed take-or-pay charge is billed in addition to Panhandle's currently effective rates, including the fixed take-or-pay charges approved subject to refund and conditions, in Docket Nos. RP88–241–000 and RP89–9–000 which recover 50% of Panhandle's take-or-pay costs incurred prior to October 28, 1988.

Panhandle proposes in this filing to allocate the additional take-or-pay costs to its jurisdictional sales customers in accordance with the methodology approved, subject to refund and conditions, by the Commission in its Orders in Docket Nos. RP88–241–000 and RP89–9–000.

Panhandle states the additional fixed demand surcharges are allocated among the firm sales customers on the basis of a comparison of their firm purchases during the deficiency period years 1982 through 1987, with their individual firm purchases in base period year 1981.

In accordance with Order 500–F, which extended the sunset date to permit Panhandle to file tariff language to provide for the recovery of eligible costs under contracts which are subject to litigation on that date, Third Revised Sheet No. 43–12 is submitted herewith.

Upon approval of this filing, these lump-sum fixed demand surcharges would be billed in accordance with Section 23 of the General Terms and Conditions of Original Volume No.1 of Panhandle's tariff.

In accordance with Order No. 500 Panhandle is agreeing in this filing to absorb an amount equal to the costs Panhandle is permitted to recover through fixed demand surcharges. Panhandle reserves the right, however, in the event any customer elects to challenge the prudence of the take-or-pay settlement and contract reformation costs which Panhandle seeks to recover by this filing, to bill to that party, by means of a fixed demand surcharge, its *full* pro rata share of the subject costs found to be prudently incurred (in addition to such further costs as the Commission may permit). Panhandle also reserves the right to recover through demand surcharges, the full pro rata share of the subject costs found to be recoverable from customers under the jurisdiction of a state agency that elects to contest the prudence of the subject costs. To facilitate the disposition of this matter, Panhandle requests the Commission to require that any party choosing to contest the prudence of the subject costs be provided only a limited amount of time to make such an election and that such election be deemed to be irrevocable except as Panhandle may otherwise consent.

Panhandle states that this filing uses the same methodology and supplements the take-or-pay settlement cost recovery filings in the consolidated proceedings in Docket No. RP88–241–000 and Docket No. RP89–9–000. Common issues of law and fact will be present in this and in those filings. Consolidation is warranted to assist in the prompt and expeditious resolution of these take-or-pay matters, which consolidation Panhandle respectfully requests.

Panhandle requests that the Commission waive the filing requirements of § 154.63 of the Commission's Regulations and the provisions of Section 154.66 to accept, without delay, Panhandle's filing herein and the material incorporated herein by reference, as the cost and revenue support for this filing, permitting the same to become effective on May 1, 1989.

Panhandle requests waiver of the provisions of § 284.7(d)(5)(iii) of the Commission's Regulations to the extent the same may be necessary to permit the recovery of certain non-cash consideration for take-or-pay buyouts and buydowns.

Panhandle asks the Commission to grant all necessary waivers so as to place the instant tariff sheets and attendant rates into effect on May 1, 1989. Since the instant filing effectuates the cost sharing policy of Order No. 500 and Order No. 500–F, good cause exists to place such tariff sheets into effect on an expeditious basis.

Copies of the filing were served upon Panhandle's jurisdictional sales customers and interested state commissions and the parties in Docket No. RP88–262–000.

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 April 14, 1989. 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 Panhandle's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–8845 Filed 4–13–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. TA89–1–55–000]

Questar Pipeline Co.; Rate Change

April 7, 1989.

Take notice that on April 3, 1989, Questar Pipeline Company tendered for filing and acceptance Twenty-first Revised Sheet No. 12 to its FERC Gas Tariff, First Revised Volume No. 1, to be effective June 1, 1989.

Questar Pipeline states that the purpose of this filing is to adjust the purchased gas costs under its sale-for-resale Rate Schedule CD–1 effective June 1, 1989.

Questar Pipeline further states that Twenty-first Revised Sheet No. 12 shows a commodity base cost of purchased gas as adjusted of $2.38358/Dth which is $0.34821/Dth higher than the currently effective rate of $2.03537/Dth. The demand base cost of purchased gas as adjusted is increased by $0.00059/Mcf to $0.01416/Mcf.

Questar Pipeline states that it has provided a copy of the filing to its sales customer and state public service commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before May 5, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file

with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8846 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-141-000]

Sea Robin Pipeline Co.; Tariff Filing

April 7, 1989.

Take notice that on March 31, 1989 Sea Robin Piepline Company (Sea Robin) tendered for filing the following Tariff Sheet as part of its FERC Gas Tariff, Volume No. 1:

Original Sheet 4-D

Sea Robin states that this filing is made in order for Sea Robin to implement a take-or-pay recovery mechanism consistent with the Commission's Order No. 500 series.

Sea Robin states this tariff sheet reflects its absorption of 50 percent of its buy-out and buy-down costs which Sea Robin has either actually paid or has become obligated to pay on or before March 31, 1989 and reflects direct billing of the remaining 50 percent of the buy-out and buy-down costs to its jurisdictional sales customers.

Sea Robin has requested an effective date of April 1, 1989 for the tariff sheet and is also requesting such waivers as are necessary for the tariff sheet to become effective on such date.

Copies of this filing are being served upon Sea Robin's jurisdictional sales customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a Motion to Intervene or Protest with the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with §§ 385.214 and 385.211 of the Commission's Regulations. All such motions or protests should be filed on or before April 14, 1989.

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 in accordance with the Commission's Regulations. Copies of this filing are on file with the Commission and are also available at Sea Robin's offices in Houston, Texas and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8847 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-59-001]

Transwestern Pipeline Co.; Filing

April 10, 1989.

Take notice that on March 31, 1989, Transwestern Pipeline Company (Transwestern) filed certain tariff sheets to become part of its FERC Gas Tariff, Second Revised Volume No. 1.

Transwestern states that the purpose of this filing is to comply with various conditions stated in the Commission's order of March 1, 1989. Transwestern states that the instant filing reflects the approved effective date of February 1, 1989 to its tariff sheets. Also, Transwestern states, the tariff language relating to the extended amortization period for Williams is included in 2nd Substitute Original Sheet No. 89, effective December 1, 1988, the date the Commission approved Transwestern's first TCR mechanism in Docket No. RP88-198-004 and -005.

Transwestern requests waiver of any applicable Commission Regulation to allow 2nd Substitute Original Sheet No. 89 to become effective on December 1, 1988. Transwestern requests waiver of any applicable Commission Regulation to allow the remaining tariff sheets to become effective February 1, 1989, as approved in the Commission's March 1, 1989 order.

Transwestern states that copies of this filing have been mailed to its gas utility customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure [18 CFR 385.214, 385.211 (1988)]. All such motions or protests should be filed on or before April 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-8920 Filed 4-13-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-129-000]

Trunkline Gas Co.; Proposed Changes in FERC Gas Tariff

April 7, 1989.

Take notice that Trunkline Gas Company (Trunkline) on March 31, 1989 tendered for filing the following proposed changes to its FERC Gas Tariff, Original Volume No. 1:

Original Sheet No. 3-A.9
Original Sheet No. 3-A.10
Fourth Revised Sheet No. 21-0
Fourth Revised Sheet No. 21-P

The subject tariff sheets bear an issue date of March 31, 1989, and a proposed effective date of May 1, 1989.

The proposed tariff sheets reflect fixed demand surcharges to effectuate the recovery of 50% of take-or-pay buyout and buydowns of gas purchase arrangements with producers suppliers as described below. The take-or-pay settlement costs to be recovered in the instant filing reflect verbal or written obligations to pay as of March 31, 1989, the instant filing date, not previously permitted to be recovered in the earlier filings.

This additional fixed take-or-pay charge will be billed in addition to Trunkline's currently effective rates, including the fixed take-or-pay charges approved subject to refund and conditions, in Docket Nos. RP88-239-000 and RP89-11-000 which recover 50% of Trunkline's take-or-pay costs incurred prior to October 28, 1988.

Trunkline proposes in this filing to allocate the additional take-or-pay costs to its jurisdictional sales customers, including Mississippi River Transmission Corporation, in accordance with the methodology approved, subject to refund and conditions, by the Commission in its Orders in Docket Nos. RP88-239-000 and RP89-11-000 and as modified by the Commission's Order of March 24, 1989 in Docket No. RP88-239-006.

Trunkline states that this filing uses the same methodology and supplements the take-or-pay settlement cost recovery filings in the consolidated proceedings in Docket No. RP-88-239-000 and Docket No. RP89-11-000.

For this reason Trunkline requests consolidation of this take-or-pay buyout and buydown recovery filing with Docket Nos. RP89-11-000 and RP88-239-000.

Trunkline requests that the Commission waive the filing requirements of § 154.63 of the Commission's Regulations and the provisions of § 154.66 to accept, without delay, Trunkline's filing herein and the

material incorporated herein by reference, as the cost and revenue support for this filing, permitting the same to become effective on May 1, 1989.

Trunkline asks the Commission to grant all necessary waivers so as to place the instant tariff sheets and attendant rates into effect on May 1, 1989. Since the instant filing effectuates the cost sharing policy of Order Nos. 500 and Order No. 500–F, good cause exists to place such tariff sheets into effect on an expeditious basis.

Copies of the filing were served upon Trunkline's jurisdictional sales customers and interested state commissions and all parties to the Docket No. RP88–180–000 proceeding.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 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 April 14, 1989. 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 Trunkline's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–8848 Filed 4–13–89; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP89–140–001]

Williams Natural Gas Co., Proposed Changes in FERC Gas Tariff

April 10, 1989.

Take notice that on April 6, 1989, Williams Natural Gas Company (WNG) submitted the following revised tariff sheets to its FERC Gas Tariff:

Original Volume No. 1

Revised Sixth Revised Sheet No. 2.
Substitute Eleventh Revised Sheet No. 6.
Revised Original Sheet No. 6E.
Substitute Tenth Revised Sheet No. 7.
Revised Third Revised Sheet Nos. 31 and 38.
Revised Original Sheet Nos. 112–115.

Original Volume No. 2

Revised Second Revised Sheet Nos. 133, 150 and 192.
Revised Third Revised Sheet No. 309.

WNG states the tariff sheets are filed to amend its Order No. 500 recovery filing, filed March 31, 1989 in Docket No. RP89–140–000 to change the effective date from April 1, 1989 to May 1, 1989 and to amend the Settlement Costs by a net decrease of approximately $879,000 to reflect a $8,000 verbal obligation made late in the day March 31, 1989 and a correction of approximately $887,000 in Settlement Costs that was inadvertently duplicated.

WNG states Substitute Eleventh Revised Sheet No. 6 and Substitute Tenth Revised Sheet No. 7 are being filed to reflect the Annual PGA filing in Docket No. TA89–1–43, which the Commission has not acted upon yet.

WNG states that proprietary material related to its Settlements with producers has been included in a non-public copy filed with the Commission and the sensitive material has been deleted from the public copies of the filing which have been mailed to WNG's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be mailed on or before April 17, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89–8920 Filed 4–13–89; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

Clean Coal Technology; Program Opportunity Notice

AGENCY: Office of Fossil Energy, Department of Energy (DOE).

ACTION: Notice of the issuance of a Program Opportunity Notice (PON) for the Clean Coal Technology Program.

SUMMARY: On May 1, 1989, DOE will issue a PON, No. DE–PS01–89FE61825, that solicits proposals for cost-shared projects to demonstrate clean coal technologies that could be commercialized in the 1990's. A total of $545.5 million is available for financial assistance awards under this solicitation.

DATE: Proposals must be received by DOE at the address indicated in the PON by no later than 4:30 p.m. local time, Washington, DC, on August 29, 1989.

ADDRESSES:

Copies of the PON may be obtained by writing to: U.S. Department of Energy, P.O. Box 2500, Attn: Document Control Specialist, MA–451.1, Washington, DC 20013.

Copies of the PON may be picked up at: U.S. Department of Energy, Office of Procurement Operations, Document Control Specialist, Forrestal Building, Room 1J–005, 1000 Independence Avenue SW., Washington, DC.

Oral and written requests for the PON should include a reference to the solicitation number, DE–PS01–89FE61825. Copies of the PON may be picked up between the hours of 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays. Persons who have received previous Clean Coal Technology solicitations (Nos. DE–PS01–86FE60966 and DE–PS01–88FE61530), as well as those who attended the Clean Coal Technology public meetings DOE held on December 2, 1988, and on January 18, February 2 and February 16, 1989, need not submit a request for the PON. One copy of the PON will be mailed to such persons on May 1, 1989.

SUPPLEMENTARY INFORMATION: On September 27, 1988, the President signed Pub. L. 100–446, "An Act Making Appropriations for the Department of Interior and Related Agencies for the Fiscal Year Ending September 30, 1989, and for other Purposes." The Act appropriates $575 million for DOE to conduct and make cost-shared financial assistance awards under a third competitive solicitation for clean coal technology demonstration projects.

On March 6, 1989, a notice was published in the **Federal Register** (54 FR 9250) announcing the availability of a draft PON which would be issued on March 15, 1989, for public comment. The public comment period closed on March 31, 1989.

DOE has scheduled a preproposal conference to occur at 10:00 a.m. on May 18, 1989, at the Thomas Jefferson Auditorium, U.S. Department of Agriculture (South Building between the 5th and 6th wings), 14th and Independence Avenue SW., Washington, DC.

DOE expects to complete the evaluation and selection of proposals by approximately December 27, 1989.

FOR FURTHER INFORMATION CONTACT:
Mr. Herbert D. Watkins, Tel. (202) 586–1026.

Signed in Washington, DC, this 7th day of April 1989 for the U.S. Department of Energy.

Jeffrey Rubenstein,

Director of Contract Operation "A", Office of Procurement Operations.

[FR Doc. 89–8892 Filed 4–13–89; 8:45 am]

BILLING CODE 6540–01–M

Office of Hearings and Appeals

Cases Filed During the Week of February 3 Through February 10, 1989

During the Week of February 3 through February 10, 1989, the appeals and applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Office of Hearings and Appeals.

April 7, 1989.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Feb. 3 through 10, 1989]

Date	Name and location of applicant	Case No.	Type of Submission
Feb. 6, 1989	Aminoil/Minnegasco, Inc., Hardin, KY.	RR139–64	Request for modification/recission. If granted: The January 31, 1989 Decision and Order issued to Minnegasco, Inc. (Case No. RF139–205) in the aminoil special refund proceeding would be modified.
Feb. 7, 1989	Aminoil/W&S Propane Co., St. Louis, MO.	RR139–66	Request for modification/rescission. If Granted: The January 6, 1989, Decision and Order issued to W&S Propane Company (Case No. RF139–175) in the Aminoil special refund proceeding would be modified.
Do	Aminoil/Valley Gas, Inc., St. Louis, MO.	RR139–67	Request for modification/rescission. If granted: The January 6, 1989 Decision and Order issued to Valley Gas, Inc. in the Aminoil special refund proceeding would be modified.
Do	Aminoil/Isaacson's Bottled Gas, St. Louis, MO.	RR139–68	Request for modification/rescission. If granted: The January 6, 1989, Decision and Order issued to White Bros. Gas Company (Case No. RF139–167) in the Aminoil special refund proceeding would be modified.
Do	Aminoil/White Bros. Gas Co	RR139–69	Request for modification/rescission. If granted: The January 6, 1989 Decision and Order issued to White Bros. Gas Company (Case No. RF139–167) in the Aminoil special refund proceeding would be modified.
Do	Joseph William Parmelee, Cave Junction, OR.	KFA–0263	Appeal of an information request denial. If granted: The January 4, 1989, Freedom of Information Request Denial issued by the Chief of FOI and Privacy Act, Office of Administrative Services would be rescinded and Mr. Parmelee would receive access to information and records regarding Mr. Parmelee.
Do	Strattanville Auto Truck Center, Pinehurst, NC.	RR272–23	Request for modification/rescission. If granted: The January 25, 1989 Decision and Order issued to Strattanville Auto Truck Center in the Crude Oil Refund Proceeding would be modified.
Feb. 8, 1989	The Augusta Chronicle/Augusta Herald, Augusta, GA.	KFA–0264	Appeal of an information request denial. If granted: The January 10, 1989, Freedom of Information Request Denial issued by the Savannah River Operations Office would be rescinded and the Augusta Chronicle/Augusta Herald would receive access to records reflecting bonuses paid to certain individuals during the last eight years.
Feb. 10, 1989	Citizen/Labor Energy Coalition, Washington, DC.	KFA–0265	Appeal of an information request denial. If granted: The Citizen/Labor Energy Coalition would receive access all studies, analyses, memoranda, and other documents pertaining to the impact of declining oil prices on the U.S. economy.
Do	Richome Oil & Gas Co., Dallas, TX.	KRF–0710 and HRH–0710	Motion for discovery and request for evidentiary hearing. If granted: Discovery would be granted and an evidentiary hearing convened in connection with a Statement of Objections submitted by Richmone Oil & Gas Company in response to a Proposed Remedial Order (Case No. KRO–0710) issued to the firm.

REFUND APPLICATIONS RECEIVED

[Week of Feb. 3, 1989 to Feb. 10, 1989]

Date received	Name of refund proceeding/ Name of refund applicant	Case No.
2/2/89	Golden Arrow Dairy	RF311–8
2/2/89	Allied Heating of Sharon Hire	RF300–10683
2/3/89 thru 2/10/89	Crude Oil Refund, Applications Received.	RF272–75226 thru 75286
2/3/89 thru 2/10/89	Murphy Oil Refund, Applications Received.	RF309–854 thru RF309–877
2/3/89 thru 2/10/89	Atlantic Richfield Refund, Applications Received.	RF304–7791 thru RF304–7834
2/3/89 thru 2/10/89	Exxon Refund, Applications Received.	RF307–8143 thru RF307–8268
2/3/89 thru 2/10/89	Shell Refund, Applications Received.	RF315–2586 thru RF315–2998

REFUND APPLICATIONS RECEIVED—Continued

[Week of Feb. 3, 1989 to Feb. 10, 1989]

Date received	Name of refund proceeding/ Name of refund applicant	Case No.
2/3/89	John T. Rossmaier	RC272–17
2/15/89	Ready Mix, Inc	RC272–18
2/6/89	New York Petroleum et al	RF–302–4
2/6/88	Dixie Oil Co., Ala, Inc	RF314–9
2/6/89	Neal's Kingman Gulf	RF300–10684
2/6/89	Toppy's, Inc	RF300–10685
2/6/89	W.C. Rice Oil Co., Inc	RF313–45
2/9/89	South Haven LP Gas Company	RF300–10687
2/10/89	Save-X, USA, Inc	RF313–47
2/10/89	Blackmon Oil Company, Inc	RF313–48
2/10/89	Jim's Gulf	RF300–10688
2/10/89	Matherson's Gulf	RF300–10689
2/6/89	Pikesville Crown	RF313–46

[FR Doc. 89–8893 Filed 4–13–89; 8:45 am]

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Cases Filed During the Week of March 3 Through March 10, 1989

During the Week of March 3 through March 10, 1989, the appeal and the applications for other relief listed in the Appendix to this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Under DOE procedural regulations, 10 CFR Part 205, any person who will be aggrieved by the DOE action sought in these cases may file written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of the regulations, the date of service of notice is deemed to be the date of publication of this Notice of the date of

receipt by an aggrieved person of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 7, 1989.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of Mar. 3 through Mar. 10, 1989]

Date	Name and location of applicant	Case No.	Type of submission
Mar. 6, 1989	Amoco/Amoco/Coline/ National Helium, Belridge/ Perry Gas/New Mexico, Santa Fe, NM.	RM21-147 RM251-148 RM2-149 RM3-150 RM8-151 RM183-152	Request for modification rescission. If granted: The October 18, 1988, Decision and Order (Case Nos. RQ3-21-471, RQ251-473, RQ2-474, RQ475, RQ8-476, RQ183-477) issued to New Mexico would be modified regarding the state's application for refund submitted in the Amoco, Amoco II, Coline, National Helium, Belridge and Perry Gas second stage refund proceeding.
Do	National Resources Defense Council, Washington, DC.	KFA-0272	Appeal of an information request denial. If granted: The January 31, 1989, Freedom of Information Request Denial issued by the Special Isotope Seperation Program Office would be rescinded and the Natural Resources Defense Council would receive access to the inventory of all DOE fuel-grade plutonium as of calendar year 1988.

REFUND APPLICATIONS RECEIVED

Date received	Name of Refund Proceeding/ Name of Refund Applicant	Case No.
03/03/89 thru 03/10/89	Gulf Oil Refund, Applications received.	RF300-10709 thru RF300-10731
03/03/89 thru 03/03/89	Crude Oil Refund, Applications Received.	RF272-75354 thru RF272-75378
03/03/89 thru 03/10/89	Murphy Refund, Applications Received.	RF309-927 thru RF309-964
03/03/89 thru 03/10/89	Atlantic Richfield Refund, Applications Received.	RF304-7968 thru RF304-8071
03/03/89 thru 03/10/89	Exxon Refund, Applications Received.	RF307-9292 thru RF307-9647
03/03/89 thru 03/10/89	Shell Oil Refund, Applications Received.	RF315-4130 thru RF315-4418
03/03/89	Donald Hawkins	RC272-20
03/03/89	Farmland Industries, Inc	RF317-4
03/05/89	Larry Bliss	RA272-6
03/06/89	Bergeron's Getty	RF265-2773
03/06/89	Russ's Getty, Inc	RF265-2774
03/06/89	Airport Getty	RF265-2775
03/06/89	Frank's Getty	RF265-2776
03/06/89	Meadowbrook Getty	RF265-2777
03/06/89	Anderson Brother's Getty	RF265-2778
03/06/89	Getty Service Station	RF265-2779
03/06/89	North Avenue Getty	RF265-2780
03/10/89	Ron's Crown	RF313-75
03/10/89	Ecno Oil, Inc	RF313-85
03/10/89	D.O. Blevins Sons, Inc	RF313-86
03/10/89	Beaty Oil Company, Inc	RF313-87
03/10/89	Lucky Petroleum Company	RF313-88
03/10/89	Anderson Oil Co	RF313-76
03/10/89	Freitag Crown, Inc	RF313-77
03/10/89	Virginia Electric and Power Co	RF313-78
03/10/89	General Oil Distributors, Inc	RF313-79
03/10/89	Tiger Fuel Company	RF313-80
03/10/89	Sanford & Charles, Inc	RF313-81
03/10/89	Sanford & Charles, Inc	RF313-82
03/10/89	Rogers Oil Company, Inc	RF313-83
03/10/89	Laney Oil Company, Inc	RF313-84
03/10/89	Wurster Oil Company, Inc	RF314-22
03/13/89	The Little Oil Company, Inc	RF313-89
03/13/89	G.A.M. Enterprises, Inc	RF313-90
03/13/89	J.A. Youngblood, Inc	RF313-91
03/13/89	Bells Crown Station	RF313-92
03/13/89	Smith Petroleum, Inc	RF314-21
03/13/89	Triad Chemical	RF314-23
03/13/89	Bells Crown Station	RF313-92
03/13/89	Smith Petroleum, Inc	RF314-21
03/13/89	Triad Chemical	RF314-23

[FR Doc. 89-8894 Filed 4-13-89; 8:45 am]

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Issuance of Decisions and Orders During the Week of February 20 Through February 24, 1989

During the week of February 20 through February 24, 1989 the decisions and orders summarized below were issued with respect to applications for exception or other relief filed with the Office of Hearing and Appeals of the Department of Energy. The following summary also contains a list of submissions that were dismissed by the Office of Hearings and Appeals.

Getty Oil Company/Richardson Ayres Jobber, Inc., 2/21/89, RF265-2255, RF265-2256

The DOE issued a Decision and Order concerning two Application for Refund filed by Richardson Ayers Jobber, Inc. (Ayres), a retailer/reseller or motor gasoline and middle distillates that were covered in the Getty Oil Company Special Refund Proceeding. Ayers submitted information indicating purchasers of 113,083,001 gallons of motor gasoline and 36,216,277 gallons of middle distillates from Getty during the consent order period. It elected to limit its claims on the basis of the level-of-distribution presumption of injury methodology and was eligible for a refund of the $50,000 threshold ceiling. The sum of the refund approved in this Decision is $103,080, representing $50,000 in principal and $53,080 in accrued interest.

Request for Exception

Brown Oil Company, 2/22/89, KEE-0168

Brown Oil Company (Brown) filed an Application for Exception from the requirement that it filed Form EIA-782B, entitled "Resellers'/Retailers' Monthly Petroleum Product Sales Report." In considering the Application, the DOE found that Brown's reporting burden was not significantly different from that of other firms participating in the EIA-782B survey. Accordingly, exception relief was denied.

Interlocutory Order

Economic Regulatory Administration, 2/23/89, KRZ-0091

The Economic Regulatory Administration (ERA) of the Department of Energy filed a request asking the Office of Hearings and Appeals (OHA) to issue subpoena to compel the testimony of certain persons at an evidentiary hearing to be convened in connection with the enforcement proceeding involving Southwestern States Marketing Corporation and Kenneth Walker. In considering the request, OHA found that the testimony of the persons whose testimony was sought by compulsion would materially advance the enforcement proceeding referred to above, and granted ERA's request.

Refund Applications

Aminoil U.S.S., Inc./Vanguard Petroleum Corp., 2/21/89, RF139-112

The DOE issued a Decision and Order concerning an Application for Refund filed by Vanguard Petroleum Corporation in the Aminoil U.S.A., Inc. special refund proceeding. The firm submitted cost banks which indicated that it did not recover the full amount of its increased costs during the period of regulation. Vanguard also submitted market price comparisons which indicated that the firm was injured to the full extent of its volumetric allocation by its cash purchases from

Aminoil. After examining the firm's application and supporting documentation, the DOE concluded that Vanguard should receive a refund of $909,101 in principal and a proportionate share of the accrued interest.

Atlantic Richfield Company/Roosevelt and Meyers Arco, 2/21/89, RF304–1581, RF304–1582, RF304–1583

The DOE issued a Decision and Order concerning three Applications for Refund filed by Dennis Phillips on behalf of Roosevelt and Meyers ARCO (Roosevelt & Meyers) in the Atlantic Richfield Company (ARCO) special refund proceeding. Mr. Phillips requested a refund based on purchases of ARCO motor gasoline made by himself and the two previous owners of Roosevelt & Meyers during the ARCO concent order period. The DOE determined that Mr. Phillips was entitled to a refund for only those purchases of ARCO gasoline which he made as owner of Roosevelt & Meyers. Therefore, two of the applications were denied (Case Nos. RF304–1582 and RF304–1583), and one application (Case No. RF304–1581) was granted for a total refund of $631 ($493 in principal and $138 in interest).

Atlantic Richfield Company Wooten's Arco Service et al., 2/21/89, RF304–858 et al.

The DOE issued a Decision and Order concerning nine Applications for Refund filed in the Atlantic Richfield Company (ARCO) special refund proceeding. All of the applicants documented the volume of their ARCO purchases and were end users or reseller/retailers requesting refunds $5,000 or less. Therefore, each applicant was presumed injured. The refunds granted in this Decision totalled $16,089 ($12,565 in principal and $3,524 in interest).

Crown Central Petroleum Corporation/Bee's Super Service, Inc., et al., 2/21/89, RF313–4 et al.

The DOE issued a Decision and Order granting applications filed by seven purchasers of Crown refined petroleum products in the Crown Central Petroleum Corporation special refund proceeding. According to the procedures set forth in *Crown Central Petroleum Corp.*, 18 DOE ¶85,326 (1988), each applicant was found to be eligible for a refund based on the volume of products it purchased from Crown. The total amount of refunds approved in this Decision was $41,633, representing $36,046 in principal plus $5,587 in accrued interest.

Crown Central Petroleum Corporation/Margeo Petroleum Company, Inc. Petroleum Purchasing, Inc., 2/22/89, RF313–33, RF313–34

The DOE issued a Decision and Order granting applications filed by two purchasers of Crown refined petroleum products in the Crown Central Petroleum Corporation special refund proceeding. According to the procedures set forth in *Crown Central Petroleum Corp.*, 18 DOE ¶85,326 (1988), each applicant was found to be eligible for a refund based on the volume of products it purchased from Crown. The total amount of refunds approved in this Decision was $24,133, representing $20,894 in principal plus $3,239 in accrued interest.

Crown Central Petroleum Corporation/Union Petroleum Co., Inc., et al., 2/21/89 RF313–24 et al.

The DOE issued a Decision and Order granting applications filed by six purchasers of Crown refined petroleum products in the Crown Central Petroleum Corporation special refund proceeding. According to the procedures set forth in *Crown Central Petroleum Corp.*, 18 DOE ¶85,326 (1988) each applicant was found to be eligible for a refund based on the volume of products it purchased from Crown. The total amount of refunds approved in this Decision was $24,827, representing $21,495 in principal plus $3,332 in accrued interest.

Exxon Corporation/Northwood Exxon et al., 2/23,89, RF307–308 et al.

The Office of Hearings and Appeals of the Department of Energy issued a Decision and Order granting 50 Applications for Refund from consent order funds obtained from Exxon Corporation. Each aplicant sought a refund of less than $5,000, and was therefore presumed to have suffered injury as a result of Exxon's alleged overcharges. The sum of the refunds granted is $33,633.

Exxon Corporation/R.M. Van Lyssel et al., 2/21/89, RF307–2046 et al.

The DOE issued a Decision and Order concerning 49 Applications for Refund filed in the Exxon Corporation special refund proceeding. Each of the Applicants purchased directly from Exxon and was either a reseller whose allocable share is less than $5,000 or an end-user of Exxon products. Each applicant was found eligible to receive a refund equal to its full allocable share. The sum of the refunds granted in this Decision is $30,933 ($26,719 principal plus $4,214 interest).

Exxon Corporation/Rach's Pacific Exxon et al., 2/21/89, RF307–1745 et al.

The Office of Hearings and Appeals of the Department of Energy issued a Decision and Order granting 14 Applications for Refund from consent order funds obtained from Exxon Corporation. Each Applicant sought a refund of less than $5,000, and was therefore presumed to have suffered injury as a result of Exxon's alleged overcharges. The sum of the refunds granted is $9,476.

Getty Oil Company/Chevron U.S.A., Inc., 2/22/89, RF265–2467

The DOE issued a Decision and Order concerning an Application for Refund filed by Chevron U.S.A., Inc. (Chevron), a reseller of natural gas liquid products that were covered in the Getty Oil Company Special Refund Proceeding. Chevron submitted documentation substantiating that during the consent order period it maintained banks of unrecovered costs. Chevron also provided purchase cost data for butane/isobutane, propane, natural gasoline and ethane for the relevant period. Using the competitive disadvantage methodology, the DOE determined that Chevron should receive a refund consisting of its full volumetric allocation amount for its butane/isobutane purchases and only the above-market share of its purchases of propane, natural gasoline and ethane from Getty. The total refund approved in this Decision is $145,144, representing $70,449 in principal and $74,695 in accrued interest.

Gulf Oil Corporation/Allied-General Nuclear Services, 2/22/89, RF300–577

The Department of Energy issued a Decision and Order to Allied-General Nuclear Services in the Gulf Oil Corporation special refund proceeding. Gulf owned at least 25 percent of Allied-General throughout the consent order period. To award Allied-General a refund in the Gulf proceeding would in effect award a refund to the Gulf Oil Corporation, the consent order firm in this proceeding. This would not comport with the goal of a 10 CFR Subpart V refund proceeding which is to provide restitution to parties injured by a consent order firm's alleged overcharges. Therefore, Allied-General's Application for Refund was denied.

Gulf Oil Corporation/Avis Rent-A-Car, et al., 2/23/89, RF300–599, et al.

The DOE issued a Decision and Order concerning 36 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved under the small-claims presumption of injury. One of the applicants, Franklin & Son, Inc.

(Case No. RF300–2315), purchased Gulf products through a Gulf consignee agent: C.W. Parks. C.W. Parks received a refund in the Gulf proceeding under the 10 percent presumption of injury for consignees (Case No. RF300–1843). It was determined that claimants who purchased Gulf product through Gulf consignee agents should be treated in the same manner as claimants who purchased Gulf products directly from Gulf. The sum of the refunds granted in this Decision, is $61,580.

Gulf Oil Corporation/Clarence J. Marek, et al., 2/21/89, RF300–1343, et al.

The DOE issued a Decision and Order concerning seven Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision is $14,170.

Gulf Oil Corporation/Gaddis-Tate Oil Company, Inc., et al., 2/24/89, RF300–378, et al.

The DOE issued a Decision and Order concerning six Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision is $54,575.

Gulf Oil Corporation/Leominster Ice Co., Inc., et al., 2/21/89, RF300–7601, et al.

The DOE issued a Decision and Order concerning 15 Applications for Refund submitted in the Gulf Oil Corporation special refund proceeding. Each application was approved using a presumption of injury. The sum of the refunds granted in this Decision is $24,314.

Gulf Oil Corporation/Redmond's Gulf Service, 2/24/89, RF300–1999

The DOE issued a Decision and Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding by Redmond's Gulf Service. The owner of Redmon's Gulf, Anthony Redmon, owned another Gulf station called A & A Redmon during the consent order period. On October 7, 1988, the OHA issued a Decision granting a refund of $1,306 ($1,032 principal + $274 interest) to A & A Redmond. *Gulf Oil Corporation/Butane Propane Gas Company, et al.*, 18 DOE ¶ 85,014. Because the two stations were under common ownership during the consent order period, and because their combined allocable share exceeds $5,000, it is appropriate to consider them together when applying the presumptions of injury. The refund granted in this Decision is $5,146 ($3,968 principal + $1,178 interest).

Gulf Oil Corporation/Richard's Gulf, 2/21/89, RF300–4509

The DOE issued a Decision and Order concerning an Application for Refund submitted for Richard's Gulf in the Gulf Oil Corporation special refund proceeding. The applicant, a service station owned by Richard Grasso, sought a refund on 560,863 gallons of covered Gulf products. Mr. Grasso also owned another service station for which he filed an Application under the name of Grasso's Olneyville Gulf, Inc. (Case No. RF300–2452). Mr. Grasso was previously granted a refund of $5,948 for 7,343,289 gallons on Case No. RF300–2452. Because the firms were under common ownership, they were considered together for purposes of applying the $5,000 presumption of injury. Accordingly, the principal amount previously awarded to Mr. Grasso was subtracted from the $5,000 refund to which he was entitled for both stations. Mr. Grasso was granted a refund of $389, which includes both principal and interest, on the Richard's Gulf Application.

Gulf Oil Corporation/Shirley's Gulf Service, 2/23/89, RF300–10700

The DOE issued a Supplemental Order concerning an Application for Refund submitted in the Gulf Oil Corporation special refund proceeding. The DOE granted a refund $3,631 to Shirley's Gulf Service (Shirley's) (Case No. RF300–4755) in *Gulf Oil Corporation/Farrell Lines Incorporated, et al.*, 18 DOE ¶85,494 (1989). However, Shirley's had already received a refund on a duplicate Application (Case No. RF300–1981) in *Gulf Oil Corporation/Dallas Gulf Service, et al.*, 18 DOE ¶85,384 (1988). The Supplemental Order therefore rescinded the latter refund (Case No. RF300–4755).

Gulf Oil Corporation/South Haven LP Gas Company, 2/23/89, RF300–10687

The DOE issued a Supplemental Order rescinding a refund granted on January 31, 1989 to South Haven LP Gas Company from the Gulf Oil Corporation special refund proceeding (*Gulf Oil Corporation/Main Street Gulf & Carryout, et al.*). The applicant had previously been approved a refund in a Decision and Order issued by the DOE on January 17, 1989. (*Gulf Oil Corporation/Montgomery Mall Gulf Service, et al.*).

J.C. Wood, et al., 2/21/89, RF272–18108, et al.

The DOE issued a Decision and Order granting refunds from crude oil overcharge funds to 109 applicants based on their respective purchases of refined petroleum products during the period August 19, 1973 through January 27, 1981. Each applicant was an end-user of the products it claimed and was therefore presumed injured by the alleged crude oil overcharges. The sum of the refunds granted in this Decision is $48,858. The applicants will be eligible for additional refunds as additional crude oil overcharge funds become available.

J.H. Lynch & Sons, Inc., Material Transit, Inc., 2/21/89, RF272–6119, RF272–6668.

The DOE issued a Decision and Order concerning Applications for Refund filed by J.H. Lynch & Sons, Inc. (J.H. Lynch) and Material Transit, Inc. (Material) in the crude oil overcharge refund proceeding. Both of the applicants did not retain purchase records which would enable them to determine precisely their total consumption of refined petroleum products. Based on income tax records, J.H. Lynch determined that it purchased $2,645,145 of diesel fuel and Material determined that it purchased $904,479 of diesel fuel. Using a weighted average price for diesel fuel determined to be reasonable in other cases, the DOE determined that J.H. Lynch purchased 4,139,442 gallons of diesel fuel and Material purchased 1,415,438 gallons of diesel fuel. Based on their volume of purchases, J.H. Lynch was granted a refund of $828 and Material was granted a refund of $283.

Murphy Oil Corporation/Atwood Service et al., 2/21/89, RF309–766 et al.

The DOE issued a Decision and Order granting 23 Applications for Refund filed in the Murphy Oil Corporation special refund proceeding. Each of the Applicants purchased directly from Murphy and was either a reseller whose allocable share was less than $5,000 or an end-user of Murphy products. Accordingly, each applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Murphy escrow account. The sum of the refunds granted in the Decision was $24,348 ($21,284 principal plus $3,064 interest).

Murphy Oil Corporation/Holmes Construction, Inc. et al., 2/21/89, RF309–220 et al.

The DOE issued a Decision and Order granting 49 Applications for Refund filed in the Murphy Oil Corporation special

refund proceeding. Each of the Applicants purchased directly from Murphy and was either a reseller whose allocable share was less than $5,000 or an end-user of Murphy products. Accordingly, each applicant was granted a refund equal to its full allocable share plus a proportionate share of the interest that has accrued on the Murphy escrow account. The sum of the refunds granted in the Decision was $63,591 ($55,582 principal plus $8,009 interest).

Rihm's Auto. Trans. Inc. Rumple Service Station Al's Shell Service Station Fred Thomson, Ltd., 2/24/89, RF272-26436, RF272-29048, RF272-29055, RF272-29088

The OHA denied the above claims for crude oil refunds because the applicants were resellers or retailers of refined petroleum products and had failed to make the required showing that they were injured by crude oil overcharges.

State Escrow Distribution, 2/24/89, RF302-5

The Office of Hearings and Appeals ordered the DOE's Office of the Controller to distribute $14,800,000.00 to the State Governments. Those funds had been set aside for distribution to the States in *Wickett Refining Co.*, 18 DOE ¶ _____, No. KEF-0099 (February 16, 1989). The use of the funds by the States is governed by the Stripper Well Settlement Agreement.

Total Petroleum, Inc./Cass City Oil & Gas Co. et al., 2/21/89, RF310-164 et al.

The DOE issued a Decision and Order concerning 23 Applications for Refund filed by purchasers of motor gasoline and/or No. 2 oils from Total Petroleum, Inc. The applicants sought a portion of the settlement fund obtained by the DOE through a consent order entered into with Total. Each of the applicants was either a reseller or end-user whose allocable share is less than $5,000. Under the standards established in *Total Petroleum, Inc.*, 17 DOE ¶ 85,542 (1988), the DOE granted refunds in this proceeding which total $48,768 ($41,945 prinicpal plus $6,823 interest).

Trowbridge House Apts., Terrace Heights Apartments, 2/23/89, RF272-75248, RF272-75249

The DOE issued a Decision concerning two Applications for Refund submitted by Trowbridge House Apts. (Trowbridge) and Terrace Heights Apartments (Terrace) in the Subpart V crude oil refund proceedings. Trowbridge purchased 12,754 gallons of petroleum products and Terrace purchased 183,036 gallons of petroleum products for heating apartment buildings during the period August 19, 1973 through January 27, 1981. Both Trowbridge and Terrace relied on the end-user presumption of injury. The total refund approved in this Decision is $40.

Vickers Energy Corp./Belridge Oil Co./ Standard Oil Co. (Indiana)/ Nordstrom Oil Co./Standard Oil Co. (Indiana)/Nordstrom Oil Co./ Iowa, 2/23/89, RM/1-142, RM8-143, RM21-144, RM22-145, RM251-146, RQ22-507

The DOE issued a Decision and Order approving the Motion for Modification and second-stage refund request filed by the State of Iowa in the Vickers Energy Corp., Belridge Oil Co., Standard Oil Co. (Indiana), and Nordstrom Oil Co. special refund proceedings. Iowa requested permission to use all of its remaining previously allocated funds, consisting of $101,454 plus accrued interest, plus $2,534 (all interest) in undistributed funds from Nordstrom Oil Co. to fund its Low-Income Weatherization Program. The DOE, which had approved funds for this program in the past, found it to be restitutionary to injured consumers of petroleum products. Accordingly, the DOE granted Iowa's Motion for Modification and second-stage refund request, and permitted these funds to be used in the Weatherization Program.

Crude Oil End-Users

The Office of Hearings and Appeals granted crude oil overcharge refunds to end-user applicants in the following Decisions and Orders:

Name	Case No.	Date	No. of Applicants	Total Refund
David V. Sadowsky *et al*	RF272-48601	2/24/89	149	$4,893
Jackson County Board of Education *et al*	RF272-28005	2/21/89	85	27,927
Memphis Compress & Storage Co. *et al*	RF272-36506	2/22/89	25	3,246

Dismissals

The following submissions were dismissed:

Name	Case No.
Bean's Gulf Service	RF300-8249.
Benton Furniture Co., Inc	RF272-67383.
Bowens Grocery	RF300-8606.
Bud Hayes Auto Service & Repair.	RF307-25.
City of Overland	RF272-45266.
Dick's Gulf Service Station	RF300-7970.
Dom's Holiday Gulf, Inc	RF300-7912.
E.H. Gilleland	RF300-7974.
ELG Enterprises Corp	RF300-9290.
Faulkner Bros. Gulf Station	RF300-9278.
Fossett Gulf Service Station	RF300-31.
Frank Hale Gulf	RF300-7919.
Grady Memorial Hospital	RF272-69300.
Harry R. Rotz	RF272-68871.
Holiday Gulf	RF300-10461.
Kahler's Gulf Service	RF300-8231.
McCrary's Gulf Service	RF300-8496.
Nanable Doolin	RF272-62347.
Ray T. Johnson and Sons Exxon.	RF307-2067.
Rudy Hanson	RF315-1013.
Sabols Service Station	RF300-9882.
Silva Tire	RF300-9865.
Triaga's Exxon	RF307-1810.
W.S. Muckenfuss	RF300-9328.
Watson Oil Co	RF300-9328.

Copies of the full text of these decisions and orders are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays. They are also available in *Energy Management: Federal Energy Guidelines*, a commercially published loose leaf reporter system.

April 7, 1989.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 89-8895 Filed 4-13-89; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL-3555-5]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202–382–2740).

DATE: Comments must be submitted on or before May 15, 1989.

SUPPLEMENTARY INFORMATION:

Office of Pesticides and Toxic Substances

Title: Collection of Emergency Economic and Regulatory Support Data (EPA ICR #1170.03; OMB #2070–1170). This is an extension of a currently approved collection.

Abstract: This collection provides EPA with the means to quickly gather information on the possible economic impacts of proposed regulatory actions. Typically, EPA will initiate and complete interviews with chemical manufacturers (approx. 25 per collection) by telephone.

Burden Statement: The public reporting burden for this collection of information is estimated to average 1 hour per response. This estimate includes the time for hearing instructions and responding to questions.

Respondents: Chemical manufacturers.

Estimated No. of Respondents: 400.

Estimated Total Annual Burden on Respondents: 400 hours.

Send comments regarding the burden estimate, or any other aspect of these information collections, including suggestions for reducing the burden, to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM–223), 401 M Street SW, Washington, DC 20460, and

Tim Hunt, Office of Management and Budget, Office of Information and Regulatory Affairs, 726 Jackson Place, NW., Washington, DC 20530.

OMB Responses to Agency PRA Clearance Requests

EPA ICR #0261.06; Notification of Hazardous Waste Activity; was approved 3/23/89; OMB #2050–0028; expires 10/31/91.

Date: April 6, 1989.

Odelia Funke,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 89–9000 Filed 4–13–89; 8:45 am]

BILLING CODE 6560–50–M

(ER-FRL-3555-4)

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared March 27, 1989 through March 31, 1989 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.

Summary of Rating Definitions

Environmental Impact of the Action

LO—Lack of Objections

The EPA review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for the application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC—Environmental Concerns

The EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact. EPA would like to work with the lead agency to reduce these impacts.

EO—Environmental Objections

The EPA review has identified significant environmental impacts that must be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU—Environmental Unsatisfactory

The EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potentially unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the CEQ.

Adequacy of the Impact Statement

Category 1—Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2—Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses, or discussion should be included in the final EIS.

Category 3—Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the NEPA and/or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

Draft EISs

ERP No. D–FHW–J40116–ND, Rating EC1, I–94 Corridor Improvements, Horace Road to US 75, Funding and Possible 404 Permit, Case County, ND and Clay County, MN.

Summary

EPA expressed environmental concerns related to wetlands, water

quality and noise impacts. EPA recommended that an analysis of contamination sources be conducted if any disturbance to river or stream sediments occur.

Final EISs

ERP No. F-BLM-J01006-CO, James Creek Coal Preference Right Lease Application (PRLA), Approval and White River Resource Area Resource Management Plan Amendment, Rio Blanco County, CO.

Summary

EPA will review the additional information required to obtain the permits necessary to develop an environmentally acceptable mining plan.

Dated: April 11, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89-9016 Filed 4-13-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-3555-3]

Designation of Three Ocean Dredged Material Disposal Sites (ODMDSs) for Three Navigation Channels in Coastal Texas; Intent To Prepare Environmental Impact Statements (EISs)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of intent to prepare EISs on the designation of three ODMDSs off coastal Texas.

PURPOSE: In accordance with section 102 of the Marine Protection, Research and Sanctuaries Act of 1972 and 40 CFR 228 (Criteria for the Management of Disposal Sites for Ocean Dumping), EPA will prepare draft EISs on the designation of ODMDSs off coastal Texas.

FOR FURTHER INFORMATION AND TO BE PLACED ON THE EIS MAILING LIST CONTACT: Mr. Norm Thomas (6E-F), Chief, Federal Activities Branch, EPA, 1445 Ross Avenue, Dallas, Texas 75202-2733, Telephone: (Commercial) 214/655-2260 or (FTS) 255-2260.

SUMMARY: The Corps of Engineers (COE) has the responsibility for maintaining the navigable waters of the United States. In carrying out this responsibility, the Galveston District of the COE periodically removes and disposes of dredged material from the Port Mansfied Entrance Channel, the Brazos Island Harbor Entrance Channel, and the Matagorda Ship Channel. A total of approximately 1.3 million cubic yards of maintenance material from these three project areas is disposed annually in three offshore disposal sites.

Need for Action: The COE has requested that EPA designate three ODMDSs off coastal Texas. EPA has determined that it will voluntarily prepare a draft and final EIS for each designation action.

Alternatives: Alternatives to be considered in the Draft EISs include no action, upland disposal and ocean disposal.

Scoping: A scoping meeting will not be held. Scoping with federal, state local agencies and interested parties is being accomplished by correspondence.

Estimated Date of Release: The Draft EISs should be available in June 1989.

Responsible Official: Mr. Robert E. Layton Jr., P.E., Regional Administrator.

Dated: April 6, 1989.

Richard E. Sanderson,

Director, Office of Federal Activities.

[FR Doc. 89-9015 Filed 4-13-89; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRI-3555-2]

Environmental Impact Statements; Availability

Responsible Agency

Office of Federal Activities, General Information (202) 382-5073 or (202) 382-5075.

Availability of Environmental Impact Statements Filed April 3, 1989 Through April 7, 1989 Pursuant to 40 CFR 1506.9

EIS No. 890076, Final, USA, PRO, NAT, Nationwide Biological Defense Research Program Continuation, Implementation, Due: May 15, 1989, Contact: Charles Pasey (301) 663-2732.

EIS No. 890077, Final, FHW, VA, VA-199 Construction VA-5 to I-64, Section 10 and 404 Permits, James City and York Counties, Due: May 15, 1989, Contact: James M. Tumlin (804) 771-2371.

EIS No. 890078, Draft, NPS, AK, Denali National Park and Preserve, Mining Operations Management Plan, Implementation, AK, Due: June 12, 1989, Contact: Floyd W. Sharrock (907) 257-2616.

EIS No. 890079, Draft, NPS, AK, Yukon-Charley Rivers National Preserve, Mining Operations Management Plan, Implementation, AK, Due: June 12, 1989, Contact: Floyd W. Sharrock (907) 257-2616.

EIS No. 890080, Draft, NPS, AK, Wrangell-St. Elias National Park and Preserve, Mining Operations Management Plan, Implementation, AK, Due: June 12, 1989, Contact: Floyd W. Sharrock (907) 257-2616.

EIS No. 890081, Draft, BOP, CA, Taft Federal Correctional Institution, Construction and Operation, Kern County, CA, Due: May 30, 1989, Contact: William Patrick (202) 272-6535.

EIS No. 890082, DSuppl, COE, LA, Aloha-Rigolette Area Agriculture Flood Control Plan, Implementation, Red River Floodplain, Grant and Rapides Parishes, LA, Due: May 15, 1989, Contact: Dr. Steve Mathies (504) 862-2520.

This Notice of Availability should have appeared in the 3-31-89 Federal Register. The 45 day NEPA review period is calculated from 3-31-89.

Amended Notices

EIS No. 870393, Draft, SFW, NY, VT, Lake Champlain Sea Lamprey Control Temporary Program, Use of Lampricides and an Assessment of Effects on Certain Fish Populations and Sport Fisheries, Implementation, Clinton, Essex and Washington Counties, NY and Addison and Chittenden Counties, VT, Due: October 15, 1989, Contact: Ralph Abele, Jr. (617) 965-5100.

Published FR 11-13-87—Review period extended.

EIS No. 880430, Draft, IBR, CA, American River Service Area Water Contracting Program, Water Supply Project for Agricultural, Municipal and Industrial Uses, Long-Term Contracting, San Joaquin, Sacramento and Placer Counties, CA, Due: May 8, 1989, Contact: Bill Payne (916) 978-5488.

Published FR 01-06-89—Review period extended.

EIS No. 880431, Draft, IBR, CA, Sacramento River Water Service Area Contracting Program, Water Supply Project for Municipal and Industrial, Wildlife Refuge and Agricultural Uses, Long-Term Contracting, Shasta, Tehama, Yolo, Solano, Colusa and Solano Counties, CA, Due: May 8, 1989, Contact: Bill Payne (916) 978-5488.

Published FR 01-06-89—Review period extended.

EIS No. 880432, Draft, IRB, CA, Delta Export Service Area Water Contracting Program, Water Supply Project for Agricultural, Municipal and Industrial and Wildlife Rufuge Uses, Long-Term Contracting, Fresno, Kern, Kings, Madera, Merced, San Joaquin, Tulare, Monterey, San Benito, Santa Clara and Santa Cruz Cos., CA, Due:

May 8, 1989, Contact: Bill Payne (916) 978–5488.

Published FR 01–06–89—Review period extended.

Dated: April 11, 1989.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 89–9014 Filed 4–13–89; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1775]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

April 10, 1989.

Petitions for reconsideration have been filed in the Commission rule making proceeding listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor, International Transcription Service (202–857–3800). Oppositions to these petitions must be filed within 15 days of the date of public notice of the petitions in the **Federal Register**. See Section 1.4(b)(1) of the Commission's rules (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: MTS and WATS Structure: Amendment of Part 67 of the Commission's Rules and Establishment of A Joint Board (CC Docket Nos. 78–72 & 80–286)

Number of petitions received: 2 (One of these filings also contains a motion for stay.)

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 89–8915 Filed 4–13–89; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[Docket No. FEMA–REP–7–KS–1]

The Kansas Radiological Emergency Response Plans Site-Specific to the Wolf Creek Generating Station

ACTION: Certification of FEMA Finding and Determination.

In accordance with the Federal Emergency Management Agency (FEMA) rule 44 CFR 350, the State of Kansas formally submitted it's State and local plans for radiological emergencies site-specific to the Wolf Creek Generating Station to the Regional Director of FEMA Region VII for FEMA review and approval on June 14, 1985.

On September 26, 1985, and again on December 19, 1988, the Regional Director forwarded his evaluation to the Associate Director for State and Local Programs and Support in accordance with Section 350.11 of the FEMA rule. Included in this evaluation is a review of the State and local plans around the Wolf Creek Generating Station; an evaluation of the full-participation exercise conducted on September 2, 1987, in accordance with Section 350.9 of the FEMA rule; and a public meeting held on May 21, 1985, to discuss the site-specific aspects of the State and local plans around the Wolf Creek Generating Station in accordance with Section 350.10 of the FEMA rule.

Based on the evaluation by the Regional Director and the review by the FEMA Headquarter's staff, I find and determine that in accordance with 44 CFR 305.12 of the FEMA rule, the Kansas State and associated local plans and preparedness for the Wolf Creek Generating Station are adequate to protect the health and safety of the public living in the vicinity of the plant. These offsite plans and preparedness are assessed as adequate in that they provide reasonable assurance that appropriate protective actions can be taken offsite in the event of a radiological emergency and that they are capable of being implemented.

On June 12, 1987, the adequacy of the public alert and notification system was verified as meeting the standards set forth in Appendix 3 of the Nuclear Regulatory Commission/FEMA criteria of NUREG–0654/FEMA–REP–1, Rev. 1, and FEMA–REP–10, "Guide for the Evaluation of Alert and Notification Systems for Nuclear Power Plants".

FEMA will continue to review the status of offsite plans and preparedness associated with the Wolf Creek Generating Station in accordance with Section 350.13 of the FEMA rule.

For further details with respect to this action, refer to Docket File FEMA–REP–7–KS–1 maintained by the Regional Director, FEMA Region VII, 911 Walnut Street, Kansas City, Mo. 64406.

Dated April 3, 1989.

For the Federal Emergency Management Agency.

Grant C. Peterson,

Associate Director State and Local Programs and Support.

[FR Doc. 89–8994 Filed 4–13–89; 8:45 am]

BILLING CODE 6718–21–M

FEDERAL HOME LOAN BANK BOARD

Bedford Savings Association Bedford, TX; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Bedford Savings Association, Bedford, Texas on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89–8937 Filed 4–13–89; 8:45 am]

BILLING CODE 6720–01–M

Cabrillo Savings Bank, San Jose, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Cabrillo Savings Bank, San Jose, California on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89–8938 Filed 4–13–89; 8:45 am]

BILLING CODE 6720–01–M

Central Savings Bank, Jackson, MS; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained is section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Central Savings Bank, Jackson, Mississippi on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89–8939 Filed 4–13–89; 8:45 am]

BILLING CODE 6720–01–M

Excel Banc Savings Association Laredo, TX; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Excel Banc Savings Association, Laredo, Texas on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8940 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Fidelity Federal Savings Bank, Corinth, MS; Appointment of Conservator

Notice is hereby given that purusant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2)(1982), as amended, the Federal Home Loan Bank Board Corporation as sole conservator for Fidelity Federal Savings Bank, Corinth, Mississippi on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8941 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Financial Federal Savings and Loan Association Joplin, MO; Appointment of Conservator

Notice is hereby given that pursuant to the Authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Financial Federal Savings and Loan Association, Joplin, Missouri, on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8942 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings and Loan Association of Southeast Missouri Cape Girardeau, MO; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for First Federal Savings and Loan Association of Southeast Missouri, Cape Girardeau, Missouri, on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8943 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Murray Savings Association Dallas, TX; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained is 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Murray Savings Association Dallas, Texas on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8944 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Republic Bank for Savings, FA, Jackson, MI; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Republic Bank for Savings, FA, Jackson, Mississippi on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8945 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

State Mutual Federal Savings and Loan Association, Jackson, MS; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for State Mutual Federal Savings and Loan Association on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8946 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Unified Savings, a Federal Savings and Loan Association, Northridge, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Unified Savings, a Federal Savings and Loan Association, Northridge, California on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8947 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

American Federal Savings and Loan Association of Colorado, Denver, CO; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained is section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2)(1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for American Federal Savings and Loan Association of Colorado, Denver, Colorado, on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Secretary.
[FR Doc. 89-8948 Filed 4-13-89; 8:45 am]
BILLING CODE 6720-01-M

American Federal Savings Bank, Austin, TX; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2) (1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for American Federal Savings Bank, Austin, Texas, on April 5, 1989.

Dated: April 7, 1989.
By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Secretary.
[FR Doc. 89-8949 Filed 4-13-89; 8:45 am]
BILLING CODE 6720-01-M

Arrowhead Pacific Savings Bank, San Bernadino, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Arrowhead Pacific Savings Bank, San Bernadino, California on April 5, 1989.

Dated: April 7, 1989.
By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Secretary.
[FR Doc. 89-8963 Filed 4-13-89; 8:45 am]
BILLING CODE 6720-01-M

Baldwin County Federal Savings Bank, Robertsdale, AL; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2) (1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Baldwin County Federal Savings Bank, Robertsdale, Alabama on April 5, 1989.

Dated: April 7, 1989.
By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Secretary.
[FR Doc. 89-8964 Filed 4-13-89; 8:45 am]
BILLING CODE 6720-01-M

Broadview Savings Bank, Cleveland, OH; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I), of the National Housing Act, as amended, 12 U.S.C. § 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Broadview Savings Bank, Cleveland, Ohio on March 29, 1989.

Dated: April 7, 1989.
By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Secretary.
[FR Doc. 89-8950 Filed 4-13-89; 8:45 am]
BILLING CODE 6720-01-M

Cartersville Federal Savings Bank of Georgia, Cartersville, GA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i) (1982), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2)(1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Cartersville Federal Savings Bank of Georgia, Cartersville, Georgia, on March 29, 1989.

Dated: April 7, 1989.
By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Secretary.
[FR Doc. 89-8965 Filed 4-13-89; 8:45 am]
BILLING CODE 6720-01-M

Cass Federal Savings and Loan Association of St. Louis, Florissant, MO; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2) (1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Cass Federal Savings and Loan Association of St. Louis, Florissant, Missouri, on April 5, 1989.

Dated: April 7, 1989.
By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Secretary.
[FR Doc. 89-8966 Filed 4-13-89; 8:45 am]
BILLING CODE 6720-01-M

Centennial Savings Bank, FSB, Greenville TX, Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Centennial Savings Bank, FSB, Greenville, Texas on April 5, 1989.

Dated: April 7, 1989.
By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Secretary.
[FR Doc. 89-8951 Filed 4-13-89; 8:45 am]
BILLING CODE 6720-01-M

Central Texas Savings and Loan Association, Waco, TX; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I), of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Central Texas Savings and Loan Association, Waco, Texas on April 5, 1989.

Dated: April 7, 1989.
By the Federal Home Loan Bank Board.
John M. Buckley, Jr.,
Secretary.
[FR Doc. 89-8967 Filed 4-13-89; 8:45 am]
BILLING CODE 6720-01-M

City Federal Savings and Loan Association, Oakland, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board has duly appointed the

Federal Savings and Loan Insurance Corporation as sole conservator for City Federal Savings and Loan Association, Oakland, California on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8968 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

City Federal Savings and Loan Association, Birmingham, AL; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2) (1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for City Federal Savings and Loan Association, Birmingham, Alabama on March 29, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8952 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

City Savings and Loan Association, Westlake Village, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for City Savings and Loan Association, Westlake Village, California, on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8953 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Community Federal Savings and Loan Association, Newport News, VA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2)(1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Community Federal Savings and Loan Association, Newport News, Virginia on March 29, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8954 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Delta Federal Savings and Loan Association, Drew, MS; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2)(1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Delta Federal Savings and Loan Association, Drew, Mississippi on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8955 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

First Federal Savings Bank, East Alton, IL; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for First Federal Savings Bank, East Alton, Illinois, on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8968 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Equity Federal Savings Bank Denver, CO; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Equity Federal Savings Bank, Denver, Colorado, on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8970 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

First California Savings, Federal Savings and Loan, Orange, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in Section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2) (1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for First California Savings, FSA, Orange, California on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8971 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Durand Federal Savings and Loan Association, Durand, WI; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2)(1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Durand Federal Savings and Loan Assocation, Durand, Wisconsin on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8969 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Founders Savings and Loan Association, Los Angeles, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Founders Savings and Loan Association, Los Angeles, California on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8973 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Gateway Savings Bank, San Francisco, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Gateway Savings Bank, San Francisco, California, on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8956 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Gibraltar Savings Beverly Hills, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained is section 406(c)(1)(B), of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Gibraltar Savings, Beverly Hills, California, on March 30, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8974 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Golden Circle Savings Association, FSB; Corsicana, TX; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2) (1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Golden Circle Savings Association, FSB on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8957 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Great Atlantic Savings Bank, Federal Savings Bank, Maneto, NC; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2)(1982), as amended, the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Great Atlantic Savings Bank, Federal Savings Bank, Manteo, N.C., on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8975 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Heritage Federal Savings and Loan Association, Monroe, NC; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in Section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2)(1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Heritage Federal Savings and Loan Association, Monroe, North Carolina on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8976 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Heritagebanc Savings Association, Duncanville, TX; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in Section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Heritagebanc Savings Association, Duncanville, Texas on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8958 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Independence Savings and Loan Association, Vallejo, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Independence Savings and Loan Association, Vallejo, California, on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8959 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Libertyville Founders Savings and Loan Association, Libertyville, IL; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c (c)(2) (1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Libertyville Federal

Savings and Loan Association, Libertyville, Illinois, on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8977 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Meridian Savings Association, Arlington, TX; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Meridian Savings Association, Arlington, Texas on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8960 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Midland-Buckeye Federal Savings and Loan Association; Alliance, OH; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Midland-Buckeye Federal Savings and Loan Association on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8978 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Park Cities Savings Association, Dallas, TX; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Park Cities Savings Association, Dallas, Texas on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8961 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Perpetual Savings Association, A FS&LA, Santa Ana, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(A)(i), of the Home Owner's Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(A)(i), and 12 U.S.C. 1701c(c)(2) (1982), as amended, the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Perpetual Savings Association, a Federal Savings and Loan Association, Santa Ana, California on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8962 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Resource Savings Association, Dallas, TX; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)(I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Resource Savings Association, Dallas, Texas on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8979 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Royal Oak Savings and Loan Association; Manteca, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)((I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Royal Oak Savings and Loan Association, Manteca, California on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8980 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

Washington Savings and Loan Association, Stockton, CA; Appointment of Conservator

Notice is hereby given that pursuant to the authority contained in section 406(c)(1)(B)(i)((I) of the National Housing Act, as amended, 12 U.S.C. 1729(c)(1)(B)(i)(I) (1982), the Federal Home Loan Bank Board has duly appointed the Federal Savings and Loan Insurance Corporation as sole conservator for Washington Savings and Loan Association, Stockton, California on April 5, 1989.

Dated: April 7, 1989.

By the Federal Home Loan Bank Board.

John M. Buckley, Jr.,

Secretary.

[FR Doc. 89-8981 Filed 4-13-89; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-011102-004.

Title: U.S. Atlantic & Gulf/Western Mediterranean Rate Agreement.

Parties:

Costa Line (Costa Container Lines, S.p.A., Genoa)

Farrell Lines, Inc.

Nedlloyd LInes (Nedlloyd Lijnen B.V.)

Sea-Land Service, Inc.
P & O Containers (TFL) Ltd.
Compania Trasatlantica Espanola, S.A.
Evergreen Marine Corporation (Taiwan)
Italia di Navigazione, S.p.A.
Lykes Lines (Lykes Bros. Steamship Co., Ltd.)
Zim Israel Navigation Company, Ltd.

Synopsis: The proposed modification would permit any member to disassociate itself from any conference action on a rate or service item that would result in a reduction in the overall cost to the shipper by giving written notice to the other members prior to the time the rate or service item has been filed with the FMC and become effective. It would also require each member to designate no more than two persons who will be authorized to give notice of independent action and that no notice will be effective unless given by the designated person. It would further eliminate independent action on certain exempt commodities until December 15, 1989, and make other nonsubstantive administrative changes.

Agreement No.: 202–010636–055.
Title: U.S. Atlantic-North Europe Conference
Parties:
Atlantic Container Line, BV
Orient Overseas Container Line (UK) Ltd.
Hapag-Lloyd AG
Sea-Land Service, Inc.
A. P. Moller-Maersk Line
Gulf Container Line (GCL), BV
P & O Containers (TFL) Limited
Compagnie Generale Maritime (CGM)
Nedlloyd Lijnen BV

Synopsis: The proposed modification would delete Waterford from the alternate port service provisions of the Agreement.

Agreement No.: 202–010637–038
Title: U.S. Atlantic-North Europe Conference
Parties:
Atlantic Container Line, BV
Hapag-Lloyd AG
Sea-Land Service, Inc.
Nedlloyd Lijnen BV
Gulf Container Line (GCL), BV
P & O Containers (TFL) Limited
Compagnie Generale Maritime (CGM)

Synopsis: The proposed modification would delete Waterford from the alternate port service provisions of the Agreement.

By Order of rhe Federal Maritime Commission.

Joseph C. Polking,
Secretary.

Dated: April 10, 1989.

[FR Doc. 89–8835 Filed 4–13–89; 8:45 am]
BILLING CODE 6730–01–M

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202–000150–095.
Title: Trans-Pacific Freight Conference of Japan ("Conference").
Parties:
American President Lines, Ltd., Barber Blue Sea, Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., A. P. Moller-Maersk Line, Neptune Orient Lines Limited, Nippon Liner System, Ltd., Nippon Yusen Kaisha, Orient Overseas Container Line, Inc., Sea-Land Service, Inc.

Synopsis: The proposed amendment would delete the provision requiring members to submit copies of shippers' commercial invoices and copies of freight manifests to the Conference office.

Agreement No.: 202–003103–097.
Title: Japan-Atlantic and Gulf Freight Conference ("Conference").
Parties:
Barber Blue Sea, Kawasaki Kisen Kaisha, Ltd., Mitsui O.S.K. Lines, Ltd., A. P. Moller-Maersk Line, Neptune Orient Lines Limited, Nippon Liner System, Ltd., Nippon Yusen Kaisha, Orient Overseas Container Line, Inc.

Synopsis: The proposed amendment would delete the provision requiring members to submit copies of shippers' commercial invoices and copies of freight manifests to the Conference office.

Agreement No.: 207–011236.
Title: Saquenay/DAL West Africa Service.
Parties:
Saguenay Shipping Limited, Deutsche Afrika-Linien GmbH & Co.

Synopsis: The proposed Agreement would permit the parties to establish a joint service in the outbound trades from U.S. Atlantic, U.S. Great Lakes and U.S. Gulf ports, and points within the United States via such ports, to West Africa and inland and coastal points via West African ports. The parties have requested a shortened review period.

By Order of the Federal Maritime Commission.

Dated: April 11, 1989.

Joseph C. Polking,
Secretary.

[FR Doc. 89–9008 Filed 4–13–89; 8:45 am]
BILLING CODE 6730–01–M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the, Washington, DC, Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–010807–003
Title: City of Long Beach Terminal Agreement
Parties: City of Long Beach (LB)
Maersk, Inc. (Maersk)

Synopsis: The Agreement amends the basic agreement, Agreement No. 224–010807 between LB and Moller Steamship Company, Inc. (Moller) to: provide for a change of Moller's name to Maersk; modify the term of the Agreement to end June 30, 1998, and exercise an option to add approximately 8.58 acres to the leased premises. The rental compensation to be paid by Maersk is based on a percentage of wharfage and dockage revenues subject to payment of a guaranteed minimum annual compensation.

Agreement No.: 224–200237

Title: City of Long Beach Lease Agreement

Parties: City of Long Beach (LB) Lucky Cement Corporation U.S.A. (Lessee)

Synopsis: The Agreement provides for the lease and improvements of certain waterfront properties for the operation of a ground slag-cement terminal facility. In addition, the City assigned the Lessee a non-exclusive preferential assignment of Berth 208 and water area adjacent thereto for the berthing of vessels. The term of this Lease is twenty years.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 89-9009 Filed 4-13-89; 8:45 am]

BILLING CODE 6730-01-M

Filing and Effective Date of Agreement

The Federal Maritime Commission hereby gives notice that on April 6, 1989, the following agreement was filed with the Commission pursuant to section 5, Shipping Act of 1984, and was considered effective that date to the extent it constitutes an assessment agreement as described in paragraph (d) of section 5, of the Shipping Act of 1984.

Agreement No.: 224-200236.

Title: International Longshoremen's Association Assessment Agreement.

Parties:

International Longshoremen's Association AFL-CIO ("ILA"), its Atlantic Coast District ("ACD") and its South Atlantic and Gulf Coast District ("SAGD") with the Carrier's Container Council, Inc. ("CCC"), New York Shipping Association, Inc. ("NYSA"), Council of North Atlantic Shipping Associations ("CONASA"), South Atlantic Employers Negotiating Committee ("SAENC"), Southeast Florida Employers Port Association ("SEFEPA") and The Boston Shipping Association, Inc. ("BSA").

Synopsis: The Agreement provides that the carriers will contribute to a Carrier-ILA Container Freight Station Fund, $.30 per long ton on containerized cargo loaded or unloaded along the Atlantic and Gulf Coasts of the United States effective April 15, 1989, except in the northbound Puerto Rico trade.

By Order of the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

Dated: April 11, 1989.

[FR Doc. 89-9010 Filed 4-13-89; 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 89-09]

Pueblo International, Inc. v. Tropical Shipping and Construction Co., Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Pueblo International Inc. ("Pueblo") against Tropical Shipping and Construction Co., Inc. ("Tropical") was served April 11, 1989. Pueblo alleges that Tropical has violated sections 2 of the Intercoastal Shipping Act of 1933 and sections 14 (Third), 16 (First) and 18(a) of the Shipping Act, 1916 in connection with the providing of transportation of cargo from the Port of Palm Beach to the ports in the U.S. Virgin Islands during the period January 1, 1987, and June 1988.

This proceeding has been assigned to Administrative Law Judge Joseph N. Ingolia ("Presiding Officer"). Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by April 11, 1990, and the final decision of the Commission shall be issued by August 11, 1990.

Joseph C. Polking,

Secretary.

[FR Doc. 89-9011 Filed 4-13-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Continental Bancorp, Inc., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than May 5, 1989.

A. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105.

1. *Continental Bancorp, Inc.,* Gloucester Township, Laurel Springs, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of Continental Bank of New Jersey, Gloucester Township, Laurel Springs, New Jersey.

B. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303.

1. *Dahlonega Bancorp, Inc.,* Dahlonega, Georgia; to acquire 100 percent of the voting shares of Georgia First Bank, Gainesville, Georgia.

C. **Federal Reserve Bank of St. Louis** (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166.

1. *First Holmes Corporation,* Lexington, Mississippi; to acquire an additional 1.20 percent, thereby owning a total of 5.93 percent of the voting shares of Citizens Financial Corporation, Belzoni, Mississippi, and thereby indirectly acquire Citizens Bank & Trust Company, Belzoni, Mississippi. Citizens Bank & Trust Company engages in the sale, as agent, of credit-related insurance sold in connection with extensions of credit made by the bank.

Board of Governors of the Federal Reserve System, April 7, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-8852 Filed 4-13-89; 8:45 am]

BILLING CODE 6210-01-M

John A. Kaneb; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and

§ 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than April 26, 1989.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *John A. Kaneb,* Chelsea, Massachusetts; to acquire an additional 0.66 percent of the voting shares of Neworld Bancorp, Inc., Boston Massachusetts, for a total of 11.22 percent, and thereby indirectly acquire Neworld Bank for Savings, Boston, Massachusetts.

B. **Federal Reserve Bank of Minneapolis** (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. *Kristi Erickson Kampmeyer,* Mendota Heights, Minnesota; to acquire an additional 4.01 percent of the voting shares of Waseca Bancshares, Inc., Waseca, Minnesota, for a total of 29.0 percent, and thereby indirectly acquire First State Bank of Waseca, Waseca, Minnesota.

C. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Robert S. Moran, Jr.,* Hollis, Oklahoma; to acquire an additional 2.13 percent of the voting shares of Hollis Bancshares, Inc., Hollis, Oklahoma, for a total of 17.12 percent, and thereby indirectly acquire The First State Bank and Trust Company, Hollis, Oklahoma.

2. *The Retirement Plan for Employees of Western Bank,* Albuquerque, New Mexico; to acquire an additional 1.90 percent of the voting shares of Western Bancshares of Albuquerque, Inc., Albuquerque, New Mexico, for a total of 11.48 percent, and thereby indirectly acquire Western Bank, Albuquerque, New Mexico.

D. **Federal Reserve Bank of Dallas** (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Arthur Temple,* Diboll, Texas; to acquire 11.1 percent of the voting shares of Diboll State Bancshares, Inc., Diboll, Texas.

E. **Federal Reserve Bank of San Francisco** (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *Jack E. and Gwenyth A. Gosch;* Jack Gosch Ford, Inc., TASP, Inc., and Jack Gosch Ford Retirement Plan, all of Hemet, California; to retain 2.53 percent of the voting shares of Hemet Bancorp, Hemet, California, and thereby indirectly acquire Bank of Hemet, Hemet, California.

2. *Antonio Grimalda,* Cottonwood, Arizona; to retain 27.98 percent of Verde Valley Bancorp, Inc., Cottonwood, Arizona, and thereby indirectly acquire The Bank of Verde Valley, Cottonwood, Arizona.

3. *William H. Hudson & Hudson Trust "C",* Dallas, Texas; to acquire an additional 44.45 percent of the voting shares of Marin National Bancorp, San Rafael, California, for a total of 49.13 percent, and thereby indirectly acquire First National Bank of Marin, San Rafael, California.

4. *Arthur Schwalm,* Sedona, Arizona; to retain 28.8 percent of the voting shares of Verde Valley Bancorp, Inc., Cottonwood, Arizona, and thereby indirectly acquire The Bank of Verde Valley, Cottonwood, Arizona.

Board of Governors of the Federal Reserve System, April 7, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-8853 Filed 4-13-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Family Support Administration

Form 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).

The following are those packages submitted to OMB since the last list was published on March 31, 1989.

For a copy of packages, call the FSA, Reports Clearance Officer on 202-252-5598.

1. Annual Survey of Refugees—0970-0033—The Office of Refugee Resettlement conducts an annual survey of refugees in the United States in order to meet legislative reporting requirements and a variety of program oversight and planning responsibilities. *Respondents:* Individuals or Households; *Number of Respondents:* 850; *Frequency of Response:* 1; Average *Burden per Response:* 27 minutes; *Estimated Burden:* 383 hours.

2. Streamlined State Plan for AFDC—0970-0016—This form constitutes the agreement by States to operate the AFDC program in accordance with Federal laws and regulations. It is used as the basis for determining Federal financial participation in State programs and as a tool for policy development. *Respondents:* State or local governments; *Number of Respondents:* 55; *Frequency of Response:* 4; *Average Burden per Response:* 15; *Estimated Burden:* 3300 hours.

OMB Desk Officer: Justin Kopca

Written comments and recommendations for the proposed information collections should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3201, 1725 17th Street, NW., Washington, DC 20503.

Dated: April 11, 1989.

Sylvia E. Vela,

Deputy Associate Administrator, Office of Management and Information Systems, FSA.

[FR Doc. 9030 Filed 4-13-89; 8:45 am]

BILLING CODE 4150-04-M

Food and Drug Administration

[Docket No. 89N-0125]

Animal Drug Export; Virginiamycin

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) ia announcing that SmithKline Animal Health Products has filed an application requesting approval for export to Canada of the animal drug virginiamycin.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of animal drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Beverly E. Bartolomeo, Center for Veterinary Medicine (HFV-142), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2855.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments of 1986 (Pub. L. 99–660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is 89–192 governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that SmithKline Animal Health Products, Division of SmithKline Beckman Corp., 1600 Paoli Pike, P.O. Box 2650, West Chester, PA 19380, has filed an application requesting approval for export to Canada of the animal drug virginiamycin. The drug is intended for use as an active ingredient in medicated chicken, turkey, and swine feeds. The application was received and filed in the Center for Veterinary Medicine on March 31, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Docket Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by April 24, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act section 802, Pub. L. 99–660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.44).

Dated: April 3, 1989.

Robert C. Livingston,

Deputy Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 89–8909 Filed 4–13–89; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 89N–0124]

Drug Export; AK–TATE 1% (Prednisolone Acetate Sterile Ophthalmic Suspension)

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Maurry Biological Co. has filed an application requesting approval for the export of the human drug AK–TATE 1% (prednisolone acetate sterile ophthalmic suspension) to Canada.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Rudolf Apodaca, Division of Drug Labeling Compliance (HFD–310), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8063.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (Pub. L. 99–660) (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Maurry Biological Co., 6109 South Western Ave., Los Angeles, California 90047, has filed an application requesting approval for the export of the drug AK–TATE 1% (prednisolone acetate sterile ophthalmic suspension), to Canada. This product is designed to enhance corneal contact time. The complete application was received and filed in the Center for Drug Evaluation and Research on March 10, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by April 24, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (section 802, Pub. L. 99–660 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: April 5, 1989.

Daniel L. Michels,

Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 89–8908 Filed 4–13–89; 8:45 am]

BILLING CODE 4160–01–M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (**Federal Register**, Vol. 53, No. 45, pp. 7402, dated Tuesday, March 8, 1988) is amended to reflect changes to the Office of Human Resources within the Office of Budget and Administration in the Office of the Associate Administrator for Management.

The specific changes to Part F. are as follows:

• Section FH.20.A.1.c., Division of Policy, Performance, and Development (FHA63) is amended by deleting the functional statement in its entirety and

replacing it with the following functional statement:

c. Division of Performance and Development (FHA63)

Provides leadership, direction, and control with respect to HCFA's employee training and career development activities, performance management, and awards programs in both headquarters and the regions. Provides management advisory service concerning the regulatory and procedural aspects of implementing the assigned programs. Serves as an Agency representative in dealing with employee/management/union organizations, the Department of Health and Human Services, and other Federal agencies on the issues concerning the Division's programs. Plans, coordinates, and executes a wide range of major studies and projects involving performance management, employee development, and awards issues of Agency-wide magnitude.

• Section FH.20.A.1.e., Personnel Policy and Evaluations Staff (FHA6–2) is added. The functional statement for the new organization is as follows:

e. Personnel Policy and Evaluations Staff (FHA6–2)

Acts as the principal advisor to the Director, Office of Human Resources, on all matters related to personnel policy. Serves as HCFA's personnel policy liaison with the Department and the Office of Personnel Management (OPM). Conducts personnel management evaluations of HCFA central office components and self-assessments of internal OHR operations to ensure procedural and regulatory compliance. Plans, directs, and implements HCFA's personnel policy program and related special assignments involving Agency-wide issues. Provides advice and guidance to HCFA central office and regional office components on all personnel policy related matters. Formulates and reviews HCFA personnel management policies. Develops and issues policy guides to central office and regional offices through the Personnel Management Handbook for HCFA Supervisors and Managers. Responds to special issues having Agency-wide impact and formulates project plans for implementation.

Date: March 23, 1989.

Joseph R. Antos,

Acting Associate Administrator for Management.

[FR Doc. 89–8850 Filed 4–13–89; 8:45 am]

BILLING CODE 4120–01–M

Health Resources and Services Administration

Advisory Council; Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of May 1989:

Name: Advisory Commission on Childhood Vaccines

Date and Time: May 24–25, 1989, 9:00 a.m.–5:00 p.m.

Place: Conference Room E., Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

The meeting is open to the public.

Purpose: The Commission: (1) Advises the Secretary on the implementation of the Program, (2) on its own initiative or as the result of the filing of a petition, recommends changes in the Vaccine Injury Table, (3) advises the Secretary in implementing the Secretary's responsibilities under section 2127 regarding the need for childhood vaccination products that result in fewer or no significant adverse reactions, (4) surveys Federal, State, and local programs and activities relating to the gathering of information on injuries associated with the administration of childhood vaccines, including the adverse reaction reporting requirements of section 2125(b), and advises the Secretary on means to obtain, compile, publish, and use credible data related to the frequency and severity of adverse reactions associated with childhood vaccines, and (5) recommends to the Director of the National Vaccine Program research related to vaccine injuries which should be conducted to carry out the National Vaccine Injury Compensation Program.

Agenda: Agenda items for the first meeting will include a welcoming and opening remarks; orientation briefings; role and responsibilities of the Commission; and discussion on the vaccine injury material distribution activity.

Public comment will be permitted on Wednesday, May 24 from 4:00 p.m. to 5:00 p.m. and on Thursday, May 25 from 1:00 p.m. to 3:00 p.m. Oral presentations will be limited to 5 minutes per public speaker. Persons interested in providing an oral presentation should submit a written request, along with a copy of their presentation, by May 5th to Ms. Rosemary Havill, Vaccine Injury Compensation Program, Bureau of Health Professions, Room 4–101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6593.

Requests should contain the name, address, telephone number, and any business or professional affiliation of the person desiring to make an oral presentation. Groups having similar interests are requested to combine their comments and present them through a single representative. The allocation of time may be adjusted to accommodate the level of expressed interest. The Vaccine Injury Compensation Program will notify each presenter by mail or telephone of their assigned presentation time. Persons who do not file an advance request for presentation, but desire to make an oral statement, may sign up in conference room "E" before 10:00 a.m., May 24 and 25, 1989. These persons will be allocated time as time permits.

Anyone requiring information regarding the subject Council should contact Ms. Rosemary Havill, Vaccine Injury Compensation Program, Bureau of Health Professions, Room 4–101, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6593.

Agenda Items are subject to change as priorities dictate.

Date: April 10, 1989.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 89–8910 Filed 4–13–89; 8:45 am]

BILLING CODE 4160–15–M

Social Security Administration

Statement of Organization, Functions and Delegation of Authority

Part S of the Statement of Organization, Functions and Delegations of authority for the Department of Health and Human Services (HHS) covers the Social Security Administration (SSA). Notice is given that Chapter S2 is amended to add division and staff level subcomponents and functions within the Office of the Deputy Commissioner, Operations (DCO). The new material and changes are as follows:

Section S2EA.10 *The Office of Central Records Operations*—(Organization):

Subsection D. The Division of Earnings, Eligibility and Accountability (S2EAL).

Change Title to: The Division of Earnings and Adjustments (S2EAL).

Section S2EA.20 *The Office of Central Records Operations*—(Functions):

Subsection D. The Division of Earnings, Eligibility and Accountability (S2EAL).

Change Title to: The Division of Earnings and Adjustments (S2EAL).

Add:

4. Ensures that Supplemental Security Income (SSI) payment records are interfaced with various external payment programs such as the Veterans Administration, the Railroad Retirement Board (RRB), the Office of Personnel Management and the Department of Defense.

Section S2EC.10 *The Office of Disability and International Operations*—(Organization):

Subsection D. The Office of Disability Operations (S2ECA).

Add:

1. The Process Divisions (S2ECAG,H,J,K,L).

2. The Division of Appealed Claims (S2ECAQ).

Subsection E. The Office of International Operations (S2ECB1).

Add:

1. The International Process Division (S2ECBl).

2. The Division of Reconsideration and Disability Determinations (S2ECB2).

3. The International Operations and Totalization Staff (S2ECB3).

Subsection F. The Office of Support Services (S2ECC).

Add:

1. The Division of Management Support (S2ECCl).

2. The Division of Operations Support (S2ECC2).

3. The Systems Planning Staff (S2ECC3).

Section S2EC.20 *The Office of Disability and International Operations*—(Functions):

Subsection D. The Office of Disability Operations (S2ECA).

Add:

1. The Process Divisions (S2ECAG,H,J,K,L).

a. Make initial determinations of disability and reconsider disability determinations of claims excluded from State agency jurisdiction. Make determinations of continuing disability entitlement.

b. Make determinations of entitlement or eligibility to primary or auxiliary benefits, and authorize allowance or disallowance of disability claims not authorized by district offices and reconsider those cases appealed for issues other than the existence of disability. Make representative–payee determinations and process representative-payee accountability reports.

c. Adjust, suspend and terminate benefits, and prepare benefit payment data for introduction into the computer system; process all actions to maintain beneficiary payment rolls; recover or waive recovery of amounts incorrectly paid to beneficiaries, prepare and release award certificates, denial letters and other claims-related notices and maintain the Office of Disability Operations' (ODO) files of claims folders.

d. Answer inquiries regarding individual cases and ensure expeditious processing of actions where claimant hardship is indicated.

e. Contact outside Federal/State components such as the Department of Labor (DOL), RRB, Workmen's Compensation Commissions (WCC) and other SSA components, as necessary, to resolve disability claims actions.

2. The Division of Appealed Claims (S2ECAQ).

a. Processes, through payment or denial, those cases where the issue of disability has been decided in the administrative hearing process. Makes determinations of entitlement or eligibility of claimants to primary or auxiliary benefits, and authorizes allowance or disallowance based on nondisability entitlement factors in those cases. Completes full adjudication and payment implementation, including payment of attorney fees and determinations of offsetting amounts of disability insurance benefits due to previous entitlement to SSI. Makes representative-payee determinations.

b. Implements payment to beneficiaries and establishes benefit payment records in the computer system. Takes actions needed to convert benefit and claims data into acceptable computer format. Recovers or waives recovery of amounts incorrectly paid to beneficiaries.

c. Prepares and releases award certificates, denial letters and other claims-related notices, and controls large volumes of claims folders during the adjudicative process.

d. Answers inquiries about individual cases and ensures expeditious processing of actions where claimant hardship is indicated.

e. Contacts outside Federal/State components, such as DOL, WCC and other SSA components, particularly the Office of Hearings and Appeals (OHA), as necessary, to implement disability claims actions.

Subsection E. The Office of International Operations (S2ECB).

Add:

1. The International Process Division (S2ECBl).

a. Develops and adjudicates Retirement, Survivors and Disability Health Insurance (RSDHI) claims, and makes decisions on continuing eligibility for persons living in foreign countries. This includes cases filed under the totalization agreements.

b. Determines health insurance eligibility and proper payees for these beneficiaries; makes decisions regarding recovery of overpayments; processes nonreceipt allegations and congressional, critical, hardship and controlled correspondence and cases; performs material associations and record maintenance activities; types notices and other correspondence.

c. Processes requests for Social Security numbers from individuals residing in foreign countries.

d. Provides translation services to SSA, including translation of program material for foreign visitors, materials relating to foreign pension systems, documents and other materials required to process foreign claims and some domestic claims.

2. The Division of Reconsideration and Disability Determinations (S2ECB2).

a. Reconsiders determinations on claims for benefits filed by persons living in foreign countries; prepares claims material for appealed cases. Reconsiders certain adverse claims involving benefits by persons in foreign countries; approves fees for attorneys and other representatives of claimants outside the United States.

b. Makes findings of administrative finality. Determines proper application of regulations governing the disclosure of confidential records.

c. Performs functions similar to domestic State agencies related to the determination of entitlement to, and processing of, foreign disability claims. Includes the development and review of medical evidence and other factors required for the adjudication of initial claims.

d. Processes continuing disability reviews for foreign beneficiaries.

3. The International Operations and Totalization Staff (S2ECB3).

a. Provides liaison with the Department of State and other Government agencies to ensure SSA operations, systems and administrative policies and procedures are correctly carried out as they affect the Social Security program overseas.

b. Evaluates and provides direction and guidance to the Social Security representatives stationed overseas, and ensures that necessary administrative support is provided to carry out SSA's mission abroad.

c. Furnishes information on Social Security foreign program matters and concerns to other SSA components, officials in HHS, other Government agencies, members of Congress and the public. Designs and conducts validation and other special studies to foster integrity in the Social Security program overseas.

d. Oversees the operational implementation of totalization agreements. Participates in negotiations with foreign government representatives and negotiates operational accords and procedures with foreign Social Security agencies.

e. Prepares forms and procedures for the Office of Disability and International Operations (ODIO) and foreign service post employees, and participates with the Office of International Policy (OIP) in the development of district office instructions, applications, notices, public information materials and systems requirements for totalization processing,

and continually evaluates the processing of cases under existing agreements.

Subsection F. The Office of Support Services (S2ECC).

Add:

1. The Division of Management Support (S2ECC1).

a. Provides administrative support services to the director, ODIO; the Director, Disability Operations and the Director, International Operations in such areas as:

—Budget development and monitoring.
—Personnel management.
—Labor relations.
—Management information.
—Facilities/materiel management.
—Organization planning.

b. Develops and conducts ODIO-wide operational training and employee development activities. Analyzes and evaluates training needs and effectiveness. Ensures that required agency-level, other Government agency and private vendor training is provided.

c. Performs independent reviews to detect and prevent employee and beneficiary fraud. Plans, develops and implements ODIO's security program and conducts security reviews. Reviews beneficiary fraud cases and determines whether cases will be referred for prosecution. Determines proper application of regulations governing the disclosure of confidential records.

2. The Division of Operations Support (S2ECC2).

a. Provides automated data processing (ADP) hardware and software support for ODIO. Conducts analyses relating to user software application development, contract maintenance and equipment use.

b. Serves as SSA liaison with the Department of Treasury to ensure timely payments.

c. Integrates and controls benefit payment processing operations.

d. Delivers, distributes and dispatches mail for ODIO.

e. Oversees the ODIO folder and record control operations. Identifies and resolves folder and record control problems and coordinates case location activities.

3. The Systems Planning Staff (S2ECC3).

a. Directs the development of long-range systems planning for ODIO and evaluates ongoing systems requirements.

b. Analyzes office automation activities and systems operations, and recommends enhancements to improve capabilities. Evaluates systems changes prior to implementation and conducts post-implementation analysis.

c. Oversees procurement of ADP hardware and software for ODIO.

d. Provides technical advice and information to managers and employees in ODIO on systems development and changes that affect operations.

Section S2EB.10 *The Office of Systems Operations*—(Organization):

Subsection D. The Office of Computer Processing Operations (S2EBA).

Add:

1. The Division of Production Systems Operations (S2EBA1).

2. The Division of Computer Operations Production Control (S2EBA2).

3. The Division of Computer Operations Systems Software (S2EBA3).

4. The Division of Telecommunications Systems Operations (S2EBA4).

5. The Division of Integration and Environmental Testing (S2EBA5).

Subsection E. The Office of Systems Support and Planning (S2EBB).

Add:

1. The Division of Operational Capacity Performance Management (S2EBB1).

2. The Division of Standards and Control (S2EBB2).

3. The Division of Operational Resource Management (S2EBB3).

Section S2EB.20 *The Office of Systems Operations*—(Functions)

Subsection D. The Office of Computer Processing Operations (S2EBA).

Add:

1. The Division of Production Systems Operations (S2EBA1).

a. Operates the centralized Office of Systems Operations (OSO) computer facility, which includes computer systems hardware and associated peripheral equipment.

b. Directs the continuous operations of SSA's host telecommunications computers in support of SSA-designed networks.

c. Schedules day-to-day workflow for the ADP facility within plans and priorities established by the Office of Central Processing Operations' (OCPO) Division of Computer Operations Production Control.

d. Controls the flow of materials into ADP production jobs. Reviews production results for accuracy and completeness.

e. Analyzes equipment problems, isolates malfunctions and oversees correction actions by SSA or vendor personnel.

f. Schedules and assures preventive maintenance of all equipment under the operational control of OCPO.

g. Develops and maintains a centralized integrated control center for use in monitoring the operating systems utilization, network control facilities and environmental status.

2. The Division of Computer Operations Production Control (S2EBA2).

a. Manages the production workload of OSO and administers effective resource utilization.

b. Designs, develops, implements and operates production control ADP systems which supervise library controls, automates the scheduling and allocates the production workload.

c. Manages and directs the automated magnetic media processes, and directs the activity of the magnetic tape library funtion.

d. Participates in the design reviews of proposed application systems to assure operational support and control aspects are being considered. Analyzes applications systems to assure compliance with systems standards. Approves applications systems for production status and incorporates them into the production library.

e. Assembles input material for ADP production jobs and delivers them to the Division of Production Systems Operations.

f. Expedites processing of critical jobs, operations and corrections.

g. Provides liaison with the users on status of production jobs and/or associated problems as required.

h. Maintains the integrity, manages and performs required recovery of all operational data, data media, tape and direct access for systems.

i. Maintains and enhances a transaction system for the control of a high-volume tape library.

j. Analyzes performance of the ADP production processes, and recommends and implements improvements. Destroys sensitive material in compliance with provisions of the Privacy Act and SSA procedures.

3. The Division of Computer Operations Systems Software (S2EBA3).

a. Directs the analysis, design, development, implementation and maintenance of computer operating systems and utility software in support of programmatic and management information workloads for SSA's central data processing center and field components.

b. Directs the design, development, testing and continuing support of specialized data communications control software used to support SSA's data communications systems.

c. Directs the design, development, implementation and maintenance of information systems software in support of the central data processing center's problem, change and configuration management systems.

d. Supports the utility software and user activities in the areas of computer graphics, small computers and nonimpact printers.

e. Supports the user liaison and systems development activities of other OSO components in the resolution of technical and operational problems.

4. The Division of Telecommunications System Operations (S2EBA4).

a. Directs the operations of SSA's telecommunications network facilities for the transmission of program and management data over SSA-established networks.

b. Manages traffic flow between the telecommunications complex and other SSA computers. Monitors telecommunications operations, analyzes equipment problems and effects proper maintenance and repair.

c. Directs the implementation of new or revised operating policies and procedures. Recommends new procedures and appraises telecommunications operating instructions, centrally and in the field.

d. Establishes and enforces standards for controlling workflow and for assuring the integrity of data processed through the various data communications operations.

e. Acts as liaison with common carriers and network equipment vendors to maintain operational effectiveness of equipment.

f. Directs the operational performance evaluation of SSA's data communications systems.

g. Provides technical expertise and assistance on data communications procurements and other SSA systems modernization projects.

h. Directs the design, development and implementation of software to gather and report statistical information on the functioning of telecommunications networks. Distributes the information to other SSA components to report on network performance and equipment utilization.

i. Designs and implements security software for SSA's telecommunications network, and ensures that related procedures are followed by technical personnel.

j. Manages the installation, removal and relocation of local and remote telecommunications facilities, assuring compliance with governing Federal regulations.

k. Maintains an integrated control center, centrally and at the remote network modes, to provide a point of contact of field offices reporting equipment or operational problems.

1. Conducts ongoing analyses of network configurations and workloads, and initiates changes to the network topology to optimize cost/performance.

m. Develops standards and procedures for applications developers in interfacing to SSA's data communications network. Evaluates requested or proposed applications for impact on network resources.

n. Maintains and controls an inventory of all remote data communications equipment which assesses SSA's telecommunications networks, and the history and status of equipment outages for all SSA-owned or leased data communications equipment.

o. Assigns, maintains and provides to data communications systems users, telecommunications site routing codes and terminal identifiers consistent with Governmentwide network addressing conventions.

p. Conducts investigations and analysis of system problems affecting local and remote users of the data communications networks, and provides liaison with regional staffs in identifying and correcting chronic problems and trends.

5. The Division of Integration and Environmental Testing (S2EBA5).

a. Directs and controls all activities with the release of new or enhanced versions of host programmatic and telecommunications-related software. Enforces software acceptance and certifications standards. Directs the initial staging of program modules to be tested, including generation of executable code.

b. Develops and maintains extensive test data bases for use in the acceptance, integration and environmental testing processes. Develops and incorporates the use of software simulators and emulators in software acceptance testing.

c. Directs the integration testing of new or enhanced communications host software, remote network/terminal and microprocessor software and network communications software. Participates in the movement and/or migration of software systems and associated data files between complexes and processing components.

d. Directs environmental testing to ensure that new or enhanced software is compatible with changing hardware configurations. Directs the integration of new or enhanced SSA programmatic software. Administers the generation of finalized testing results for evaluation. Directs software performance evaluations, parallel testing, timing studies, inter/intrasystem relationship and testing trend analysis.

e. Responsible for administering ADP hardware integration and acceptance testing.

f. Provides the checks and balances on SSA's ADP systems and equipment procurements for complying with contractual performance requirements throughout the life cycle of the procurement.

Subsection E. The Office of Systems Support and Planning (S2EBB).

Add:

1. The Division of Operational Capacity Performance Management (S2EBB1).

a. Evaluates computer performance and monitors resource utilization to ensure that the ADP and telecommunications systems are utilized effectively and efficiently. Analyzes systems capacity as it relates to utilization and service objectives, and prepares recommendations for upper management. As directed, performs similar functions for other SSA components including the program service centers.

b. Ensures that sufficient ADP capacity is available to process present and future workloads, coordinating decisions on target systems for new/modified workloads and system configuration changes.

c. Monitors the OSO service delivery to ensure that systems performance objectives, as defined in the User Service Agreements, are being met. Provides recommendations to enhance delivered service as necessary, and ensure that data bases are efficiently implemented.

d. Provides advice and services to other OSO components in the use of computer performance evaluation tools and the interpretation of reports/data resulting from evaluation and utilization studies.

e. Uses operations research tools (e.g., simulation and mathematical models and statistical analyses) to investigate operational efficiency problems and develop relationships between transaction volumes, resource utilization and resulting service delivery.

f. Schedules, arranges, conducts and reports on structured systems' effectiveness reviews to compare OSO service commitments with delivered levels of performance, and contributes towards planning and enhancement of existing systems.

g. Coordinates, assists in the development/maintenance and monitors all Systems service level agreements. Represents OSO in the User Service Agreement negotiations.

h. Performs a wide range of user coordination and problem resolution functions. Gathers and disseminates timely information, related to

operational problems, errors and changes that affect the users.

2. The Division of Standards and Control (S2EBB2).

a. Develops, publicizes and implements standards and mandatory systems procedures within OSO. Develops controls and enforcement mechanisms to ensure adherence to operational standards. Recommends development of operational standards to other OSO components and, based on their responses, reviews, modifies and approves them. Administers the Federal and HHS systems standards programs within OSO.

b. Directs the planning, implementation and evaluation of the physical systems security program in OSO under HHS, SSA and OSI privacy and security policies.

c. Services as OSO liaison with other Systems components in matters of privacy and security.

d. Provides for the physical security of all OSO resources in the centralized OSO computer facility, and manages the facility within boundaries established by DCM.

e. Provides planning, evaluation and oversight on disaster recovery capabilities in order to maintain continuity of data center operations.

f. Develops, implements and evaluates systems and procedures for the security and protection of data.

g. Formulates an OSO-wide Systems Plan and assigns responsibility among major OSO components for various parts of the Plan. Work with OSO components to evaluate their proposed systems objectives in terms of technical feasibility, availability of OSO resources and systems costs. Identifies the major OSO activities and resources needed to support these objectives.

h. Directs and coordinates the OSO activities associated with operational planning and ADP Systems Planning.

i. Coordinates and directs the development of the total OSO technical workpower, equipment and other special costs for the SSA budget process and justifies these on the basis of the Operational Systems Plan. Allocates resources and monitors projects for all OSO activities, directs the preparation of detailed plans on the project or operational activity level and authorizes the use of resources by OSO components in support of these plans.

j. Monitors progress and use of workpower and equipment resources by OSO components against their approved plans.

k. Assists OSO components in the use of standard methods for project management.

3. The Division of Operational Resource Management (S2EBB3).

a. Directs OSO's participation in the Information Technology Systems (ITS) procurement process.

b. Performs technical and cost reviews of all OSO/ITS procurements.

c. Provides support for ITS Technical Evaluation Committees.

d. Supports contract administration for all OSO/ITS contracts.

e. Provides technical support to Project Officers in the development, modification and administration of ITS contracts.

f. Directs the renewal process for existing lease and maintenance contracts for ITS and telecommunications equipment and services.

g. Manages the fiscal administration of all implemented ITS contracts, collecting, analyzing and reporting performance data to support required fiscal and other contractual proceedings.

h. Manages a centralized inventory of all SSA ITS and telecommunications equipment, and manages the ITS excess equipment process.

i. Provides for the centralized certification and authorization for the lease and maintenance of SSA's ITS and telecommunications equipment.

j. Provides necessary staff support to the users within OSO for the development of procurement documents and documentation.

k. Develops and maintains the OSO macroprocurement plan which relates to planned major acquisitions of ITS equipment, software, system design and system support services.

1. Serves as Project Officer for ITS recompetition/ongoing maintenance contracts.

Section S2GB.10 *The Office of Systems Requirements*— (Organization):

Subsection D. The Office of Claims and Payment Requirements (S2GBl).

Add:

1. The Division of Claims and Control (S2GBll).

2. The Division of Payment Processes (S2GB12).

3. The Division of RSDI Postentitlement Systems (S2GB13).

4. The Division of Supplemental Security Income Systems (S2GB14).

Subsection E. The Office of Pre-Claims Requirements (S2GB2).

Add:

1. The Division of Enumeration and Employer Identification (S2GB21).

2. The Division of Earnings Reporting and Maintenance (S2GB22).

3. The Division of Records Use and State Reporting (S2GB23).

4. The Division of User Support and Interfaces (S2GB24).

Subsection G. The Office of Planning, Control and Validation (S2GB4).

Add:

1. The Division of Planning and Support (S2GB41).

2. The Division of Requirements Support, Standards and Security (S2GB42).

3. The Division of Validation (S2GB43). Section S2GB.20 *The Office of Systems Requirements*— (Functions):

Subsection D. The Office of Claims and Payment Requirements (S2GBl).

Add:

1. The Division of Claims and Control (S2GBll).

a. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including security and fraud detection for the initial claims process; control of claims folders and claims-related material; the transaction control operation; earnings data requests; RSDI disallowances; appeals processes and management data reports.

b. Participates with the Office of Planning, Control and Validation (OPCV) in the planning and conduct of unit validation tests of new systems and modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

c. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications for the claims and control process.

d. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of claims and control to the Office of Systems Design and Development (OSDD) for development of ADP specifications and systems design.

e. Evaluates legislative proposals, regulations and policy changes affecting the claims and control process.

f. Represents users in resolving system discrepancies and errors relating to existing claims and control processes with OSDD and OSO representatives.

g. Coordinates user requirements with SSA central and field offices to ensure the efficiency and effectiveness of program information needs and overall systems support.

2. The Division of Payment Processes (S2GB12).

a. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including security and fraud detection, for the Master Beneficiary Record (MBR)

update operations; titles II and XVI check-related areas, the taxation process, overpayment, underpayment, attorney fees, misuse, fraud and civil suit actions and benefit-related accounting operations.

b. Participates, with OPCV, in the planning and conduct of unit validation tests of modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

c. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications for the payment process.

d. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of titles II and XVI payment processes to OSDD for the development of ADP specifications and systems design.

e. Evaluates legislative proposals, regulations and policy changes affecting the payment process.

f. Represents users in resolving system discrepancies and errors relating to existing payment processes with OSDD and OSO representatives.

g. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

3. The Division of RSDI Postentitlement Systems (S2GB13).

a. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including security and fraud detection, for ADP of RSDI postentitlement reports and events (work notices, student reports, etc.) that involve manual/automated suspensions, terminations or reinstatements; related beneficiary notices; address and/or representative-payee changes and Medicare enrollment, withdrawal and termination actions and Black Lung processes.

b. Participates, with OPCV, in the planning and conduct of unit validation tests of modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

c. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications for the RSDI Postentitlement process.

d. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of RSDI Postentitlement to OSDD for the development of ADP specifications and systems design.

e. Evaluates legislative proposals, regulations and policy changes affecting the RSDI Postentitlement process.

f. Represents users in resolving system discrepancies and errors relating to the existing RSDI Postentitlement process with OSDD and OSO representatives.

g. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

4. The Division of Supplemental Security Income Systems (S2GB14).

a. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including security and fraud detection for title XVI (SSI) processes and redetermination operations.

b. Participates, with OPCV, in the planning and conduct of unit validation tests of modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

c. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications for the SSI process.

d. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of SSI Initial Claims and Posteligibility Operations to OSDD for the development of ADP specifications and systems design.

e. Evaluates legislative proposals, regulations and policy changes affecting the SSI process.

f. Represents users in resolving system discrepancies and errors relating to the existing SSI process with OSDD and OSO representatives.

g. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

Subsection E. The Office of Pre-Claims Requirements (S2GB2).

Add:

1. The Division of Enumeration and Employer Identification (S2GB21).

a. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including those relating to security and fraud detection for the establishment, correction and maintenance of Social Security numbers, for the issuances of new or duplicate cards, for the maintenance and use of employer information including employer identification numbers, for the reconciliation of wage reports with the Internal Revenue Service, and for control and tracking of wage report data.

b. Participates, with OPCV, in the planning and conduct of unit validation tests of modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

c. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications for the enumeration and the employer identification and control process.

d. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of enumeration and employer identification and control to OSDD for the development of ADP specifications and systems design.

e. Evaluates legislative proposals, regulations memoranda of understanding and policy changes affecting the enumeration process and the employer identification and control process.

f. Represents users in resolving system discrepancies and errors relating to existing enumeration and employer identification and control processes with OSDD and OSO representatives.

g. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

2. The Division of Earnings Reporting and Maintenance (S2GB22).

a. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including those relating to security and fraud detection, for reporting private and public sector earnings data; for establishment, correction and maintenance of earnings records and for reconciling disagreements and resolving discrepancies.

b. Participates, with OPCV, in the planning and conduct of unit validation tests of modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in

conformance with functional specifications.

c. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications for the earnings reporting and maintenance process.

d. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of earnings reporting to OSDD for the development of ADP specifications and system design.

e. Evaluates legislative proposals, regulations and policy changes affecting the earnings reporting process.

f. Represents users in resolving system discrepancies and errors relating to the existing earnings reporting and maintenance process with OSDD and OSO representatives.

g. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

3. The Division of Records Use and State Reporting (S2GB23).

a. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including those relating to security and fraud detection for use, access and exchange of earnings, Social Security number, and employer data; for providing earnings data to support titles II and XVI programmatic processes; for issuing earnings and benefit estimate statements; for reconciling disagreements and resolving discrepancies related to earnings data, for the establishment and maintenance of a vested pension rights information system and for providing residual support for the collection and accounting of State and local contributions on wages paid prior to tax year 1987.

b. Participates, with OPCV, in the planning and conduct of unit validation tests of new systems or modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

c. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications for earnings data use and State and local contribution and liability, and data accessing processes.

d. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of earnings data use and State and local contributions and liability, and data accessing processes to OSDD for the development of ADP specifications and systems design.

e. Evaluates legislative proposals, regulations and policy changes affecting use and maintenance of earnings data and State and local contributions and liability, and data accessing processes.

f. Represents users in resolving system discrepancies and errors relating to earnings data uses, existing State and local contributions and liability, and data accessing processes with OSDD and OSO representatives.

g. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall system support.

4. The Division of User Support and Interfaces (S2GB24).

a. Plans, develops, evaluates and implements organizational information requirements, functional specifications, procedures, instructions and standards, including security and fraud detection for data exchanges between SSA systems and other Federal and State agencies; data bases; data base access for information, teleprocessing and for statistical and administrative information.

b. Participates, with OPCV, in the planning and conduct of unit validation tests of modifications to existing systems against user-defined requirements and performance criteria, and certifies that the changes are in conformance with functional specifications.

c. Develops and maintains a comprehensive, updated and integrated set of system requirements specifications for the interface and data base access processes and the statistical and administrative information process.

d. Performs requirements analyses and definition, conveying SSA-approved user needs and requirements in the area of data base accesses and interfaces to OSDD for the development of ADP specifications and systems design.

e. Evaluates legislative proposals, regulations and policy changes affecting the interface and administrative and statistical systems.

f. Represents users in resolving system discrepancies and errors relating to the existing interface and administrative and statistical processes with OSDD and OSO representatives.

g. Coordinates user requirements with SSA central and field offices and Federal and State agencies to ensure the efficiency and effectiveness of program information needs and overall systems support.

Subsection G. The Office of Planning, Control and Validation (S2GB4).

Add:

1. The Division of Planning and Support (S2GB4A).

a. Directs development, operation and maintenance of Management Support Systems which provide automated support to the Office of Systems Requirements (OSR) planning, monitoring, project and resource management functions. Analyzes management requirements and needs of other OSR components, and develops appropriate systems support capability. Acquires necessary ADP capability to meet user needs through equipment acquisition or timesharing agreements. Works with the Office of Strategic Planning and Integration (OSPI) and the Office of Information Management (OIM) contractors and other involved components to develop, maintain and implement systems' management support and control processes to integrate OSR's management support systems and processes systems-wide.

b. Provides standards, procedures, systems support and technical assistance to OSR project managers to facilitate preparation of work plans. Directs review of project work plans to ensure completeness, comparability with standards and managerial directives, and requirements and conformity to the ADP Plan, Configuration Control Board (CCB) decisions and other management decisions. Coordinates systems-wide approval of new and modified plans, and ensures that differences and conflicts among components are resolved. Provides for monitoring progress of work projects against work plans and reporting status to systems management.

c. Works with systems management to develop, maintain and implement configuration control and systems change control processes. Directs review and control of requests for modification of SSA systems. Ensures that all requests are in accordance with ADP Plan and CCB decisions and correspond to approved project work plans. Monitors change requests through the systems life cycle, and ensures that all necessary concurrences and approvals are obtained and that implementation is scheduled for appropriate systems versions.

d. Develops, maintains and manages the office automation and networking functions for OSR.

e. Plans and analyzes information and resource requirements to determine the requirements for new or improved systems processes to support long-term

agency needs, and develops a final list of recommended requirements for new or improved systems, setting priorities among the requirements.

f. Develops, maintains and publishes the overall approved SSA plan for fulfilling short-term and long-range information system requirements, including determining, classifying and ranking systems needs of all SSA components, and recommends final priorities for approval; documents all critical issues having major Agency-wide impact and forwards them to the Associate Commissioner for Systems Requirements for resolution.

g. Coordinates approved system requirements changes for pre-claims and claims areas with system modernization plans maintained by OSDD.

2. The Division of Requirements Support, Standards and Security (S2GB4B).

a. Conducts studies to define Agency processes, information needs, data flow and interrelationships among organizational and systems components, data bases and processes.

b. Develops appropriate standards and procedures for functional requirements definition and analysis (RD&A) stage activities; e.g., functional requirements documentation; evaluates the effectiveness of the standards and reviews OSR products for quality to ensure that the standards are being maintained. Serves as focal point for coordinating the development and maintenance of the Project Management Handbook, as well as maintenance of Software Engineering Technology (SET) for all OSR's standards and procedures.

c. Develops controls, auditability and security standards for the organizational information requirements for all SSA systems, and ensures the implementation of the standards within all areas of OSR's functional responsibilities. Also, develops methods to improve control and security features based on established standards and cost/benefit considerations.

d. Reviews functional requirements documents, requests for system modifications, procedural issuance and related material developed by OSR components to determine adherence to SSA, HHS and the Office of Management and Budget standards relating to the security and integrity of SSA data processing and information systems.

e. Leads and/or coordinates reviews of programmatic processes and systems to identify weaknesses in control, auditability and security features, makes recommendations for improvement, and coordinates activities with other SSA components to ensure that approved recommendations are implemented.

f. Provides the capability for, and performs dynamic testing and static testing of, all programmatic systems in support of SSA and oversight Agency requirements, as well as in support of OSR control and audit process reviews.

g. Develops requirements for, and authorizes systems software changes to, various Control and Audit Test Facility software modules and programmatic modules used in the performance of static and dynamic testing, and validates those changes. Authorizes changes to the SSA Data Acquisition and Response System's security system.

h. Coordinates with users and all systems components on Privacy Act and Freedom of Information Act (FOIA) issues to ensure that functional requirements and procedures are in conformance with that legislation.

i. Supports the use and integration of automated tools; e.g., Computer-Aided Software Engineering (CASE) tools, Problem Statement Language/Problem Statement Analyzer (PSL/PSA), etc., in support of OSR's development and maintenance of functional requirements, documents and data models for SSA's programmatic systems.

j. Provides assistance to the configuration management process by developing strategies and guidelines for baselining automated FR data bases.

k. Develops and maintains a framework for interrelating data models, FRs and software design. Develops requirements for standardizing data collection across application areas.

3. The Division of Validation (S2GB4C).

a. Develops, evaluates and implements automated techniques and methodologies for the validation phase of system development in accordance with established standards and in support of modified operational systems and system modernization efforts.

b. Identifies and documents requirements for automated validation tools and validation data bases.

c. Develops requirements for test file and historical data bases, test tools and model test plans for use by OSR components in conducting unit validation tests.

d. Performs integration/validation tests and analyzes the results to ensure that program, records and enumeration, administration and statistical processes and major OSR developmental projects accurately and effectively meet user requirements, and orders modifications where appropriate.

e. Coordinates with other system components and users in evaluating the analysis of the validation.

f. Performs unit, integration and pilot validation tests, including operational procedures, to ensure that the functional requirements have been met and that the systems are free of operating faults.

g. Certifies resulting systems for operational acceptance.

h. Constructs periodic software version releases for modified operational systems and software modernization projects using systems change control procedures.

Section S2GA.10 *The Office of Systems Design and Development*—(Organization):

Subsection E. The Office of Software Improvement and Engineering (S2GA2).

Add:

1. The Logical Application Group I—Data Gathering and Architectural Software (S2GA21).

2. The Logical Application Group II Programmatic Processing Software (S2GA22).

3. The Logical Application Group III Specialized Support Software (S2GA23).

4. The Division of Data Administration (S2GA24).

Subsection F. The Office of Programmatic Systems (S2GA3).

Add:

1. The Division of Earnings Systems (S2GA31).

2. The Division of RSDI Data Systems (S2GA32).

3. The Division of RSDI Transaction Systems (S2GA33).

4. The Division of Supplemental Security Income Systems (S2GA34).

Section S2GA.20 *The Office of Systems Design and Development*—(Functions):

Subsection E. The Office of Software Improvement and Engineering (S2GA2).

Add:

1. The Logical Application Group I—Data Gathering and Architectural Software (S2GA2A) designs, develops, coordinates and implements new or redesigned software to meet SSA's automated data processing needs in the broad area of data gathering for programmatic processes. Projects would include data gathering for areas such as initial claims, postentitlement, debt management, earnings and enumeration data. Such specific systems needs are defined through functional specifications provided by OSR. Systems design projects are national in scope, affect all SSA components and are integral to the satisfactory completion of the Agency Strategic Plan (ASP).

2. The Logical Application Group II—Programmatic Processing Software (S2GA2B) designs, develops, coordinates and implements new or

redesigned software to meet SSA's automated data processing needs in the broad area of programmatic processes. Projects would include such areas as earnings eligibility/entitlement, pay/computations and debt management. Specific systems needs are defined through functional specifications provided by OSR. Systems design projects are national in scope, affect all SSA components and are integral to the satisfactory completion of ASP.

3. The Logical Application Group III—Specialized Support Software (S2GA2C) designs, develops, coordinates and implements new or redesigned software to meet SSA's ADP needs in the broad area of specialized support. Projects would include such areas as notice utilities, workload management inquiries, data exchange and accounting. Specific systems needs are defined through functional specifications provided by OSR. Systems design projects are national in scope, affect all SSA components and are integral to the satisfactory completion of ASP.

4. The Division of Data Administration (S2GA2D).

a. Plans, designs, develops and implements the Data Base Integration Program.

b. Provides for the establishment, issuance and enforcement of standards for physical data definition, record and file design and for the selection and implementation of data storage architectures.

c. Establishes systems and procedures for protecting and monitoring the security data. This includes data access controls, data base backup and recovery and data access audit trails.

d. Selects, establishes, modifies and maintains data base structures, access methods and associated software, as required by changes in objectives, data storage technologies and performance requirements.

e. Designs and develops new or improved applications support software to promote data independence and to facilitate interaction between data bases and application software.

f. Establishes and maintains the Data Resource Management System (DRMS) which provides automated support for the analysis, design, development, maintenance and control of SSA software.

g. Designs, evaluates, conducts analyses, and provides support services related to data administration and data base management improvement projects. Prepares draft requirement statements and statements of work for use in the acquisition of software packages/tools and software contractor support services related to the project areas.

Subsection F. The Office of Programmatic Systems (S2GA3).

Add:

1. The Division of Earnings Systems (S2GA3A) performs the systems analysis, design, programming and testing necessary to develop and maintain current, new and redesigned systems in response to approved user systems requirements for preentitlement earnings and enumeration applications. These systems establish, correct and maintain Social Security number records, update and maintain records of new and duplicate Social Security cards, establish and maintain summary earnings records, process earnings and adjustments, investigate incorrectly reported earnings and post to the proper account; provide earnings record information to employers, employees and self-employed individuals and establish, correct and maintain vested pension rights identification and notification records.

2. The Division of RSDI Data Systems (S2GA3B) performs the systems analysis, design, programming and testing necessary to develop and maintain current, new and redesigned systems in response to approved user systems requirements and the SET manual for RSDI data base establishment and maintenance applications. These systems edit incoming new records and transactions, control in-process and stored transactions, retrieve and display transaction and MBR-related data both in an online and off line environment, exchange data with non-SSA systems, produce monthly benefit payment information, produce yearly benefit payment statements, generate personalized earnings benefit statements, and provide statistical and actuarial study data. Conducts liaison with other SSA components and Federal and State agencies to plan the development of RSDI systems applications. Provides the Associate Commissioner for Systems Design and Development and other SSA offices with a technical assessment of the effect of legislation, administrative and systems offices with a technical assessment of the effect of legislation, administrative and systems modernization proposals on existing RSDI applications.

3. The Division of RSDI Transaction Systems (S2GA3C) performs the systems analysis, design, programming and testing necessary to develop and maintain current, new and redesigned systems in response to approved user systems requirements for RSDI transaction processing. These systems calculate insured status, primary insurance amounts, benefit estimates and benefit payment rates; record and modify entitlement and eligibility factors; identify overpayments and control their disposition; provide beneficiary notices; update and maintain a variety of records and materials which record the results of automated processing; produce or extract management information data for management use; and provide data exchange information for other SSA and non-SSA systems. Translates user requirements, as approved by OSR, into detailed design, development and testing activities and system documentation for current, new or redesigned systems.

4. The Division of Supplemental Security Income Systems (S2GA3D).

a. Provides the systems analysis, design, programming and testing necessary to develop and maintain current, new and redesigned application systems to support the SSI program. These systems: edit new records and transactions; maintain and revise the SSI master file to reflect changes; compute both Federal SSI benefit and State supplementary payments and produce payment information for the Treasury Department; account for disbursement of Federal and State funds; prepare recipient notices of claims decisions and changes in status and payment; identify and control overpayment activity; select and control cases requiring redetermination; exchange data with Government record systems to verify recipient income; generate data for State use in determining supplementation amounts and Medicaid eligibility; provide record query and response capability; control folder location and movement; produce statistical, management and actuarial data as needed and control exception processing and diary control mechanisms.

b. Translates approved user requirements for SSI systems and performs detailed design, development, testing and system documentation activities to make changes to existing systems or produce new or redesigned systems in response to user requirements.

c. As directed, conducts liaison with other SSA components and Federal and State agencies to determine the feasibility and to plan the development of SSI claims, transaction and support systems.

d. Provides the Associate Commissioner for Systems Design and Development and other SSA offices, as appropriate, with a technical

assessment of the impact of legislative, administrative and systems modernization proposals on exiating SSI systems.

Dated: March 30, 1989.

John R. Dyer,

Deputy Commissioner for Management.

[FR Doc. 89-8925 Filed 4-13-89; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Office of the Secretary

Advisory Committee on Water Data For Public Use; Notice of Reestablishment

This notice is published in accordance with section 9(a)(2) of the Federal Advisory Commitee Act (Public Law 92-463). Following consultation with the General Services Administration, notice is hereby given that the Secretary of the Interior is reestablishing the Advisory Committee on Water Data for Public Use. The purpose of the committee shall be to represent the interests of the non-Federal community of water-data users and professionals in advising the Department of the Interior, through the Geological Survey, on (a) plans, policies, and procedures related to water-data acquisition programs, (b) the effectiveness of those programs in meeting the national water-data needs, and on (c) activities pursuant to the implementation of Office of Management and Budget Circular A-67.

Further information regarding the committee may be obtained from the Director, U.S. Geological Survey, Department of the Interior, 12201 Sunrise Valley Drive, Reston, Virginia 22092.

The certification of reestablishment is published below.

Certification

I hereby certify that reestablishment of the Advisory Committee on Water Data for Public Use is in the public interest in connection with the performance of duties imposed on the Department of the Interior by 43 U.S.C. 31 and language in the annual Department of the Interior appropriations acts.

Date: March 31, 1989.

Manuel Lujan, Jr.

Secretary of the Interior.

[FR Doc. 89-8879 Filed 4-13-89; 8:45 am]

BILLING CODE 4310-31-M

Bureau of Land Management

[MT-921-08-4121-11; MTM 78030]

Coal Exploration; Montana

AGENCY: Bureau of Land Management, Montana State Office.

ACTION: Notice of invitation.

Coal Exploration License Application MTM 78030

Members of the public are hereby invited to participate with Meridian Minerals Company in a program for the exploration of coal deposits owned by the United States of America in the following described lands located in Musselshell and Yellowstone Counties, Montana:

Principal Meridian, Montana

T. 6 N., R. 26 E.
Sec. 12: All
Sec. 24: N½, E½SW¼, SE¼
T. 6 N., R. 27 E.
Sec. 2: NE¼SW¼, NW¼SE¼, E½SE¼, NE¼
Sec. 4: All
Sec. 6: All
Sec. 8: All
Sec. 10: All
Sec. 14: All
Sec. 18: All
Sec. 22: W½,SE¼
Sec. 30: All
Sec. 32: All
T 7 N., R. 27 E.
Sec. 34: All
640.00 acres Yellowstone County, 7,031.81 acres Musselshell County, Total acres: 7,671.81

Any party electing to participate in this exploration program shall notify, in writing, both the State Director, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107; and Meridian Minerals Company, 5613 DTC Parkway, Englewood, Colorado 80111. Such written notice must refer to serial number MTM 78030 and be received no later than 30 calendar days after publication on this Notice in the **Federal Register** or 10 calendar day after the last publication of the Notice in the Roundup Record-Tribune, whichever is later. This Notice will be published once a week for 2 consecutive weeks.

The proposed exploration program is fully described and will be conducted pursuant to an exploration plan to be approved by the Bureau of Land Management. Copies of the exploration plan as submitted by Meridian Minerals Company may be examined during normal business hours at the Bureau of Land Management, Montana State Office, Granite Tower Building, 222 North 32nd Street, Billings, Montana.

John A. Kwiatkowski,

Acting State Director.

[FR Doc. 89-8880 Filed 4-13-89; 8:45 am]

BILLING CODE 4310-DN-M

Environmental Assessment; Proposed Action Within Wilderness Study Areas

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of an amendment to an existing Environmental Assessment (CX-88-60) involving Wilderness Study Areas within the Kanab Resource Area.

SUMMARY: The Bureau of Land Management, Cedar City District, is proposing to authorize the use of a helicopter to gain access to obtain soil inventory data within the Wilderness Study Areas of the Kanab Resource Area. An earlier assessment (CX-88-60) was completed and signed on August 12, 1988 to allow vehicle access into the WSAs on existing roads. This action will amend the earlier assessment.

ADDRESS: To obtain a copy of the amendment to the original environmental assessment contact Martha Hahn, Area Manager, Kanab Resources Area, 318 North First East, Kanab, Utah 84741 or telephone (801) 644-2672.

DATES: Comments will be accepted for 30 days from the first date of publication of this notice.

Date: April 6, 1989.

Gordon R. Staker,

District Manager.

[FR Doc. 89-8881 Filed 4-13-89; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ 020-09-4212-12; AZA 20346-V]

Realty Action; Exchange of Public Land, Navajo and Pinal Counties, AZ

BLM proposes to exchange public land in order to achieve more efficient management of the public land through consolidation of ownership.

The following public land is being considered for disposal by exchange pursuant to section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716.

Gila and Salt River Meridian, Arizona

Navajo County

T 13 N., R. 18 E.,
Sec. 4, lots 1 to 4, incl., S½N½, S½.
T. 14 N., R. 18 E.,
Sec. 28, E½.

Pinal County

T. 5 S., R. 10 E.,
Sec. 13, NW¼;
Sec. 25, NW¼, SE¼.
T. 5 S., R. 11 E.,
Sec. 1, lots 1 to 4, incl., S½N½, S½;
Sec. 3, lots 1 to 4, incl., S½N½, S½;
Sec. 4, lots 1 to 4, incl., S½N½, S½;
Sec. 5, lots 1 to 4, incl., S½N½, S½;
Sec. 6, lots 1 to 6, incl., S½NE¼, SE¼;
Sec. 7, lots 1 to 4, incl., E½;
Secs. 8 through 15, all;
Sec. 16, SW¼;
Sec. 17, all;
Sec. 18, lots 1 to 4, incl., E½;
Sec. 19, lots 1 to 4, incl., E½;
Secs. 20 through 29, all;
Sec. 30, lots 1 to 4, incl., E½;
Sec. 31, lots 1 to 4, incl., E½;
Secs. 33 through 35, all.
Containing 20,984.34 acres, more or less.

Final determination on disposal will await completion of an environmental analysis.

In accordance with the regulations of 43 CFR 2201.1(b), publication of this Notice will segregate the affected public lands from appropriation under the public land laws and the mining laws, but not the mineral leasing laws or Geothermal Steam Act.

The segregation of the above-described lands shall terminate upon issuance of a document conveying such lands or upon publication in the **Federal Register** of a notice of termination of the segregation; or the expiration of two years from the date of publication, whichever occurs first.

For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Henri R. Bisson,

District Manager.

Date: April 5, 1989.

[FR Doc. 89-8882 Filed 4-13-89; 8:45 am]

BILLING CODE 4310-32-M

[CA-060-09-4410-10]

Intent To Prepare Resource Management Plan; California Desert District, Palm Springs-South Coast Resource Area, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Palm Springs-South Coast Resource Area will prepare a Resource Management Plan (RMP) with an Environmental Impact Statement (EIS) for the South Coast Planning Area. The planning area is the portion of the Resource Area which is not within the California Desert Conservation Area. It includes portions of San Diego, Riverside, Los Angeles, San Bernardino and Orange Counties. The RMP will guide future land use of approximately 145,000 acres of public land. In addition it will address the Bureau's mineral leasing and permitting responsibilities on additional lands of federal mineral ownership. The planning effort will follow the Code of Federal Regulations, Title 43, Subpart 1600. The public is invited to participate in the planning process, beginning with the identification of planning issues and criteria.

DATE: Comments relating to the identification of planning issues and criteria will be accepted through June 15, 1989.

ADDRESS: Send comments to BLM, Palm Springs-South Coast Resource Area, 1900 E. Tahquitz-McCallum Way, Suite B-1, Palm Springs, California 92262.

FOR FURTHER INFORMATION CONTACT: Russell L. Kaldenberg, Area Manager, or Duane Winters, RMP Team Leader, Palm Springs-South Coast Resource Area, (619) 323-4421.

SUPPLEMENTARY INFORMATION: The anticipated issues for the RMP include the following: (1) Land ownership adjustments, (2) Threatened and endangered and other sensitive species, and (3) Minerals including oil and gas as well as sand and gravel resources. These issues are preliminary and subject to change as a result of public input.

The RMP will be developed by an interdisciplinary team composed of specialists in realty, minerals, wildlife (including threatened and endangered animals), range and vegetation (including threatened and endangered plants), cultural resources, visual resources, recreation, fire management, soil, water and air. Additional technical support will be provided by other specialists as needed.

Public participation will be a principal part of the planning process. It is intended that all interested or affected parties be involved. The planning team will seek public input by direct mailings, media coverage, person to person contacts, and coordination with local, state, and other federal agencies. Public meetings to obtain input on the issues and planning criteria are scheduled for the following locations:

Newhall, California

May 8, 1989, 7-9 p.m., William S. Hart High School, 24825 N. Newhall Ave.

El Cajon, California

May 9, 1989, 7-9 p.m., Neighborhood Center-West Room, 195 E. Douglas Ave.

San Marcos, California

May 10, 1989, 7-9 p.m., Joslyn Senior Center, 111 Richmar Ave.

Hemet, California

May 11, 1989, 7-9 p.m., Hemet City Council Chambers, 450 E. Latham Ave.

Complete records of all phases of the planning process will be available for public review at the Palm Springs-South Coast Resource Area Office. Draft and final documents of the RMP/EIS will be available upon request.

H.W. Riecken,

Acting District Manager.

Date: April 10, 1989.

[FR Doc. 89-8926 Filed 4-13-89; 8:45 am]

BILLING CODE 4310-40-M

[AK-932-09-4214-10; AA-8253]

Notice of Conformance To Survey; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This Notice provides official publication of the surveyed description for that portion of Public Land Order No. 5566 know as the U.S. Coast Guard Diesel Power Plant. The plat of survey was officially filed in the Alaska State Office, Bureau of Land Management, Anchorage, Alaska, April 4, 1989. Lot 25 of United States Survey No. 2539, containing 73.46 acres, represents the land that was previously described as follows:

Seward Meridian, Alaska

T. 28 S., R. 20 W.
Beginning at Corner No. 1, Swampy Acres Tract, Lat. 57°46'20.441"N., Long. 152°28'48.003"W., which bears S. 60°15'14"W., 10,251.96 feet from Corner No. 1, U.S. Survey No. 2539;
Thence North, 2,000.00 feet;
Thence East 1,600.00 feet;
Thence South 2,000.00 feet;
Thence West 1,600.00 feet to the point of beginning.
The tract as described contains approximately 73.46 acres.

ADDRESS: Inquires about this land should be sent to the Alaska State Office, Bureau of Land Management, 222

W. 7th Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Sandra C. Thomas, BLM Alaska State Office, 907–271–3342.

Sue A. Wolf,

Chief, Branch of Land Resources.

[FR Doc. 89–8883 Filed 4–13–89; 8:45 am]

BILLING CODE 4310–JA–M

[AZ–920–09–4214–11; AR–031307]

Partial Cancellation of Withdrawal Application; Arizona

April 5, 1989.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Reclamation (BR), U.S. Department of the Interior, has requested cancellation of a part of application AR–031307 insofar as it affects 11.64 acres of public land in Maricopa County west of Apache Junction. This notice terminates the segregation imposed by this application and opens the land to disposal under the terms of the Recreation and Public Purposes Act of June 14, 1926, as amended. The City of Mesa currently leases the land under the terms of said Act.

EFFECTIVE DATE: April 14, 1989.

FOR FURTHER INFORMATION CONTACT: John Mezes, BLM Arizona State Office, 3707 N. Seventh Street, Phoenix, Arizona 85014, (602) 241–5509.

SUPPLEMENTARY INFORMATION: The BR, USDI, filed withdrawal application AR–031307 on February 19, 1962, in support of the Central Arizona Project. They have determined that a withdrawal is not required to protect improvements on this particular parcel and by letter dated February 14, 1986, requested that certain described land be deleted from the withdrawal application.

Withdrawal application AR–031307 is hereby cancelled in part and the segregation imposed on the following described land is hereby terminated:

Gila and Salt River Meridian

T. 1 n., R. 7 E.,
Sec. 8, lot 4.
The area described totals 11.64 acres in Maricopa County.

Other lands identified in application AR–031307 are affected by the BR letter request of February 14, 1986; however, processing action will be the subject of a later notice.

John T. Mezes,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 89–8884 Filed 4–13–89; 8:45 am]

BILLING CODE 4210–32–M

Minerals Management Service

Receipt of Development Operations Coordination Document; CNG Producing Co.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that CNG Producing Company has submitted a DOCD describing the activities it proposes to conduct on Lease OCS–G 6692, Block 81, South Marsh Island Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an existing onshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on April 4, 1989. Comments must be received within 15 days of the publication date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Public Information Office, Gulf of Mexico OCS Region, Minerals Management Service, 1201 Elmwood Park Boulevard, Room 114, New Orleans, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert; Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Telephone (504) 736–2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective May 31, 1988 (53 FR 10595).

Those practices and procedures are set out in revised Section 250.34 of Title 30 of the CFR.

Date: April 6, 1989.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 89–8927 Filed 4–13–89; 8:45 am]

BILLING CODE 4310–MR–M

Outer Continental Shelf Oil and Gas Lease Sales; List of Restricted Joint Bidders

Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period from May 1 through October 31, 1989. The List of Restricted Joint Bidders published in the **Federal Register** on October 20, 1988, at 53 FR 41249 covered the bidding period of November 1, 1988, through April 30, 1989.

Group I. Chevron Corp.; Chevron U.S.A. Inc.

Group II. Exxon Corp.

Group III. Shell Oil Co.; Shell Offshore Inc.; Shell Western E&P Inc.

Group IV. Mobil Oil Corp.; Mobil Oil Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc.; Mobil Exploration and Producing North America Inc.

Group V. BP America Inc.; Standard Oil Co.; BP Exploration Inc.; BP Exploration (Alaska) Inc.

Thomas Gernhofer,

Acting DeputyDirector, Minerals Management Service.

[FR Doc. 89-8901 Filed 4-13-89; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Upper Delaware Service and Recreational River; Citizen, Advisory Council, Meeting

AGENCY: National Park Service; Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the date of the forthcoming meeting of the Upper Delaware Citizens Advisory Council. Notice of this meeting is required under the Federal Advisory Commitee Act.

DATE: April 28, 1989, 7:00 p.m.[1]

Inclement Weather Reschedule Date: May 12, 1989.

ADDRESS: Town of Tusten Hall, Narrowsburg, New York.

FOR FURTHER INFORMATION, CONTACT: John T. Hutzky, Superintendent; Upper Delaware Scenic and Recretational River, P.O. Box C, Narrowsburg, NY 12765-0159; 717-729-8251.

SUPPLEMENTARY INFORMATION: The Advisory Council was established under section 704 (f) of the National Parks and Recreation Act of 1978, Pub. L. 95-625, 16 USC 1724 note, to encourage maximum public involvement in the development and implementation of the plans and programs authorized by the Act. The Council is to meet and report to the Delaware River Basin Commission, the Secretary of the Interior, and the Governors of New York and Pennsylvania in the preparation and implementation of the management plan, and on programs which relate to land and water use in the Upper Delaware region. The agenda for the meeting will surround administrative business, including bylaws revisions, charter review, and membership.

The meeting will be open to the public. Any member of the public may file with the Council a written statement concerning agenda items. The statement should be addressed to the Upper Delaware Citizens Advisory Council, P.O. Box 84, Narrowsburg, NY 12764. Minutes of the meeting will be available for inspection four weeks after the meeting, at the permanent headquarters of the Upper Delaware Scenic and Recreational River; River Road, 1¾ miles north of Narrowsburg, New York; Damascus Township, Pennsylvania.

Alec Gould,

Acting Regional Director, Mid-Atlantic Region.

[FR Doc. 89-8868 Filed 4-13-89; 8:45 am]

BILLING CODE 4310-70-M

[1] Announcements of cancellation due to inclement weather will be made by radio stations WDNH WDLC, WSUL, and WVOS.

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 name corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent corporation and address of principal office; Gifford-Hill & Company, Inc., P.O. Box 190999, Dallas, Texas 75219; Physical Address: 2515 McKinney Ave., Dallas, Texas 75201. Incorporated—Delaware.

2. Wholly-owned subsidiaries which will participate in the operations and address of their respective principal offices:

(i) ConAgg Transportation, Inc., P.O. Box 190999, Dallas, Texas 75219; Physical Address: 2515 McKinney Ave., Dallas, Texas 75201. Incorporated—Texas.

(ii) Gifford-Hill Concrete Company, P.O. Box 190999, Dallas, Texas 75219; Physical Address: 2515 McKinney Ave., Dallas, Texas 75201. Incorporated—Texas.

(iii) Gifford-Hill Materials Company, P.O. Box 190999, Dallas, Texas 75219; Physical Address: 2515 McKinney Ave, Dallas, Texas 75201. Incorporated—Texas.

(iv) Gifford-Hill Cement Company of Texas, P.O. Box 190999, Dallas, Texas 75219; Physical Address: 2515 McKinney Ave., Dallas, Texas 75201. Incorporated—Delaware.

B. 1. The Parent Corporation and the address of its principal office is as follows:

P.J. ENTERPRISES, P.O. Box 114, The Fortress, Front Street, Grand Turk, Turks and Caicos Islands.

2. The wholly owned subsidiaries which will participate in the operations, and their State(s) of incorporation are as follows:

LONE STAR HAULING, INC., a Texas corporation

C. 1. Parent Corporation

The parent corporation is Sears Canada Inc., a corporation duly organized under the laws of the Province of Ontario, Canada, whose business address is 222 Jarvis Street, Toronto, Ontario, Canada.

12. Wholly-Owned Subsidiaries Participating in Operations

The wholly-owned subsidiary which will provide compensated intercorporate hauling service to the parent corporation is S.L.H. Transport Inc., a corporation duly organized under the laws of the Province of Ontario whose business address is 2200 Islington Avenue, Rexdale, Ontario, Canada M9W 3W5.

Noreta R. McGee,

Secretary.

[FR Doc. 89-8773 Filed 4-13-89; 8:45 am]

BILLING CODE 7035-01-M

Intent To Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

(1) The Parent Corporation and address of principal office is: U.S. Zinc Corporation, P.O. Box 611, Houston, Texas 77001.

(2) The wholly-owned subsidiaries which will participate in the operations and their states of incorporation are:

I. Gulf Reduction, Texas
II. Southern Zinc, Georgia
III. Midwest Zinc, Illinois
IV. Millmet, Michigan
V. Metalchem, Pennsylvania
VI. Western Zinc, California

Noreta R. McGee,

Secretary.

[FR Doc. 89-8866 Filed 4-13-89; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-1 (Sub-No. 228X)]

Chicago and North Western Transportation Co.; Abandonment Exemption in Converse and Natrona Counties, WY

Applicant has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon its 5.70-mile line of railroad between milepost 533.0 near Orin to milepost 590.0 near Sean Cohee, in Converse and Natrona Counties, WY.

Applicant has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the lien (or a

State or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or with any U.S. District Court or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

As a condition to use of this exemption, any employee affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10505(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance has been received, this exemption will be effective on May 13, 1989 (unless stayed pending reconsideration). Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an offer of financial assistance under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking statements under 49 CFR 1152.29 must be filed by April 24, 1989.[3] Petitions for reconsideration and requests for public use conditions under 49 CFR 1152.28 must be filed by May 3, 1989, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: Mack H. Shumate, Jr., Chicago and North Western, Transportation Company, One North Western Center, Chicago, IL 60606.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

Applicant has filed an environmental report which addresses environmental or energy impacts, if any, from this abandonment.

The Section of Energy and Environment (SEE) will prepare an environmental assessment (EA). SEE will issue the EA by April 18, 1989. Interested persons may obtain a copy of the EA from SEE by writing to it (Room 3115, Interstate Commerce Commission, Washington, DC 20423) or by calling Carl Bausch, Chief, SEE at (202) 275–7316. Comments on environmental and energy concerns must be filed within 15 days after the EA becomes available to the public.

Environmental, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Decided: April 6, 1989.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 89–8867 Filed 4–13–89; 8:45 am]

BILLING CODE 7035-01-M

[1] A stay will be routinely issued by the Commission in those proceedings where an informed decision on environmental issues (whether raised by a party or by the section of Energy and Environment in its independent investigation) cannot be made prior to the effective date of the notice of exemption. *See Exemption of Out-of-Service Rail Lines*, 4 I.C.C.2d 400 (1988). Any entity seeking a stay involving environmental concerns is encouraged to file its request as soon as possible in order to permit this Commission to review and action the request before the effective date of this exemption.

[2] *See Exempt. of Rail Abandonment—Offers of Finan. Assist.*, 4 I.C.C.2d 164 (1987), and final rules published in the Federal Register on December 22, 1987 (52 FR 48440–48446).

[3] The Commission will accept a late-filed trail use statement so long as it retains jurisdiction to do so.

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 88–72]

DuVall's Drug Store, Inc., d/b/a DuVall's Pharmacy, Revocation of Registration

On July 13, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to DuVall's Drug Store, Inc., d/b/a DuVall's Pharmacy (Respondent), of 719 McKean Avenue, Donora, Pennsylvania, proposing to revoke DEA Certificate of Registration AD7150181, and to deny any pending applications for renewal of the pharmacy's registration. The statutory basis for the issuance of the Order to Show Cause was that the pharmacy's continued registration would be inconsistent with the public interest, as the term is used in 21 U.S.C. 823(f) and 21 U.S.C. 824(a)(4).

Respondent timely requested a hearing on the issues raised in the Order to Show Cause and the matter was placed on the docket of Administrative Law Judge Francis L. Young. Prior to any hearing in the matter, on March 24, 1989, Respondent withdrew its request for a hearing. The Administrative Law Judge terminated the proceedings before him. As a result of Respondent's withdrawal of the earlier request for a hearing, the Administrator concludes that Respondent has waived any opportunity for a hearing on the issues raised in the Order to Show Cause, and issues this final order based upon the information contained in the DEA investigative file. See 21 CFR 1301.54(e).

The Administrator finds that DuVall's Drug Store, Inc., d/b/a DuVall's Pharmacy is currently registered with the Drug Enforcement Administration as being owned by William M. DuVall, Sr., R.Ph. On December 2, 1986, in the Pennsylvania Court of Common Pleas for Washington County, Mr. DuVall was convicted, after entering pleas of guilty, on one felony count of misapplication of entrusted property and property of government or financial institutions, and one misdemeanor count of theft by failure to make required disposition of funds received. He was placed on probation for a period of five years and ordered to pay a fine and restitution as a condition of his probation. Mr. DuVall was ordered to surrender his Pennsylvania State pharmacist's license, to disassociate himself from DuVall's Pharmacy and not to be involved in the operation of any pharmacy or drug store. Mr. DuVall was under contract by the Washington County, Pennsylvania Health Center (hereinafter referred to as the "center") to fill prescriptions for the center's patients. Mr. DuVall asked county officials to stockpile drugs through a state program which allows local and county governments to buy supplies of drugs at discounted prices. Acting on his request, the county ordered 247,800 dosage units of various legend drugs at a cost of $15,200.00. The drugs were shipped to the center, but Mr. DuVall took the drugs to DuVall's Pharmacy. Over a three-year period, Mr. DuVall dispensed 39,643 dosage units of the drugs to county patients. An audit revealed that he could not account for more than 208,000 dosage units of the drugs. Mr. DuVall's criminal convictions resulted from his inability to properly account for the disappearance of most of the drugs purchased by the county under contract with him. None of the drugs involved in this scheme were controlled substances.

The Administrator also finds that on November 26, 1982, the Donora, Pennsylvania Police Department received a call from Mr. DuVall that DuVall's Pharmacy had been burglarized. He provided the police with an inventory of more than 18,000 dosage units of Schedule II and IV controlled substances which allegedly were stolen. He also provided a theft report to the DEA Pittsburgh Resident Office. The police investigation regarding the alleged burglary revealed that Mr. DuVall had been supplying a friend with large quantities of controlled substances from the pharmacy on a number of

occasions without receiving prescriptions for the drugs dispensed. The friend informed police that Mr. DuVall believed that, if a controlled substance audit was performed at the pharmacy, he would be arrested for unlawful dispensing practices. A few days before Thanksgiving in 1982, Mr. DuVall and his friend planned a "burglary" of DuVall's Pharmacy. On Thanksgiving day of the same year, the friend met William M. DuVall, Jr., Mr. DuVall's son, and received two garbage bags of controlled substances, in accordance with their earlier plan. The bags contained several different controlled substances, including Biphetamine, Preludin, Percodan, Percocet, and Dilaudid. The drugs were then taken to Mr. DuVall's home. Mr. DuVall later gave his friend a large quantity of controlled substances as payment for his participation in the "burglary". The friend admitted to selling the drugs illicitly for approximately $2,000.00. The police also discovered that Mr. DuVall filed an insurance claim for the allegedly stolen drugs, and received a reimbursement check for almost $9,000.00.

In determining whether a registrant's continued registration would be inconsistent with the public interest, the Administrator takes into consideration the following factors:

(1) The recommendation of the appropriate State licensing board or professional disciplinary authority.

(2) The applicant's [or registrant's] experience in dispensing * * * controlled substances.

(3) The applicant's (or registrant's) conviction record under Federal or State Laws relating to manufacture, distribution, or dispensing of controlled substances.

(4) Compliance with applicable State, Federal, or local laws relating to controlled substances.

(5) Such other conduct which may threaten the public health and safety.

See 21 U.S.C. 823(f) and 824(a)(4).

Evidence relating to all of the above-listed factors need not be present for the Administrator to determine that a particular registrant's or applicant's registration would be inconsistent with the public interest. Instead, he must weigh the importance of each factor according to the evidence presented in each case.

In the instant case, the second, fourth and fifth factors are relevant. Mr. DuVall unlawfully dispensed controlled substances for other than legitimate medical purposes and outside the scope of his professional practice. In addition, he staged a burglary of controlled substances from his own pharmacy in an effort to conceal his illegal activities. Some of these controlled substances were then sold illicitly. He also profited from the "burglary" by making a false insurance claim for the drug losses. The Administrator will not tolerate this type of abuse of a registrant's controlled substance handling authority.

Further, although Mr. DuVall's 1986 convictions did not involve controlled substances, the activities which resulted in his convictions further support the proposition that the pharmacy's registration is inconsistent with the public interest. By misappropriating public property, Mr. DuVall violated the public trust in his capacity as a pharmacist and pharmacy owner. The sentencing judge clearly felt that Mr. DuVall could no longer be trusted to properly handle any type of drugs since he prohibited him from maintaining his state pharmacist's license and from participating in the operation of DuVall's Pharmacy or any other pharmacy.

There is no evidence in the record to suggest any mitigating explanation for Mr. DuVall's abhorrent behavior, nor is there any reason to believe that Mr. DuVall can now be entrusted to properly handle controlled substances. Therefore, the Administrator concludes that the registration of DuVall's Drug Store, Inc. is inconsistent with the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), orders that DEA Certificate of Registration AD7150181, previously issued to DuVall's Drug Store, Inc., d/b/a DuVall's Pharmacy, be, and it hereby is, revoked. The Administrator further orders that any pending applications for renewal of said registration be, and they hereby are, denied.

This order is effective April 14, 1989.

John C. Lawn,

Administrator.

Dated: April 7, 1989.

[FR Doc. 89-8836 Filed 4-13-89; 8:45 am]

BILLING CODE 4410-09-M

[Docket No. 88-111]

Mehdi Sheikholeslam, M.D.; Denial of Application

On November 9, 1988, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an Order to Show Cause to Mehdi Sheikholeslam, M.D., 864 Mayson Turner Road, Atlanta, Georgia (Respondent), proposing to deny the application for registration, dated November 17, 1987, which he submitted. The grounds for the Order to Show Cause were that Respondent's registration with DEA would be inconsistent with the public interest based upon a controlled substance related felony conviction, falsification of applications, and writing prescriptions for controlled substances with a fictitious DEA registration number.

Respondent requested a hearing on the issues raised in the Order to Show Cause in a letter dated November 22, 1988. The matter was docketed before Administrative Law Judge Mary Ellen Bittner. On December 8, 1988, Judge Bittner issued an order directing the agency to file a prehearing statement on or before January 4, 1989, and Respondent to file a prehearing statement on or before January 25, 1989. In the Order for Prehearing Statements, Judge Bittner stated that, "Respondent is cautioned that failure timely to file a prehearing statement as directed above may be considered a waiver of hearing and an implied revocation of a request for hearing." Agency counsel timely filed its prehearing statement, however, Respondent has not submitted such a filing. Judge Bittner terminated the proceedings by order dated March 2, 1989. The Administrator finds that Respondent has waived his right to a hearing by failing to file a prehearing statement, and now enters his final order in this matter without a hearing and based on the record before him. 21 CFR 1301.57.

The Administrator finds that Respondent was indicted by a Federal grand jury in the United States District Court for the Eastern District of Texas on nine counts of illegal dispensing of controlled substances on April 19, 1978, following an undercover investigation by Texas State Agencies and DEA. On January 5, 1978, a Texas Department of Public Safety Narcotics Agent purchased two prescriptions from Respondent at his clinic in Bonham, Texas. Respondent prescribed 30 Preludin tablets, a Schedule II stimulant controlled substance to the Agent to help him quit smoking and 30 Percodan tablets, a Schedule II narcotic controlled substance for back problems. The Agent received no physical examination and did not tell Respondent he had back problems.

A Texas State Board of Medical Examiners Investigator purchased prescriptions for 30 tablets of 20 mg. Ritalin and 30 capsules of Placidyl from Respondent on February 23, 1978, March 13, 1978, and March 28, 1978. The Investigator told Respondent that he needed the Ritalin "to keep him going,"

and the Placidyl to "bring him down." On March 28, 1978, Respondent also prescribed 30 tablets of Percodan to the Investigator. Respondent performed a cursory medical examination, attempting to take the Investigator's blood pressure, but asked the Investigator no medical questions. Based upon the investigation, the Texas State Board of Medical Examiners revoked Respondent's license to practice medicine in the State of Texas effective June 28, 1978.

Following an apparent absence from the United States, Respondent returned to Georgia, where he was convicted, as a result of the Texas indictment, following a plea of guilty, of unlawful dispensing of a Schedule IV controlled substance, in the United States District Court for the Northern District of Georgia on September 18, 1981. This is a felony violation of the Controlled Substances Act.

On June 15, 1982, Respondent voluntarily surrendered his medical license in the State of Georgia. The license was restored by the Georgia Composite Board of Medical Examiners on a limited basis effective October 9, 1985. By order effective September 3, 1986, the Board permitted Respondent to apply for a DEA registration in Schedules III, IV and V only. Respondent submitted applications for registration to DEA dated April 17, 1986, and July 16, 1986. On these applications Respondent applied for registration in Schedules II and IIN as well as Schedules III, IV and V. In addition, he answered "no" to the question of whether he had ever been convicted of a felony relating to controlled substances under Federal or state law. Respondent's representations on the applications constitute material falsifications of those applications.

Orders to Show Cause were issued in September 1986, proposing to deny the applications for registration submitted by Respondent. A hearing was requested, and the matter was docketed before an Administrative Law Judge. Following prehearing procedures, and in lieu of proceeding with a hearing, Respondent withdrew his applications for registration on March 2, 1987. Through an administrative error, a DEA registration number was issued pursuant to Respondent's July 16, 1986, application on August 4, 1986. The error was noticed on August 5, 1986, and the registration certificate was withdrawn before it was sent to Respondent and the DEA number was purged from the files. Subsequent to this time, Respondent was notified by a letter sent registered mail, conversations with DEA and through the show cause proceedings that he was not registered with DEA.

A DEA Investigator located over 60 prescriptions for controlled substances written by Respondent and dated from July 1987 through June 1988. The majority of these prescriptions were for Schedule II controlled substances. On August 8, 1988, Respondent was indicted by a Federal grand jury in the United States District Court for the Northern District of Georgia for 46 counts of knowingly and intentionally using a DEA registration number which was fictitious, revoked, suspended or expired. On October 18, 1988, Respondent pled guilty to two counts of the August 8, 1988, indictment. Sentencing has been delayed pending a psychiatric evaluation of Respondent ordered by the Court.

The Administrator of DEA may deny an application for registration if he determines that such registration would be inconsistent with the public interest. The factors to be considered in determining the public interest are enumerated in 21 U.S.C. 823(f). The factors include the applicant's experience in dispensing controlled substances, the applicant's conviction record under Federal or state laws relating to controlled substances, and compliance with applicable state, Federal, or local laws relating to controlled substances.

Respondent has an extensive violative history relating to the handling of controlled substances. He has been convicted of illegal dispensing of controlled substances, he has falsified previous applications for registration, and he wrote many prescriptions for controlled substances without a DEA registration. Respondent lacks any sense of responsibility with regard to the handling of controlled substances. Respondent has provided the Administrator with no facts or mitigating factors which would overcome this violative history and provide assurances that Respondent would not once again abuse a DEA registration. The Administrator, therefore, concludes that it would not be in the public interest to issue Respondent a DEA Certificate of Registration.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824, and 28 CFR 0.100(b), orders that Respondent's application for a DEA Certificate of Registration dated on November 17, 1987, and any other outstanding applications for registration, be, and they hereby are, denied. This order is effective April 14, 1989.

John C. Lawn,

Administrator.

Dated: April 7, 1989.

[FR Doc. 89-8837 Filed 4-13-89; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background

The Department of Labor, in carrying out its responsibilities under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of Recordkeeping/Reporting Requirements Under Review

As necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extensions, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements and the average hours per respondent.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and Questions

Copies of the recordkeeping/reporting requirements may be obtained by calling

the Departmental Clearance Officer, Paul E. Larson, telephone (202) 523–6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N–1301, Washington, DC 20210. Comments should also be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for (BLS/DM/ESA/ETA/OLMS/MSHA/OSHA/PWBA/VETS), Office of Management and Budget, Room 3208, Washington, DC 20503 (Telephone (202) 395–6880).

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Revision

Bureau of Labor Statistics
Current Employment Statistics
1220–0011; BLS–790

Form No.	Affected public	Respondents	Frequency	Average time per response
790/BM	Businesses or other for-profit; Small businesses or organizations	300	Monthly	15 minutes
790/S–F		6300	Monthly	5 minutes
790–all other	Businesses or other for-profit; Small businesses or organizations	310,400	Monthly	7 minutes

441,760—Total hours.

The current Employment Statistics survey is a federal/State survey of Employment, hours and earnings in non-farm establishments. The Survey produces monthly estimates for the nation, states and selected metropolitan areas.

Extension

Mine Safety and Health Administration
Form 7000–2, Quarterly Mine Employment and Coal Production Report
1219–0006
Quarterly
Business and other for profit; small businesses or organizations:
83,489 responses, 0.25 hour per response, 20,872 burden hours

Requires mine operators to report to MSHA quarterly employment levels and coal production. The employment and production data when correlated with the accident data provides information for making decisions on improving safety and health enforcement programs, improving education and training efforts, and establishing priorities in technical assistance activities in safety and health.

Extension

Mine Safety and Health Administration
Form 7000–1, Mine Accident, Injury and Illness Report
1219–0007
On occasion
Business and other for profit; small businesses or organizations:
39,590 responses, 0.5 hour per response, 19,795 burden hours

Mine operators are required to submit Form 7000–1 to MSHA to report on accidents, injuries, and illnesses at their mines shortly after an accident or injury has occurred or a work-related illness has been identified. The use of the form provides for uniform information gathering.

Extension

Veterans Employment and Training
Eligibility Data Form for Requesting Assistance in Obtaining Veterans' Reemployment Rights
1293–0002
Other
Individuals or households:
2,000 responses, 500 hours, .25 hours per response

The information is needed to determine eligibility of veteran complaints for reemployment rights they are seeking as well as to state alleged violations by employers of the pertinent statutes and request assistance in obtaining appropriate reemployment benefits.

Extension

Pension and Welfare Benefits Administration
DOL Regulation § 2550.408b–3, Loans to Employee Stock Ownership Plans (ESOPs)
Business and other for profit; small businesses or organizations:
3,150 responses, 166 hours, 053 hours per response

The paperwork requirement included in this regulation is a disclosure requirement to furnish certain individuals receiving securities from an ESOP, with notices of their right to exercise "put options" under certain limited circumstances and within a limited time frame.

Signed at Washington, DC, this 10th day of April 1989.

Paul E. Larson,

Departmental Clearance Officer.

[FR Doc. 89–8983 Filed 4–13–89; 8:45 am]
BILLING CODE 4510–43–M

Employment and Training Administration

Investigations Regarding Certifications of Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under section 221(a) of the Trade Act of 1974 ("the Act") and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 24, 1989.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than April 24, 1989.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213.

Signed at Washington, DC this 3rd day of April 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner (union/workers/firm)	Location	Date received	Date of petition	Petition No.	Articles produced
A.E. Hall Corp. (Company)	New York, NY	4/3/89	3/13/89	22,686	Ladies' sportswear.
Andrea Products (Workers)	do	4/3/89	3/7/89	22,687	Cosmetics.
Baker Mine Service (Workers)	Waynesboro, PA	4/3/89	3/10/89	22,688	Mining equipment.
Big Apple Knits LTD (Workers)	Brooklyn, NY	4/3/89	3/10/89	22,689	Men's hats and socks.
Calvin Klein Collections (ILGWU)	New York, NY	4/3/89	3/1/89	22,690	Ladies' sportswear.
Carolace (Workers)	do	4/3/89	3/13/89	22,691	Schiffli embroideries.
Combustion Engineering, Inc. (Workers)	Lyndhurst, NJ	4/3/89	3/17/89	22,692	Steam generators.
E.P. Manufacturing, Inc. (Company)	Rochester, NY	4/3/89	3/14/89	22,693	Miscellaneous components.
Exide Corp. (Workers)	Hays, KS	4/3/89	3/13/89	22,694	Battery finishing and distribution.
Fairchild Republic Co. (Workers)	Melville, NY	4/3/89	3/13/89	22,695	Airplane parts.
Fedco Automotive Co. (Workers)	Buffalo, NY	4/3/89	3/8/89	22,696	Car radiators and heaters.
Fountain Hill Mills, Inc. (ILGWU)	Bethlehem, PA	4/3/89	3/17/89	22,697	Knitted sportswear.
G&G Dull Collar Service Co., Inc. (Company)	Abilene, TX	4/3/89	3/15/89	22,698	Oil and gas.
Howden Sirocco (IAM)	Hyde Park, MA	4/3/89	3/16/89	22,699	Industrial fans.
Hudson Shipping Co., Inc. (Workers)	New York, NY	4/3/89	3/1/89	22,700	Men's wear, Christmas ornaments, auto parts and foods.
Leamco Services, Inc. (Workers)	Midland, TX	4/3/89	3/13/89	22,701	Oil and gas.
MAC Oringinals (Workers)	New York, NY	4/3/89	2/13/89	22,702	Ladies' belts.
Mitchell Corp. (Workers)	Cadillac, MI	4/3/89	3/15/89	22,703	Seat covers.
New York Rail Car (Workers)	Brooklyn, NY	4/3/89	3/18/89	22,704	Rebuilt subway cars.
Oneok Exploration Co. (Workers)	Great Bend, KS	4/3/89	3/17/89	22,705	Oil and gas.
P&N Industries, Inc. (ILGWU)	New York, NY	4/3/89	3/1/89	22,706	Ladies' sweaters, skirts and shirts.
Peabody House (ILGWU)	do	4/3/89	3/1/89	22,707	Ladies' coats.
Peerless-Winsmith (IUERMW)	Springville, NY	4/3/89	2/22/89	22,708	Speed reducers.
Peters Stamping Co. (UAW)	Perrysburg, OH	4/3/89	3/14/89	22,709	Stamping brakes.
Peters Stamping Co. (UAW)	Fayette, OH	4/3/89	3/14/89	22,710	Stamping brakes.
Primo Coat Co. (Workers)	New York, NY	4/3/89	3/17/89	22,711	Mens' clothing.
Regal Ware, Incorp. (Workers)	Virginia Beach, VA	4/3/89	3/15/89	22,712	Appliances.
Republic Converting Co. (Company)	New York, NY	4/3/89	3/14/89	22,713	Converting textiles.
Sanyo E&E Corp. (UAW)	Richmond, IN	4/3/89	3/17/89	22,714	Compact refrigerators.
Shell Western E&P, Inc. (Workers/Company)	Salt Lake City	4/3/89	3/13/89	22,715	Oil and gas.
Do	Glendive, UT	4/3/89	3/13/89	22,716	Do.
Do	Bay City, MI	4/3/89	3/13/89	22,717	Do.
Shelley Mfg., Co. (Workers)	Miami, FL	4/3/89	3/13/89	22,718	Kitchen products.
Standard Microsystem Corp. (Workers)	Hauppauge, NY	4/3/89	3/6/89	22,719	Semi-conductor chips.
Sunrise Undergarment (Workers)	New York, NY	4/3/89	3/9/89	22,720	Undergarments.
Waco LeHigh Portland Cement Co. (IBB)	Waco, TX	4/3/89	3/14/89	22,721	Clinker and cement.
Weldon Miller Contractors, Inc. (Company)	Morgan City, LA	4/3/89	3/16/89	22,722	Oil and gas.
Wes-Mar Drilling, Incorp. (Workers)	Graham, TX	3/15/89	3/9/89	22,723	Do.
Exeter Drilling Co. (Workers)	Denver, CO	11/14/88	11/4/88	[1] 21,622	Oil and gas drilling.

[1] Investigation reopened.

[FR Doc. 89-8984 Filed 4-13-89; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-21,551]

BTA Oil Producers, Midland, TX; Cancellation of Certification and Negative Determination Regarding Eligibility To Apply for Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on December 30, 1988 applicable to all workers of BTA Oil Producers, Midland, Texas. The notice of certification has not been published in the **Federal Register.**

The Department, on its own motion, has reopened the investigation and is cancelling the subject certification based on further information. The Notice of Reopening was issued on March 27, 1989 and will be published in the **Federal Register** soon. New findings show that BTA Oil Producers provides management services for its general partners who produce and market crude oil. Accordingly, workers at BTA Oil Producers do not meet the qualifying requirements for certification under the 1988 amendments to the Trade Act of 1974.

Further, the workers at BTA do not produce an article within the meaning of section 222(3) of the Act but perform a service. The Department of Labor has consistently determined that the performance of services does not constitute production of an article, as required by section 222 of the Trade Act of 1974 and this determination has been upheld in the U.S. Court of Appeals. Workers of BTA Oil Producers may be certified only if their separations were caused importantly by a reduced demand for their services from a firm related by ownership or control. In any case, the reduction in demand for services must originate at a production facility whose workers independently meet the statutory criteria for certification and the reduction must directly relate to the product impacted by imports. These conditions were not met for workers of BTA Oil Producers in this case and all workers are denied eligibility to apply for adjustment assistance under the Trade Act of 1974.

Conclusion

Since the workers of BTA Oil Producers do not meet the conditions necessary for certification under the Trade Act of 1974, as amended, the Department is cancelling the subject certification, TA-W-21,551. Accordingly, all workers of BTA Oil Producers, Midland, Texas are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 6th Day of April 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-8987 Filed 4-13-89; 8:45 am]

BILLING CODE 4510-30-M

Notice of Revised Determinations on Reconsideration; General Motors Corp., Pontiac Motor Division, Pontiac, Michigan

In the matter of General Motors Corporation, Pontiac Motor Division, Pontiac, Michigan. TA-W-21,347A Plant #15, TA-W-21,347B Plant #52, TA-W-21,347C Plant #56, TA-W-21,347D Plant #21, TA-W-21,347E Plant #23, TA-W-21,347F Plant #16, TA-W-21,347G Plant #28, TA-W-21,347H Plant #3626, TA-W-21,347I Plant #2, TA-W-21,347J Plant #5, TA-W-21,347K Plant #11, TA-W-21,347L Plant #20, TA-W-21,347M Plant #49, TA-W-21,347N Plant #2362, TA-W-21,347O Plant #6, TA-W-21,347P Plant #9, TA-W-21,347Q Plant #12, TA-W-21,347R Plant #18, TA-W-21,347S Plant #19, TA-W-21,347T Plant #26, TA-W-21,347U Plant #51, TA-W-21,347V Plant #54, TA-W-21,347W Plant #55.

On February 22, 1989, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers at General Motors Corporation's Pontiac Motor Division, Pontiac, Michigan. The affirmed notice regarding application for reconsideration was published in the **Federal Register** on March 3, 1989 (54 FR 9096).

The union with the support of the company states that their petition dated October 4, 1988 was filed on behalf of all workers and former workers at the CPC Complex at Pontiac, Michigan. The Department considered workers at eight plants under another petition (TA-W-21,347) also dated October 4, 1988 and filed by other workers at the CPC complex of General Motors Corporation in Pontiac. The plants produce auto components.

Findings on reconsideration show that significant layoffs occurred at plants #2, #5, #11, #20, #49 and Department 62 of Plant 23 (2362). Additionally, production at these locations was substantially integrated with production at other certified General Motors locations.

With respect to CPC plants #6, #9, #12, #18, #19, #26, #28, #51, #54, #55 and #23 except Department 62, the Department found no integration of production with other certified General Motors locations.

In the event that some workers in the Pontiac complex were employed by more than one of the certified plants in the 52 weeks prior to their layoff, the certification is further revised to permit all weeks in adversely affected employment to be applied in establishing individual eligibility for trade readjustment allowance (TRA) payments.

Conclusion

After careful review of the additional facts obtained on reconsideration, it is concluded that increased imports of articles like or directly competitive with those produced at Plant #14 (certified earlier under TA-W-20,845) and Plants #15, #52, and #56 (certified under TA-W-21,347A-C) all of the Pontiac Motor Division of General Motors Corporation, Pontiac, Michigan, contributed importantly to the decline in sales or production and to the total or partial separation of workers at the following additional CPC plants: #2, #5, #11, #20, #49 and #2362 (Department 62 of Plant 23).

In accordance with the provisions of the Act, I make the following revised determinations:

"All workers at plants #2, #5, #11, #15, #20, #49, #52, #56 and #2362 of the Pontiac Motor Division of General Motors Corporation, Pontiac, Michigan who became totally or partially separated from employment on or after October 4, 1987 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

I further determine that all workers at plants #6, #9, #12, #16, #18, #19, #21, #23 except Department 62, #26, #28, #51, #54, #55 and #3626 of the CPC Pontiac Motor Division of General Motors Corporation, Pontiac, Michigan are denied eligibility to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 7th day of April 1989.

Stephen A. Wandner,

Deputy Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-8985 Filed 4-13-89; 8:45 am]

BILLING CODE 4510-30-M

Western Oceanic, Inc.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of: TA-W-21,999 Houston, TX and TA-W-21,999A Lafayette, LA.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 25, 1989 applicable to all workers of Western Oceanic, Inc., Houston, Texas.

The certification notice is amended to include Western Oceanic's sub office in Lafayette, Louisiana where worker separations have occurred since October, 1985.

The intent of the certification is to cover all workers of the Western Oceanic, Inc. in all of its locations. The amended notice applicable to TA-W-21,999 is hereby issued as follows:

All workers of Western Oceanic, Houston, Texas and Lafayette, Louisiana who became totally or partially separated on or after October 1, 1985 are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 24th day of March 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-8986 Filed 4-13-89; 8:45 am]

BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of

the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these deteminations 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 decisons 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 geograpic 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-3504, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions being added to the Government Printing Office document entitled "General Wade Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume I

Maryland:
MD89-18 ..... pp. 456a-456b.
New York:
NY89-19 ..... pp. 836a-836d.
South Carolina:
SC89-22 ..... pp. 1076a-1076b.

Volume III

Montana:
MT89-4 ..... pp. 222a-222d.

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:
CT89-1 (Jan. 6, 1989) ..... pp. 62, 65.
New York:
NY89-3 (Jan. 6, 1989) ..... p. 705.
NY89-4 (Jan. 6, 1989) ..... p. 711.
NY89-5 (Jan. 6, 1989) ..... pp. 717-726.
Virginia:
VA89-5 (Jan. 6, 1989) ..... pp. 1134-1135.
VA89-6 (Jan. 6, 1989) ..... p. 1138.

Volume II

Michigan:
MI89-1 (Jan. 6, 1989) ..... pp. 428-446b.
MI89-2 (Jan. 6, 1989) ..... pp. 448-462.
MI89-3 (Jan. 6, 1989) ..... pp. 464-474b.
MI89-7 (Jan. 6, 1989) ..... pp. 500-520.
Texas:
TX89-10 (Jan. 6, 1989) ..... pp. 1210-1212.

Volume III

California:
CA89-1 (Jan. 6, 1989) ..... p. 37.
Montana:
MT89-1 (Jan. 6, 1989) ..... pp. 175-181.
MT89-2 (Jan. 6, 1989) ..... pp. 189,193-200. pp. 204-207.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Act, 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:

Superintendant 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 7th day of April 1989.

Robert V. Setera,

Acting Director, Division of Wage Determinations.

[FR Doc. 89-8748 Filed 4-13-89; 8:45 am]

BILLING CODE 4510-27-M

Office of Federal Contract Compliance Programs

Notice of Reinstatement of Jantzen, Inc. as an Eligible Bidder on Federal Contracts and Subcontracts

AGENCY: Office of Federal Contract Compliance Programs, Labor.

ACTION: Notice of Reinstatement, Jantzen, Inc.

SUMMARY: This notice advises that Jantzen, Inc., has been reinstated as an eligible bidder on Federal contracts and subcontracts.

FOR FURTHER INFORMATION CONTACT: Leonard J. Biermann, Acting Director, Office of Federal Contract Compliance Programs, U.S. Department of Labor, 200 Constitution Avenue, NW, Room C-3325, Washington, DC 20210 (202-523-9475).

SUPPLEMENTARY INFORMATION: Jantzen, Inc., Portland, Oregon, is, as of this date, reinstated as an eligible bidder on Federal contracts and subcontracts.

Signed: April 10, 1989, Washington, DC.

Leonard J. Biermann,

Acting Director.

[FR Doc. 89-8982 Filed 4-13-89; 8:45 am]

BILLING CODE 4510-27-M

MERIT SYSTEMS PROTECTION BOARD

Privacy Act of 1974; Amendment of Privacy Act Systems of Records; Correction

In notice document 89-6705 appearing on page 11824 in the issue of Wednesday, March 22, 1989, make the following correction on page 11828:

Appendix (Corrected)

In the third column under the Appendix, St. Louis Regional Office address, change the ZIP Code to 63101-1203.

Date: April 10, 1989.

Robert E. Taylor,

Clerk of the Board.

[FR Doc 89-8889 Filed 4-13-89; 8:45 am]

BILLING CODE 7400-01

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Music Advisory Panel (Solo Recitalists Section) to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Music Advisory panel (Solo Recitalists Section) to the National Council on the Arts will be held on May 3-4, 1989, from 9:00 a.m.-6:00 p.m. in room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

A portion of this meeting will be open to the public on May 4, 1989, from 2:00 p.m.-4:00 p.m. The topics for discussion will be policy issues.

The remaining sessions of this meeting on May 3, 1989, from 9:00 a.m.-6:00 p.m., and May 4, 1989, from 9:00 a.m.-2:00 p.m. and 4:00 p.m.-6:00 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsection (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

If you need special accommodations due to a disability, please contact the Office for Special Constituencies, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682-5532, TTY 202/682-5496 at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682-5433.

April 6, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-8930 Filed 4-13-89; 8:45 am]

BILLING CODE 7537-01-M

Visual Arts Advisory Panel (Visual Artists Fellowships: Painting Section) to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Visual Arts Advisory Panel (Visual Artists Fellowships: Painting Section) to the National Council on the Arts will be held on May 1-4, 1989, from 9:00 a.m.-8:00 p.m. and May 5, 1989, from 9:00 a.m.-5:00 p.m. in Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6), and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

April 6, 1989.

Yvonne M. Sabine,

Director, Council and Panel Operations, National Endowment for the Arts.

[FR Doc. 89-8931 Filed 4-13-89; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological, Behavioral, and Social Sciences; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological, Behavioral, and Social Sciences (BBS).

Date and Time: May 5, 1989; 9:00 a.m. to 5:00 p.m. and May 6, 1989; 9:00 a.m. to 12:00 p.m.

Place: Room 543, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological, Behavioral, and Social Sciences, (202) 357-9854, Room 506, National Science Foundation, Washington, DC 20550

Summary of Minutes: May be obtained from the contact person.

Purpose of Advisory Committee: The Advisory Committee for BBS provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BBS.

Agenda: Discussion of BBS directorate-wide priorities and planning activities; mode of committee operation; and plans for subsequent meetings of the committee.

M. Rebecca Winkler,

Committee Management Officer.

Date: April 11, 1989.

[FR Doc. 89-8902 Filed 4-13-89; 8:45 am]

BILLING CODE 7555-01-M

Genetics Advisory Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Genetics.

Date and Time: Thursday, Friday, and Saturday, May 11, 12, 13, 1989 8:30 a.m. to 5:00 p.m.

Place: The Dauphine Orleans Hotel, 415 Dauphine Street, New Orleans, LA 70112.

Type Meeting: Closed.

Contact Person: Dr. Philip Harriman, Program Director, Genetics, Room 325, Telephone: (202) 357-9687.

Summary Minutes: May be obtained from the Contact Person at the above address.

Purpose of Advisory Panel: To provide advice and recommendations concerning support for research.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of proposals U.S.C. 552b(c), Government in the Sunshine Act.

April 11, 1989.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-8903 Filed 4-13-89; 8:45 am]

BILLING CODE 7555-01-M

Physics Advisory Panel; Meeting

The National Science Foundation announces the following meeting.

Name: Advisory Commitee for Physics Meeting.

Date and Time: May 8, 1989—9:00 a.m. to 5:00 p.m. (OPEN); May 9, 1989—8:30 a.m. to 11:30 a.m. (CLOSED), 1:00 p.m. to 5:00 p.m. (OPEN).

Place: Room 540, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type Of Meeting: Part Open.

Contact Person: Dr. Marcel Bardon, Director, Division of Physics, Room 341, National Science Foundation, Washington, DC 20550, (202) 357-7985.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To discuss issues of program balance in the Division of Physics with Physics Division Staff and the report of the Cerny Subcommittee to the Advisory Committee for Physics.

Agenda:

Open: May 8, 1989 a.m. and p.m.—Review of program balance in the Physics Division.

Closed: May 9, 1989 8:30 a.m.—11:30 a.m.—To review and evaluate research proposals, as part of the selection process for awards.

Open: May 9, 1989 p.m.—Discussion of long range planning issues.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data; and personal information concerning individuals associated with the proposals. These matters are within exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

April 11, 1989.

[FR Doc. 89-8904 Filed 4-13-89; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Generic Letters

This notice is to announce that generic letters issued by the U.S. Nuclear Regulatory Commission (NRC) can no be purchased through a subscription service from the Superintendent of Documents, U.S. Government Printing Office (GPO), P.O. Box 37082, Washington, DC 20013-7082. The GPO telephone number is (202) 275-2060. Copies of generic letters are also available from the National Technical Information Service (NTIS), Springfield, VA 22161. The NTIS telephone number is (703) 487-4650. It assistance or clarification is needed, contact Hazel Smith, NRC, on (301) 492-1287.

Dated at Rockville, Maryland this 6 day of April 1989.

For the Nuclear Regulatory Commission.

John T. Larkins,

Chief, Planning, Program and Management Support Branch, Program Management, Policy Development and Analysis Staff, Office of Nuclear Reactor Regulation.

[FR Doc. 89-8993 Filed 4-13-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold a meeting on April 26-28, 1989, Room P-110, 7920 Norfolk Avenue, Bethesda, MD. Portions of this meeting will be closed to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy 5 U.S.C. 552b(c)(6). Notice of this meeting was published in the **Federal Register** on March 21, 1989 (54 FR 11589). The following topics will be discussed:

Wednesday, April 26, 1989—8:30 a.m.–5:00 p.m.

1. Comments by ACNW Chairman regarding items of current interest (Open).
2. Technical Position on Post Closure Seals in an Unsaturated Media (Open).
3. Preliminary Findings of the waste Confidence Review Group (Open).
4. Executive Session—Discussion of Draft ACNW Reports (Open).

Thursday, April 27, 1989—8:30 a.m.–5:00 p.m.

5. Review Items to be Discussed with Commissioners (Open).
6. Meeting with the Commissioners at One White Flint North (Open).
7. Disposal of Mixed Waste (Open).
8. Status Report, Summary of the Site Characterization Plan Review and Production of the Site Characterization Analysis (Open).
9. Executive Session—Preparation of ACNW Reports (Open).

Friday April 28, 1989—8:30 a.m.–4:30 p.m.

10. Below Regulatory Concern (Open).
11. Licensing Support Systems for the High-Level Waste Repository (Open).
12. Administrative Session—Anticipated and Proposed Committee Activities, Future Meeting Agenda, and Organizational Matters (Closed).
13. Executive Sessions—Completion of ACNW Reports (Open).

Procedures for the conduct of and participation in ACNW meetings were published in the **Federal Register** on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. The Office of the ACRS is providing Staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the Office of the ACRS as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the Office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

Dated: April 10, 1989.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 89-8830 Filed 4-13-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Thermal Hydraulic Phenomena; Postponed Meeting

The **Federal Register** published Thursday, March 30, 1989 (54 FR 13129)

contained notice of a meeting of the ACRS Subcommittee on Thermal Hydraulic Phenomena scheduled for Monday, April 17, 1989. This meeting has been postponed until May 23, 1989.

Dated: April 6, 1989.

Gary R. Quittschreiber,

Chief, Project Review Branch No. 2.

[FR Doc. 89-8834 Filed 4-13-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Subcommittee on Limerick 2 Meeting

The ACRS Subcommittee on Limerick 2 will hold a meeting on April 25, 1989, Quality Inn Airport, 2015 Penrose Avenue, Philadelphia, PA.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Tuesday, April 25, 1989—1:00 p.m. Until 5:30 p.m.

The Subcommittee will review the application of Philadelphia Electric Company for a license to operate Limerick Unit 2.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, their consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Gary Quittschreiber (telephone 301/492-9515) between 7:30 a.m. and 4:15 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: April 6, 1989.

Raymond F. Fraley,

Executive Director.

[FR Doc. 89-8831 Filed 4-13-89; 8:45 am]

BILLING CODE 7590-01-M

Commonwealth Edison Co.; Consideration of Issuance of Amendment to Facility Operating License and Opportunity for Hearing

[Docket Nos. 50-373 and 50-374]

The United States Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating License Nos. NPF-11 and NPF-18 issued to Commonwealth Edison Company (the licensee), for operation of LaSalle County Station, Units 1 and 2 located in LaSalle County, Illinois.

The amendments would eliminate the provisions of Technical Specification 4.0.2.b to refuel outage interval surveillances. With the advent of longer fuel cycles and less frequent and longer outages, LaSalle County Station is encountering difficulty completing surveillances required at a refueling interval by Technical Specifications. This will alleviate the immediate problem and prevent recurrence of this specific situation for successive operating cycles. A notice offering a prior opportunity for hearing on the December 4, 1987 original amendment request was published on December 22, 1987 (52 FR 48474).

Prior to issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

By May 15, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written request for hearing and a petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

A request for a hearing or a petition for leave to intervene shall be filed with the Secretary of the Commission, United States Nuclear Regulatory Commission, Washington, DC 20555, Attention:

Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner or representative for the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1–800–325–6000 (in Missouri 1–800–342–6700). The Western Union operator should be given DATAGRAM Identification Number 3737 and the following message addressed to Daniel R. Muller: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael Miller, Esquire, Sidley and Austin, One First National Plaza, Chicago, Illinois 60603, attorney for the licensee.

Nonetimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

If a request for hearing is received, the Commission's staff may issue the amendment after it completes its technical review and prior to the completion of any required hearing if it publishes a further notice for public comment of its proposed finding of no significant hazards consideration in accordance with 10 CFR 50.91 and 50.92.

For further details with respect to this action, see the application for amendment dated March 10, 1989, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC, and at the Public Library of Illinois Valley Community College, Rural Route No. 1, Oglesby, Illinois 61348.

Dated at Rockville, Maryland this 5th day of April 1989.

For the Nuclear Regulatory Commission.

Daniel R. Muller,

Director, Project Directorate III, Division of Reactor Projects—III, IV, V and Special Projects.

[FR Doc. 89–8991 Filed 4–13–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–206]

Southern California Edison Co., et al.; Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (Commission) has issued Amendment No. 121 to Provisional Operating License No. DPR–13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised the Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1, located in San Diego County, California. The amendment was effective as of the date of issuance.

The amendment revises the reactor trips for pressurizer high level and steam/feedwater flow mismatch.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Ch. I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action was published in the **Federal Register** on January 17, 1989 (54 FR 1808). No request for a hearing or petition for leave to intervene was filed following this notice.

The Commission has prepared an Environmental Assessment related to this action which was published in the **Federal Register** on February 9, 1989 (54 FR 6344) and has concluded that an environmental impact statement need not be prepared because operation of the facility in accordance with this amendment will have no significant adverse effect on the quality of the human environment.

For further details with respect to the action see (1) the applicaiton for amendment dated November 11, 1988, as supplemented February 14, 1989, (2) Amendment No. 121 to License No. DPR–13, (3) the Commission's related Safety Evaluation and (4) the Commission's Environmental Assessment. All of these items are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects—III, IV, V and Special Projects.

Dated at Rockville, Maryland this 4th day of April, 1989.

For the Nuclear Regulatory Commission.

Charles M. Trammell,

Senior Project Manager, Project Directorate V, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89–8992 Filed 4–13–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–327 and 50–328]

Tennessee Valley Authority; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of the Tennessee Valley Authority (TVA or the licensee) to withdraw its May 22, 1987 application for proposed amendment to Facility Operating License Nos. DPR–77 and DPR–79 for Sequoyah, Unit Nos. 1 and 2, located in Hamilton County, Tennessee.

The proposed amendment would have revised the expression of specific activity level in the reactor coolant system from activity per unit mass to activity per unit volume.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on October 21, 1987 (52 FR 39307). However, by letter dated March 21, 1989, the licensee withdrew the proposed change (TS 87–24). For further details with respect to this action, see the application for amendment dated May 22, 1987, and the licensee's letter dated March 21, 1989, which withdrew the application for license amendment. The above documents are available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street NW., Washington, DC, and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Dated at Rockville, Maryland this 7th day of April 1989.

For the Nuclear Regulatory Commission.

Suzanne C. Black,

Assistant Director for Projects TVA Projects, Division, Office of Nuclear Reactor Regulation.

[FR Doc. 89–8988 Filed 4–13–89; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50-346]

Toledo Edison Co. and the Cleveland Electric Illuminating Co.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Toledo Edison Company (the licensee) to withdraw its August 4, 1984 application for amendment to Facility Operating License No. NPF-3 for the Davis-Besse Nuclear Power Station, Unit No. 1, located in Ottawa County, Ohio.

The proposed amendment would have incorporated the Integrated Living Schedule Program into the operating license.

The Commission has previously issued a Notice of Consideration of Issuance of Amendment published in the **Federal Register** on September 28, 1984 (49 FR 38412). However, by letter dated March 22, 1989, the licensee withdrew the proposed change.

For further details with respect to this action, see the application for amendment dated August 4, 1984 and the licensee's letter dated March 22, 1989, which withdrew the application for license amendment.

The above documents are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC, and the University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Dated at Rockville, Maryland this 7th day of April 1989.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

[FR Doc. 89-8989 Filed 4-13-89; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-266 and 50-301]

Wisconsin Electric Power Co.; Denial of Amendment to Facility Operating License and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) has denied a request by Wisconsin Electric Power Company (the licensee), for an amendment to Facility Operating License Nos. DPR-24 and DPR-27, issued to the licensee for operation of the Point Beach Nuclear Plant, Units Nos. 1 and 2, located in Manitowoc County, Wisconsin.

The purpose of the licensee's amendment request was to revise the Technical Specifications (TS) to modify the inservice testing program requirements.

The NRC staff has concluded that the licensee's request cannot be granted. The licensee was notified of the Commission's denial of the proposed change by letter dated April 7, 1989. The Commission has issued guidance regarding the inservice testing program for light water reactor operating licenses. This guidance is found in Generic Letter 89-04, entitled "Guidance on Developing Acceptable Inservice Testing Programs," and is dated April 3, 1989. As a result, the Commission will not entertain any proposed change to the Point Beach technical specifications for the inservice testing program until such time as the Point Beach inservice testing program is in compliance with the Generic Letter 89-04. At that time, should the licensee require modifications to the technical specifications, the Commission will entertain a new application.

By May 15, 1989, the licensee may demand a hearing with respect to the denial described above. Any person whose interest may be affected by this proceeding may file a written petition for leave to intervene.

A request for hearing or petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC, by the above date.

A copy of any petitions should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street NW., Washington, DC 20037, attorney for the licensee.

For further details with respect to this action, see (1) the application for amendment dated February 17, 1977 as supplemented November 27, 1978, and (2) the Commission's letter to the licensee dated April 7, 1989.

These documents are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC and at the Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin. A copy of Item (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Document Control Desk.

Dated at Rockville, Maryland, this 7th day of April 1989.

For the Nuclear Regulatory Commission.

John N. Hannon,

Director, Project Directorate III-3, Division of Reactor Projects—III, IV, V and Special Projects, Office of Nuclear Reactor Regulation.

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OFFICE OF MANAGEMENT AND BUDGET

Commercial Activities Inventories

AGENCY: Office of Management and Budget.

ACTION: Publication of commercial activities inventories.

SUMMARY: This Notice contains the initial inventories of commercial activities for the Agency for International Development and the Corps of Engineers. Executive Order 12615, "Performance of Commercial Activities", dated November 19, 1987, requires OMB to publish for public review agency inventories of commercial activities as they become available. Initial submissions for these two agencies are attached and include the number of positions and the projected year of study when known. Additions to these inventories and inventories from other agencies and departments will be forthcoming.

Interested parties are invited to nominate, in writing to the Privatization Officials listed below in the respective agencies, with a copy to OMB, additional activities for inclusion on the inventories and for eventual study. There is no time limit for these nominations.

Privatization officials are as follows:

Agency for International Development, Paul Spishak, Room 1100-A, Code SA-14, Washington, DC 20523

U.S. Corps of Engineers, John Doyle, 20 Massachusetts Avenue NW., Washington, DC 20314

Specific questions relating to the A-76 inventories should be referred to the following individuals:

Agency for International Development, Wayne McKeel, (202) 663-2208, Room 803, Code SA-2, Washington, DC 20523

U.S. Corps of Engineers, Fred Copeland, (202) 272-0044, 20 Massachusetts Avenue NW., Room 8125, Washington, DC 20314

Office of Management and Budget, Office of Federal Procurement Policy, Linda Mesaros, (202) 394-3300, 725 17th Street NW., Room 9013, NEOB, Washington, DC 20503.

Frank Hodsoll,

Executive Associate Director.

AGENCY FOR INTERNATIONAL DEVELOPMENT

[A-76 Inventory]

Commercial activity	Location	FTE	Fiscal year
Personnel Clerk	Wash. DC	17	91.
Miscell Clerk	Wash. DC	144	90.
Clerk-Typist	Wash. DC	66	89.
Position Classification	Wash. DC	5	NA.
Admin	Wash. DC	83	NA.
Clerk-Steno/Reporter	Wash. DC	3	NA.
Admin Officer	Wash. DC	22	NA.
General Communications	Wash. DC	5	NA.
Financial Admin	Wash. DC	15	NA.
Financial Cler	Wash. DC	10	NA.
Accounting Tech	Wash. DC	9	NA.
Payroll	Wash. DC	9	NA.
Writing & Editing	Wash. DC	4	NA.
General Business & Industry	Wash. DC	9	NA.
Tech Information SVcs	Wash. DC	5	NA.
Travel	Wash. DC	5	NA.

NA = Not applicable.

CORPS OF ENGINEERS

[A-76 INVENTORY]

Commercial activity	Location	FTE	Year
O&M Lakes	McGhee, AR	7	89
Channel Patrol	Memphis, TN	7	89
Audiovisual	Memphis, TN	1	89
Graphic Art	Memphis, TN	1	89
Reproduction	Memphis, TN	3	89
Still Photography	Memphis, TN	5	89
Warehousing	Memphis, TN	6	89
Fire Prevention	Memphis, TN	3	89
Clinics & Dispen	New Orleans, LA	2	89
Word Process Ctr	New Orleans, LA	20	89
Reproduction	New Orleans, LA	8	89
Radio Communications	New Orleans, LA	7	89
Maps & Charts	New Orleans, LA	3	89
Microfilming	New Orleans, LA	2	89
Sewage & Waste	IL & MO	9	89
Ofc Mgt Svcs	Kansas City, MO	4	89
Store Room	Kansas City, MO	4	89
Jefferson Cty Rvr Office	Jeff City, MO	8	89
Napoleon River Office	Napoleon, MO	9	89
Mo Rvr Project Ofc	Omaha, NE	21	89
Word Processing	Omaha, NE	20	89
Microfilming	Omaha, NE	7	89
Motor Vehicle	MD/DC	14	89
Public Use Areas	Tioga, PA	8	89
Admin Spt Svcs	NY, NY	23	89
Maint/Repr Float Plnt	Caven Point, NJ	14	89
Motor Vehicle	Norfolk, VA	10	89
Visual Info Svcs	Philadelphia, PA	1	89
Admin Spt Svcs	Philadelphia, PA	11	89
Storage/Warehouse	Philadelphia, PA	1	89
Mtr Veh Maint	Buffalo, NY	4	89
Opn Black Rock Lock	Buffalo, NY	7	89
Admin Svcs	Chicago, IL	8	89
O & M Open Water Nav	Duluth, MN	4	89
Boatyard Section	Detroit, MI	11	89
Museum/Visitor Ctr	MN/MI	8	89
Maint Hydropwr Facility	Marie, MI	4	89
ADP/Sys Design/Dev	Rock Island, IL	2	89
O&M Recreat Areas	Johnson County, IA	14	89
O&M Recreat Areas	LaSalle County, IL	8	89
O&M Recreat Areas	Marion County, IA	12	89
O&M Recreat Areas	Polk County, IA	16	89
O&M Recreat Areas	Rock Island, IL	5	89
O&M Recreat Areas	Scott County, IA	12	89
Oper of Float Plant	Fountain City, WI	63	89
ADP Programming	St Paul, MN	4	89

CORPS OF ENGINEERS—Continued

[A-76 INVENTORY]

Commercial activity	Location	FTE	Year
Mail & Messenger	St Paul, MN	6	89
Cape Cod Canal	Buzzard's Bay, MA	53	89
Mail Messenger Svcs	Ned Div Ofc	3	89
Audiovisual Svcs	Ned Div Ofc	18	89
Word Processing	Ned Div Ofc	7	89
ADP Opns	Ned Div Ofc	10	89
Logistics	Ned Div Ofc	11	89
Comm Elec Sys	Anchorage, AK	1	89
Admin Tele Svcs	Anchorage, AK	1	89
Maint ADP Equip	Anchorage, AK	3	89
O&M Floating Plant	Homer, AK	4	89
O&M Floating Plant	Dillingham, AK	1	89
Other ADP Funct	Portland, OR	14	89
Warehousing	Portland, OR	11	89
Res Maint & Whse	The Dalles, OR	17	89
Res Maint & Whse	Bonneville, OR	14	89
O&M Dams	Montesand, WA	1	89
O&M Wynochee	Montesand, WA	6	89
O&M Dam Wynochee Lake	Montesand, WA	1	89
O&M Dam Wynochee Dam	Montesand, WA	1	89
O&M Dams Wynochee Lake	Montesand, WA	1	89
Audio-Visual	Seattle, WA	8	89
Maint of ADP Equip	Walla Walla, WA	2	89
Int Mail & Msg Svc	Walla Walla, WA	2	89
O&M Res Fac	Kahlotus/Pasco, WA	8	89
O&M Res Fac	Umatilla, OR	10	89
Lab Mat'ls Testing	Mariemont, OH	5	89
File Clerk	Cincinnati, OH	2	89
Law	Belleville L&D	7	89
Law	Capt Anthony L&D	7	89
Law	Gallipolis L&D	7	89
Law	Greenup L&D	7	89
Law	London L&D	6	89
Law	Marmet L&D	7	89
Law	Racine L&D	7	89
Law	Winfield L&D	7	89
Law	Willow Island L&D	7	89
Mail & File	Huntington, WV	5	89
Reprod Svcs	Huntington, WV	1	89
Word Processing	Huntington, WV	6	89
LRS/OP of Floating Plant	Louisville, KY	46	89
Internal Mail	Nashville, TN	3	89
Op Rec Areas	Confluence	4	89
Op Rec Areas	Cortland	1	89
Op Rec Areas	Deerfield	3	89
Op Rec Areas	Sharpsville	5	89
Op Rec Areas	Grafton	1	89
Op Rec Areas	Wayland	1	89
Op Rec Areas	Saegertown	2	89
Op Rec Areas	Tionesta	5	89
Op Rec Areas	Warren	3	89
Op Rec Areas	Wilcox	1	89
O&M Locks	Morgantown	12	89
O&M Opekiska	Fairmont, WV	4	89
O&M Locks/Dams	Palatka, FL	5	89
FAC/Grnds/Util	Palatka,FL	35	89
O&M Locks & Bridges	Tuscaloosa, AL	99	89
Mail & Messenger	Savannah, GA	13	89
Surveying & Mapping	Fort Worth, TX	23	89
Audiovisual Services	Galveston, TX	2	89
Commun & Elec Maint	Little Rock, AR	4	89
O&M Broken Bow	Broken Bow, OK	3	89
O&M Hugo Lake	Hugo, OK	6	89
O&M Pine Creek	Valliant, OK	4	89
O&M Heyburn Lake	Heyburn, OK	3	89
O&M Oologah Lake	Oologah, OK	8	89
O&M Webber Falls	Gore, OK	10	89
O&M Waurika	Waurika, OK	4	89
O&M Ft Supply	Ft. Supply, OK	1	89
Maint of Parks & Dams	Canton, OK	8	89
O&M Robert S Kerr	Sallisaw, OK	7	89
Motor Pool	Ft Belvoir, VA	5	90
Mail & Records Mgt	Ft Belvoir, VA	2	90
Mailroom	Wash, DC	9	90
Monroe Nav Fld Ofc	Monroe, LA	26	90
Monroe Nav Fld Ofc	Vidalia, LA	2	90
Hydropowr Maint	Arkadelphia, AR	8	90
Drilling	Memphis, TN	5	90

CORPS OF ENGINEERS—Continued

[A-76 INVENTORY]

Commercial activity	Location	FTE	Year
Surveying & Mapping	Memphis, TN	12	90
Testing	Memphis, TN	4	90
Adp Oper	Memphis, TN	3	90
System Software	Memphis, TN	1	90
Applications Software	Memphis, TN	3	90
Admin Support	Memphis, TN	7	90
Surveying	Memphis, TN	5	90
Core Drilling	New Orleans, LA	18	90
Motor Veh Oper	New Orleans, LA	8	90
Motor Veh O&M	New Orleans, LA	1	90
Floating Plant Op	New Orleans, LA	21	90
Locks & Dams Maint	Clarksville, MO	4	90
Locks & Dams Maint	Winfield, L&D	4	90
Locks & Dams Maint	Alton, L&D	5	90
Locks & Dams Maint	Granite City, L&D	6	90
Locks & Dams Maint	Kaskaskia	3	90
Channel Patrol	St. Louis, MO	5	90
Cannon Power Plant	Monroe City, MO	4	90
Pwr Maint	Warsaw, MO	12	90
Hydropwr Maint	Riverdale, ND	16	90
Hydropwr Maint	.Ft Peck, MT	15	90
Sys Design, Dev	NY, PA, MD, VA	29	90
Adp Services	NY, PA, MD, VA	31	90
O&M Floating Plant	Caven Point, NJ	36	90
Data Collection	Buffalo, NY	27	90
Survey Engr	Buffalo, NY	8	90
Adp Oper	Rock Island, IL	2	90
Adp Oper	Buffalo, NY	2	90
Adp Oper	St Paul, MN	2	90
Adp Oper	Detroit, MI	6	90
Adp Oper	Chicago, IL	5	90
Maint Nav Locks	Marie, MI	18	90
Data Collection	Rock Island, IL	18	90
Logistics	Rock Island, IL	4	90
Logistics	Peoria, IL	4	90
Logistics	Scott County, IA	8	90
Data Collection	St. Paul, MN	2	90
Drilling	St. Paul, MN	10	90
Service Base	Fountain City, WI	13	90
Matl & Water Labs	Barre Falls Dam	14	90
Chena Project	Chena, AK	2	90
Field Inv	Anchorage, AK	2	90
Drafting Svc	Anchorage, AK	8	90
Data Process	Anchorage, AK	6	90
Oper of Adp Equip	Portland, OR	10	90
Ops Adp Eq	Portland, OR	3	90
Nat Res Mgt	Portland, OR	6	90
Drilling	Portland, OR	5	90
Maint of Floating Plant	Portland, OR	25	90
Word Processing	Seattle, WA	17	90
O&M Res Fac	Starbuck/Pomeroy	14	90
O&M Res Fac	Ahsahka, ID	5	90
Motor Veh O&M	Walla Walla, WA	4	90
Sys Design, Dev	Mariemont, OH	5	90
Audiovisual Svcs	Cincinnati, OH	1	90
Data Process Svcs	Mariemont, OH	23	90
Maintenance Mechanic	Mariemont, OH	2	90
Word Processing	Cincinnati, OH	5	90
Op Rec Areas	Burnsville Lake	1	90
Op Rec Areas	Summesrville Lake	2	90
Op Rec Areas	Sutton Lake	2	90
Emerg Rpr	Marietta, OH	42	90
Sys Design, Dev	Huntington, WV	6	90
O&M of Locks	L&D	14	90
Sys Design	Louisville, KY	6	90
Word Processing	Louisville, KY	13	90
Routine Maint	Lancaster	4	90
Hydropwr Maint	Lancaster, TN	4	90
Routine Maint	Carthage, TN	4	90
Hydropwr Maint	Carthage, TN	4	90
Routine Maint	Celina, TN	4	90
Hydropwr Maint	Celina, TN	4	90
Lock Maint	Ashland City, TN	9	90
Noncrit Lock Maint	Carthage, TN	1	90
Lock Maint	Lenoir City, TN	11	90
Lock Maint	Old Hickory, TN	9	90
Crit Lock Maint	Watts Bar Dam	2	90
Real Estate	Nashville, TN	1	90

CORPS OF ENGINEERS—Continued

[A-76 INVENTORY]

Commercial activity	Location	FTE	Year
Sys Design, Dev	Nashville, TH	3	90
Mail & File	Pgh, PA	4	90
O&M of Locks	Freeport, PA	10	90
O&M Locks	Kittanning	3	90
O&M Locks	Morgantown	2	90
O&M Locks	Templeton	1	90
O&M Locks	Widnoon	1	90
Studies Spt	Pittsburgh, PA	11	90
Info Mgt Ofc	Charleston, SC	7	90
Hydropwr Test	GA/AL	11	90
Surveying & Mapping	Jacksonville, FL	11	90
O&M Communicat System	Jacksonville, FL	2	90
Motor Veh	Jacksonville, FL	1	90
Mail/Messenger	Jacksonville, FL	9	90
Still Photography	Jacksonville, FL	5	90
Television	Jacksonville, FL	1	90
Audio	Jacksonville, FL	1	90
Graphic Art	Jacksonville, FL	1	90
Visual Info	Jacksonville, FL	1	90
O&M Locks/Bridges	Panama CITY, FL	47	90
George/Andrew Lakes	Ft Gaines, GA	29	90
Data Process	Mobile, AL	6	90
Sys Design	Mobile, AL	9	90
West Point Lake	West Point, GA	4	90
Graphic Arts	Mobile, AL	4	90
Drafting	Savannah, GA	6	90
Data Process	Savannah, GA	15	90
Natural Res Mgt	Bassett, VA	10	90
Natural Res Mgt	Wilkesboro, NC	6	90
Office Services	Sacramento/LA, CA	194	90
Office Services	SF, CA	15	90
Mail & Messenger	Dallas, TX	2	90
Communications Ctr	Ft Worth, TX	1	90
Routine Maint	Sam Rayburn, TX	3	90
Routine Maint	Whitney, TX	4	90
Hydropwr Bull Shoals	Mountain Home, AR	7	90
Hydropwr Greers Ferry	Heber Springs, AR	4	90
Hydropwr Norfolk	Mountain Home, AR	5	90
Routine Maint	Beaver Hydro, AR	3	90
Hydropwr Table Rock	Branson, MO	7	90
Routine Maint	Dardanelle, AR	3	90
Routine Maint	Ozark, AR	4	90
O&M Eufaula Lake	Stigler, OK	13	90
O&M Ft Gibson	Ft Gibson, OK	12	90
O&M Keystone Lake	Sand Springs, OK	12	90
O&M Tenkiller	Gore, OK	12	90
Council Grove Lake	Council Grove, KS	3	90
Elk City Lake	Elk City, KS	3	90
O&M Fall River	Fall River, KS	3	90
O&M Marion Lake	Marion, KS	2	90
Drafting	Memphis, TN	6	91
Data Collection	Memphis, TN	7	91
Electron & Comm Equip	Memphis, TN	7	91
Travel Branch	Memphis, TN	6	91
Adp Pgming	New Orleans, LA	7	91
Mail & Messenger	New Orleans, LA	6	91
Av Svcs	New Orleans, LA	16	91
Plans & Specs	St Louis, MO	67	91
A/E	St Louis, MO	78	91
Info Mgt Supp	St Louis, MO	6	91
Service Base	St Louis, MO	30	91
Collect, Drill	Kansas City, MO	23	91
Jeff Cty Survey	Jeff City	6	91
Napoleon Survey	Napoleon, MO	5	91
Hydropwr Maint	Chamberlain, SD	13	91
Hydropwr Maint	Pierre, SD	14	91
Drift Removal	Wash, DC	4	91
Drift Removal	Baltimore, MD	8	91
Surveying & Mapping	NY, NY	30	91
Data Collection	NY, NY	5	91
O&M Locks/Dams	Troy, NY	17	91
Surveying & Mapping	NY, NY	3	91
Custodial Services	Norfolk, VA	9	91
Floating Plant	Norfolk, VA	10	91
Drafting	Chicago, IL	4	91
Planning	Detroit, MI	18	91
Maint Locks/Dams	Scott County, IA	2	91
Maint Locks	Peoria, IL	15	91

CORPS OF ENGINEERS—Continued

[A-76 INVENTORY]

Commercial activity	Location	FTE	Year
Maint Locks	Scott County, IA	10	91
Routine Maint	MS	3	91
Surveying	St Paul, MN	5	91
Emerg Repair	Fountain City, WI	16	91
Drafting Services	Ned Div Ofc	52	91
Surveying	Ned Div Ofc	24	91
Storage & Whse	Anchorage, AK	4	91
Messenger	Anchorage, AK	3	91
Survey & Map Svcs	Anchorage, AK	9	91
Dev & Maintain Applic Software	Portland, OR	11	91
O&M Dams	Blue River, OR	1	91
O&M Dams	Cottage Grove, OR	2	91
O&M Dams	Dorena, OR	4	91
O&M Dams	Fall Creek, OR	1	91
O&M Dams	Fern Ridge, OR	3	91
Ops Rec Area	Pine Meadows, OR	2	91
Prog & Sys Design	Portland, OR	6	91
O&M Dams	Willow Creek, OR	1	91
Visitor Center	The Dalles, OR	1	91
Visitor Center	Bonneville, OR	7	91
O&M Dams	Cooper, OR	1	91
Albeni Fall Dam	Newport, WA	18	91
Telecom Centers	Seattle, WA	2	91
Other Communicat	Seattle, WA	1	91
Maint Adp Eq	Seattle, WA	1	91
Storage/Warehousing	Seattle, WA	4	91
Mail & Msg Svc	Seattle, WA	4	91
Drilling	Seattle, WA	9	91
Adp	Seattle, WA	20	91
O&M Res Fac	Boise, ID	5	91
O&M Res Fac	Walla Walla, WA	3	91
Storage & Warehousing	Umatilla, OR	5	91
Printing & Reproduction	Walla Walla, WA	6	91
Word Processing	Walla Walla, WA	6	91
Tech Review	Huntington, WVA	2	91
Telecom Ctr	Huntington, WVA	1	91
A/E Planning	Huntington, WVA	25	91
Surveying & Mapping	Huntington, WVA	4	91
Dredging	Huntington, WVA	5	91
Core Drilling	Louisville, KY	8	91
Data Collection	Louisville, KY	14	91
Surveying & Mapping	Louisville, KY	16	91
Visual Information	Louisville, KY	7	91
Mail & File	Louisville, KY	11	91
AV Graphics Svcs	Nashville, TN	3	91
Routine Maint	Kuttawa, KY	4	91
Hydropwr Maint	Kuttawa, KY	4	91
Routine Maint	London, KY	2	91
Hydropwr Maint	London, KY	2	91
Routine Maint	Jamestown, KY	7	91
Hydropwr Maint	Jamestown, KY	7	91
Real Prop Maint	Grafton, WV	3	91
Real Prop Maint	Youghiogheny Rv	4	91
Real Prop Maint	Berlin, Lk	4	91
Real Prop Maint	Mosquito Crk Lk, OH	3	91
Real Prop Maint	Shenango Rvr Lk, PA	4	91
Maint	Kirwan Dam, OH	2	91
Maint	Warren, PA	4	91
Real Prop Maint	Wilcox, PA	2	91
Real Prop Maint	Tionesta, PA	4	91
Real Prop Maintq	Saegertown, PA	4	91
Supplies Receipt	Charleston, SC	1	91
Audiovisual	Atlanta, GA	2	91
Logistics	Atlanta, GA	18	91
Telecomm Center	Jacksonville, FL	3	91
Motor Veh Maint	Jacksonville, FL	1	91
Other FOA Svcs	Jacksonville, FL	4	91
Drift & Debris Removal	Jacksonville, FL	1	91
Aquatic Plant/Clear	Palatka, FL	7	91
Storage/Warehousing	Jacksonville, FL	2	91
Health Services	Jacksonville, FL	2	91
Other Adp Svcs	Jacksonville, FL	8	91
Bldgs & Grounds	Camden, AL	9	91
Grounds/Surfaced Area	Cartersville, GA	15	91
Bldgs & Grounds	Demopdis, AL	10	91
Grounds & Surfaced Area	Buford, GA	8	91
Bldgs & Grounds	Oakman, GA	6	91

CORPS OF ENGINEERS—Continued

[A-76 INVENTORY]

Commercial activity	Location	FTE	Year
Mail & Messenger	Mobile, AL	3	91
Warehouse	Savannah, GA	5	91
Graphics	Savannah, GA	1	91
Maint of Powerhouse	Boydton, VA	11	91
Maint	Pena Blanca, NM	6	91
Non A/E Svcs	Albuquerque, NM	5	91
Sys Design/Dev	Albuquerque, NM	7	91
Sys Design/Dev	Dallas, TX	6	91
Sys Design/Dev	Galveston, TX	5	91
Oper of ADP	Little Rock, AR	2	91
Oper of ADP	Dallas, TX	14	91
Oper of ADP	Galveston, TX	4	91
Oper of ADP	Ft. Worth, TX	8	91
Oper of ADP	Tulsa, OK	5	91
Lab & Mats Test	Dallas, TX	8	91
Surveying	Brownsville, TX	6	91
Surveying	Corpus Christi, TX	8	91
Surveying	Port Arthur, TX	10	91
Surveying	Galveston, TX	27	91
Graphics/Vis/Photo	Fort Worth, TX	9	91
Admin Spt Svcs	Galveston, TX	4	91
Drafting Svcs	Galveston, TX	3	91
Maint—Dams	Elaine, AR	2	92
Maint—Dams	Marianna, AR	9	92
Payroll & Debt Collec	New Orleans, LA	1	91
Appraisals	New Orleans, LA	3	91
Regulatory Functions	New Orleans, LA	4	91
Ofc Func	St. Louis, MO	4	92
Lake Projects	Mark Twain Lake	9	92
Lake Projects	Reno Lake	32	92
Lake Projects	Lake Shelbyville	24	92
Lake Projects	Wappapello Lake	22	92
Lake Projects	Carlyle Lake	20	92
Lake Projects	Mark Twain Lake	8	92
ADP Div	Div/Dist Ofc	7	92
Drafting/Audiovisual	Kansas City, MO	23	92
Hydropwr Maint	Yankton, SD	11	92
Hydropwr Maint	Lake Andes, SD	15	92
Drilling	Baltimore, MD	9	92
Survey	Baltimore, MD	14	92
A/E Spt Svcs	Baltimore, MD	138	92
Canal	DE/MD	30	92
O&M Ft Mifflin	PA/NJ/DE/MD	19	92
Warehouse	Buffalo, NY	3	92
Admin Spt Svcs	Buffalo, NY	3	92
Data Collection	Chicago, IL	9	92
Maint/Rpr Float Plant	Detroit, MI	21	92
Engineer Svcs	Bettendorf, IA	1	92
Engineer Svcs	East Peoria, IL	1	92
Engineer Svcs	Joliet, IL	1	92
Engineer Svcs	Polk County, IL	1	92
Engineer Svcs	Rock Island, IL	47	92
Info Svcs	Rock Island, IL	12	92
A/E	St Paul, MN	9	92
Surveying	Fountain City, WI	9	92
Routine Maint	MS	4	92
Drafting	St Paul, MN	1	92
Lab Matl Testing	St Paul, MN	1	92
Survey & Map Svc	Anchorage, AK	9	92
Subsurface Explorat	Anchorage, AK	5	92
Sys Design/Dev	Anchorage, AK	7	92
Data Process	Portland, OR	4	92
Other Hydro Maint	Cougar, OR	2	92
Other Hydro Maint	Detroit, OR	7	92
Other Hydro Maint	Foster, OR	7	92
Other Hydro Maint	Trail, OR	7	92
Other Hydro Maint	Lookout Point	4	92
Res Maint	Lowell, OR	1	92
Pwrhse & Lock Maint	Lowell, OR	3	92
Other Hydro Maint	Hills Creek, OR	2	92
Motor Veh Maint	Lowell, OR	1	92
Data Collection	Seattle, WA	1	92
Dam Ops	Enumclaw, WA	9	92
Prod Design, Plan	Seattle, WA	37	92
Surveying & Mapping	Seattle, WA	24	92
Lab Matl Testing	Seattle, WA	1	92
Real Estate Appraisal	Seattle, WA	7	92
O&M Floating Plant	Seattle, WA	2	92

CORPS OF ENGINEERS—Continued

[A-76 INVENTORY]

Commercial activity	Location	FTE	Year
Debris Removal	Seattle, WA	6	92
Info Mgt Svcs	Walla Walla, WA	9	92
Data Process Services	Walla Walla, WA	12	92
Data Collection	Huntington, WV	9	92
A/E	Huntington, WV	79	92
A/E	Louisville, KY	14	92
A/E	Ft Ben Area Ofc	10	92
Lab Testing	Louisville, Ky	4	92
Lab Testing	Ft Know Area Ofc	2	92
Lock Maint	Grant	9	92
Lock Maint	Jasper	11	92
Lock Maint	Chattanooga, TN	8	92
Word Processing	Pittsburgh, PA	7	92
Sys & Pgming	Pgh, PA	7	92
O&M Rec Area	Saltsbury	9	92
O&M Rec Area	Ford City, PA	6	92
O&M Rec Area	New Bethlehem, PA	4	92
Plans & Specs	Honolulu, HI	111	92
Msg Svc	Ft Shafter, HI	2	92
St Stephen	Charleston, SC	2	92
O&M Floating Plant	Charleston, SC	2	92
Motor Pool Opn	Charleston, SC	2	92
Commo & Adp Svc	Atlanta, GA	25	92
Drilling	Jacksonville, FL	9	92
Drafting Svc	Jacksonville, FL	8	92
Core Drilling	GA/FL/AL	56	92
O&M Powerhouse	Camden, AL	23	92
Storage & Warehouse	Mobile, AL	3	92
Thurmond Power Plant	SC	16	92
Dredging	Savannah, GA	21	92
Hartwell Lake Power	Savannah, GA	16	92
Natural Res Mgt	Boydton, VA	19	92
Special Studies	Sacramento, CA	25	92
Special Studies	LA, CA	4	92
Nontech Sup Svcs	LA/SF, CA	31	92
Nontech Sup Svcs	Sacramento, CA	4	92
Nontech Spt	LA, CA	8	92
Maint Fleet	RS Kerr Fleet, OK	12	92
Maint Fleet	Pine Bluff, AR	15	92
Maint Fleet	Russellville, AR	20	92
Planning Prof & Tech	Fort Worth, TX	68	92
Prof Arch & Engr Sv	Little Rock, AR	57	92
Dev of Sys Software	Wash, DC	3	93
Other Adp	Wash, DC	4	93
Other A/E	Memphis, TN	26	93
Shops	New Orleans, LA	26	93
Cartography	Kansas City, MO	3	93
Reproduction	Kansas City, MO	11	93
Plans & Specs	Omaha, NE	38	93
Cartography	Omaha, NE	5	93
Omaha Resident Ofc	Omaha, NE	1	93
Reproduction	Omaha, NE	13	93
Drafting	Omaha, NE	40	93
Survey & Mapping	Omaha, NE	16	93
Plans & Specs	Norfolk, VA	56	93
Gathright Lake	Norfolk, VA	5	93
Open Water Nav	Norfolk, VA	35	92
Real Estate Appraisal	Norfolk, VA	3	92
Drilling/Surveying	Norfolk, VA	10	92
Oper of Float Plant	Chicago, IL	1	92
Maint/Rpr Float Plant	Chicago, IL	1	92
Bank Stabilization	Chicago, IL	5	92
Lock Oper	Chicago, IL	2	92
O&M Jetties	Chicago, IL	1	92
Maint of Locks	Sault St Marie, MI	41	92
O&M Floating Plant	Peoria, IL	2	92
O&M Floating Plant	Scott County, IA	8	92
O&M Floating Plant	Rock Island, IL	9	92
Rpr & Maint Locks/Dam	Peoria, IL	1	92
Rpr & Maint Locks/Dam	Rock Island, IL	5	92
Natural Res Mgt	Marion County, IA	3	92
Natural Res Mgt	Polk County, IA	3	92
Natural Res Mgt	Rock Island, IL	1	92
Natural Res Mgt	Scott County, IA	4	92
Natural Res Mgt	Johnson County, IA	3	92
Natural Res Mgt	Remer, MN	1	92
Emerg Repair of Locks	MS	2	92
Dam Oper	Remer, MN	2	92

CORPS OF ENGINEERS—Continued

[A-76 INVENTORY]

Commercial activity	Location	FTE	Year
Maint of Dams	Remer, MN	1	92
Plans & Specs	St Paul, MN	44	92
A/E	St Paul, MN	35	92
Other	St Paul, MN	1	92
Surveying	St Paul, MN	1	92
A/E	Anchorage, AK	8	92
Telecom	Portland, OR	1	92
Lab Matl Test	Portland, OR	10	92
Pwrhse & Lock Maint	The Dalles, OR	36	93
A/E Svcs	Seattle, WA	161	93
O&M Locks & Bridges	Seattle, WA	34	93
R/Maint Dams	Ahsahka, ID	3	93
R/Maint Dams	Starbuck, WA	5	93
R/Maint Dams	Pomeroy, WA	5	93
R/Maint Dams	Pasco, WA	5	93
R/Maint Dams	Boise, ID	1	93
R/Maint Dams	Walla Walla, WA	1	93
R/Maint Dams	Umatilla, OR	6	93
R/Maint Dams	Kahlotus, WA	5	93
P&S Review	Huntington, WVA	97	93
Plans & Specs	Louisville, KY	43	93
Routine Maint	Celina, OH	4	93
Hydropwr	Charlotte, TN	4	93
Hydropwr Maint	Hendersonville, TN	5	93
Lock Maint	Pickwick Dam, TN	10	93
Lock Maint	Rogersville, AL	9	93
Lock Maint	Florence, AL	12	93
Data Collection	Pittsburgh, PA	4	93
Drafting	Pittsburgh, PA	8	93
Lab Matl Test	Pittsburgh, PA	4	93
Emerg Repair	Belle Vernon, PA	3	93
Emerg Repair	Braddock, PA	2	93
Emerg Repair	Dilliner, PA	1	93
Emerg Repair	Millsboro, PA	4	93
Emerg Repair	Elizabeth, PA	2	93
Emerg Repair	Greensboro, PA	1	93
Emerg Repair	Natrona, PA	1	93
Emerg Repair	New Kensington, PA	1	93
Emerg Repair	Pittsburgh, PA	1	93
Studies	Charleston, SC	2	93
Surveying & Mapping	Jacksonville, FL	25	93
Hydropwr & Comm	Chatsworth, GA	28	93
Hydropwr & Comm	Shorterville, AL	27	93
Dams Maint	Moncure, NC	3	93
Dams Maint	Wilkesboro, NC	2	93
Maint & Recreat Svcs	Conchas, NM	2	93
Other Prof Architect	Dallas, TX	15	93
Engineer A/E Tech	Fort Worth, TX	199	93
Other A/E Svcs	Brownsville, TX	2	93
Other A/E Svcs	Corpus Christi, TX	4	93
Other A/E Svcs	Galveston, TX	55	93
Other A/E Svcs	Houston, TX	9	93
Other A/E Svcs	Port Arthur, TX	2	93
Real Estate Appraisal	Little Rock, AR	4	93
Hydropwr Facil	Eufaula, OK	4	93
Hydropwr Facil	Tenkiller, OK	4	93
Hydropwr Facil	Keystone, OK	4	93
Hydropwr Facil	Webbers Falls, OK	5	93
Hydropwr Facil	Broken Bow, OK	8	93
Hydropwr Facil	Denison, OK	10	93
Hydropwr Facil	Robert Kerr, OK	9	93
Hydropwr Facil	Ft Gibson, OK	11	93
Other Prof A/E	Memphis, TN	12	94
Real Estate Appraisal	Memphis, TN	2	94
Occp. Health Nursing	Memphis, TN	1	94
Surveying & Mapping	New Orleans, LA	34	94
Lock Maint	New Orleans, LA	23	94
Emerg Repr	New Orleans, LA	2	94
Data Collection	Omaha, NE	10	94
Subsurface Explor	Omaha, NE	12	94
Payroll	Omaha, NE	76	94
Dabt Collec	Omaha, NE	5	94
Mail & Communica	Omaha, NE	7	94
Visual Informat Svcs	Omaha, NE	9	94
Real Est Acq	Baltimore, MD	5	94
O&M Floating Plant	NY/OH	27	94
Non A/E Prof Svcs	Chicago, IL	7	94
O&M Open Water	Detroit, MI	6	94

CORPS OF ENGINEERS—Continued

[A-76 INVENTORY]

Commercial activity	Location	FTE	Year
Jetties	Detroit, MI	4	94
O&M Open Water	Kaukauna, WI	5	94
Drift & Debris Removal	Sault St Marie, MI	7	94
Plans & Spec	Rock Island, IL	18	94
Non A/E Prof Svcs	St Paul, MN	33	94
Prod Design, Plans	Anchorage, AK	34	94
Plans & Specs	Portland, OR	81	94
Pwrhse & Lock Maint	The Dalles, OR	47	94
O&M Lake Wash Canal	Seattle, WA	32	94
O&M Locks/Bridges	Pasco, WA	4	94
O&M Locks/Bridges	Pomeroy, WA	3	94
O&M Locks/Bridges	Kahlotus, WA	4	94
O&M Locks/Bridges	Umatilla, OR	8	94
O&M Locks/Bridges	Starbuck, WA	2	94
Comm Ctr	Cincinnati, OH	1	94
Av Svcs	Pittsburgh, PA	4	94
Emerg Rpr	Glen Willard, PA	4	94
Emerg Rpr	Hannibal, OH	4	94
Emerg Rpr	Monaca, PA	3	94
Emerg Rpr	Pittsburgh, PA	4	94
Emerg Rpr	Stratton, OH	4	94
Emerg Rpr	Wheeling, WVA	4	94
Data	Honolulu, HI	3	94
Plans/Specs	Charleston, SC	24	94
Surveying & Mapping	Mobile, AL	5	94
Data Collection	Mobile, AL	4	94
Surveying & Mapping	Tuscaloosa, AL	5	94
Surveying/Mapping	Wilmington, NC	20	94
Drilling	Wilmington, NC	1	94
Data	Wilmington, NC	15	94
ADP Systems	LA & SF, CA	53	94
Other A/E SVCS	Pueblo, CO	3	94
Other A/E SVCS	Albuquerque, NM	33	94
Mail & Messenger	Dallas, TX	1	94
Survey & Mapping	Ft Worth, TX	24	94
Plans Specs Design	Corpus Christi, TX	6	94
Plans Specs Design	Galveston, TX	32	94
Plans Specs Design	Port Arthur, TX	2	94
Real Estate Acquisit	Galveston, TX	5	94
Mail & Messenger	Little Rock, AR	2	94
Prod Des Plns, SPCS	Little Rock, AR	34	94
Other A/E	Tulsa, OK	179	94
Dev & Maint App	Wash, DC	23	95
Engr Support Funcs	New Orleans, LA	317	95
Nat Res MGT	New Orleans, LA	24	95
Non A/E SVCS	Baltimore, MD	13	95
Real Est ACQ	Baltimore, MD	1	95
Drafting	Buffalo, NY	9	95
Tech Review Plans	Chicago, IL	5	95
Grand Haven Misc	Grand Haven, MI	3	95
Sault Ste Marie Misc	Sault St Marie, MI	1	95
Data Collection	Kewaunee, WI	1	95
Drafting	Kewaunee, WI	1	95
Data Collect	Saginaw, MI	1	95
Drafting	Saginaw, MI	1	95
Drafting	Detroit, MI	3	95
Plans/Specs	Detroit, MI	3	95
Testing	Detroit, MI	1	95
Facil/Grnds/Util	Duluth, MN	6	95
Pwrhse & Lock Maint	Bonneville, OR	61	95
Dam Maint	Libby, MT	22	95
Dam Ops	Ahsahka, ID	4	95
Dam Ops	Starbuck, WA	5	95
Dam Ops	Pomeroy, WA	7	95
Dam Ops	Pasco, WA	6	95
Dam Ops	Boise, ID	1	95
Dam Ops	Walla Walla, WA	1	95
Dam Ops	Umatilla, OR	10	95
Dam Ops	Kahlotus, WA	7	95
Emg Rpr Locks	Florence, AL	9	95
Emg Rpr Locks	Old Hickory, TN	26	95
Lock Maint	Grand Rivers, KY	9	95
Lock Maint	Gilbertsville, NY	12	95
Emerg Rpr	Pittsburgh, PA	74	95
Sub Explor SVCS	Honolulu, HI	5	95
Other A/E	Charleston, SC	49	95
Other A/E	Jackson, SC	3	95
Other A/E	Wilmington, NC	12	95

CORPS OF ENGINEERS—Continued

[A-76 INVENTORY]

Commercial activity	Location	FTE	Year
Testing	Wilmington, NC	1	95
O&M Hydropower	Bassett, VA	4	95
Data	Wilmington, NC	6	95
Other A/E SVCS	Wilmington, NC	20	95
Drilling & Testing	Pena Bvlanca, NM	1	95
Drilling & Testing	Hasty, NM	1	95
Drilling & Testing	Albuquerque, NM	14	95
Tech Review	Albuquerque, NM	14	95
Lab Testing	Corpus Christi, TX	1	95
Lab Testing	Galveston, TX	1	95
Lab Testing	Port, Arthur, TX	1	95
Lab Testing	Houston, TX	2	95
Subsurface Explor	Little Rock, AR	2	95
Surveying & Mapping	Little Rock, AR	8	95
Plans & Specs	Tulsa, OK	42	95
Prod & Rev/Plans	Baltimore, MD	115	96
Other A/E SVCS	Chicago, IL	8	96
Surveying	Detroit, MI	11	95
Surveying	Grand Haven, MI	2	96
Surveying	Kewaunee, WI	4	96
Surveying	Detroit, MI	7	96
Surveying	Saginaw, WI	2	96
Surveying	Duluth, MN	4	96
Hydro Survey	Portland, OR	25	96
Chief Joseph Dam	Brewster, WA	22	96
Maint/Hydro Fac	Ahsahka, ID	5	96
Maint/Hydro Fac	Starbuck, WA	5	96
Maint/Hydro Fac	Pomeroy, WA	9	96
Lock	Lenoir City,	3	96
Lock Ops	Old Hickory,	3	96
Telecom Ctr	Pittsburgh, PA	1	96
Printing Plant	Pittsburgh, PA	8	96
Survey & Mapping	Honolulu, HI	8	96
Survey/Drafting	Charleston, SC	10	96
Data Collection	Charleston, SC	2	96
Plans & Specs	Wilmington, NC	31	96
Tech Sup SVCS	SF, CA	40	96
Tech Sup SVCS	SF & Sacramento, CA	87	96
Tech Sup SVCS	Sausalito, CA	32	96
Maint & Rec	Abiquiu, NM	4	96
Res Mgt & Maint	Hasty, NM	7	96
Plans & Specs	Albuquerque, NM	35	96
Non A/E SVCS	Galveston, TX	20	96
Drafting	Little Rock, AR	7	96
Reproduction	Little Rock, AR	9	96
Drafting	Tulsa, OK	12	96
Reproduction	Tulsa, OK	4	96
Drilling	Tulsa, OK	17	96
Plans/Specs	Chicago, IL	22	97
Tech Review	Detroit, MI	3	97
Locks	Sault St Marie, MI	9	97
Const Eng SVC	Portland, OR	17	97
Reproduction	Portland, OR	9	97
Audiovisual	Portland, OR	11	97
Chief Joseph Dam	Brewster, WA	28	97
Maint	Kahlotus, WA	6	97
Maint	Pasco, WA	6	97
Maint	Umatilla, OR	16	97
Tech Review	Nashville, TN	10	97
Data Collection	Galveston, TX	1	97
Core Drilling	Nashville, TN	8	97
Surveying	Nashville, TN	7	97
Lab Testing	Nashville, TN	3	97
Engineering Svcs	Portland, OR	57	98
Chief Joseph Dam	Brewster, WA	10	98
Other Engr Svcs	Walla Walla, WA	7	98
Non A/E Prof Svcs	Walla Walla, WA	10	98
Log Mgt Svcs	Walla Walla, WA	4	98
Other Prof A/E		55	98
Engineer Svcs	Sacramento/SF/LA	4	98
Engineer Svcs	LA, CA	66	98
Engineer Svcs	Sacramento, CA	1111	98
Engineer Svcs	SF, CA	53	98
Engineer Svcs	LA, CA	139	98
Telecomm Ctr	Galveston, TX	1	98
Mail & Messenger	Tulsa, OK	2	98
OTH A/E Svcs	McGhee, AR	12	98

CORPS OF ENGINEERS—Continued

[A-76 INVENTORY]

Commercial activity	Location	FTE	Year
OTH A/E	Shreveport, LA	39	98
OTH A/E	Vidalia, LA	19	98
O&M Lakes	Murfreesboro, AR	23	98
O&M Lakes	Arkadelphia, AR	38	98
O&M Lakes	Mt Pine, AR	41	98
Data Trans/Entry	New Orleans, LA	1	98
Prod/Rev Plans	Philadelphia, PA	45	98
Surveying	Philadelphia, PA	1	98
Testing	Philadelphia, PA	1	98
Data Collection	Philadelphia, PA	10	98
Survey	PA/DE/MD/NJ/NY	37	98
Engr Svcs	Portland, OR	43	98
Survey & Mapping	Portland, OR	1	98
Real Estate Appraisal	Portland, OR	1	98
Data Collect	Portland, OR	1	98
Plans & Specs	Walla Walla, WA	60	98
Plans & Specs	Nashville, TN	44	98
Other A/E	Honolulu, HI	211	98
Lab Materl Testing	Marietta, GA	16	98

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Revision to Circular No. A-125, "Prompt Payment"

AGENCY: Office of Management and Budget.

ACTION: Proposed circular and request for comments.

SUMMARY: This notice proposes a revision of OMB Circular No. A-125, "Prompt Payment," originally published on August 19, 1982, to implement provisions of the Prompt Payment Act, Pub. L. 97-177. This revision is being made to:

- Implement changes made by Pub. L. 100-496, the Prompt Payment Act Amendments of 1988; and
- Clarify and reorganize existing provisions of the circular.

The revisions will strengthen OMB Circular No. A-125 and provide for equitable treatment of vendors who provide necessary goods and services to the Federal Government.

DATES: Unless otherwise noted, the Act is effective for payments under contracts awarded, contracts renewed, and contract options exercised on or after April 1, 1989. Two provisions are effective with respect to all obligations incurred on or after January 1, 1989 including:

- Application of the Prompt Payment Act to the United States Postal Service; and
- Requirements for payments to farm producers.

Effective for payments under contracts awarded on or after October 1, 1989, agencies must notify vendors of the amount of interest penalty, rate of interest and period for which the penalty was computed.

This circular will be effective 30 days after publication of the final circular.

Comments will be accepted until May 30, 1989.

ADDRESS: Send comments to Credit and Cash Management Branch, Office of Management and Budget, 725 Seventeenth Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Marvin Saunders, (202) 395-3066.

SUPPLEMENTARY INFORMATION: Since implementation of the Prompt Payment Act in 1982, Federal agencies have made significant improvements in their bill paying performance. Reports by agencies, the General Accounting Office, the Inspectors General, and the contracting community document these improvements. Nevertheless, much remains to be done to fulfill the intent of the original legislation. In 1987, legislation was introduced to assist agencies to improve payment practices. On June 9, 1987, revisions to OMB Circular A-125 were published to incorporate as much of the proposed legislation as possible. On October 14, 1988, the President signed into law the Prompt Payment Act Amendments of 1988. The new legislation clarifies the Prompt Payment Act and provides new guidance for improving timeliness of payments to vendors. The revised circular implements the legislation and reorganizes the circular to clarify its provisions. Additional changes are made to respond to questions raised by agencies and contractors.

Changes made in response to the new legislation are as follows:

- The 15-day grace period has been eliminated effective April 1, 1989. The grace period was originally included to protect agencies from the potentially substantial administrative burden and expense of paying large numbers of small interest penalties resulting from short delays in making payment. Agencies have had ample time to improve their bill paying systems. Testimony suggested continuing abuse of the grace periods; agencies have used the grace periods routinely to extend the payment periods.
- For the purpose of calculating whether timely payment has been made, acceptance is considered to have been made on the seventh day after delivery of goods or performance of service or on the date of acceptance if acceptance occurred before the seventh day after delivery of goods or performance of service, or at the conclusion of a longer period for acceptance if specified in the solicitation and included in the contract. The circular published June 9, 1987, adopted a similar provision from then pending legislation, with a period of five days after delivery of goods or performance of service.

This provision does not require the Government to pay for goods or services that it has not had the opportunity to inspect and actually accept. The contract payment and any accrued interest penalties would still be due normally only after actual acceptance and receipt of a proper invoice. The seven-day period is to be used only to limit the time period during which payment may be made without incurring late payment interest penalties. Clearly, agencies must be aware of the importance of sending acceptance papers to the payment office as quickly as possible. Warehousing of invoices

should occur only at the payment office which can assure timely payment.

The legislative history indicates that agencies are to include longer acceptance periods in contracts only when the longer period is necessary to permit proper Government inspection and testing of goods or services, not as a routine practice. Commercial items and services should not be subject to extended acceptance periods. Longer acceptance periods may not be included in contracts for brand-name commercial items purchased for authorized resale. Items which Government inspectors approve prior to shipment should generally be eligible for acceptance on delivery or shortly thereafter.

• Receipt of invoice has been clarified. The date of receipt must be the date on which the invoice is first received by the place or person designated by the agency in the contract. This clarification is intended to prevent agencies from holding invoices before sending them to the payment center without counting the holding period in the 30-day payment period. The legislative history indicates that the intent is that if a contract requires the invoice to be delivered to a nongovernmental entity, that entity is the designated agent of the Government for receipt of the invoice.

• If an agency fails to note on the face of an invoice the date of its actual receipt, the legislation requires that the date placed on the invoice by the contractor will be considered the date of receipt for the purpose of determining the payment due date.

• Calculation of the rate at which interest shall be paid is clarified. To avoid uncertainty about the rate to be used when rates fluctuate, the amendments require that the rate be the interest rate in effect at the time the payment became late, not at the time the payment was made.

• A new provision requires agencies to notify contractors of the amount of an interest penalty payment, the interest rate used to calculate the penalty, and the period of time to which the penalty applies. Under the prior circular, agencies were required to notify contractors of the amount of an interest penalty payment. Contractors had no way of verifying the accuracy of agency calculation of penalties. This change is effective for payments made for contracts awarded on or after October 1, 1989. The legislative history recognizes the need for additional time to make necessary changes to agency payment systems.

• An additional penalty is now required when the agency owes a late payment interest penalty, fails to pay the penalty within 10 days after making the late payment and if the contractor makes a written request no later than 40 days after the date of the payment. The additional penalty does not apply to payment of utility bills because such penalties are determined through the rate-setting process.

The Prompt Payment Act Amendments passed by the Senate required payment of an additional penalty equal to twice the amount of the original penalty. The legislative history indicates that the House of Representatives Committee on Government Operations found that the double interest penalty could potentially result in windfalls to contractors; the legislation therefore requires OMB to establish a percentage for the interest penalty and set a cap for the total such additional penalty which an agency would be required to pay. The Committee expressed the expectation that OMB would balance the need for a sufficiently high percentage to focus the attention of agency officials on paying penalties due with the need for good stewardship of taxpayer funds.

In FY 1988, the 20 major agencies reported paying $20,569,000 in interest penalties. The number of penalty payments reported was 522,487 and the average payment was $39. Agencies reported that they failed to make interest penalties on 130,193 payments where interest was due but not paid. The total amount of unpaid interest reported was $1,584,000; the average unpaid interest amount was $12. To create a strong incentive to agencies to institute automatic payment of penalties due, OMB has set the additional penalty at 100 percent of the amount of the original unpaid late payment interest penalty beginning October 1, 1989. To give agencies an opportunity to make the significant changes required by the amendments, we have established the amount of additional penalty at 50 percent of the original unpaid interest for the period April 1 through September 30, 1989. OMB expects that agencies will rarely be required to pay this additional penalty. No data are currently available to permit calculation of an appropriate cap for the additional penalty payments. OMB will ask agencies to submit data on the distribution of interest penalties by size of payment and, on that basis, will amend the circular to establish a cap. In the meantime, there will be no upper limit on the dollar amount of an additional penalty. OMB invites submission of data at this time by interested parties.

• Prior to the new legislation, the Prompt Payment Act specified payment dates for meat products and perishable agricultural commodities in accordance with industry practice. The new legislation adds a 10 day payment period for dairy products and edible fats and oils.

• Agencies are required to pay interest penalties even if timely payments are prevented by temporary unavailability of funds. When funds become available, the contractor is entitled to payment and late payment interest penalties.

• The new legislation extends the protection of the Prompt Payment Act to the support programs of the Commodity Credit Corporation and establishes specific payment dates for farm program payments.

• Under a contract that does not prohibit periodic payments, a contractor who furnishes goods or services, accepted by the agency or determined by the agency to conform to the terms and conditions of the contract, would be entitled to a late payment interest penalty if the agency failed to make payment in accordance with the terms of the contract or within 30 days. While the new legislation reiterates established policy, clarification was needed because of testimony by the communications industry concerning the total failure of some Government agencies to pay portions of their bills for requirements-type (open-ended) service contracts. The legislative history indicates that agencies have experienced problems with employee misuse of services and have failed to pay bills for such misuse. The intent of Congress is that agencies bear the obligation to monitor use and not attempt to shift the responsibility to the contractor providing the services. Under cost reimbursement contracts interim payments are not covered by the interest provisions of the circular unless they are defined by the contract as partial payments for deliverable property or services.

• The new legislation requires that construction contract progress payments be paid within 14 days after the Government first receives a payment request from the contractor. Within that time the agency is required to determine the adequacy of the payment request (in light of the new certification and substantiation requirements), made any necessary inspections to verify the contractor's estimate of the percentage of work performed, and actually make payment. The government has the right to specify a longer payment period in the contract solicitation. The legislative history indicates that congressional intent is that longer payment periods be used judiciously by agencies to avoid

reduced competition and increased costs. Extended payment periods would not be appropriate for simple repair or alteration contracts, for the mere convenience of Government employees, or to avoid any possibility of making a late payment.

If the agency determines that a construction contract progress payment request is defective and that payment cannot be made, the agency must return the payment request to the contractor within seven days identifying the defects that prevent payment.

Agencies may not pay progress payment requests without contractor substantiation of the amounts requested and certification that amounts were expended in accordance with the contract, subcontractors and suppliers have been paid from previous payments and will be paid promptly from the payment requested, and that the prime contractor's payment request does not include any amounts to be withheld or retained from a subcontractor. The House Committee on Government Operations report suggested that contractor substantiation of the amount requested include an itemization of amounts requested related to the elements of work required by the contract and copies of payment requests submitted by subcontractors and suppliers and incorporated into the contractor's payment request. The Committee intended this requirement to deter false valuation of progress payment requests and to deter prime contractors from diverting funds from subcontractors. The circular requires substantiation to include the itemization of amounts requested in relation to elements of work required. Because of concern at the Department of Defense about the potentially heavy paperwork burden, the circular does not require copies of subcontractor payment requests.

• The new legislation extends the Act's payment protections to subcontractors and suppliers under Federal construction contracts. It does so principally by specifying the minimum standards for a payment clause (including interest penalties for late payments) to be included in the subcontract agreement between the Federal construction prime contractor and its various subcontractors and suppliers. The payment clause is to be repeated in the agreements among all tiers of subcontractors. Additional protections are accorded subcontractors as well as the Government by the specification of various notice requirements, by requiring that amounts to be withheld or retained from subcontractors remain in the possession of the Government, and by conditioning payments by the Government to its contractors on the submission of documentation substantiating the amounts requested and a certification regarding payments to subcontractors and suppliers.

• Agencies must review all invoices and return defective ones to the contractors within seven days identifying the defects that prevent payment. If the agency fails to return the defective invoice within seven days the number of days available for an agency to make a timely payment after receipt of the corrected invoice will be reduced by the number of days in excess of seven that the agency took before returning the defective invoice to the contractor.

• The new legislation authorizes payments to be made up to seven calendar days prior to the due date. This change was enacted because of concerns raised by a 1986 General Accounting Office study which suggested that agencies were holding payment data too long in order to avoid making payments early. The seven-day payment window is intended to compensate for delays in the mail when agencies forward payment data to distant payment centers and for processing delays at the payment center. The legislative history indicates congressional concern that agencies balance the need to make timely payments to contractors with the need to reduce costs to the taxpayer from unjustified early payments. The House Committee on Government Operations report asks the agencies to experiment to determine the most appropriate timing for release of their payment authorizations so that invoices are paid as close as possible to the due date without exceeding it. OMB has added to its reporting requirements a request for information on agency experience in releasing payment authorizations. The legislation also permits agencies to authorize early payments on a case-by-case basis when in the government's best interest.

• The period during which an agency may take a discount has been clarified. The 1986 GAO report found that, in a four month period, agencies took about 146,000 discounts amounting to $2 million after the discount period had expired. To address this unfair practice the new legislation requires that the discount period be counted beginning with the date placed on the invoice by the contractor.

• The new legislation revises the reporting requirements slightly. Additional data will be required on the number and dollar value of invoices for which interest or other late payment penalties were paid. The legislative history expressed congressional dissatisfaction with measurement of agency performance based solely on the criteria in the Act and indicates that congressional oversight will require a more accurate and complete picture of agency compliance with the Act. The legislative history emphasizes that the Act does not preclude OMB from collecting additional information needed to gain a more accurate picture of agency performance. Additional changes to the reporting requirements are discussed below.

• The new legislation mandates coverage of the Act in the Federal Acquisition Regulation (FAR) and specifies the minimum items to be covered.

• The United States Postal Service (USPS) is explicitly included in the Act and circular. The Postmaster General is authorized to implement the Act through USPS's own procurement regulations. USPS is exempted from the reporting requirements but must maintain its own data on bill paying performance and cash management.

• The new legislation creates a mechanism to quickly and effectively resolve complaints of small businesses about invoices submitted to the agencies. The Offices of Small and Disadvantaged Business Utilization (SADBU) will assist small business contractors to obtain payments, penalties, and information.

A number of significant changes to the Act are effective for contracts awarded, contracts renewed, and contracts options exercised on or after April 1, 1989. These changes benefit the contractors. Any agency which wishes to apply the new provisions to payments under contracts awarded, renewed or for which options were exercised before April 1, 1989, may do so.

The circular has been reorganized significantly. The following new sections have been added:

- Application
- Required documentation
- Required notices to contractors
- Interest penalties due farm producers
- Interest penalties under construction contracts
- Payment without evidence that supplies have been received
- Relationship to other laws
- Reporting requirements

The material on progress payments has been deleted because it duplicates material in the FAR and is not

concerned with the payment process. This deletion does not change Federal policy.

The following changes have been made in response to questions raised by contractors and agencies:

• Contracts with foreign contractors for work performed outside the United States are not covered by the circular. The Prompt Payment Act does not specifically address the question of geographic coverage. In the absence of clear congressional intent, the general principle, articulated by the Supreme Court, is that statutes can only operate upon persons and things within the territorial jurisdiction of the law making power. In addition, a number of requirements of the Act, reflecting domestic industry practice, either have no counterparts overseas or are in conflict with industry practice abroad. Interest rates vary widely among countries so that application of the Act in foreign countries would result in windfalls to contractors in some countries and would undercompensate vendors in others. Further, some vendors overseas do not willingly accept application of U.S. law.

• The circular has been changed to refer throughout to "contractor" rather than to business concern, contractor, and vendor.

• The definition of "Day" has been clarified to include explicitly weekends and holidays. The exception to this definition occurs when the payment date falls on a weekend or legal holiday. In a Comptroller General opinion dated October 31, 1985, the General Accounting Office held that "It is a well-established rule of Federal contract law that when an act is to be performed within a certain number of days and the last day falls on a Sunday or a legal holiday, performance on the following day is proper." Where Government offices are open, on Inauguration Day or local holidays, payments must be made on the holiday if due. In accordance with that opinion and priviate sector practice, the circular has been clarified as follows:

—Payments due on Saturday or Sunday may be paid on Monday, or the next working day, without penalty; and
—Payments due on a legal holiday which falls on a weekday, including a Friday, may be paid on the next working day without penalty.

• The new legislation deems payment to be made on the date a check for payment is dated or an electronic fund transfer (EFT) is made. Based on a recommendation by the Treasury Department's Financial Management Service the circular further specifies that the date an electronic fund transfer is made is the date the payment is received in the contractor's financial institution. This definition is intended to establish an unambiguous date for payment in an electronic environment. The definition is also intended to create an incentive for contractors to agree to accept payment throguh EFT rather than by check because they should have use of the funds somewhat sooner. OMB recognizes that agencies may view the definition of the EFT payment date as creating an incentive to them to continue making payment by check. OMB believes that the advantages to the Government of converting from labor and paper-intensive processes to electronic disbursement are so great that agencies should immediately adopt EFT. If a contractor gives the agency incorrect information so that the EFT transmission cannot be completed, the agency is not liable for an interest penalty for the period of time taken to correct the information.

• The reporting requirements, summarized in the prior circular, are included in the revised circular. OMB will also issue the reporting requirements to the agencies as a form. The due date for agency reports to OMB has been changed from November 30 following the end of a fiscal year to November 15. This change will permit OMB to submit the annual report to Congress with the President's Budget. OMB encourages agencies to use statistical sampling techniques to collect data. The following items have been added to the reporting requirements:

—Number and dollar value of invoices paid after the due date;
—Number and dollar value of additional late payment penalties paid;
—Description of actions taken during the fiscal year to correct problems identified;
—Description of agency experience in determining the most appropriate timing for release of payment authorization so that invoices are paid as close as possible to the due date without exceeding it;
—Updated description of agency quality control system; and
—Updated list of agency contacts for assistance in determining status of invoices.

To: The Heads of Executive Departments and Establishments
Subject: Prompt Payment

1. *Purpose.* The circular prescribes policies and procedures to be followed by executive departments and agencies in paying for property and services acquired under Federal contracts pursuant to the Prompt Payment Act of 1982, as amended, and for entitlement payments under the Agricultural Act of 1949 (7 U.S.C.1421 *et seq*).

2. *Background.* The Prompt Payment Act (the Act), as amended, (Chapter 39 of title 31 United States Code) requires Federal agencies to pay their bills on time, to pay interest penalties when payments are made late, and to take discounts only when payments are made by the discount date. Section 3903(a) of the Act requires the Director of the Office of Management and Budget to issue implementing regulations. Implementation will result in timely payment, better relationships with contractors, improved competition for Government business, and reduced costs to the Government for goods and services. Implementation must be consistent with sound cash management practices, related Treasury regulations (in the Treasury Financial Manual, I TFM 6–8000, section 8040), and the Federal Acquisition Regulation (48 CFR, 32.9 and 52.232).

The Act, originally enacted as Pub. L. 97–177, May 21, 1982, was amended by Pub. L. 100–496, enacted October 17, 1988.

3. *Policy.* Agencies will make payments under contracts as prescribed in the Act and circular but not later than the due date, or if appropriate, the discount date. Payment will be based on receipt of proper invoices or progress payment requests and satisfactory performance of contract terms. Agencies will take discounts only when payments are made by the discount date; when agencies take discounts after the discount date or fail to make timely payment, interest penalties will be paid. Checks will be mailed and electronic fund transfers made on or about the payment date. Agencies will pay interest penalties automatically, without contractors requesting them, and will absorb interest penalty payments within funds available for the administration or operation of the program for which the penalty was incurred. Temporary unavailability of funds to make a timely payment does not relieve the agency from the obligation to pay interest penalties. For contracts awarded after October 1, 1989, agencies shall pay an additional penalty under specified circumstances.

4. *Definitions.* For the purposes of this circular, the following definitions apply:

a. *Acceptance*—acknowledgement by the Government that property and services received conform with the requirements of the contract.

b. *Agency*—has the same meaning as the term "agency" in Section 551(1) of Title 5, United States Code, which

includes each authority of the United States Government, whether or not it is within or subject to review by another agency, and excludes the Congress, the United States courts, governments of territories or possessions, the District of Columbia government, and courts martial, and military commissions, military authority exercised in the field in time of war or in occupied territory. Agency also includes any entity (1) that is operated exclusively as an instrumentality of such an agency for the purpose of administering one or more programs of that agency, and (2) that is so identified for this purpose by the head of such agency. The term agency includes military post and base exchanges and commissaries. The Prompt Payment Act exempts the Tennessee Valley Authority from coverage by this circular. The Act exempts the United States Postal Service (USPS) from the reporting requirements of the Act and circular. The Postmaster General is responsible for issuing the implementing procurement regulations, solicitation provisions, and contract clauses for the USPS.

c. *Agency payment office*—the office or employee responsible for scheduling invoices for payment.

d. *Applicable interest rate*—the interest rate established by the Secretary of the Treasury for interest payments under Section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611) which is in effect on the day after the due date, except where the interest penalty is prescribed by other governmental authority (e.g., tariffs). The rate established under the Contract Disputes Act is referred to as the "Renegotiation Board Interest Rate," and is published semiannually in the **Federal Register** on or about January 1, and July 1.

e. *Contract*—any enforceable agreement, including rental and lease agreements, purchase orders, delivery orders, requirements-type (open ended) service contracts, and blanket purchase agreements between an agency and a contractor for the acquisition of property or services. Contracts must meet the requirements of section 8.a. of this circular.

f. *Contractor*—any person, organization, or business concern engaged in a profession, trade, or business and any not-for-profit entity operating as a contractor (including State and local governments but excluding Federal entities).

g. *Day*—calendar day(s), including weekends and holidays, unless otherwise indicated.

h. *Designated billing office*—the office or employee—governmental or non-governmental—designated in the contract to first receive invoices.

i. *Discount date*—the date by which, if payment is made, a specified invoice payment reduction, discount, can be taken.

j. *Due date*—the date on which Federal payment should be made. Determination of such date is discussed in section 7 of this circular.

k. *Partial payment*—payment made for partial delivery of accepted property or partial performance of accepted services. Under cost reimbursement contracts, periodic or interim payments are not covered by the interest provisions of the circular unless they are defined by the contract as partial payments for deliverable property or services.

l. *Payment date*—the date on which a check for payment is dated or the date of an electronic fund transfer (EFT) payment (settlement date). Payments made by EFT mechanism will be made so as to be received by the contractor's financial institution by the established due date. Agencies should contact their Treasury Regional Finance Center (RFC) to establish the necessary delivery time needed to process payments.

m. *Proper invoice*—a bill or written request for payment provided by a contractor for property or services rendered. This includes requests for progress payment under construction contracts. A proper invoice must meet the requirements of section 8.b. of this circular.

n. *Receipt of invoice*—for the purposes of determining a payment due date and the date on which interest will begin to accrue, an invoice shall be deemed to be received:

(1) On the later of:

—The date a proper invoice is actually received by the designated billing office if the agency annotates the invoice with date of receipt at the time of receipt; or

—The seventh day after the date on which the property is actually delivered or performance of the services is actually completed; unless:

i. The agency has actually accepted the property or services before the seventh day (in which case the acceptance date shall substitute for the seventh day after the delivery date); or

ii. A longer acceptance period is specified in the solicitation and included in the contract to afford the agency a practicable opportunity to inspect, test, and accept the property or evaluate the services (in which case the date of acceptance shall substitute for the seventh day after the delivery date. Note that extended acceptance periods should not be a routine agency practice but should be included only when necessary to permit proper Government inspection and testing of the goods delivered or services rendered) or

(2) On the date placed on the invoice by the contractor, in any case where the agency fails to annotate the invoice with date of receipt at the time of receipt and where such invoice is a proper invoice.

• *Receiving report*—written evidence of acceptance of property or services by a Government official. Receiving reports must meet the requirements of section 8.c. of this circular.

5. *Application.*

a. This circular applies to all types of Federal contracts (except as noted in section 4.k.) awarded by:

(1) All executive branch agencies except:

—The Tennessee Valley Authority which is subject to the Prompt Payment Act but is not covered by this curcular; and

—Agencies specifically exempted under 5 U.S.C. 551(1).

(2) The United States Postal Service, except for the reporting requirements. The Postmaster General is responsible for issuing implementing procurement regulations, solicitation provisions, and contract clauses for the United States Postal Service.

(3) The Commodity Credit Corporation pursuant to section 4(h) of the Act of June 29, 1948 (15 U.S.C. 714b(h)).

b. This circular does not apply to contracts awarded to foreign contractors dealing outside the United States for work performed outside the United States.

c. For effective dates see section 19.

6. *Responsibilities.* Each agency head is responsible for:

a. Assuring timely payments and the payment of interest penalties where required;

b. Issuing internal instructions, as necessary, to implement this circular. Such instructions will include provisions for determining the causes of any interest penalties incurred, taking necessary corrective or disciplinary action; reporting accurately each year to OMB; and dealing with inquiries.

c. Assuring that effective internal control systems are established and maintained as required by OMB Circular A-123, "Internal Control Systems," to provide reasonable assurance that administrative activities required under Circular A-125 are effectively and efficiently carried out. In particular, internal management controls over

receipt and acceptance should be strengthened.

d. Assuring that Inspectors General and internal auditors periodically review implementation, as they and the agency head deem appropriate. This will include establishment of a quality control program to assess performance of payment systems and provide a reliable way to estimate payment performance. Copies of reports on audits and reviews should be provided to OMB upon issuance.

e. Publishing lists of designated agency contacts within their payment centers or finance offices to provide contractors assistance in determining the status of their invoices.

7. *Standards for Prompt Payment.* Agency payment practices shall conform to the following standards:

a. *Documentation.* Agencies will maintain documentation required in section 8. Copies of awarded contracts will be forwarded to the agency payment office immediately upon award.

b. *Review of invoices.* Agencies will use the following procedures in reviewing invoices:

(1) Invoices received by the designated billing office will be stamped or otherwise annotated with the date received in that office;

(2) Each invoice will be reviewed as soon as practicable after receipt to determine that the invoice is a proper invoice as defined in section 4 of this circular;

(3) Any invoice determined not to be a proper invoice shall be returned as soon as practicable, but not later than seven days (three days for meat or meat food products and five days for perishable agricultural commodities, dairy products, and edible fats and oils) after receipt, identifying the defects that prevent payment; and

(4) The number of days available to an agency to make a timely payment of an invoice without incurring an interest penalty shall be reduced by the number of days by which an agency exceeds the requirement to return the defective invoice in seven days.

c. *Receipt and acceptance.* Agencies will ensure that receipt and acceptance are executed as promptly as possible. Receiving reports will be forwarded in time to be received by the agency payment office by the fifth working day after acceptance, unless other arrangements are made. Receiving reports and invoices will be stamped or otherwise annotated with the date upon receipt in the agency payment office.

d. *Starting the payment period.* The period available to an agency to make a timely payment of an invoice without incurring an interest penalty shall begin on the date of receipt of invoice as defined in section 4.n. (except where no invoice is required, e.g., some periodic lease payments).

e. *Determining the payment due date.* Unless otherwise specified, the payment is due either:

(1) On the date specified in the contract; or

(2) If a payment due date is not specified in the contract, 30 days after the start of the payment period as defined in paragraph 7d.

f. *Determining the payment due date for certain commodities.* The payment due dates are as follows:

(1) For meat or meat food products, as defined in section 2(a)(3) of the Packers and Stockyard Act of 1921 (7 U.S.C. 182(3)), including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product, payment will be made as close as possible to, but not later than, the seventh day after the date of delivery.

(2) Payment for perishable agricultural commodities, as defined in section 1(4) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499 a(4)) will be made as close as possible to, but not later than, the 10th day after the date of delivery, unless another date is specified in the contract.

(3) For dairy products (as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e) and including, at a minimum, liquid milk, cheese, certain processed cheese products, butter, yogurt, and ice cream), edible fats or oils, and food products prepared from edible fats or oils (including, at a minimum, mayonnaise, salad dressings, and other similar products) payment will be made not later than 10 days after the date on which a proper invoice for the amount due has been received by the agency acquiring such dairy products, fats, oils, or food products. When questions arise about coverage of a specific product, prevailing industry practices should be followed in specifying a contractual payment due date.

g. *Determining the payment due date when making certain payments to farm producers.* Payment due dates shall be determined as specified in section 12. b.

h. *Determining the payment due date when discounts are taken.* When a time discount is taken, payment will be made as close as possible to, but not later than, the discount date. The period for taking the discount is calculated from the date placed on the proper invoice by the contractor to the discount date.

i. *Determining the payment due date for progress payments under construction contracts.* Payment due dates shall be determined as specified in section 13.

j. *Late payment.* When payments are made after the due date interest will be paid automatically in accordance with the requirements in sections 10, 11, 12, and 13 of this circular.

k. *Timely payment.* An agency shall make payments no more than seven days prior to the payment due date, unless the agency head or designee of such officer has determined, on a case-by-case basis for specific payments, that earlier payment is necessary. This authority must be used cautiously, weighing the requirement to make timely payment against the good stewardship inherent in effective cash management practices. Agencies are encouraged to experiment with the timing for release of their payments so as to pay proper invoices as close as possible to the due date without exceeding it.

l. *Taking discounts.* An agency offered a discount by a contractor from an amount due under a contract for property or services in exchange for payment within a specified time may pay the discounted amount only if payment is made within the specified time. Discounts will be taken whenever economically justified, but only after acceptance has occurred. (See I *Treasury Financial Manual* 6–8040.30.) If the agency takes the discount after the end of the specified time and does not repay it before the payment due date (as defined in paragraph 7.e), the agency shall pay an interest penalty on any amount remaining unpaid as prescribed in section 10.a.(6).

m. *Making the payment.* Checks will be mailed or transmitted on or about the same day for which the check is dated. Whenever possible, agencies should seek to enter into agreements with contractors for transmission of payments by electronic funds transfer (EFT). On Saturdays, Sundays, and legal holidays, when Federal government offices are closed and government business is not expected to be conducted, payments falling due may be made on the following business day without incurring late payment interest penalties.

n. *Partial payments.* Agencies shall pay for partial delivery of supplies or partial performance of services unless specifically prohibited by the contract.

o. *Paying interest penalties.* Agencies shall pay an interest penalty, without a request from the contractor, for late payments and improperly taken discount payments. Agencies shall use

the procedures for paying penalties as prescribed in sections 10, 11, 12 and 13.

p. *Other regulations.* Agencies will make payments consistent with Treasury regulations (1 Treasury Financial Manual 6–8040) and with the Federal Acquisition Regulation (48 CFR subparts 32.9 and 52.232).

8. *Required Documentation.* Agencies are required to ensure that the following documentation is established to support payment of invoices and interest penalties:

a. The following information must be included in contracts:

(1) Payment due date(s);

(2) If partial payments are not to be made under the contract, a contractual provision that partial payments for partial deliveries or periodic performance are not authorized. This includes partial payments authorized for partial deliveries of accepted goods or partial performance of accepted services under supply and service contracts;

(3) For construction contracts, payment due dates for approved progress payments or milestone payments for completed phases, increments, or segments of the project;

(4) If applicable, a statement that the special payment provisions of the Packers and Stockyard Act of 1921 (7 U.S.C. 182 (3)) or the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499 a(4)) apply;

(5) Where considered appropriate by the agency head, a stated acceptance period following delivery to inspect and/or test property furnished or to evaluate services performed. This does not apply to contracts for procurement of brand-name commercial items for authorized resale;

(6) Name (where practicable), title, phone number, and complete mailing address of officials of the Government's designated billing office and of the contractor receiving the payments;

(7) Where appropriate, contracts should provide for payment of multiple invoices for multiple deliveries during the same contract performance period with one payment; and

(8) Reference to requirements under the Prompt Payment Act including the payment of interest penalties on late invoice payments (including progress payments under construction contracts).

b. The following information must be included in proper invoices:

(1) Name of contractor and invoice date.

(2) Contract number, or other authorization for delivery of property or services.

(3) Description, price, and quantity of property and services actually delivered or rendered.

(4) Shipping and payment terms.

(5) Other substantiating documentation or information as required by the contract.

(6) Name (where practicable), title, phone number, and complete mailing address of responsible official to whom payment is to be sent.

c. The following information must be included in receiving reports:

(1) Contract or other authorization number.

(2) Product or service description.

(3) Quantities received, if applicable.

(4) Date(s) property or services delivered and accepted.

(5) Signature, printed name, title, phone number, and mailing address of the receiving official.

d. The following information must be included in each request for a progress payment under a construction contract:

(1) Substantiation of the amount(s) requested including, at a minimum an itemization of the amounts requested related to the various elements of work required by the contract, and

(2) Certification by the prime contractor, to the best of the contractor's knowledge and belief, that:

—The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

—Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of Chapter 39, title 31, U.S.C.; and

—The application does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract.

9. *Required Notices to Contractors.* This section summarizes notices which agencies are required to provide to contractors:

a. *Notice of interest penalty.* When an agency pays a late payment interest penalty, the payment must be accompanied by a notice of the amount of the interest penalty included in the payment, the rate used by the agency to compute the penalty, and the number of days used by the agency to compute the penalty. The contract and invoice numbers should also be included in the notice to assist the contractor in reconciling the payment.

b. *Defective invoices.* When an agency determines that an invoice is not a proper invoice suitable for payment (using criteria in section 8.b.) the agency must return the invoice to the contractor as soon as practicable, but not later than seven days after receipt, specifying the reasons why the invoice is not a proper invoice.

10. *Late Payment Interest Penalties.*

a. *Calculation.* Agencies will use the following procedures in calculating interest due on late payments:

(1) Interest will be calculated at the interest rate applicable on the day after the due date (the date the agency incurred the obligation to pay an interest penalty).

(2) Interest will be computed from the day after the due date through the payment date.

(3) Adjustments will be made for errors in calculating interest.

(4) When an interest penalty that is owed is not paid, interest will accrue on the unpaid amount until paid. Interest penalties remaining unpaid for any 30-day period will be added to the principal, and interest penalties, thereafter, will accrue monthly on the total of principal and previously accrued interest.

(5) Interest penalties under the Prompt Payment Act will not continue to accrue:

—after the filing of a claim for such penalties under the Contract Disputes Act of 1978; or

—for more than one year.

(6) When an agency takes a discount after the discount date, the interest payment will be calculated on the amount of the discount taken, for the period beginning the day after the specified discount date through the payment date.

(7) When an agency fails to make notification of a defective invoice within seven days (three days for meat and meat food products, and five days for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils), the number of days allowed for payment of the corrected, proper invoice will be reduced by the number of days between the seventh day (third day for meat and meat food products, and fifth day for perishable agricultural commodities, dairy products, edible fats or oils, and food products prepared from edible fats or oils) and the day notification was transmitted to the contractor. Calculation of interest penalties, if any, will be based on an adjusted due date reflecting the reduced number of days allowable for payment.

(8) Interest penalties of less than one dollar need not be paid.

(9) When an agency cannot complete transmission of payment to a contractor by electronic funds transfer because of incorrect account information provided

by the contractor, the agency is exempted from payment of interest penalties for the period between the date of attempted transmission and the date on which the contractor supplies correct information to the agency, provided that the contractor has been given notice of the defective account information within seven days.

(10) The applicable interest rate may be determined by calling the Finance and Funding Branch, Department of the Treasury, telephone number 202/566–5651.

b. *Payment.* Agencies will meet the following requirements in paying interest penalties:

(1) Interest may only be paid after acceptance has occurred;

(2) Late payment interest penalties shall be paid without regard to whether the contractor has requested payment of such penalty;

(3) The temporary unavailability of funds to make a timely payment due for property or services does not relieve an agency from the obligation to pay these interest penalties or the additional penalties required under section 11;

(4) Each payment for which a late payment interest penalty is required to be paid shall be accompanied by a notice stating the amount of the interest penalty included in the payment, the rate by which the penalty was computed, and the number of days used in calculating the penalty; and

(5) Agencies shall pay late payment interest penalties under this circular (and any additional penalties required under section 11) out of amounts made available to carry out the program for which the penalty is incurred. The Prompt Payment Act does not authorize the appropriation of additional amounts to pay penalties.

c. *Penalties Not Due.* Interest penalties are not required when:

(1) Payment is delayed because of a disagreement between a Federal agency and a contractor over the amount of the payment or other issues concerning compliance with the terms of a contract (Claims concerning disputes, and any interest that may be payable with respect to the period while the dispute is being settled will be resolved in accordance with the provisions in the Contract Disputes Act of 1978 (41 U.S.C. 601 *et. seq.*)); or

(2) Payments are made solely for financing purposes, payments are made in advance, or for a period when amounts are withheld temporarily in accordance with the contract.

11. *Additional penalties.*

a. A contractor shall be entitled to an additional penalty payment when the contractor:

(1) Is owed a late payment interest penalty by an agency;

(2) Receives a payment after the payment due date which does not include the interest penalty also due to the contractor;

(3) Is not paid the interest penalty by the agency within 10 days after the date on which such payment is made; and

(4) Makes a written demand, not later than 40 days after the date on which such payment is made, that the agency pay such a penalty.

b. The additional penalty shall be equal to:

(1) Fifty (50) percent of the original late payment interest penalty for the period April 1, 1989 through September 30, 1989, and

(2) One hundred (100) percent of the original late payment interest penalty beginning October 1, 1989.

c. The additional penalty does not apply to the payment of utility bills because late payment penalties for these bills are determined through the rate-setting process.

12. *Interest Penalties Due Farm Producers.* In the case of a payment to which producers on a farm are entitled under the terms of an agreement entered into under the Agricultural Act of 1949 (7 U.S.C. 1421 *et. seq.*):

a. An interest penalty shall be paid to the producers if the payment has not been made by the required payment or loan closing date. The interest penalty shall be paid:

(1) On the amount of payment or loan due;

(2) For the period beginning on the first day beginning after the required payment or loan closing date and ending on the date the amount is paid or loaned; and

(3) Out of funds available under section 8 of the Act of June 29, 1948 (15 U.S.C. 714f).

b. Payments to farm producers under such agreements shall be made as close as possible to the required payment or loan closing date which is:

(1) For a purchase agreement, the 30th day after delivery of the warehouse receipt for the commodity subject to the purchase agreement;

(2) For a loan agreement, the 30th day beginning after the date of receipt of an application with all requisite documentation and signatures, unless the applicant requests that the disbursement be deferred;

(3) For refund of amounts received greater than the amount required to repay a commodity loan, the first business day after the Commodity Credit Corporation receives payment for such loan;

(4) For land diversion payments (other than advance payments), the 30th day beginning after the date of completion of the production adjustment contract by the producer;

(5) For an advance land diversion payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer;

(6) For a deficiency payment (other than advance payments) based upon a 12-month or 5-month period, 91 days after the end of such period; or

(7) For an advance deficiency payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer.

c. Provisions relating to the Contract Disputes Act of 1978 (41 U.S.C. 601 *et seq.*) in section 10.a.5. do not apply.

13. *Interest Penalties Under Construction Contracts.*

a. In construction contracts agencies will pay interest on:

(1) A progress payment request (including a monthly percentage-of-completion progress payment or milestone payments for completed phases, increments, or segments of any project) that is approved as payable by the agency pursuant to section b below and remains unpaid for:

—A period of more than 14 days after receipt of the payment request by the designating billing office or

—A longer period, specified in the solicitation, if required to afford the Government a practicable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract and

(2) Any amounts which the agency has retained pursuant to a prime contract clause providing for retaining a percentage of progress payments otherwise due to a contractor and that are approved for release to the contractor, if such retained amounts are not paid to the contractor by a date specified in the contract or, in the absence of such a specified date, by the 30th day after final acceptance.

(3) Final payments, based on completion and acceptance of all work (including any retained amounts), and payments for partial performances that have been accepted by the agency if such payments are made after the later of:

—The 30th day after receipt by the designated billing office of a proper invoice; or

—The 30th day after agency acceptance of the completed work or services. Acceptance shall be deemed to have occurred on the effective date of contract settlement on a final invoice

where the payment amount is subject to contract settlement actions. For the purpose of computing interest penalties, acceptance shall be deemed to have occurred on the seventh day after work or services are complete in accordance with the terms of the contract.

b. An agency may not approve a request for progress payment under section a(1) above unless the application includes:

(1) Substantiation of the amounts requested meeting the requirements of section 8.d. and

(2) Certification by the prime contractor, to the best of the contractor's knowledge and belief, that:

—The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

—Payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this chapter; and

—The application does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract.

c. The certification by the prime contractor is not to be construed as final acceptance of the subcontractor's performance.

d. The agency shall return any such payment request which is defective to the contractor within seven days after receipt, with a statement identifying the defect.

e. A contractor is obligated to pay interest to the Government on unearned amounts in its possession from:

(1) The eighth day after receipt of funds from the agency until the date the contractor notifies the agency that the performance deficiency has been corrected or the date the contractor reduces the amount of any subsequent payment request by an amount equal to the unearned amount in its possession, when the contractor discovers that all or a portion of a payment received from the agency constitutes a payment for the contractor's performance that fails to conform to the specifications, terms, and conditions of its contract with the agency, under 31 U.S.C. 3905(a); or

(2) The eighth day after the receipt of funds from the agency until the date the performance deficiency of a subcontractor is corrected or the date the contractor reduces the amount of any subsequent payment request by an amount equal to the unearned amount in its possession, when the contractor discovers that all or a portion of a payment received from the agency would constitute a payment for the subcontractor's performance that fails to conform to the subcontract agreement and may be withheld, under 31 U.S.C. 3905(e).

f. When a contractor is obligated to pay interest on unearned amounts to the Government under 31 U.S.C. 3905(a)(2) or 3905(e)(6), as described in paragraph e, the interest shall:

(1) Be computed at the rate of average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the contractor received the unearned amount;

(2) Be deducted from the next available payment to the contractor; and

(3) Revert to the Treasury.

14. *Grant Recipients.* Recipients of Federal assistance may pay interest penalties if so specified in their contracts with contractors. However, obligations to pay such interest penalties will not be obligations of the United States. Federal funds may not be used for this purpose, nor may interest penalties be used to meet matching requirements of federally-assisted programs.

15. *Payment without evidence that supplies have been received.*

a. In limited situations, payment may be made without evidence that supplies have been received. Instead, a contractor certification that supplies have been shipped may be used as basis for authorizing payment. These payment procedures may be employed only when all of the following conditions are present:

(1) Individual orders do not exceed $25,000 (except that heads of executive agencies may permit a higher limit on a case-by-case basis);

(2) Deliveries of supplies are to occur where there is both a geographical separation and a lack of adequate communications facilities between Government receiving and disbursing activities that make it impracticable to make timely payments based on evidence of Federal acceptance;

(3) Title to the supplies will vest in the Government upon delivery to a post office or common carrier for mailing or shipment to destination or upon receipt by the Government if the shipment is by means other than Postal Service or common carrier; and

(4) The contractor agrees to replace, repair, or correct supplies not received at destination, damaged in transit, or not conforming to purchase requirements.

b. Agencies shall promptly inspect and accept supplies acquired under these procedures and shall ensure that receiving reports and payment documents are matched and steps are taken to correct discrepancies.

c. Agencies shall ensure that specific internal controls are in place to assure that supplies paid for are received.

16. *Relationship to other laws.*

a. Relationship to the Contract Disputes Act of 1978 (41 U.S.C. 605):

(1) A claim for an interest penalty not paid under this circular may be filed under section 6 of the Contract Disputes Act.

(2) An interest penalty under this circular does not continue to accrue after a claim for a penalty is filed under the Contract Disputes Act or for more than one year. This does not prevent an interest penalty from accruing under section 12 of the Contract Disputes Act after a penalty stops accruing under this circular. A penalty accruing under section 12 of the Contract Disputes Act may accrue on an unpaid contract payment and on the unpaid penalty under this circular.

(3) This circular does not require an interest penalty on a payment that is not made because of a dispute between the head of an agency and a contractor over the amount of payment or compliance with the contract. A claim related to such a dispute and interest payable for the period during which the dispute is being resolved is subject to the Contract Disputes Act.

b. Relationship to the Small Business Act (15 U.S.C. 644(k)). This Act has been amended to require that any agency with an Office of Small and Disadvantaged Business Utilization must assist small business concerns to obtain payments, late payment interest penalties, or information due to the concerns.

17. *Reporting Requirements.* The Act requires the Director of OMB to report to Congress by the 120th day after the end of each fiscal year (January 28) summarizing agency reports and analyzing progress made. In addition, OMB submits the annual prompt payment report to Congress with the President's budget. Each Federal agency will report annually to the Director of OMB by November 15th the following information for the proper fiscal year:

a. Invoices subject to the Prompt Payment Act and OMB Circular A–125:

(1) Dollar value of invoices.

(2) Number.

b. Invoices paid after due date:

(1) Dollar value of invoices

(2) Number

(3) Interest penalties paid:

—Dollar amount

—Number

—Relative frequency
(4) Other late payment penalties paid:
—Dollar amount
—Number
—Relative frequency
(5) Reasons why interest or other late payment penalties were incurred in order of frequency of occurrence.
—Delay in paying office's receipt of: Receiving report, Proper invoice, Purchase order of contract.
—Delay or error by paying office in: Taking discount, Notifying contractor of defective invoice, Computer or other system processing.
(6) Interest and other late payment penalties which were due but not paid (Use interest rate in effect on the date obligation accrues):
—Total: Interest dollars, Number.
—Because no obligation was incurred: Interest dollars, Number, Specify reasons.
—For other reason: Interest dollars, Number, Specify reasons.
c. Invoices paid 1–15 Days After Due Date:
(1) Dollar Amount (Total):
—1–7 days.
—8–15 days.
(2) Number (Total):
—1–7 days.
8–15 days.
(3) Relative frequency (Total)
—1–7 days.
—8–15 days.
d. Invoices paid 8 days or more before due date, except where cash discounts taken:
(1) Dollar amount.
(2) Number.
(3) Relative frequency.
e. Discounts:
(1) Number available.
(2) Number taken.
(3) Reasons for failing to take discounts.
f. For each payment center:
(1) Number of payments subject to the Act and the circular.
(2) Number and dollar amount of interest penalties paid.
g. Description of agency payment practices.
h. Description of progress made, problems identified, and corrective actions taken during the fiscal year in implementing the provisions of the Act and OMB Circular A–125. Include a description of agency experience in determining the most appropriate timing for release of payment authorization so that invoices are paid as close as possible to the due date without exceeding it.
i. Updated description of agency quality control system.
j. Updated list of designated agency contacts within payment centers or finance offices to provide assistance in determining the status of invoices.

In order to minimize the cost of reporting, statistical sampling may be used to derive the information above. Agency reports to OMB must be certified by the agency official with line authority over both procurement and payment processes.

18. *Additional Provisions.* Additional procurement guidelines and requirements are set forth in applicable acquisition regulations (48 CFR sections 32.9 and 52.232).

19. *Effective Dates.* Unless otherwise specified, this circular is effective 30 days after final publication.

a. Effective for obligations incurred on or after January 1, 1989, the United States Postal Service (except for reporting requirements) and the Commodity Credit Corporation are explicitly covered by the Act and circular.

b. Effective for payments made under contracts awarded on or after October 1, 1989, payments requiring a late interest penalty must be accompanied by a notice stating the amount of the penalty included in the payment and the rate by which and period for which the penalty was computed.

c. Certain requirements of the Prompt Payment Act Amendments of 1988 are effective for payments under contracts awarded, contracts renewed, and contract options exercised on or after April 1, 1989. The requirements include:

(1) Rules governing the date an invoice is deemed to be received (section 4.n.);
(2) Definition of the payment date as the date an electronic fund transfer is made (section 4.l.);
(3) Clarification of the date from which the interest payment is calculated (section 10.a.(1));
(4) Elimination of the grace period (section 7.e.);
(5) Due dates for payments for dairy and other products (section 7.f.(3));
(6) Periodic payments under property and service contracts (section 7.n.);
(7) Interest penalties on progress payments and retained amounts under construction contracts (section 13);
(8) Review and return of invoices (section 7.b.(2), (3), and (4));
(9) Authority to make payments before the due date (section 7.k.);
(10) Calculation of interest owed by contractors (section 13.e.);
(11) Limitations on discount payments (section 7.h.);
(12) Payment provisions relating to construction contracts (section 13);
(13) Assistance to small businesses (section 16.b); and
(14) Payment due date for poultry and egg products (section 7.f.(1)).

20. *Inquiries.* Questions or inquiries concerning this circular may be directed to the Credit and Cash Management Branch, Financial Management Division, Office of Management and Budget, Washington, DC 20503, telephone number 202/395–3066. Inquiries concerning the applicable interest rate may be directed to the Finance and Funding Branch, Department of the Treasury, telephone number 202/566–5651. Questions concerning delinquent payments should be directed to the designated billing office. Questions about disagreements over payment amount or timing should be directed to the contracting officer for resolution. Small business concerns may obtain additional assistance on payment issues by contacting the agency's Office of Small and Disadvantaged Business Utilization.

21. *Sunset Review Date.* This circular will have an independent policy review to ascertain its effectiveness three years from the date of issue.

Frank Hodsoll,
Executive Associate Director.

[FR Doc. 89–9062 Filed 4–13–89; 8:45 am]
BILLING CODE 3110–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

AGENCY: Railroad Retirement Board.

ACTION: In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35), the Board has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Railroad Separation Allowance or Severance Pay Report
(2) *Form(s) submitted:* BA–9
(3) *OMB Number:* New collection
(4) *Expiration date of current OMB clearance:* Six months from date of OMB approval
(5) *Type of request:* New collection
(6) *Frequency of response:* On occasion
(7) *Respondents:* Businesses or other for-profit
(8) *Estimated annual number of respondents:* 500
(9) *Total annual responses:* 10,000
(10) *Average time per response:* 1 hour
(11) *Total annual reporting hours:* 10,000
(12) *Collection description:* Section 7301 of the Railroad Unemployment and

Retirement Improvement Act of 1988 (Pub. L. 100–647) provides for a lump sum payment to an employee or the employee's survivor equal to the Tier 2 taxes paid by the employee on a separation allowance or severance payment for which the employee did not receive credits towards retirement. The collection obtains the information needed from railroad employers concerning the separation allowances and severance payments paid from January 1, 1985, through December 31, 1988.

Additional Information or Comments: Copies of the proposed forms and supporting documents can be obtained from Pauline Lohens, the agency clearance officer (312) 751–4692. Comments regarding the information collection should be addressed to Pauline Lohens, Railroad Retirement Board, 844 Rush Street, Chicago, Illinois 60611 and the OMB reviewer, Justin Kopca (202) 395–7316, Office of Management and Budget, Room 3002, New Executive Office Building, Washington, DC 20503.

Pauline Lohens,

Director of Information Resources Management.

[FR Doc. 89–8885 Filed 4–13–89; 8:45 am]

BILLING CODE 7905-01-M

SECURITIES AND EXCHANGE COMMISSION

[Rel. No. 34–26703; File No. SR–Amex–88–28]

Self-Regulatory Organizations; Proposed Rule Change by American Stock Exchange, Inc., Relating to Solicitation of Options Transactions

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 21, 1988, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Amex.* The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. ("Amex" or "Exchange") proposes to amend Exchange Rule 950(d) to set forth guidelines for the solicitation of members outside the trading crowd to participate in an options transaction.

The text of the proposed rule change is available at the Office of the Secretary, Amex and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange proposes to amend Rule 950(d) to regulate the manner in which members may solicit other members outside a trading crowd. The proposed rule will permit solicitation of members outside the trading crowd only if: 1) the trading crowd is given the same information about an options order as is given to the solicited party; 2) the trading crowd is given a reasonable opportunity to accept the bid or offer before the solicited party can participate in the transaction; and 3) with respect to the solicitation of a registered trader only, the member has also disclosed to the crowd, prior to the solicitation, the same terms and conditions as will be disclosed to the solicited party.

In conjunction with amendments to Rule 958 which have been partially approved by the Commission (see SEC Release No. 34–26568; File No. SR–AMEX–88–21), and which clarify Registered Trader obligations, the proposed amendments seek to reconcile the practice of solicitation outside the trading crowd (which the Exchange recognizes may, in some circumstances, add depth and liquidity to the market for some option classes) with the rules and practices of the auction market. During the past year the Exchange has considered the manner in which members outside the trading crowd are solicited to participate in options transactions. Discussion and review have centered on the importance of equal and fair access to information to ensure that the trading crowd may participate on the same terms as the solicited party in such transactions. In order to insure that the trading crowd will have adequate time to digest the terms of the order or the opportunity to participate in certain transactions, the Exchange has formulated a rule that will allow participation of registered traders in the trading crowd in solicited transactions, while ensuring that the customer will continue to receive the best available price and the enhanced depth and liquidity sometimes provided by the practice of solicitation is not diminished. The rule will operate to give both the registered trader and the solicited party the same opportunity to provide that best available price and participate in the transaction.

The proposed amendments would lead to more competitive markets by affording the trading crowd an opportunity to participate in transactions on equal terms with a solicited party and this in turn will benefit customers by fostering execution at the best available price.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objective(s) of section 6(b)(5) in particular in that it is designed to promote just and equitable principles of trade and to protect the investing public.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will impose no burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the AMEX consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

* This notice reflects a replacement filing filed with the Commission on April 3, 1989.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to the file number in the caption above and should be submitted by May 5, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

Dated: April 7, 1989.

[FR Doc. 89-9001 Filed 4-13-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-26706; File No. SR-MSRB-89-2]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by Municipal Securities Rulemaking Board Relating to Confirmation, Clearance and Settlement of Transactions in Stripped Coupon Municipal Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on March 13, 1989, the Municipal Securities Rulemaking Board ("Board") filed with the Securities and Exchange Commission a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Municipal Securities Rulemaking Board ("Board") has filed an interpretative notice (hereinafter referred to a the "proposed rule change"), attached hereto as Exhibit A, which clarifies the application of Board rules G–12 and G–15 to certain instruments which represent discrete ownership interests in interest payments, principal payments and combinations of interest and principal payments on municipal securities. The instruments subject to the proposed rule change were described as municipal securities for purposes of section 15B of the Securities Exchange Act in a letter dated January 19, 1989, from the staff of the Division of Market Regulation of the Securities and Exchange Commission. The proposed rule change clarifies the application of Board rules on confirmation, clearance and settlement to transactions in stripped coupon municipal securities.

II. A. Self-Regulatory Organization's Statement of the Propose of, and Statutory Basis for, the Proposed Rule Change

(a) In 1986, several municipal securities dealers began selling ownership rights to discrete interest payments, principal payments or combinations of interest and principal payments on municipal securities. In 1987, the Board asked the Securities and Exchange Commission staff whether these "stripped coupon" instruments are municipal securities for purposes of the Securities Exchange Act and thus subject to Board rules. On January 19, 1989, the staff of the Division of Market Regulation of the Commission issued a letter ("SEC staff letter") stating that, subject to certain delineated conditions, these instruments are municipal securities for purposes of Board rules. The purpose of the proposed rule change is to provide guidance to the municipal securities industry on the application of Board rules to the instruments ("stripped coupon municipal securities") described in the SEC staff letter. The Board is publishing its 1987 inquiry and the SEC staff letter in conjunction with the publication of this proposed rule change.

In general, the Board's rules apply to stripped coupon municipal securities in the same way they apply to other municipal securities. The proposed rule change explains the application of certain provisions of Board rules where questions may arise because of the unique nature of the instruments. In this regard, the proposed rule change specifically discusses the application of rules G–12(c) and G–15(a) on confirmations of transactions, and rules G–12(e) and G–15(c) on deliveries of transactions. The Board believes that the proposed rule change will promote uniformity and efficiency in the processing of stripped coupon municipal securities and will help to ensure that proper disclosures are made to customers.

(b) The Board has adopted the proposed rule change pursuant to section 15B(b)(2)(C) of the Securities Exchange Act of 1934 ("the Act"), which requires that the Board's rules be designed:

> to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition.

Because the proposed rule change merely clarifies the applicability of the Board's rules to stripped coupon municipal securities and applies equally to all dealers, the Board believes that it will have no impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Board neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3) of the Securities Exchange Act of 1934 and subparagraph (e) of Rule 19b–4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section. Copies of such filing also will be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number of the caption above and should be submitted by May 5, 1989.

For the Commission by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30-3(a)(12).

Jonathan G. Katz,

Secretary.

April 10, 1989.

Exhibit A

1. Text of Proposed Rule Change

(a) The Municipal Securities Rulemaking Board ("Board") is filing an interpretative notice which clarifies the application of Board rules G-12 and G-15 to certain instruments which represent discrete ownership interests in interest payments, principal payments and combinations of interest and principal payments on municipal securities (hereinafter referred to as the "proposed rule change"). The instruments subject to the proposed rule change are described as municipal securities for purposes of section 15B of the Securities Exchange Act in a January 19, 1989, letter from the staff of the Division of Market Regulation of the Securities and Exchange Commission.[1] The text of the proposed rule change follows:

Confirmation Requirements

Dealers generally should confirm transactions in stripped coupon municipal securities as they would transactions in other municipal securities that do not pay periodic interest or which pay interest annually.[2] A review of the Board's confirmation requirements applicable to the securities follows.

Securities Descriptions. Rules G-12(c)(v)(E) and G-15(a)(i)(E) require a complete securities description to be included on inter-dealer and customer confirmations, respectively, including the name of the issuer, interest rate and maturity date.[3] In addition to the name of the issuer of the underlying municipal securities, the trade name and series designation assigned to the stripped coupon municipal security by the dealer sponsoring the program must be included on the confirmation.[4] Of course, the interest rate actually paid by the stripped coupon security (*e.g.*, zero percent or the actual, annual interest rate) must be stated on the confirmation as the interest rate rather than the interest rate on the underlying security. Similarly, the maturity date listed on the confirmation must be the date of the final payment made by the stripped coupon municipal security rather than the maturity date of the underlying securities.[5]

Credit Enhancement Information. Rules G-12(c)(vi)(D) and G-15(a)(ii)(D) require confirmations of securities pre-refunded to a call date or escrowed to maturity to state this fact along with the date of maturity set by the advance refunding and the redemption price. If the underlying municipal securities are advance-refunded, confirmations of the stripped coupon municipal securities must note this. In addition, rules G-12(c)(v)(E) and G-15(c)(i)(E) require that the name of any company or other person, in addition to the issuer, obligated directly or indirectly with respect to debt service on the underlying issue or the stripped coupon security be included on confirmations.[6]

Quantity of Securities and Denominations. For securities that mature in more than two years and pay investment return only at maturity, rules G-12(c)(v) andG-15(a)(v) require the maturity value to be stated on confirmations in lieu of par value. This requirement is applicable to transactions in stripped coupon municipal securities over two years in maturity that pay investment return only at maturity, *e.g.*, securities representing one interest payment or one prinicipal payment. For securities that pay only principal and that are pre-refunded at a premium price, the principal amount may be stated as the transaction amount, but the maturity value must be clearly noted elsewhere on the confirmation. This may permit such securities to be sold in standard denominations and will facilitate the clearance and settlement of the securities.

Rules G-12(c)(vi)(F) and G-15(a)(iii)(G) require confirmations of securities that are sold or that will be delivered in denominations other than the standard denominations specified in rules G-12(e)(V) and G-15(a)(iii)(G) to state the denominations on the confirmation. The standard denominations are $1,000 or $5,000 for bearer securities, and for registered securities, increments of $1,000 up to a maximum of $100,000. If stripped coupon municipal securities are sold or will be delivered in any other denominations, the denomination of the security must be stated on the confirmation.

Dated Date. Rules G-12(c)(vi)(A) and G-15(a)(iii)(A) require that confirmations state the dated date of a security if it affects price or interest calculations, and the first interest payment date if other than semi-annual. The dated date for purposes of an interest-paying stripped coupon municipal security is the date that interest begins accruing to the custodian for payment to the beneficial owner. This date, along with the first date that interest will be paid to the owner, must be stated on the confirmation whenever it is necessary for calculation of price or accrued interest.

Original Issue Discount Disclosure. Rules G-12(c)(vi)(G) and G-15(a)(iii)(H) require that confirmations identify securities that pay periodic interest and that are sold by an underwriter or designated by the issuer as "original issue discount." This alerts purchasers that the periodic interest received on the

[1] A copy of the complete correspondence between the Board and the Commission on this subject is attached as Exhibit 2. The April 27, 1987 letter from the Board, the January 19, 1989, letter from the Commission staff, and a general reminder on the applicability of Board rules will be published by the Board in conjunction with the proposed rule change.

[2] Thus, for stripped coupon municipal securities that do not pay periodic interest, rules G-12(c)(v) and G-15(a)(v) require confirmations to state the interest rate as zero and, for customer confirmations, the inclusion of a legend indicating that the customer will not receive periodic interest payments. Rules G-12(c)(vi)(H) and G-15(a)(iii)(I) require confirmations of securities paying annual interest to note this fact.

[3] The complete description consists of all of the following information: the name of the issuer, interest rate, maturity date, and if the securities are limited tax, subject to redemption prior to maturity (callable), or revenue bonds, an indication to such effect, including in the case of revenue bonds the type of revenue, if necessary for a materially complete description of the securities and in the case of any securities, if necessary for a materially complete description of the securities, the name of any company or other person in addition to the issuer obligated, directly or indirectly, with respect to debt service or, if there is more than one such obligor, the statement "multiple obligors" may be shown.

[4] Trade name and series designation is required under rules G-12(c)(vi)(I) and G-15(a)(iii)(J), which state that confirmations must include all information necessary to ensure that the parties agree to the details of the transaction.

[5] Therefore, the maturity date of a stripped coupon municipal security representing one interest payment is the date of the interest payment.

[6] It should be noted that the SEC staff letter is limited to instruments in which "neither the custodian nor sponsor additionally will guarantee or otherwise enhance the creditworthiness of the underlying municipal security or the stripped coupon security."

securities is not the only source of tax-exempt return on investment. Under federal tax law, the purchaser of stripped coupon municipal securities is assumed to have purchased the securities at an "original issue discount," which determines the amount of investment income that will be tax-exempt to the purchaser. Thus, dealers should include the designation of "original issue discount" on confirmations of stripped coupon municipal securities, such as annual payment securities, which pay periodic interest.

Clearance and Settlement of Stripped Coupon Municipal Securities

Under rules G–12(e)(vi)(B) and G–15(a)(iv)(B), delivery of securities transferable only on the books of a custodian can be made only by the bookkeeping entry of the custodian. Many dealers sponsoring stripped coupon programs provide customers with "certficiates of accrual" or "receipts," which evidence the type and amount of the stripped coupon municipal securities that are held by the custodian on behalf of the beneficial owner. Some of these documents, which generally are referred to as "custodial receipts," include "assignment forms," which allow the beneficial owner to instruct the custodian to transfer the ownership of the securities on its books. Physical delivery of a custodial receipt is not a good delivery under rules G–12(e) and G–15(a) unless the parties specifically have agreed to the delivery of a custodial receipt. If such an agreement is reached, it should be noted on the confirmation of the transaction, as required by rules G–12(c)(v)(N) and G–15(a)(i)(N).

[FR Doc. 89–9002 Filed 4–13–89; 8:45 am]
BILLING CODE 8010–01–M

Forms Under Review By Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272–2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Consumer Affairs, 450 Fifth Street NW, Washington, DC 20549

New, Rule 15c2–10; File No. 270–324.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for clearance the following proposed rule and a conforming amendment:

Rule 15c2–10—provides that sponsors of proprietary trading systems must: (1) Obtain Commission approval of plans describing their systems and of amendments to approved plans; and (2) retain certain records and make those records available to the Commission upon request and on an annual basis. It is estimated that seven respondents will incur an average burden of one hundred fifty hours per respondent annually to comply with the rule.

The estimated average burden hours are made solely for the purpose of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the cost of Commission rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with the Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, 450 Fifth Street NW, Washington, DC 20549–6004, and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Project 3235–036Y), Room 3208 New Executive Office Building, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

April 10, 1989.

[FR Doc. 89–8874 Filed 4–13–89; 8:45 am]
BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD–89–027]

National Boating Safety Advisory Council; Meeting

Pursuant to section 10(a) of the Federa1 Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.1), notice is hereby given of a meeting of the National Boating Safety Advisory Council to be held on Thursday and Friday, May 11 & 12, 1989 at the Coeur d' Alene Hotel, Coeur d' Alene, Idaho, beginning at 9:00 a.m. and ending at 4:00 p.m. on both days. The agenda for the meeting will be as follows:

1. Introduction and Swearing-in of new Council Members
2. Review of action taken at the 42nd meeting of the Council
3. Members' items
4. Executive Director's report
5. Consumer Education Subcommittee report
6. Propeller Guard Subcommittee report
7. Briefing on Weather Warning Displays
8. Accident Reporting Subcommittee report
9. Report of the Personal Watercraft Subcommittee
10. Report of the "Passenger for Consideration" Subcommittee
11. Report of the Personal Flotation Device (PFD) Subcommittee
12. Report of the Masthead Light Subcommittee
13. Presentation by Accident Reporting Subcommittee
14. Report on the National Boating Education Seminar
15. Report on Drunk Operator enforcement
16. Update on Commercial Towing
17. Update on the National Boating Survey.
18. Presentation on Speed and Horsepower
19. Presentation on Visual Identification for C. G. Auxiliary vessels
20. Remarks by Chief, Office of Navigation Safety and Waterway Services
21. Reply to members' items
22. Chairman's session

Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain William S. Griswold, Executive Director, National Boating Safety Advisory Council, U. S. Coast Guard, (G–NAB), Washington, DC 20593–0001, or by calling (202) 267–0997.

Issued in Washington, DC April 10, 1989.

Robert T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 89–8856 Filed 4–13–89; 8:45 am]
BILLING CODE 4910–14–M

[CGD–89–028]

National Boating Safety Advisory Council, Subcommittee on Passengers for Consideration; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Passengers for Consideration to be held on Wednesday, May 10, 1989 at the Coeur d'Alene Hotel, on the Lake, Coeur d'Alene, Idaho, beginning at 1:30 p.m.

and ending at 5:30 p.m. The agenda for the meeting will be as follows:

1. Review materials and formulate a report and recommendation to the Council on Passengers for Consideration. Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain William S. Griswold, Executive Director, National Boating Safety Advisory Council, U. S. Coast Guard, (G–NAB), Washington, DC 20593–0001, or by calling (202) 267–0997.

Issued in Washington, DC, April 10, 1989.

Robert T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 89–8857 Filed 4–13–89; 8:45 am]

BILLING CODE 4910–14–M

[CGD–89–029]

National Boating Safety Advisory Council, Subcommittee on Personal Watercraft; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Personal Watercraft to be held on Wednesday, May 10, 1989 at the Coeur d'Alene Hotel, on the Lake, Coeur d'Alene, Idaho, beginning at 1:30 p.m. and ending at 5:30 p.m. The agenda for the meeting will be as follows:

1. Review status of various projects that have been undertaken by the subcommittee: Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain William S. Griswold, Executive Director, National Boating Safety Advisory Council, U. S. Coast Guard, (G–NAB), Washington, DC 20593–0001, or by calling (202) 267–0997.

Issued in Washington, DC, April 10, 1989.

Robert T. Nelson,

Rear Admiral, U. S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 89–8858 Filed 04–13–89; 8:45 am]

BILLING CODE 4910–14–M

[CGD–89–030]

National Boating Safety Advisory Council, Subcommittee on Personal Flotation Devices (PFDs); Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on PFDs to be held on Wednesday, May 10, 1989 at the Coeur d'Alene Hotel, on the Lake, Coeur d'Alene, Idaho, beginning at 8:00 a.m. and ending at 12:00 Noon. The agenda for the meeting will be as follows:

1. Review materials and replies received from foreign administrations regarding wearing of PFDs and standards for PFDs: Attendance is open to the interested public. With advance notice to the Chalrman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain W1lliam S. Griswold, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G–NAB), Washington, DC 20593–0001, or by calling (202) 267–0997.

Issued in Washington, DC April 10, 1989.

Robert T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 89–8859 Filed 4–13–89; 8:45 am]

BILLING CODE 4910–14–M

[CGD–89–031]

National Boating Safety Advisory Council, Subcommittee on Masthead Lights; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Masthead Lights to be held on Wednesday, May 10, 1989 at the Coeur d'Alene Hotel, on the Lake, Coeur d'Alene, Idaho, beginning at 8:00 a.m. and ending at 12:00 Noon. The agenda for the meeting will be as follows:

1. Review materials and formulate a report and recommendation to the Council on masthead lights: Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain William S. Griswold, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G–NAB), Washington, DC 20593–0001, or by calling (202) 267–0997.

Issued in Washington, DC April 10, 1989.

Robert T. Nelson,

Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.

[FR Doc. 89–8860 Filed 4–13–89; 8:45 am]

BILLING CODE 4910–14–M

[CGD–89–032]

National Boating Safety Advisory Council, Subcommittee on Accident Reporting; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App.1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Accident Reporting to be held on Wednesday, May 10, 1989 at the Coeur d'Alene Hotel, on the Lake, Coeur d'Alene, Idaho, beginning at 8:00 a.m. and ending at 12:00 noon. The agenda for the meeting will be as follows:

1. Seek broad based input and discuss available information and potential new sources of data on accident reporting: Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain William S. Griswold, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G–NAB), Washington, DC 20593–0001, or by calling (202) 267–0997.

Issued in Washington, DC April 10, 1989.
Robert T. Nelson,
Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.
[FR Doc. 89-8861 Filed 4-13-89; 8:45 am]
BILLING CODE 4910-14-M

[CGD-89-033]

National Boating Safety Advisory Council, Subcommittee on Propeller Guards; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App.1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Propeller Guards to be held on Wednesday, May 10, Friday, May 12 and Saturday, May 13, 1989 at the Coeur d'Alene Hotel, on the Lake, Coeur d'Alene, Idaho, beginning at 8:00 a.m. and ending at 12:00 noon on Wednesday, beginning at 1:00 p.m. and ending at 5:00 p.m. on Friday and beginning at 9:00 a.m. and ending at 12:00 noon on Saturday. The agenda for the meeting will be as follows:

1. Discuss the pros and cons of Propeller Guards: Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain William S. Griswold, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-NAB), Washington, DC, 20593-0001, or by calling (202) 267-0997.

Issued in Washington, DC, April 10, 1989.
Robert T. Nelson,
Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.
[FR Doc. 89-8862 Filed 4-13-89; 8:45 am]
BILLING CODE 4910-14-M

[CGD-89-034]

National Boating Safety Advisory Council, Subcommittee on Consumer Education; Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App.1), notice is hereby given of a meeting of the National Boating Safety Advisory Council's Subcommittee on Consumer Education to be held on Wednesday, May 10, 1989 at the Coeur d'Alene Hotel, on the Lake, Coeur d'Alene, Idaho, beginning at 1:30 p.m. and ending at 5:30 p.m. The agenda for the meeting will be as follows:

1. Review status of various projects that have been undertaken by the subcommittee: Attendance is open to the interested public. With advance notice to the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present oral statements should so notify the Executive Director no later than the day before the meeting. Any member of the public may present a written statement to the Council at any time. Additional information may be obtained from Captain William S. Griswold, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard, (G-NAB), Washington, DC 20593-0001, or by calling (202) 267-0997.

Issued in Washington, DC April 10, 1989.
Robert T. Nelson,
Rear Admiral, U.S. Coast Guard, Chief, Office of Navigation Safety and Waterway Services.
[FR Doc. 89-8863 Filed 04-13-89; 8:45 am]
BILLING CODE 4910-14-M

Federal Highway Administration

Environmental Impact Statement; Allegheny and Washington Counties, Pennsylvania

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 affecting parts of Washington and Allegheny Counties, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: George J. Catselis, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108-1086, Telephone: (717) 782-3411. Henry Nutbrown, P.E., District Engineer, Pennsylvania Department of Transportation, Four Parkway Center, 875 Greentree Road, Pittsburgh, Pennsylvania 15220, Telephone: (412) 937-4500. Terrence D. Conner, P.E., Acting District Engineer, Pennsylvania Department of Transportation, P.O. Box 459, North Gallatin Avenue Extension, Uniontown, Pennsylvania 15401, Telephone: (412) 439-7259. James B. Wilson, P.E., Chief Engineer, Pennsylvania Turnpike Commission, P.O. Box 8531, Harrisburg, Pennsylvania 17105, Telephone: (717) 939-9551.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Turnpike Commission (PTC) and the Pennsylvania Department of Transportation (PennDOT), will prepare an environmental impact statement (EIS) for the construction of a new multi-lane, controlled access, toll road. The proposed toll road would extend from PennDOT's soon to be completed Mon-Fayette Expressway at its interchange with Interstate 70, located between Lover and Speers, proceeding in a northerly direction and terminating at proposed interchanges with Interstate 376 (I-376) east and west of the Squirrel Hill Tunnels in the City of Pittsburgh. Approximate length of the proposed highway would be 35 miles.

This proposed highway project would be one section of a proposed tolled highway extending from the City of Pittsburgh south to U.S. Route 48 in West Virginia. This proposed highway has been designated by the Governor as the Commonwealth of Pennsylvania's Pilot Toll Facility in which Federal aid will be permitted as provided in Section 120 of the Surface Transportation and Uniform Relocation Assistance Act (STURAA) of 1987. As such, its purpose is to support and to encourage economic development and redevelopment of the Monongahela Valley Region. Further, the proposed highway would provide relief from traffic congestion around the Squirrel Hill Tunnel area of I-376, and would provide convenient and safe access to the southern suburbs of the City of Pittsburgh.

Alternatives under consideration include: (1) Taking no action; (2) constructing a multi-lane, controlled access, tolled highway on a new location; (3) upgrading the existing S.R. 837 to a multi-lane, limited access highway. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

The following environmental areas will be investigated for EIS preparation: traffic; air quality; noise and vibration; surface water resources; aquatic environments; floodplains, groundwater; soils and geology; wetlands; vegetation and wildlife; endangered species; agricultural lands assessment; visual; socioeconomics and land use; construction impacts; energy; municipal, industrial, and hazardous waste facilities; historic and archaeological structures and sites; Section 4(f) evaluation; and wild and scenic rivers.

Letters describing the proposed EIS Plan of Study (POS) and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and citizens who express interest in the project. Public

meetings will be held in the area during the: spring of 1989; summer of 1989; and spring of 1990. Public notices of the time and place of these meetings and any required public hearings will be given in a timely fashion. Public involvement and interagency coordination will be maintained throughout the development of the EIS.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalogue of Federal Domestic Assistance 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: April 6, 1989.

George L. Hannon,

Assistant Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 89-8886 Filed 4-13-89; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Washington and Fayette Counties, Pennsylvania

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 affecting parts of Washington and Fayette Counties, Pennsylvania.

FOR FURTHER INFORMATION CONTACT: George J. Catselis, District Engineer, Federal Highway Administration, 228 Walnut Street, P.O. Box 1086, Harrisburg, Pennsylvania 17108-1086, Telephone: (717) 782-3411. Terrence D. Conner, P.E., Acting District Engineer, Pennsylvania Department of Transportation, P.O. Box 459, North Gallatin Avenue Extension, Uniontown, Pennsylvania 15401, Telephone: (412) 439-7259. James B. Wilson, P.E. Chief Engineer, Pennsylvania Turnpike Commission, P.O. Box 8531, Harrisburg, Pennsylvania 17105, Telephone: (717) 939-9551.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Pennsylvania Turnpike Commission (PTC) and the Pennsylvania Department of Transportation (PennDOT), will prepare an environmental impact statement (EIS) for the construction of a new multi-lane, controlled access, toll road. The proposed toll road would begin at an interchange with the completed or soon to be completed sections of PennDOT's Mon-Fayette Expressway in the vicinity of Brownsville and would proceed in a southeasterly direction terminating on the U.S. 119 bypass in the vicinity of Uniontown. The length of the proposed highway is approximately 17 miles.

This proposed highway project would be one section of a proposed tolled highway project that has been designated by the Governor as the Commonwealth of Pennsylvania's Pilot Toll Facility in which Federal aid will be permitted as provided in Section 120 of the Surface Transportation and Uniform Relocation Assistance Act (STURAA) of 1987. As such, its purpose is to support and to encourage economic development and redevelopment in the lower Monongahela Valley region. Further, the proposed highway project, combined with sections currently being constructed by PennDOT, would provide a safe and convenient route south from Interstate 70 (I-70) to Uniontown.

Alternatives under consideration include: (1) No action; (2) construction of a multi-lane, controlled access, tolled highway with a new river crossing on a new location; and (3) construction of a multi-lane, controlled access, tolled highway on a new location utilizing an existing river crossing. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment.

The following environmental areas will be investigated for EIS preparation: traffic; air quality; noise and vibration; surface water resources; aquatic environments; floodplains, groundwater; soils and geology; wetlands; vegetation and wildlife; endangered species; agricultural lands assessment; visual; socioeconomics and land use; construction impacts; energy; municipal, industrial, and hazardous waste facilities; historic and archaeological structures and sites; section 4(f) evaluation; and wild and scenic rivers.

Letters describing the proposed EIS Plan of Study (POS) and soliciting comments will be sent to appropriate Federal, State, and local agencies and to private organizations and citizens who express interest in the project. Public meetings will be held in the area during the: spring of 1989; summer of 1989; and spring of 1990. Public notices of the time and place of these meetings and any required public hearings will be given in a timely fashion. Public involvement and interagency coordination will be maintained throughout the development of the EIS.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalogue of Federal Domestic Assistance 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: April 6, 1989.

George L. Hannon,

Assistant Division Administrator, Harrisburg, Pennsylvania.

[FR Doc. 89-8887 Filed 4-13-89; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF THE TREASURY

Fiscal Service

[Dept. Circ. 570, 1988-Rev., Supp. No. 10]

Surety Companies Acceptable on Federal Bonds; Termination of Authority; American Credit Indemnity Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to American Credit Indemnity Company, of Baltimore, MD, 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 an acceptable surety on Federal bonds at 53 FR 25054, July 1, 1988.

With respect to any bonds currently in force with American Credit Indemnity 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 Company. 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: April 10, 1989.

Mitchell A. Levine,

Assistant Commissioner, Comptroller, Financial Management Service.

[FR Doc. 89-9012 Filed 4-13-89; 8:45 am]

BILLING CODE 4810-35-M

[Dept. Circ. 570, 1988—Rev., Supp. No. 9]

Surety Companies Acceptable on Federal Bonds: Termination of Authority: Cornhusker Casualty Co.

Notice is hereby given that the Certificate of Authority issued by the Treasury to Cornhusker Casualty Company of Omaha, Nebraska, 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 an acceptable surety on Federal bonds at 53 FR 26126, July 11, 1988.

With respect to any bonds currently in force with Cornhusker Casualty 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 Company. 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: April 10, 1989.

Mitchell A. Levine,

Assistant Commissioner, Comptroller Financial Management Service.

[FR Doc. 89-9013 Filed 4-13-89; 8:45 am]

BILLING CODE 4810-35-M

Sunshine Act Meetings

Federal Register
Vol. 54, No. 71
Friday, April 14, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 11, 1989.

TIME AND DATE: 2:00 p.m., Wednesday, April 19, 1989.

PLACE: Room 600, 1730 K Street, NW., Washington, D.C.

STATUS: Part Open & Part Closed [Pursuant to 5 U.S.C. § 552b(c)(10)]

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Secretary of Labor on behalf of Jerry Dale Aleshire, et al. v. Westmoreland Coal Company,* Docket No. WEVA 84-344-D. (Issues include whether the judge erred in finding that the operator did not discriminate against the complainant miners under Section 105(c)(1) of the Mine Act. 30 U.S.C. § 815(c)(1)).

2. *BethEnergy Mines, Inc.,* Docket No. PENN 87-94, etc. (Issues include whether BethEnergy violated 30 CFR § 75.1704). This portion will be closed.

Any person intending to attend the open portion of this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR § 2706.150(a)(3) and § 2706.160(d).

It was determined by a unanimous vote of Commissioners that BethEnergy Mines be considered in closed session.

CONTACT PERSON FOR MORE INFOR: Jean Ellen (202) 653-5620/(202) 566-2673 for TDD Relay.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 89-9139 Filed 4-12-89; 3:13 pm]

BILLING CODE 6735-01-M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Wednesday, April 19, 1989.

PLACE: Filene Board Room, 7th Floor, 1776 G Street, NW., Washington, D.C. 20456.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Closed Meeting.
2. Administrative Action under Section 207 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).
3. Regional Staffing FY 1990. Closed pursuant to exemption (2).
4. Midsession Budget Review FY89. Closed pursuant to exemptions (2) and (9)(B).

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682-9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 89-9140 Filed 4-12-89; 3:07 pm]

BILLING CODE 7535-01-M

NATIONAL CREDIT UNION ADMINISTRATION

TIME AND DATE: 9:30 a.m., Friday, April 21, 1989.

PLACE: The Hyatt Regency/Columbus, 350 North High Street, Columbus, Ohio 43215, (614) 463-1234.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Economic Commentary.
3. Central Liquidity Facility Report and Review of CLF Lending Rate.
4. Insurance Fund Report.
5. Request by North Hartford FCU for Exemption under the Depository Institution Management Interlocks Act and NCUA's Rules and Regulations.
6. Regulatory Review, NCUA's Rules and Regulations, Final Amendments to:
   a. Section 701.20, Surety Bond Coverage.
   b. Section 701.21(i), FCU Purchase of Put Options to Manage Interest Rate Risk.
   c. Section 701.36, FCU Ownership of Fixed Assets.
   d. Sections 701.37-1, Treasury Tax and Loan Accounts, and 701.37-2, FCU Acting as Depositories and Financial Agents of the Government.
   e. Parts 790, Description of NCUA, and 792, Requests Under the Freedom of Information Act (FOIA) and Privacy Act.
   f. Part 796, Employee Responsibility and Conduct.
7. Legislative Update.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (202) 682-9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 89-9141 Filed 4-12-89; 3:07 pm]

BILLING CODE 7535-01-M

Corrections

Federal Register
Vol. 54, No. 71
Friday, April 14, 1989

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 ENERGY

Office of Hearings and Appeals

Implementation of Special Refund Procedures

Correction

In notice document 89-7850 beginning on page 13420 in the issue of Monday, April 3, 1989, make the following corrections:

On page 13422, in the third column, in footnote 8, in the sixth line, between "i.e.," and "specifically" insert the following: "to distribute the funds attributable to parties not".

On page 13423, in the 2nd column, in footnote 12, in the 12th line remove the colon after "Kerosene".

On the same page, in the 3rd column, in the last paragraph, the 12th line should read: "proceedings; in fact, it is double the".

On page 13424, in the first column, in footnote 16, in the first line, "claimants" should read "claimant".

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 63

[Docket No. 25148; Amdt. No. 63-25]
RIN 2120-AC 33

Anti-Drug Program for Personnel Engaged in Specified Aviation Activities

Correction

In rule document 88-26609 beginning on page 47024 in the issue of Monday, November 21, 1988, make the following correction:

§ 63.12b [Corrected]

On page 47056, in the second column, in § 63.12b, the second paragraph (2) should be designated paragraph (b).

BILLING CODE 1505-01-D

federal register

Friday
April 14, 1989

Part II

Department of Education

Drug-Free Schools' Educational Personnel Training Program; Invitation of Applications for New Awards for Fiscal Year 1989

DEPARTMENT OF EDUCATION

[CFDA No.: 84.207]

Drug-Free Schools' Educational Personnel Training Program; Invitation of Applications for New Awards for Fiscal Year (FY) 1989

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and applicable parts from the Education Department's General Administrative Regulations (EDGAR), the notice contains information, application forms, and instructions needed to apply for a grant under this competition.

Purpose of Program: To provide financial assistance to State educational agencies, local or intermediate educational agencies, institutions of higher education, and consortia thereof to establish, expand, or enhance programs and activities for the training of teachers, administrators, guidance counselors, and other educational personnel concerning drug and alcohol abuse education and prevention.

Deadline for Transmittal of Applications: 5/22/89.

Deadline for Intergovernmental Review: 7/21/89.

Available Funds: $7,000,000.

Estimated Range of Awards: $50,000—$200,000.

Estimated Average Size of Awards: $100,000.

Estimated Number of Awards: 70.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations), Part 75 (Direct Grant Programs), Part 77 (Definitions that Apply to Department Regulations), Part 79 (Intergovernmental Review of Department of Education Programs and Activities), Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments), and Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

Description of Program: The funded programs or activities must be coordinated through the State agency for higher education or State educational agency, as appropriate, and must be coordinated, as appropriate, with the activities of the Regional Centers for Drug-Free Schools, funded under Part D of the Drug-Free Schools and Communities Act of 1986, as amended ("The Act"). (See list in this Notice). Any materials produced or distributed with funds made available under this program must reflect the message that illicit drug use is wrong and harmful. Applications must:

- Set forth activities and programs to be carried out with funds under this program;
- Contain an estimate of the cost for the establishment and operation of such programs;
- Provide assurances that the Federal funds made available under this program shall be used to supplement and, to the extent practical, to increase the level of funds that would, in absence of such Federal funds, be made available by the applicant for the purposes of this program, and in no case to supplant such funds; and
- Provide assurances of compliance with the provisions of Part C of the Act.

Invitational Priorities: The Secretary is particularly interested in applications that meet one or more of the following invitational priorities:

1. Summer institutes for training of educational personnel in the implementation of innovative programs for drug and alcohol abuse prevention education.

2. Training programs for educational personnel who work with high-risk youth, as defined by Section 5122(b)(2) of the Act, in drug and alcohol education and prevention activities.

3. Training programs for educational personnel that emphasize the involvement and cooperation of the family, school, and community in drug and alcohol abuse prevention education and intervention.

However, under 34 CFR 75.105(c)(1), an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications.

Selection Criteria

(a)(1) The Secretary uses the following selection criteria to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria*—(1) *Meeting the purposes of the authorizing statute.* (30 points) The Secretary reviews each application to determine how well the project will meet the purposes of section 5128 of the Drug-Free Schools and Communities Act of 1986, as amended, including consideration of—

(i) The objectives of the project; and

(ii) How the objectives of the project further the purposes of the authorizing statute.

(2) *Extent of need for the project.* (25 points) The Secretary reviews each application to determine the extent to which the project meets specific needs recognized in the statute that authorizes the program, including consideration of—

(i) The needs addressed by the project;

(ii) How the applicant identified those needs;

(iii) How those needs will be met by the project; and

(iv) The benefits to be gained by meeting those needs.

(3) *Plan of operation.* (20 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(i) The quality of the design of the project;

(ii) The extent to which the plan of management is effective and ensures proper and efficient administration of the project;

(iii) How well the objectives of the project relate to the purpose of the program;

(iv) The quality of the applicant's plan to use its resources and personnel to achieve each objective;

(v) How the applicant will ensure that project participants who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, age, or handicapping condition; and

(vi) For grants under a program that requires the applicant to provide an opportunity for participation of students enrolled in private schools, the quality of the applicant's plan to provide that opportunity.

(4) *Quality of key personnel.* (7 points) (i) The Secretary reviews each application to determine the quality of key personnel the applicant plans to use on the project, including—

(A) The qualifications of the project director (if one is to be used);

(B) The qualifications of each of the other key personnel to be used in the project;

(C) The time that each person referred to in paragraph (b)(4)(i) (A) and (B) will commit to the project; and

(D) How the applicant, as part of its nondiscriminatory employment practices, will ensure that its personnel are selected for employment without regard to race, color, national origin, gender, age, or handicapping condition.

(ii) To determine personnel qualifications under paragraphs (b)(4)(i) (A) and (B), the Secretary considers—

(A) Experience and training in fields related to the objectives of the project; and

(B) Any other qualifications that pertain to the quality of the project.

(5) *Budget and cost effectiveness.* (5 points) The Secretary reviews each application to determine the extent to which—

(i) The budget is adequate to support the project; and

(ii) Costs are reasonable in relation to the objectives of the project.

(6) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(i) Are appropriate to the project; and

(ii) To the extent possible, are objective and produce data that are quantifiable.

(Cross-reference: See 34 CFR 75.590 Evaluation by the grantee.)

(7) *Adequacy of resources.* (3 points) The Secretary reviews each application to determine the adequacy of the resources that the applicant plans to devote to the project, including facilities, equipment, and supplies.

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR Part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive Order 12372. Applicants proposing to perform activities in more than one State should contact, immediately upon receipt of this notice, the Single Point of Contact for each State and follow the procedure established in those States under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on November 18, 1987, pages 44338–44340.

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.207, U.S. Department of Education, MS 6403, 400 Maryland Avenue SW., Washington, DC 20202–0125. Proof of mailing will be determined on the same basis as applications.

Instructions for Transmittal of Applications

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.207), Washington, DC 20202–4725, or

(2) Hand deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA #84.207), Room #3633, Regional Office Building #3, 7th and D Streets SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) An applicant wishing to know that its application has been received by the Department must include with the application a stamped, self-addressed postcard containing the CFDA number and title of this program.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this application is divided into three parts. These parts are organized in the same manner that the submitted application should be organized. The parts are as follows:

Part I: Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

Part II: Budget Information—Non-Construction Programs (Standard Form 424A) and instructions.

Part III: Application Narrative.

Assurances—Non-Construction Programs (Standard Form 424B).

Certification regarding Debarment, Suspension, and Other Responsibility Matters: Primary Covered Transactions (ED Form GCS–008) and instructions.

Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED Form GCS–009) and instructions. (NOTE: ED Form GCS–009 is intended for the use of primary participants and should not be transmitted to the Department.)

Certification Regarding Drug-Free Workplace Requirements: Grantees Other than Individuals (ED 80–0004).

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an *original signature.* No grant may be awarded unless a completed application form has been received.

FOR FURTHER INFORMATION CONTACT: Mr. Allen King, U.S. Department of Education, Office of Elementary and Secondary Education, Drug-Free Schools Program, FOB–6, Room 2135, MS–6151, 400 Maryland Avenue SW., Washington, DC 20202, (202) 732–3463.

Program Authority: Section 5128 of the Drug-Free Schools and Communities Act of 1986, as amended.

Dated April 5, 1989.

Daniel Bonner,

Acting Assistant Secretary for Elementary and Secondary Education.

BILLING CODE 4000-01-M

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2. DATE SUBMITTED	Applicant Identifier
3. DATE RECEIVED BY STATE	State Application Identifier
4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1. TYPE OF SUBMISSION:

Application	Preapplication
☐ Construction	☐ Construction
☒ Non-Construction	☐ Non-Construction

5. APPLICANT INFORMATION

Legal Name:

Organizational Unit:

Address (give city, county, state, and zip code):

Name and telephone number of the person to be contacted on matters involving this application (give area code)

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

7. TYPE OF APPLICANT: (enter appropriate letter in box) ☐

A. State
B. County
C. Municipal
D. Township
E. Interstate
F. Intermunicipal
G. Special District
H. Independent School Dist.
I. State Controlled Institution of Higher Learning
J. Private University
K. Indian Tribe
L. Individual
M. Profit Organization
N. Other (Specify): _____

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other (specify):

_____

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 84 . 207

TITLE: Educational Personnel Training

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.
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	$	$	$	$	$

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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
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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.

Instructions for the Application Narrative

Public reporting burden for this collection of information is estimated to average *24* hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, DC 20202–4651; and to the Office of Management and Budget, Paperwork Reduction Project (1810–0542). (Expiration date 12/89) Washington, DC 20503.

Before preparing the Application Narrative, an applicant should read carefully the description of the program, the information regarding the priorities, and the selection criteria the Secretary uses to evaluate applications.

The narrative should encompass each function or activity for which funds are being requested and should—

1. Begin with an abstract; that is, a summary of the proposed project;

2. Describe the proposed project in light of each of the selection criteria in the order in which the criteria are listed in this application package; and

3. Include any other pertinent information that might assist the Secretary in reviewing the application.

Please limit the Application Narrative to no more than 15 double-spaced, typed pages (or one side only).

BILLING CODE 4000-01-M

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.

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

Certification Regarding Debarment, Suspension, and Other Responsibility Matters Primary Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the U.S. Department of Education, Grants and Contracts Service, 400 Maryland Avenue, S.W. (Room 3633 GSA Regional Office Building No. 3), Washington, D.C. 20202-4725, telephone (202) 732-2505.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective primary participant 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 three-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 for 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 three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

(2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

Instructions for Certification

1. By signing and submitting this proposal, the prospective primary participant is providing the certification set out below.

2. The inability of a person to provide the certification required below will not necessarily result in denial of participation in this covered transaction. The prospective participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's 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.

3. The certification in this clause is a material representation of fact upon which reliance was placed when the department or agency determined to enter into this transaction. If it is later determined that the prospective primary participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

4. The prospective primary participant shall provide immediate written notice to the department or agency to whom this proposal is submitted if at any time the prospective primary participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

5. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of the rules implementing Executive Order 12549. You may contact the department or agency to which this proposal is being submitted for assistance in obtaining a copy of those regulations.

6. The prospective primary participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

7. The prospective primary participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," provided by the department or agency entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

8. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

9. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

10. Except for transactions authorized under paragraph 6 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, Section 85.510, Participants' responsibilities. The regulations were published as Part VII of the May 26, 1988 Federal Register (pages 19160-19211). Copies of the regulations may be obtained by contacting the person to which this proposal is submitted.

(BEFORE COMPLETING CERTIFICATION, READ INSTRUCTIONS ON REVERSE)

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "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.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Drug-Free Workplace Requirements Grantees Other Than Individuals

This certification is required by the regulations implementing the Drug-Free Workplace Act of 1988, 34 CFR Part 85, Subpart F. The regulations, published in the January 31, 1989 Federal Register, require certification by grantees, prior to award, that they will maintain a drug-free workplace. The certification set out below is a material representation of fact upon which reliance will be placed when the agency 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 (see 34 CFR Part 85, Sections 85.615 and 85.620).

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).

Organization Name PR/Award Number or Project Name

Name and Title of Authorized Representative

Signature Date

ED 80-0004

BILLING CODE 4000-01-C

Drug-Free Schools and Communities Regional Centers

Northeast Regional Center for Drug-Free Schools and Communities

Super Teams, Ltd., Dr. Gerald Edwards, Director, 12 Overton Avenue, Sayville, New York 11782.

CT, DE, MA, ME, MD, NH, NJ, NY, OH, PA, RI, VT

Southeast Regional Center for Drug-Free Schools and Communities

Pride, Inc., Dr. Douglas F. McKittrick, Director, The Hurt Building, Suite 210, 50 Hurt Plaza, Atlanta, Georgia 30303.

AL, DC, FL, GA, KY, NC, PR, SC, TN, VA, V.I, WV

Midwest Regional Center for Drug-Free Schools and Communities

BRASS Foundation, Inc., Mr. Mickey Finn, Director, 2001 N. Clyburn, Suite #302, Chicago, Illinois 60614.

IN, IL, IA, MI, MN, MO, NE, ND, SD, WI

Southwest Regional Center for Drug-Free Schools and Communities

University of Oklahoma, Dr. Gwen Briscoe, Director, Public Responsibility & Community Affairs, 555 Constitution, Norman, Oklahoma 73037.

AR, AZ, CO, KS, LA, MS, NM, OK, TX, UT

Western Regional Center for Drug-Free Schools and Communities

NW Regional Lab, Ms. Judith A. Johnson, Director, 101 S.W. Main St., Suite 500, Portland, Oregon 97204,

AK, CA, HI, ID, MT, NV, OR, WA, WY, AS, GU, CNMI, TT

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Friday
April 14, 1989

Part III

Department of Health and Human Services

Office of Human Development Services

Availability of FY 1989 Funds and Request for Applications for Drug Abuse Prevention Program for Homeless Youth; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

[Program Announcement No. 13657-892]

Availability of FY 1989 Funds and Request for Applications for Drug Abuse Prevention Program for Runaway and Homeless Youth

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS).

ACTION: Announcement of the availability of financial assistance and request for applications for drug abuse prevention programs for runaway and homeless youth.

SUMMARY: The Family and Youth Services Bureau of the Administration for Children, Youth and Families announces the availability of funds for competing discretionary grants for a new Drug Abuse Prevention Program for Runaway and Homeless Youth. The purpose of this new program is to provide improved and expanded drug abuse prevention and reduction services to runaway and homeless youth.

This announcement contains the grant application process for four priority areas: (A) Comprehensive Service Projects; (B) Community Based Networking; (C) Program Improvement Demonstrations; and (D) Native American Youth Services.

DATES: The closing date for receipt of grant applications is June 13, 1989.

ADDRESS: Address applications to: Drug Abuse Prevention Program for Runaway and Homeless Youth, Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, Room 345–F Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Frank Fuentes, (202) 245–0078.

SUPPLEMENTARY INFORMATION:

Part I: General Information

A. *Program Purpose:* Section 3511 of Pub. L. 100–690, the Anti-Drug Abuse Act of 1988, establishes the Drug Abuse Education and Prevention Program for Runaway and Homeless Youth. The specific purposes of this program are to:

1. Provide individual, family, and group counseling to runaway youth and their families and to homeless youth for the purpose of preventing or reducing the illicit use of drugs by such youth;

2. Develop and support peer counseling programs for runaway and homeless youth related to the illicit use of drugs;

3. Develop and support community education activities related to the illicit use of drugs by runaway and homeless youth, including outreach to individual youth;

4. Provide runaway and homeless youth in rural areas with assistance (including the development of community support groups) related to the illicit use of drugs;

5. Provide information and training regarding issues related to the illicit use of drugs by runaway and homeless youth to individuals involved in providing services to these youth;

6. Support research on illicit drug use by runaway and homeless youth, the effects on such youth of drug abuse by family members, and any correlation between such use and attempts at suicide; and

7. Improve the availability and coordination of local services related to drug abuse for runaway and homeless youth.

The overall purpose of the Drug Abuse Prevention Program is to assist communities to address the problem of drug abuse among runaway and homeless youth through the prevention, early intervention, and reduction of drug dependency. OHDS will suppport service, coordination and demonstration activities designed to achieve the specific purposes identified by #1, #2, #3, #4, and #7 above. Training and research programs in #5 and #6 above will be funded separately from this announcement. While funds are available for drug treatment referral as a project component, there is no provision in the statute for assistance for drug treatment services themselves.

B. *Definitions:* For the purposes of this program announcement, the following definitions apply:

(1) *Drug* means a beverage containing alcohol; a controlled substance; or a controlled substance analogue.

(2) *Illicit* means unlawful or injurious.

(3) *Community-based* means located within the community and maintained with community and consumer participation in the planning, operation, and evaluation of its programs.

(4) *Public Agency* means any State, unit of local government, combination of such States or units, or any agency, department, or instrumentality of any of the foregoing.

(5) *State* means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, Virgin Islands, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

C. *Background:* Service providers and others working with runaway and homeless youth have traditionally been concerned with the problem of drug abuse prevention, reduction, and treatment among this population. The passage of the Anti-Drug Abuse Act of 1988 is, in part, recognition that programs serving runaway and homeless youth have been attempting to address the problem. All evidence points to a steady increase in drug use among this population. While statistics indicate a decrease in the use of marijuana in the 18–25 year old category during the past five years, there has been a marked increase in the use of more dangerous and addictive drugs such as cocaine and crack over the same period. There has also been an increase in the abuse of alcohol among younger adolescents. The presence of alcohol is of particular concern because it is often a "gateway" drug to more serious substance abuse.

During 1985, 350,000 youth (including many runaway, homeless and street youth) were arrested for drug abuse violations and were detained or incarcerated for drug related offenses. The increase in intravenous drug use poses the additional hazard of transmitting the AIDS virus through contaminated needles. Statistics also show a strong correlation between drug abuse and youth suicide. About 37 percent of the youth treated in emergency rooms for drug problems had attempted suicide. In 85 percent of all completed suicides, drugs and/or alcohol are present. The street life environment of runaway and homeless youth places them at high risk for involvement in the abuse of illicit drugs and the related consequences. The prevalence of this problem is underscored by the fact that not only are major urban area runaway and homeless youth programs reporting an increase in the use of drugs among their clients, but also that providers in small towns and rural communities are finding that up to 67 percent of their clients are reporting drug abuse as a primary presenting problem at intake.

The Office of Human Development Services (OHDS) seeks to expand the availability of knowledge pertaining to effective drug abuse prevention, particularly early intervention methods and service delivery systems for this hard to reach population. All applications should reflect the understanding that drug abuse prevention and reduction cannot be addressed in isolation, particularly in cases where family members, especially parents, are also users of illicit drugs.

Where family members are present, their involvement is strongly encouraged as an integral part of the services provided.

In addition, OHDS encourages awareness of and sensitivity to the particular needs of ethnic, racial and cultural groups in the prevention of drug abuse among youth from these communities. Accordingly, Native American youth are a specific focus of this announcement. A recent study by the Indian Health Service of the Public Health Service, DHHS, entitled *Alcoholism/Substance Abuse Prevention Initiative* points to a disproportionately high rate of alcohol and illicit drug use (particularly inhalants) among Indian youth. The report also states that negative peer influence and the disruption of traditional ties to tribal elders and kinship relations are a primary contributor to the increasing abuse of drugs. The Administration for Children, Youth and Families (ACYF) has, over time, collaborated with the Department's Administration for Native Americans in addressing the unique needs of runaway and homeless Indian youth and seeks to continue that collaboration in the prevention and reduction of drug abuse for this population.

The improvement and expansion of direct prevention services and the development of community resources and support for runaway and homeless youth are also important activities of this new program. Section 3511 of the Act provides for services as well as referrals to drug treatment programs. However, drug treatment itself is not covered, and will not be supported under this announcement. Other sections of the Anti-Drug Abuse Act of 1988 support the provision of drug treatment and rehabilitation for the homeless, medically indigent, pregnant adolescents, and teen parents. The lack of drug treatment programs in many areas of the country will require applicants under this announcement to develop innovative approaches to securing appropriate treatment for the runaway and homeless youth they serve. This particular type of resource development is strongly encouraged.

In addition, the Family and Youth Services Bureau within OHDS has recently signed an Interagency Agreement with the Public Health Service, DHHS, for improved access to medical services, including drug treatment. The Bureau of Health Care Delivery and Assistance (BHCDA) of the Public Health Service, with funds made available under the Stewart B. McKinney Homeless Assistance Act of 1987, has recently awarded 109 grants to medical centers across the country to provide primary health care, including drug abuse prevention treatment, to homeless populations. Applicants may wish to identify individual centers and, where possible, access this resource. For information, contact: Mr. Harold Dame, BHCDA, Room 7A–22, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–8134.

For information concerning the nationwide system of Community and Migrant Health Centers, applicants may wish to contact the National Clearinghouse for Primary Care Information at (703) 821–8955.

As mandated by Section 3511 of the Act, a national training program will be implemented to provide information, training and technical assistance on drug abuse related issues to service providers and agencies. In addition, research will also be supported under this new program which will, in part, study the illicit drug use of runaway and homeless youth, the effects on such youth of drug abuse by family members, and any correlation between such use and attempts at suicide. These training and research projects will be implemented separately from this program announcement. However, as grantees under this program implement the specific activities of their projects, they will also be expected to work with the national training and research contractors to generate new information on the prevalence of drug abuse, types of drugs used, issues to be addressed, and recommended approaches to dealing with the problem.

The Federal government is currently supporting numerous activities to prevent substance abuse and the spread of AIDS among runaway and homeless youth. The Office of Substance Abuse Prevention (OSAP) and the National Institute of Drug Abuse (NIDA) are sources of information about projects at the local and national levels and on existing prevention materials and program curricula. OHDS encourages applicants to coordinate their proposed activities with projects supported by OSAP and NIDA, wherever possible and practical, to reduce potential duplication. This collaboration is especially encouraged in activities to address Purposes #3, #4, and #7 as listed in Part I, Section A of this announcement. Information relating to OSAP and NIDA supported projects may be obtained by contacting:

Elaine Johnson, Ph.D., Director, Office of Substance Abuse Prevention, Room 9A–40, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 468–2600

Alberto Mata, Ph.D., Community Ethnographer, National Institute on Drug Abuse, Room 10A–46, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–6720.

D. *Eligibility:* Any State, unit of local government (or combination of units of local government), public or non-profit private agency, organization, institution, or other non-profit entity (including individuals) is eligible to apply. In instances where more than one agency or individual submit a joint application to coordinate activities under this announcement, one legal entity must be designated as the proposed grantee.

As required by section 3511(b) of the Act, priority will be given to applicants that have experience in providing services to runaway and homeless youth.

Non-profit applicants who have not previously received support from the Office of Human Development Services must submit proof of their non-profit status with their grant application. This can be done either by making reference to its listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations or by submitting a copy of its letter from IRS [IRS Code sections 501(c)(3) and 501(c)(6)]. Non-profit applicants cannot be funded without acceptable proof of this status. Although *for*-profit entities may participate as contractors under grants to eligible applicants, they do not qualify as applicants under this grant announcement.

Applicants must also indicate in their proposal a willingness to cooperate with a third party contractor(s) to be funded by ACYF. The contractor(s) will provide training and technical assistance support to grantees and will conduct program evaluation and research.

As a condition of any grant awarded under this announcement, each applicant must certify compliance with the application requirements of section 3514(b) of the Anti-Drug Abuse Act by signing the assurance form included in the application package (see Appendix II).

E. *Applicant Share of Project Costs:* A 25 percent non-Federal share, ($1 for every $3 of Federal funding), either cash or third party in-kind contributions, or a combination thereof, secured from non-Federal sources, is required of all projects. For example, an applicant who applies for $75,000 in Federal funding must provide $25,000 toward the project, with a total project cost of $100,000. OHDS encourages applicants to propose grantee shares which will be met in

cash, as opposed to in-kind contributions. Applications that do not provide the 25 percent share will not be considered.

Part II: Priority Area Descriptions

Applicants are invited to submit proposals that respond to one or more of the following priority areas:

A. Comprehensive Service Projects

Approximately 20 to 30 grants will be awarded under this priority area to improve and/or expand existing services related to preventing or reducing the use of illicit drugs among runaway and homeless youth and their families. In addressing the families of runaway youth, proposals should include a methodology that considers the impact of the drug abuse problem on the immediate family, extended family and peers that compose the youth's home environment. Applicants must also demonstrate how additional resources will be utilized to expand or improve current service delivery through improved outreach, counseling (individual, family, group, and peer), intake and medical screening, referrals to treatment and the provision of aftercare services. Proposals should show evidence of joint planning with other agencies in the community towards the development of a comprehensive approach to service delivery.

Where more than one agency joins to submit a single application, letters of commitment should be included as well as a clearly defined task chart showing the responsibilities and involvement of the designated agencies.

Duration: Not to exceed 24 months, with the possibility of renewal for an additional 12–month period based on the availability of funds and satisfactory performance of the grantee.

Federal Share of Project Costs: Up to $150,000 for the initial project period.

B. Community Networking Projects

Approximately 20 to 30 grants will be awarded under this priority area to encourage the development of community support and resources to ensure the provision of quality, coordinated drug abuse prevention and reduction efforts in rural areas and in communities with fragmented or minimal services for runaway and homeless youth. Runaway and homeless youth, as well as service providers, often cite a lack of coordinated services and information resources as reasons for sustained illicit drug use and difficulty in obtaining treatment services. This priority area encourages the creation of community and resource development efforts to address the need for community education, the coordination of existing services for runaway and homeless youth and their families, and the creation of community support groups that specifically address the issue of drug abuse among runaway and homeless youth. Applications should identify current barriers to coordinated services, continuum of care, and the establishment of successful networks and should propose alternatives to address these barriers. Examples of alternatives which might be undertaken by these networks include the modification of State policies, review of existing statutes, adjustment of priorities among other related service providers, expanded use of the media, promulgation of information in languages and customs indigenous to ethnic communities, and greater use of community forums. Applications should also clearly demonstrate a model of improved service delivery as a result of the better coordination of resources. Proposals must show clear evidence of joint planning and defined responsibilities. Applicants must establish a network of providers, with letters of commitment from each, and should propose innovative models for successfully developing and implementing a network of services that can be replicated in other communities. Uniform case management practices among all providers is an example of effective networking as are innovative combinations of services, particularly in geographic areas with minimal resources for runaway and homeless youth.

Duration: Not to exceed 24 months, with the possibility of renewal for an additional 12-month period based on the availability of funds and satisfactory performance of the grantee.

Federal Share of Project Costs: Up to $150,000 for the initial project period.

C. Demonstration Projects

Approximately 10 to 20 grants will be awarded under this priority area to support the development of model approaches for the prevention and reduction of illicit drug use by runaway and homeless youth. OHDS is looking for improved methods which include, but are not limited to, innovative outreach and referral to treatment programs (e.g., overcoming barriers to treatment such as age limitations, language, local customs, and medical indigence); prevention and treatment services for homeless youth in preparation for independent living; and models of agency and treatment program collaboration, including utilization of the resources made available through the Public Health Service/OHDS Interagency Agreement.

OHDS also invites the identification of similar issues which need further development for the effective prevention and reduction of drug abuse. In addition to the development of new approaches, these projects should also generate information on the prevalence of drug abuse among runaway and homeless youth and other information useful to the field. All applicants under this priority area must clearly describe the relevance of their proposed project to increased knowledge and practical information immediately applicable to other service providers. Proposals should demonstrate coordinated approaches to the provision of services through letters of commitment from multi-agency partners.

Duration: Not to exceed 17 months, with the possibility of renewal for an additional 12-month period based on the availability of funds and satisfactory performance of the grantee.

Federal Share of Project Costs: Up to $150,000 per year.

D. Native American Youth

Approximately 10 grants will be awarded under this priority area to support runaway and homeless youth programs on/or near Indian reservations and Alaska Native villages. Eligible applicants are Federally recognized Indian Tribes/Tribal Entities and Alaska Villages/Non-Profit Regional Corporations. Hawaiian homesteads are also eligible to apply.

The problem of illicit drug use (particularly inhalants) among Native American runaway and homeless youth continues to escalate. Proposals should reflect the development of model approaches to reducing and preventing drug abuse among this population through outreach, improved and expanded services, educational awareness programs and cultural and ethnic considerations for addressing the problem. Innovative approaches that attempt to provide follow-up services, in conjunction with other agencies, to youth who move to or from the reservation, village or homestead are strongly encouraged.

Applicants should propose projects that:

- Involve the youth, family and community in a comprehensive approach to prevent drug use;
- Focus on activities which relate the youth to Indian Tribal values and languages, and which are designed to develop a positive cultural and family identity; and

• Demonstrate how the project will complement other existing drug prevention and education programs in the community.

Projects should also demonstrate a high potential for replicability in other similar communities.

Duration: Not to exceed 17 months, with the possibility of renewal for an additional 12-month period based on the availability of funds and satisfactory performance of the grantee.

Federal Share of Project Costs: Up to $75,000 for the initial project period.

Part III: Criteria for Review and Evaluation of Applications

An application must meet all of the eligibility requirements specific to the priority area under which it is being submitted. This includes eligibility of the applicant, duration of the project, 25 percent minimum applicant share, and responsiveness to the purpose of the priority area.

Applications which meet these eligibility requirements will be evaluated by a panel of experts knowledgeable about issues related to runaway and homeless youth and illicit drug use who will comment on and score the applications, based on the four criteria listed below.

To ensure the maximum score for each criterion, it is imperative that the program narrative section of the application clearly address each of these four areas. These criteria also incorporate the statutory review criteria in section 3515(a) of the Anti-Drug Abuse Act.

A. Objectives and Need for Assistance (25 Points)

• Identify the specific purpose(s) of section 3511 of the Anti-Drug Abuse Act that is being addressed by the proposal.

• Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution (including the need for additional services for addressing the illicit use of drugs by runaway and homeless youth) in the geographic area(s) that the project is proposed to serve. (section 3515(a)(5).)

• Give the precise location of the project and area(s) to be served by the proposed project (maps or other graphic aids may be attached). Provide a detailed description of the emerging or current status of illicit drug use among runaway and homeless youth and their families in the proposed target area. (section 3515(a)(4).)

• Demonstrate the need for the project and state the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used.

• Describe the innovativeness of the project, i.e., how it incorporates new or innovative techniques, how it builds upon the delivery of existing drug abuse services; how it will expand or improve existing services; and the anticipated impact of this effort on the total range of services provided to runaway and homeless youth. (section 3515(a)(2).)

B. Results or Benefits Expected (20 Points)

• Identify the results and benefits to be derived from the project, especially any increases in the applicant's capacity to provide services to address the illicit use of drugs by runaway and homeless youth; and the extent to which the project will increase the level of services, or will coordinate other services, in the community. (section 3515(a)(3) and (6).)

• Describe any anticipated changes in policy and/or practice among public and private service providers that will result in improved service delivery (e.g., identify any manuals, training curricula, or reports, proposed as a project accomplishment).

• Provide justification for the relative cost of the project in relation to its anticipated effectiveness in carrying out the purposes of Section 3511 of the Anti-Drug Abuse Act. (section 3515(a)(1).)

C. Approach (35 Points)

• Outline a plan of action pertaining to the scope of the project and detail how the proposed work will be accomplished. Cite factors which might accelerate or decelerate the work and your reasons for taking this approach as opposed to others.

• Provide a description of the proposed project, e.g., the activities for accomplishing intervention, prevention, education, client involvement, treatment referral, outreach efforts, and coordination with other agencies.

• Describe any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements (e.g., how project will be maintained after termination of Federal support).

• List the activities to be carried out in chronological order to show the schedule of accomplishments and their target dates (GANTT or PERT charts may be used for this purpose).

• List each organization, cooperator, consultant, or other key individuals who will work on the project (including the lead agency) along with a short description of the nature of their effort or contribution. In the case of an application submitted by more than one agency, describe the lead agency's role and method for coordinating activities; and the role and responsibility of each member agency. Letters of commitment that show evidence of a joint planning and implementation role in the project must be included. Letters of commitment from appropriate service delivery agencies and community and political organizations that express potential involvement may also be attached.

• Describe the relationship between this project and other work planned, anticipated, or underway under Federal assistance.

• Identify the kinds of data to be collected and maintained, and discuss the criteria to be used to evaluate the results and success of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. Provide quantitative projections of the accomplishments to be achieved, if possible.

D. Staff Background and Experience (20 Points)

• Present a biographical sketch of the proposed program director with the following information: name, address, telephone number, background, and other qualifying experience for the project.

• List the name, training and background for other proposed key personnel.

• Provide a brief description of the applicant's organizational experience in providing services to runaway and homeless youth. In the case of an application submitted by an individual, demonstrate that a strong connection exists between the individual and community-based agencies or services, and that the individual will have ongoing access to the service population. [section 3511(b)]

Part IV: The Application Process

A. *Availability of Forms:* All the forms and instructions needed for submitting an application under this announcement are included for your convenience under Appendix II. Single sided copies of these forms should be reproduced and used to prepare the application package.

A complete application consists of:

(1) Standard Form 424: Application for Federal Assistance;

(2) Standard Form 424A: Budget Information;

(3) Assurances

(a) Standard Form 424B: Non-Construction Programs;

(b) Drug Free Workplace Assurances; and

(c) Other Statutory Assurances.

(4) Program Narrative: A narrative description of the project, organized under the headings which address the four evaluation criteria identified in Part III: (A) Objectives and need for assistance; (B) results or benefits expected; (C) approach; and (D) staff background and experience.

The program narrative must be typed, double-spaced, on 8½×11 inch bond paper. All pages of the narrative (including charts, tables, and maps) must be sequentially numbered, beginning with the "Objective and Need for Assistance" section as page number one. The program narrative should not exceed 25 double-spaced pages.

(5) Project Abstract: A brief (approximately 100 word) description of the project, typed on 8½×11 inch bond paper.

(6) Appendices/Attachments: Letters of support, exhibits, and other supporting documents must not exceed ten pages.

B. *Application Submission:* Each application must be signed by an official authorized to act on behalf of the applicant agency, organization, institution, or other entity and to assume responsibility for the obligations imposed by the terms and conditions of any grant awarded.

Applications must be prepared in accordance with the guidance provided in this announcement and the instructions in the attached application package.

One signed original and two copies of the application, including all attachments, are required.

The priority area (see Part II) under which the application is being submitted must be clearly identified in Block 11 of Standard Form 424.

Completed applications must be sent to: Runaway and Homeless Youth Drug Abuse Prevention Program, Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, Room 345–F Hubert H. Humphrey Building, 200 Independence SW., Washington, DC 20201. Hand delivered applications will be accepted at the OHDS Grants and Contracts Management Division office during the normal working hours of 8:30 a.m. to 5:00 p.m. Monday through Friday.

C. Closing Date for the Submission of Applications: The closing date for the submission of applications under this announcement is June 13, 1989.

D. Deadlines for Submission of Applications

1. *Deadlines.* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date at the address specified in the application submission section of this announcement; or

b. Sent on or before the deadline date and received by the granting agency in time for the independent review under Chapter 1–62 of HHS Transmittal 86.01 (4/30/86). Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. *Late Applications.* Applications which do not meet the criteria in the above paragraphs are considered late applications. The granting agency shall notify each late applicant that its application will not be considered in the current competition.

3. *Extension of Deadline.* ACYF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc. or when there is widespread disruption of the mails. However, if ACYF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

(Catalog of Federal Domestic Assistance Program Number 13.657, Drug Abuse Education and Prevention for Runaway and Homeless Youth)

E. Screening of Applications: All applications will be initially screened to determine conformance with the following requirements:

(1) Deadline for submittal;
(2) Appropriate number of pages;
(3) Identification of priority area;
(4) Signature of authorizing official; and
(5) Federal funding requests not exceeding the limitations set by the priority area.

These preliminary screening requirements will be rigorously enforced. Applications which do not meet these requirements will not be considered in the competition and the applicant will be so informed.

F. *Application Consideration:* Each application will be reviewed and scored against the criteria outlined in Part III of this announcement and its responsiveness to the minimum requirements identified in Part II. The review will be conducted in Washington, DC. Reviewers will be persons knowledgeable about issues relating to runaway and homeless youth and illicit drug use.

The results of the competitive review will be taken into consideration by the Associate Commissioner, Family and Youth Services Bureau, who will recommend programs to be funded to the Commissioner of ACYF. The Commissioner of ACYF will make the final selections. Applications may be funded in whole or in part. Consideration will also be given to ensuring that a variety of geographic areas are served, that projects with different auspices are selected, and that a variety of project designs and models are represented.

Successful applicants will be notified through the issuance of a Financial Assistance Award. The award will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the grant, the total project period, the budget period, and the amount of the non-Federal matching share.

G. *Paperwork Reduction Act of 1980:* Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and recordkeeping requirements and regulations, including program announcements. This program announcement does not contain information collection requirements beyond those approved by OMB.

H. *Executive Order 12372—Notification Process:* This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Programs," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. All States and territories except Alaska, Idaho, Kansas, Nebraska, Minnesota, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these seven areas need take no action regarding E.O. 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372.

Other applicants should contact their SPOC as soon as possible to alert them of the prospective application and

receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the SF 424, Block 16a. OHDS will notify the State of any applicant who fails to indicate SPOC contact (when required) on the application form.

SPOCs have 60 days from the grant application deadline date to comment on applications for financial assistance under this program. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule.

When comments are submitted directly to OHDS, they should be addressed to: Drug Abuse Prevention Program for Runaway and Homeless Youth, Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, Room 345–F Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. A list of the Single Points of Contact for each State and Territory is included in Appendix I of this announcement.

Dated: March 27, 1989.

Dodie Truman Borup,

Commissioner, Administration for Children, Youth and Families.

Approved: March 31, 1989.

Sydney J. Olson,

Assistant Secretary for Human Development Services.

Appendix I

Executive Order 12372—State Single Points of Contact

Alabama

Mrs. Donna J. Snowden, SPOC, Alabama State Clearinghouse, Alabama Department of Economic and Community Affairs, 3465 Norman Bridge Road, Post Office Box 2939, Montgomery, Alabama 36105–0939, Tel. (205) 284–8905

Alaska

None

Arizona

Janice Dunn, Arizona State Clearinghouse, Department of Commerce, State of Arizona, 1700 West Washington, Fourth Floor, Phoenix, Arizona 85007, Tel. (602) 255–5004

Arkansas

Joe Gillesbie, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Tel. (501) 371–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Tel. (916) 323–7480

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Rm. 520, Denver, Colorado 80203, Tel. (303) 866–2156

Connecticut

Under Secretary, Attn: Intergovernmental Review Coordinator , Comprehensive Planning Division, Office of Policy and Management, Hartford, Connecticut 06106–4459, Tel. (203) 566–3410

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Tel. (302) 736–4204

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Rm. 416, District Building, 1350 Pennsylvania Avenue, NW., Washington, DC 20004, Tel. (202) 727–9111

Florida

George H. Meier, Director of Intergovernmental Coordination, State Single Point of Contact, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32301, Tel. (904) 488–8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, SW.—Room 608, Atlanta, Georgia 30334, Tel. (404) 656–3855

Hawaii

Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, Honolulu, Hawaii 96813, Tel. (808) 548–3016 or 548–3085

Idaho

None

Illinois

Tom Berkshire, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Tel. (217) 782–8639

Indiana

Ms. Peggy Boehm, Deputy Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Tel. (317) 232–5604

Iowa

Stephen R. McCann, Division of Community Progress, Iowa Dept. of Economic Development, Division of Community Progress, 200 East Grand Avenue, Tel. (515) 281–3725

Kansas

None

Kentucky

Robert Leonard, State Single Point of Contact, Kentucky State Clearinghouse, 2nd Floor, Capital Plaza Tower, Frankford, KY 40601, Tel. (502) 564–2382

Louisiana

Colby S. La Place, Assistant Secretary, Department of Urban & Community Affairs, Office of State Clearinghouse, P.O. Box 94455, Capitol Station, Baton Rouge, Louisiana 70804, Tel. (504) 342–9790.

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 0433, Tel. (207) 289–3161

Maryland

Guy W. Hager, Director, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Tel. (301) 225–4490

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities and Development, 100 Cambridge Street, Rm. 904, Boston, Massachusetts 02202, Tel. (617) 727–3253

Michigan

Michelyn Pasteur, Deputy Director, Local Development Services, Department of Commerce, P.O. Box 30225, Lansing, Michigan 48909, Tel. (517) 373–1838

Note: Please direct correspondence and questions to: Manager, Federal Project Review System, 6500 Merchantile Way, Suite 2, Lansing, MI 48911 (517) 334–6190.

Minnesota

None

Mississippi

Marlan Baucum, Office of Federal State Programs, Department of Planning and Policy, 2000 Walter Sillers Bldg., 500 High Street, Jackson, Mississippi 39202, Tel. (601) 359–3150

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809—Room 460, Truman Building, Jefferson City, MO 65102, Tel. (314) 751–4834

Montana

Deborah Davis, State Single Point of Contact, Intergovernmental Review, Clearinghouse, c/o Office of the Lieutenant Governor, Capitol Station, Room 210—State Capitol, Helena, MT 59620, Tel. (406) 444–5522

Nebraska

None

Nevada

Ms. Jean Ford, Director, Nevada Office of Community Services, Capitol Complex, Carson City, Nevada 89710, Tel. (702) 885–4420

Note: Please direct correspondence and questions to: John Walker, Clearinghouse Coordinator, Tel. (702) 885–4420.

New Hampshire

John E. Dabuliewicz, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, 2½ Beacon Street, Concord, New Hampshire 03301, Tel. (603) 271–2155

New Jersey

Mr. Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, 363 West State Street, Trenton, New Jersey 08625–0803, Tel. (609) 292–6613

Note: Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625–0803, Tel. (609) 292–9025.

New Mexico

Dean Olson, Director, Management and Program Analysis Division, Department of Finance and Administration, Room 424, State Capitol Building, Santa Fe, New Mexico 87503, Tel. (505) 827–3885

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, NY 12224, (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, North Carolina Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611, Tel. (919) 733–0499

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Tel. (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds, Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, Columbus, OH 43266-0411, Tel. (614) 466–0698

Note: Please direct correspondence and questions to: Linda E. Wise.

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Tel. (405) 843–9770

Oregon

Attn: Delores Streete, State Single Point of Contact, Intergovernmental Relations, Division State Clearinghouse, 155 Cottage Street, NE., Salem, OR 97310, (503) 373–1998

Pennsylvania

Laine A. Heltebridle, Special Assistant, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108, Tel. (717) 783–3700

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Tel. (401) 277–2656

Note: Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning.

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Rm. 477, Columbia, South Carolina 29201, Tel. (803) 734–0435

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Tel. (605) 773–3212

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Tel. (615) 741–1676

Texas

Thomas C. Adams, Office of the Budget and Planning, Office of the Governor, P.O. Box 12427, Austin, Texas 78711, Tel. (512) 463–1778

Utah

Dale Hatch, Director, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Tel. (801) 533–5245

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research and Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Tel. (802) 828–3326

Virginia

Nancy Miller, Intergovernmental Affairs, Review Officer, Department of Housing and Community Development, 205 North 4th Street, Richmond, Virginia 23219, Tel. (804) 786–4474

Washington

Catherine Townley, Coordinator, Intergovernmental Review Process, Department of Community Development, Ninth and Columbia Building, Olympia, Washington 98504–4151, Tel. (206) 753–4978

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, Governor's Office of Community and Industrial Development, Building #6, Rm. 553, Charleston, West Virginia 25305, Tel. (304) 348–4010

Wisconsin

James R. Krauser, Secretary, Wisconsin Department of Administration, 101 South Webster—CEF 2, P.O. Box 7864, Madison, Wisconsin 53707–7864, Tel. (608) 266–1741

Note: Please direct correspondence and questions to: Thomas Krauskopf, Federal-State Relations Coordinator, Wisconsin Department of Administration.

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Tel. (307) 777–7574

American Samoa

None

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, GU 96910, (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM Northern, Mariana Islands 96950

Palau

None

Puerto Rico

Ms. Patricia G. Custodio/Isael Soto Marrero, Chairman/Director, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Tel. (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 and 33 Kongens Gade, Charlotte Amalle, VI 00802 (809) 774–0750

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APPENDIX II

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 H Independent School Dist B County I State Controlled Institution of Higher Learning C Municipal J Private University D Township K Indian Tribe E Interstate L Individual F Intermunicipal M Profit Organization G Special District 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 1 3 . 6 5 7 TITLE Drug Prevention & Education for Runaway & Homeless Youth	11 DESCRIPTIVE TITLE OF APPLICANT'S PROJECT Priority Area: _____
12 AREAS AFFECTED BY PROJECT (cities, counties, states, etc.)	

13 PROPOSED PROJECT		14 CONGRESSIONAL DISTRICTS OF	
Start Date	Ending Date	a Applicant	b Project

15 ESTIMATED FUNDING		16 IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?	
a Federal	$ 00	a YES THIS PREAPPLICATION APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON	
b Applicant	$ 00	DATE _____	
c State	$ 00	b NO ☐ PROGRAM IS NOT COVERED BY E.O. 12372	
d Local	$ 00	☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW	
e Other	$ 00		
f Program Income	$ 00	17 IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?	
g TOTAL	$ 00	☐ 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

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Instructions for the SF–424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item and Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - —"New" means a new assistance award.
   - —"Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - —"Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. If more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.
12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

BILLING CODE 4130-01-M

OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1		$	$	$	$	$
2						
3						
4						
5 TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7 Program Income	$	$	$	$	$

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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	

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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 be a *single* Federal grant program (Federal Domestic Assistance Catalog number) and *not requiring* a functional or activity breakdown, enter on Line 1 under Column (a) the catalog program title and the catalog number in Column (b).

For applications pertaining to a *single* program *requiring* budget amounts by multiple functions or activities, enter the name of each activity or function on each line in Column (a), and enter the catalog number in Column (b). For applications pertaining to multiple programs where none of the programs require a breakdown by function or activity, enter the catalog program title on each line in *Column* (a) and the respective catalog number on each line in Column (b).

For applications pertaining to *multiple* programs where one or more programs *require* a breakdown by function or activity, prepare a separate sheet for each program requiring the breakdown. Additional sheets should be used when one form does not provide adequate space for all breakdown of data required. However, when more than one sheet is used, the first page should provide the summary totals by programs.

Lines 1–4, Columns (c) through (g).

For *new applications*, leave Columns (c) and (d) blank. For each line entry in Columns (a) and (b), enter in Columns (e), (f), and (g) the appropriate amounts of funds needed to support the project for the first funding period (usually a year).

For continuing grant program applications, submit these forms before the end of each funding period as required by the grantor agency. Enter in Columns (c) and (d) the estimated amounts of funds which will remain unobligated at the end of the grant funding period only if the Federal grantor agency instructions provide for this. Otherwise, leave these columns blank. Enter in columns (e) and (f) the amounts of funds needed for the upcoming period. The amount(s) in Column (g) should be the sum of amounts in Columns (e) and (f).

For supplemental grants and changes to existing grants, do not use Columns (c) and (d). Enter in Column (e) the amount of the increase or decrease of Federal funds and enter in Column (f) the amount of the increase or decrease of non-Federal funds. In Column (g) enter the new total budgeted amount (Federal and non-Federal) which includes the total previous authorized budgeted amounts plus or minus, as appropriate, the amounts shown in Columns (e) and (f). The amount(s) in Column (g) should not equal the sum of amounts in Columns (e) and (f).

Line 5—Show the totals for all columns used.

Secton 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, fucntion or activity, fill in the total requirements for funds (both Federal and non-Federal) by object class categories.

Lines 6 a–i—Show the totals of Lines 6a to 6h in each column.

Line 6j—Show the amount of indirect cost.

Line 6k—Enter the total of amounts on Lines 6i and 6j. For all applications for new grants and continuation grants the total amount in column (5), Line 6k, should be the same as the total amount shown in Section A, Column (g), Line 5. For supplemental grants and changes to grants, the total amount of the increase or decrease as shown in Columns (1)–(4), Line 6k should be the same as the sum of the amounts in Section A, Columns (e) and (f) on line 5.

Line 7—Enter the estimated amount of income, if any, expected to be generated from this project. Do not add or subtract this amount from the total project amount. Show under the program narrative statement the nature and source of income. The estimated amount of program income may be considered by the federal grantor agency in determining the total amount of the grant.

Section C. Non-Federal-Resources

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.

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 CFR 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 (Pub. 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 (Pub. 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 (Pub. 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 (Pub. 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 founded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a–7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327–333), regarding labor standards for federally assisted construction subagreements.

10. Will comply, if applicable, with flood insurance purchase requirements of section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. 93–234) which requires recipients in a special flood hazard area to participate in the program and to purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with evironmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (Pub. 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, (Pub. L. 93–523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (Pub. 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 Pub. 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 (Pub. 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

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).

U.S. Department of Health and Human Services, Certification Regarding Drug-Free Workplace Requirements, Grantees Who Are 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 the 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 their conduct of grant activity will be drug-free. 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, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

Assurances Required by Section 3514 of the Anti-Drug Abuse Act of 1988

The grantee certifies that, as a condition of the grant, the agency, organization, or individual will meet the following statutory requirements:

(1) provide that such project or activity shall be administered by or under the supervision of the applicant;

(2) provide for the proper and efficient administration of such project or activity;

(3) provide that regular reports on such project or activity shall be submitted to the Office of Human Development Services; and

(4) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this program.

Signature of Authorized Certifying Official

Title

Applicant Organization

Date Submitted

Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public [Federal, State, or local] transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity [Federal, State or local] with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions [Federal, State, or local] terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion—Lower Tier Covered 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.

[FR Doc. 89-8906 Filed 4-13-89; 8:45 am]

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federal register

Friday
April 14, 1989

Part IV

Department of Health and Human Services

Human Development Services Office

Grants and Cooperative Agreements; Availability; Youth Gang Drug Prevention Program; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Program Announcement No.13660-893]

Availability of Fiscal Year 1989 Funds and Request for Applications; Youth Gang Drug Prevention Program

AGENCY: Administration for Children, Youth and Families (ACYF), Office of Human Development Services (OHDS).

ACTION: Announcement of the availability of financial assistance and request for applications for youth gang prevention programs.

SUMMARY: The Family and Youth Services Bureau of the Administration for Children, Youth and Families announces the availability of funds for competing discretionary grants for a new Youth Gang Drug Prevention Program. The purpose of this program is to conduct community based, comprehensive, and coordinated activities to reduce and prevent the involvement of at-risk youth in gangs that engage in illicit drug-related activities.

This announcement describes the grant application process for three priority areas: (A) Establishment of Community-Based Consortia for Addressing Issues Relating to Youth Who Are Members of, or At Risk of Becoming Members of, Gangs Involved in Illicit Drug Use; (B) Development of Single Purpose Youth Gang Prevention, Intervention, and Diversion Programs; and (C) Innovative Support Programs for At-Risk Youth and Their Families in Communities With High Incidence of Gangs Involved in Illicit Drug Use.

DATES: The closing date for receipt of grant applications is June 13, 1989.

ADDRESS: Address applications to: Youth Gang Drug Prevention Program, Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, Room 345-F Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Frank Fuentes, (202) 245-0078.

SUPPLEMENTARY INFORMATION:

Part I: General Information

A. Program Purpose

Section 3501 of Pub. L. 100-690, the Anti-Drug Abuse Act of 1988, established the Drug Education and Prevention Program Relating to Youth Gangs. The specific purposes of the Program are to:

1. Prevent and reduce the participation of youth in the activities of gangs that engage in illicit drug-related activities;

2. Promote the involvement of youth in lawful activities in communities in which such gangs commit drug-related crimes;

3. Prevent the abuse of drugs by youth, educate youth about such abuse, and refer for treatment and rehabilitation members of such gangs who abuse drugs;

4. Support activities of local police departments and other law enforcement agencies related to the conduct of educational outreach activities in communities in which gangs commit drug-related crimes;

5. Inform gang members and their families about the availability of treatment and rehabilitation services for drug abuse;

6. Facilitate Federal and State cooperation with local school officials to assist youth who are likely to participate in gangs that commit drug-related crimes; and

7. Facilitate coordination and cooperation among local education, juvenile justice, employment, and social services agencies, and drug abuse referral, treatment and rehabilitation programs for the purpose of preventing or reducing the participation of youth in activities of gangs that commit drug-related crimes.

The overall purpose of the ACYF discretionary Youth Gang Drug Prevention Program is to assist communities in controlling the spread of gang and drug-related activities through the prevention, early intervention, and diversion of at-risk youth from gang membership, and through the support of activities designed to achieve the purposes of section 3501 of the Act. All applicants under this program announcement must describe in detail how the activities proposed will address these specific purposes.

B. Definitions

For the purposes of this program announcement the following definitions apply:

(1) *Community-based* means located within the community and maintained with community and consumer participation in the planning, operation, and evaluation of its programs.

(2) *Drug* means a beverage containing alcohol; a controlled substance; or a controlled substance analogue.

(3) *Illicit* means unlawful or injurious.

(4) *Public agency* means any State, unit of local government, combination of such States or units, or any agency, department, or instrumentality of any of the foregoing.

(5) *State* any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Trust Territory of the Pacific Islands, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

C. Background

Recent studies by the University of Chicago and others report the existence of youth gangs in every State. The prevalence of gangs and associated illicit drug-related activity is widespread. It is estimated that 300 cities (i.e., 13 percent of all U.S. cities with 10,000 or more inhabitants) are experiencing problems with youth gangs. While smaller cities and suburban areas are experiencing an increase in youth gang activity, the strongest presence is in major population centers (i.e., 83 percent of the largest cities and 27 percent of the cities with 100,000 inhabitants are experiencing the most severe problems).

Associated with the recent increase in youth gang formation is the apparent increase in youth gang violence and involvement in the use and sale of drugs. Definitive national data are not available; however, it is evident that, in the mid-1980's, extensive drug use and sale by gang members is on the increase in cities both large and small. Moreover, police and juvenile justice reports indicate a shift from traditional turf-related gang violence to that associated with the use and sale of illicit drugs. Gang members from large urban areas identify with the interstate drug traffic. Evidence also suggests a franchising effort on the part of long-standing traditional gangs to smaller communities around the country. In many areas this activity has led to the emergence of new youth gangs and associated criminal activity among these youth.

Youth involvement in gangs has gone beyond the traditional reasons of acceptance, protection, and status to include an economic incentive. Experts in the field agree that little is known or understood about gang formation or about effective measures to combat their anti-social behavior. However, it is accepted that concerted and comprehensive efforts are needed at the community and grassroots levels to prevent and reduce the further recruitment and involvement of at-risk youth in gangs. Projects funded under this announcement will support a non-punitive, human service oriented, community response to this problem.

This program announcement focuses on discretionary financial support for projects which address the problems

associated with both the more traditional and the newer, emerging types of gangs. Emphasis is also placed on the coordination of city, county, and State services and systems with those of community-based organizations. This coordination should result in concentrated and sustained efforts in specific geographic areas which include the participation of most, if not all, of the systems and services listed under Purpose #7 of the Program (see Part I, section A).

The anticipated benefits from the combination of public and private non-profit agencies and services will be the establishment of new, improved or expanded services or methods of service delivery. For example, innovative cooperation and information sharing between law enforcement and community-based agencies could produce an early intervention system that effectively involves out-of-school adolescents, their families, and other supports in alternative activities for youth to find acceptance and support in that neighborhood.

In addition, the role of employers and businesses, particularly those which operate within communities experiencing gang problems, as full partners in the proposed activities cannot be overstated. Past experience with programs to increase the self-sufficiency of at-risk youth has proven the need for strong participation by the business sector. This is true not simply for the provision of employment, which in itself is a primary alternative to criminal activity, but also for the leadership and investment that involved employers and businesses can provide in the institutionalization of these activities.

The Federal government is currently supporting numerous activities to prevent substance abuse and delinquency among at-risk youth. The Office of Substance Abuse Prevention (OSAP), Department of Health and Human Services, and the Office of Juvenile Justice and Delinquency Prevention (OJJDP), Department of Justice, are sources of information for such activities at the community level. In order to reduce potential duplication, HDS encourages applicants to coordinate their proposed activities with projects in their communities which are supported by these organizations. This collaboration is particularly encouraged in activities to address Purposes #3 and #5 of the Program (see Part I, Section A). Information regarding OSAP and OJJDP supported projects may be obtained by contacting:

Elaine Johnson, Ph.D, Director, Division of Prevention Implementation, Office of Substance Abuse Prevention, Room 9A–40, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 468–2600; and
Mr. Terrence Donahue, Director, Special Emphasis Division, *or*
Ms. Pamela Swain, Director, Research and Program Development
Office of Juvenile Justice and Delinquency Prevention, Room 780, 633 Indiana Avenue SW., Washington, DC 20531, (301) 251–5331.

D. Eligibility

Any public or non-profit private agency, organization (including community based organizations with demonstrated experience in this field), institution or other non-profit entity (including individuals) is eligible to apply. Non-profit applicants who have not previously received support from the Office of Human Development Services must submit proof of non-profit status with their grant application. This can be done either by making reference to its listing in the Internal Revenue Service's (IRS) most recent list of tax-exempt organizations or by submitting a copy of its letter from IRS [IRS Code sections 501(C)(3) and 501(C)(6)]. Non-profit applicants cannot be funded without acceptable proof of this status.

Although *for*-profit entities do not qualify as applicants under this grant announcement, they may participate as contractors under grants to eligible non-profit applicants.

As required by section 3503 of the Anti-Drug Abuse Act, priority will be given to applicants from geographic areas in which frequent and severe drug-related crimes are committed by gangs and law-breaking groups whose membership is composed primarily of youth, and to applicants who demonstrate broad support of community-based organizations in such geographic areas.

We realize that attempting to obtain definitive data regarding the geographic distribution of youth gang activities is a difficult issue. In order to carry out the mandate of section 3503 of the Anti-Drug Abuse Act, we will consult with the Office of Juvenile Justice and Delinquency Prevention, which can provide the best source of information at the present time. We will also consider the detailed discussion of emerging or current youth gang problems that should be provided by the applicant in the "Objectives and Need" section of the program narrative (see Part III, section A).

All applicants must demonstrate a willingness to cooperate with a third party evaluation contractor to be funded by the Administration for Children, Youth and Families (ACYF) which will conduct assessments of their program and service delivery models. Such cooperation will involve periodically furnishing needed financial, service provision, and process-oriented data as required by the evaluation contractor and allowing the contractor reasonable access to obtain youth and family impact information. All data collected by participating programs and by the contractor will be kept confidential and restricted to the stated purposes of the program.

As a condition of any grant awarded under this announcement, each applicant must certify compliance with the application requirements of section 3502(b) of the Anti-Drug Abuse Act by signing the assurance form included in the application package (see Appendix II).

E. Applicant Share of Project Costs

Applicants must contribute at least 25 percent ($1 for every $3 of Federal funding) of the total cost of the project. For example: an applicant who applies for $150,000 in Federal funding must provide $50,000 toward the project, with a total project cost of $200,000. The applicant share of project costs may be made in either cash or third party in-kind contributions, secured from non-Federal sources. ACYF encourages applicants to propose grantee shares which will be met in cash, as opposed to in-kind, contributions.

The Federal share of project costs are specified in the respective priority area descriptions in Part II of this announcement.

Part II: Priority Area Descriptions and Minimum Requirements for Project Design

A. Establishment of Community-Based Consortia for Addressing Issues Relating to Youth Who Are Members of, or At-Risk of Becoming Members of, Gangs Involved in Illicit Drug Use

Purpose: Increased efforts are needed at the community level to focus concentrated attention on, and to develop comprehensive and coordinated approaches to, the current and emerging problems of youth gangs and their involvement with illicit drugs. Broad-based partnerships which draw upon the resources, expertise, energies, commitment and ideas of many different groups and individuals are needed to undertake concerted efforts at the community level to prevent and divert children and youth from becoming members of these gangs and to

intervene in the lives of youth who are already involved. The ages of this target population may range from 4 to 18 years. However, greater emphasis should be placed on prevention and early intervention with junior hign school youth, ages 11 through 14.

Approximately 10 to 40 grants will be awarded under this priority area to support the development of community-based consortia which will spearhead the conduct of innovative, comprehensive approaches to this problem through the implementation of projects and activities in support of the purposes identified in Section 3501 of the Anti-Drug Abuse Act of 1988 (see Part I, Section A). There are no limitations on the number of different consortia that may submit an application within a single geographic area.

Under this priority area, the applicant, in addition to being a fully participating member of a community-based consortium, must demonstrate the capacity to assume leadership responsibility for coordinating the activities of and disbursing funds to the other members. For this purpose, a community-based consortium is defined as a formal partnership among at least three city, county, town, neighborhood, or other local level organizations and/or individuals that have the capacity to generate sustained, collaborative community-wide commitment and support for strategies which address the issues of youth gangs. Membership in these consortia should represent community-based organizations and local social service, employment, school and juvenile justice agencies. Where it is not possible to include local social service, employment, school and/or juvenile justice agencies in the consortium membership, the applicant must at least establish a mechanism to promote coordination and dialogue with these agencies. Depending upon the type of activities to be carried out, the organizations represented by the consortium may include, but are not limited to, the following types of public and private sector organizations: voluntary agencies, law enforcement agencies, local government agencies, recreational agencies, youth organizations, businesses, churches, foundations, medical facilities, and colleges.

The types of initiatives to be funded under this priority area will vary, depending on the size, demographic make-up, and need of each community. All applications, however, should focus attention on new ways of approaching this problem and innovative partnerships that can be established to promote and support community ownership of and involvement in reducing the presence of gangs in their neighborhood. For example:

- Organizing creative alternatives to youth gang activities;
- Linking current and potential youth gang members with conventional types of organizations or activities within the community;
- Involving former gang members in consortium activities;
- Increasing or improving direct services to this target population by designing new methods for breaking down barriers to cross-cutting service delivery systems, including new and innovative involvement of law enforcement agencies;
- Providing special opportunities to encourage at-risk youth to remain in school and dropouts to return to the school setting;
- Providing cross-cutting training and skill development opportunities to juvenile justice, education, employment and social service personnel;
- Employing comprehensive case management approaches to dealing with families and youth who are at risk of gang involvement;
- Diverting young or first time juvenile offenders from detention/incarceration experiences to community restitution and/or diversion programs and activities;
- Involving and empowering all youth, parents, families and individuals in community activities designed to change the environmental factors which promote youth gang involvement; and
- Involving non-traditional groups and approaches to work with youth, families and communities.

Duration of Project: Not to exceed 24 months, with second year continuation dependent upon availability of funds and satisfactory performance by the grantee.

Federal Share of Project Costs: Total Federal funding for any consortium may range from $250,000 to $1,000,000 per year depending on the size of the geographic area, target population, and level of effort. Up to 10 percent of the funds may be designated by the applicant for coordination of consortium activities.

Minimum Requirements for Project Design: All eligible applications will be reviewed, evaluated and competitively scored against the criteria outlined in Part III of this announcement. In addition, each applicant must ensure that the following information is included in the program narrative in order to successfully compete under this priority area. The evaluation criteria (See Part III of announcement) to which each of these requirements applies is identified within the brackets. To insure maximum assignment of points during the review process, the applicant's response to each requirement must be fully developed under the appropriate program narrative section.

—Identification of the specific purposes of the Anti-Drug Abuse Act that will be addressed by the consortium (see Part I, section A.). [OBJECTIVES/NEED]

—Detailed discussion of emerging or current youth gang problems and issues in target community, including data on the number, age, gender, ethnic background, and drug related gang activity (if available) of the youth and families to be served. [OBJECTIVES/NEED]

—Description of what makes the proposal innovative—how it builds upon the existing service delivery systems; expands service delivery capabilities; and/or differs from current services available within the community. [OBJECTIVES/NEED]

—Evidence that proposed activities are appropriate for the targeted population. [RESULTS/BENEFITS]

—Description of any products that will be developed by the project to facilitate duplication and utilization of model(s) in other communities. [RESULTS/BENEFITS]

—Description of organizational structure of consortium; mechanism established for disbursement of funds to each member within 30 days of receipt of award; identification of overall leadership, guidance, decision-making, and fund-raising authorities for consortium membership; provisions for insuring coordination of consortium activities. [APPROACH]

—Detailed description of proposed intervention, prevention, diversion, education, youth involvement, treatment referral, outreach strategies and community-based collaboration and coordination efforts that will be carried out by the consortium. [APPROACH]

—Detailed description of commitments and responsibilities of each consortium member, including a description of services to be provided and method of delivery by each, with organizational capability for providing these services. [APPROACH]

—Detailed outline of budget requirements for the project activities of each consortium member. [APPROACH]

—Detailed plan showing how the consortium will generate the financial, programmatic, political and other types of support and commitments that will be

required for its continued operation beyond the period of Federal support. [APPROACH]

—Copy of an agreement signed by heads of all consortium members, which includes, at a minimum, a summary of the responsibilities of each member of the consortium, the total amount of funds to be disbursed to each member, and the period of time covered by the agreement. [APPROACH]

—Outline of an evaluation strategy that will be used to determine the effectiveness of consortium activities. Components of the evaluation strategy should include an evaluation design, measures of program/policy changes, descriptions of service systems, training, demographics of the target population, measure of program impact, and data collection procedures. [APPROACH]

—If not a member of the proposed consortium, a letter of endorsement or support from a leadership or policy-making official appropriate to the geographic area to be served by the applicant, specifying the type of direct involvement that the official will have with the project. [ATTACHMENT]

B. Development of Single Purpose Youth Gang Prevention, Intervention and Diversion Programs

Purpose: Approximately 10 to 20 grants will be awarded under this priority area to provide opportunities for individual service and support providers to carry out activities and projects in support of *one* of the purposes identified in section 3501 of the Anti-Drug Abuse Act of 1988 (see Part I, section A). Because the purposes identified in the Act are closely related, it is recognized that applicants may undertake activities that will impact more than one purpose. However, for this particular priority area, the seven purposes identified in the Act will be considered as separate and distinct sub-categories. Each application submitted under this priority area must identify the primary purpose (or sub-category) that will be addressed, and under which the applicant will compete for funding with other applicants who have identified the same primary purpose. All aspects of the primary purpose and any related purpose(s) that the applicant proposes to address must be fully developed within the application, since the review criteria (see Part III of this announcement) will be applied to the entire proposal.

These activities may be community-based, State-wide, or national in scope. The ages of the children and youth targeted by this priority area may range from 4 to 18 years. However, prevention and diversion efforts should particularly focus on junior high school youth, ages 11 through 14, who are most immediately at risk of recruitment into gangs. Although coordination among service and support providers is always encouraged, applicants are not required to establish formal partnerships with other organizations in order to successfully compete under this priority area.

In carrying out the purposes identified in section 3501 of the Anti-Drug Abuse Act, emphasis may be placed on developing and implementing pilot programs or on expanding or improving current programs in these areas. Components of the selected activity may include, but are not limited to, one or more of the following: peer counseling, family education, youth empowerment, mentorships, crisis intervention, community restitution projects, alternative recreational, educational, and/or employment opportunities for youth at risk of gang involvement, and ethnic/cultural considerations.

Duration of Project: Not to exceed a 17-month project period, with the possibility of a non-competing continuation of 12 months, based on availability of funds and satisfactory performance by the grantee.

Federal Share of Project Costs: Up to $150,000 for the initial project period.

Minimum Requirements for Project Design: All eligible applications will be reviewed, evaluated and competitively scored against the criteria outlined in Part III of this announcement. In addition, each applicant must ensure that the following information is included in the program narrative in order to successfully compete under this priority area. The evaluation criteria (see Part III of announcement) to which each of these requirements applies is identified within the brackets. To insure maximum assignment of points during the review process, the applicant's response to each requirement must be fully developed under the appropriate program narrative section.

—Identification of the primary purpose identified in section 3501 of the Act that is being addressed by the proposal. The primary purpose must be identified by placing the appropriate number of the purpose (see Part I, section A of this announcement for a listing of the seven purposes of the Act) in Block 11 of the Standard Form 424. [OBJECTIVES/NEED]

—Detailed discussion of emerging or current youth gang problems and issues in target community, including data on the number, age, gender, ethnic/cultural background, and drug related gang activity (if available) of the youth and families to be served. [OBJECTIVES/NEED]

—Description of what makes the proposal innovative—how it builds upon the existing service delivery systems; expands service delivery capabilities; and/or differs from current services available within the community. [OBJECTIVES/NEED]

—Evidence that proposed activity is appropriate for the targeted population. [RESULTS/BENEFITS]

—Evidence that the project will generate the financial, programmatic, political and other types of support and commitments that will be required for its continued operation beyond the period of Federal support. [RESULTS/BENEFITS]

—Description of products that could be used, if project is successful, to facilitate duplication of model(s) by other service and support providers. [RESULTS/BENEFITS]

—Detailed description of proposed intervention, prevention, diversion, education, youth involvement, treatment referral, and outreach efforts that will be carried out by the applicant, with organizational capability for providing these services. [APPROACH]

—Description of evaluation plans and procedures that will be used to measure the degree to which the project objectives have been accomplished. [APPROACH]

—Letter of endorsement or support from a leadership or policy-making official appropriate to the geographic area to be served by the applicant, specifying any type of direct involvement that the official will have with the project. [ATTACHMENT]

C. Innovative Support Programs for At-Risk Youth and Their Families in Communities With High Incidence of Gangs Involved in Illicit Drug Use

Purpose: Five to ten grants will be awarded under this priority area to encourage the development and implementation of model projects which examine the role of the family in youth gang early intervention/prevention activities. Grants will be awarded for activities which focus on family education, empowerment, and involvement strategies in support of the purposes identified in section 3501 of the Anti-Drug Abuse Act of 1988 (see Part I, section A). The ages of the children and youth targeted by this priority area range from birth to early adolescence, particularly junior high school youth, ages 11 through 14.

In developing these family support projects, applicants are encouraged to consider collaborative efforts with

agencies and individuals currently providing support services to at-risk families, e.g., Head Start and child development programs, school systems, child abuse and neglect programs, family violence programs, surrogate parenting programs.

Components of these family support projects may focus on issues such as family substance abuse, reliance of the family on youth drug-related income, child care practices (especially latch key children), different types of family structures, family rituals, ethnic/cultural differences, lack of family communication, barriers to fulfillment of parental roles, families in crisis, parental education and skill development, and impact of sibling or other family member involvement in gang activities.

A particular focus of this priority area is female gang membership. Observations by researchers and service providers indicate that girls are at risk of more severe and life long negative impact than are boys. In traditional gangs, it is not uncommon to find a female member whose mother was herself a member of the same gang. Family dysfunction and community alienation may be causal factors. Support will be given to projects which identify and work with these youth and their families to prevent and divert girls from gang involvement and interrupt the cycle of gang participation.

Duration of Project: Not to exceed a 17-month project period, with the possibility of a non-competing continuation of 12 months, based on availability of funds and satisfactory performance by the grantee.

Federal Share of Project Costs: Up to $200,000 for the initial project period.

Minimum Requirements for Project Design: All eligible applications will be reviewed, evaluated and competitively scored against the criteria outlined in Part III of this announcement. In addition, each applicant must ensure that the following information is included in the program narrative in order to successfully compete under this priority area. The evaluation criteria (see Part III of announcement) to which each of these requirements applies is identified within the brackets. To insure maximum assignment of points during the review process, the applicant's response to each requirement must be fully developed under the appropriate program narrative section.

—Detailed discussion of emerging or current youth gang problems and issues in target community, including data on the number, age, gender, ethnic/cultural background, family demographics and dynamics, and drug related gang activity (if available) of the youth and families to be served. [OBJECTIVES/NEED]

—Description of what makes the proposal innovative—how it builds upon the existing service delivery systems; expands service delivery capabilities; and/or differs from current services available within the community. [OBJECTIVES/NEED]

—Evidence that proposed activity is appropriate for the targeted population. [RESULTS/BENEFITS]

—Evidence that the project will generate the financial, programmatic, political and other types of support and commitments that will be required for its continued operation beyond the period of Federal support. [RESULTS/BENEFITS]

—Description of products that could be used, if project is successful, to facilitate duplication of model(s) by other service and support providers. [RESULTS/BENEFITS]

—Detailed description of proposed intervention, prevention, diversion, education, youth involvement, treatment referral, and outreach efforts that will be carried out by the applicant, with organizational capability for providing these services. [APPROACH]

—Description of evaluation plans and procedures that will be used to measure the degree to which the project objectives have been accomplished. [APPROACH]

—Letter of endorsement or support from a leadership or policy-making official appropriate to the geographic area to be served by the applicant, specifying any type of direct involvement that the official will have with the project. [ATTACHMENT]

Part III: Criteria for Review and Evaluation of Applications

An application must meet all eligibility requirements specific to the priority area under which it is being submitted. This includes eligibility of the applicant, duration of the project, maximum Federal funding, 25 percent minimum applicant share, and responsiveness to the purpose and minimum requirements of the priority area. Applications which meet eligibility requirements will be evaluated by a panel of at least three experts who will comment on and score the applications, based on the four criteria listed below.

To ensure maximum score for each criterion, it is imperative that the program narrative section of the application clearly addresses each of the following four areas, incorporating responses to the minimum requirements identified under the applicable priority area in Part II of this announcement:

A. Objectives and Need for Assistance (25 Points)

Pinpoint any relevant physical, economic, social, financial, institutional, or other problems requiring a solution in the geographic areas that the project is proposed to serve. Give a precise location of the project and area to be served by the proposed project (maps or other graphic aids may be attached). Demonstrate the need for the project and state the principal and subordinate objectives of the project. Supporting documentation or other testimonies from concerned interests other than the applicant may be used.

B. Results or Benefits Expected (20 Points)

Identify results and benefits to be derived. The anticipated contribution to policy, practice, theory and/or research should be indicated.

C. Approach (35 Points)

Outline a plan of action pertaining to the scope and detail how the proposed work will be accomplished. Cite factors which might accelerate or decelerate the work and the reasons for taking this approach as opposed to others. Describe any unusual features of the project, such as design or technological innovations, reductions in cost or time, or extraordinary social and community involvements. Provide for each assistance program quantitative projections of the accomplishments to be achieved, if possible. List the activities to be carried out in chronological order to show the schedule of accomplishments and their target dates (GANTT or PERT charts may be used for this purpose). Identify the kinds of data to be collected and maintained, and discuss the criteria to be used to evaluate the results and success of the project. Explain the methodology that will be used to determine if the needs identified and discussed are being met and if the results and benefits identified are being achieved. List each organization, cooperator, consultant, or other key individuals who will work on the project along with a short description of the nature of their effort or contribution. Describe the relationship between this project and other work planned, anticipated, or underway under Federal assistance.

D. Staff Background and Experience (20 Points)

Present a biographical sketch of the proposed program director with the following information: name, address, telephone number, background, and

other qualifying experience for the project. Also, list the name, educational background, work experience, and training of other proposed key personnel. Provide a brief description of the applicant's organizational experience relating to youth gangs.

Part IV: The Application Process

A. Availability of Forms

All the forms and instructions needed for submitting an application under this announcement are included for your convenience under Appendix II. Single sided copies of these forms should be reproduced and used to prepare the application package.

A complete application consists of:

1. Standard Form 424: Application for Federal Assistance;

2. Standard Form 424A: Budget Information;

3. Assurances:

(a) Standard Form 424B: Non-Construction Programs;

(b) Drug Free Workplace Assurances; and

(c) Other Statutory Assurances.

4. Program Narrative: A narrative description of the project, organized under headings which address the four evaluation criteria identified in Part III: (A) objectives and need for assistance; (B) results or benefits expected; (C) approach; and (D) staff background and experience. The applicant must respond to the minimum requirements identified in Part II of this announcement under the appropriate criteria headings in the program narrative. The program narrative must be typed, double-spaced, on 8 1/2 x 11 inch bond paper. All pages of the narrative (including charts, tables, maps, etc.) must be sequentially numbered, beginning with the "Objective and Need for Assistance" section as page number one. The narrative should not exceed the appropriate number of pages identified below:

Priority Area A: 50 double-spaced pages
Priority Area B: 25 double-spaced pages
Priority Area C: 25 double-spaced pages

5. Project Abstract: Brief (approximately 100 word) description of project, typed on 8 1/2 x 11 inch bond paper.

6. Appendices/Attachments: Letters of commitment and support; exhibits; etc.; not to exceed 10 pages.

B. Application Submission

The application must be signed by an official authorized to act on behalf of the applicant agency, organization, institution, or other entity and to assume responsibility for the obligations imposed by the terms and conditions of the grant award.

Applications must be prepared in accordance with the guidance provided in this announcement and the instructions in the attached application package.

One signed original and two copies of the application, including all attachments, are required.

The priority area (see Part II) under which the application is being submitted must be clearly identified in Block 11 of Standard Form 424.

Completed applications must be sent to: Youth Gang Drug Prevention Program, Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, Room 345–F Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. Hand delivered applications will be accepted at the OHDS Grants and Contracts Management Division office during the normal working hours of 8:30 a.m. to 5:00 p.m., Monday through Friday.

C. Closing Date for the Submission of Applications

The closing date for the submission of applications under this announcement is June 13, 1989.

D. Deadlines for Submission of Applications

1. *Deadlines.* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date at the address specified in the application submission section of this announcement; or

b. Sent on or before the deadline date and received by the granting agency in time for the independent review under Chapter 1–62 of HHS Transmittal 86.01 (4/30/86). Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

2. *Late Applications.* Applications which do not meet the criteria in the above paragraphs are considered late applications. The granting agency shall notify each late applicant that its application will not be considered in the current competition.

3. *Extension of Deadline.* ACYF may extend the deadline for all applicants because of acts of God such as floods, hurricanes, etc., or when there is widespread disruption of the mails. However, if ACYF does not extend the deadline for all applicants, it may not waive or extend the deadline for any applicant.

(Catalog of Federal Domestic Assistance Program Number 13.660, Drug Abuse Education and Prevention Relating to Youth Gangs)

E. Screening of Applications: All applications will be initially screened to determine conformance with the following requirements:

(1) Deadline for submittal;
(2) Appropriate number of pages;
(3) Identification of priority area;
(4) Signature of authorizing official; and
(5) Federal funding requests not exceeding the limitations set by the priority area.

These preliminary screening requirements will be rigorously enforced. Applications which do not meet these requirements will not be considered in the competition and the applicant will be so informed.

F. Application Consideration

Applications meeting the above screening requirements will be submitted to a panel for review and competitive scoring against the criteria outlined in Part III of this announcement. The review will be conducted in Washington, DC. Reviewers will be persons knowledgeable about issues relating to youth gang behavior and illicit drug use.

The results of the competitive review will be taken into consideration by the Associate Commissioner, Family and Youth Services Bureau, who will recommend programs to be funded to the Commissioner of ACYF. The Commissioner of ACYF will make the final selections. Applicants may be funded in whole or in part. Consideration will also be given to ensuring that a variety of geographic areas are served, that projects with different auspices are selected, and that various project designs and models are represented.

Successful applicants will be notified through the issuance of a Financial Assistance Award. The award will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the grant, the total project period, the budget period, and the amount of the non-Federal matching share.

G. Paperwork Reduction Act of 1980

Under the Paperwork Reduction Act of 1980, Pub. L. 96–511, the Department

is required to submit to OMB for review and approval any reporting and record keeping requirements and regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved by OMB.

H. Executive Order 12372—Notification Process

This program is covered under Executive Order (E.O.) 12372, "Intergovernmental Review of Federal Program," and 45 CFR Part 100, "Intergovernmental Review of Department of Health and Human Services Programs and Activities." Under the Order, States may design their own processes for reviewing and commenting on proposed Federal assistance under covered programs. All States and territories except Alaska, Idaho, Kansas, Minnesota, Nebraska, American Samoa, and Palau have elected to participate in the Executive Order process and have established Single Points of Contact (SPOCs). Applicants from these seven areas need take no action regarding E.O. 12372. Applications for projects to be administered by Federally-recognized Indian Tribes are also exempt from the requirements of E.O. 12372.

Otherwise, applicants should contact their SPOC as soon as possible to alert them of the prospective application and receive any necessary instructions. Applicants must submit any required material to the SPOC as early as possible so that the program office can obtain and review SPOC comments as part of the award process. It is imperative that the applicant submit all required materials, if any, to the SPOC and indicate the date of this submittal (or date of contact if no submittal is required) on the SF 424, Block 16a. OHDS will notify the State of any applicant who fails to indicate SPOC contact (when required) on the application form.

SPOCs have 60 days from the grant application deadline date to comment on applications for financial assistance under this program. SPOCs are encouraged to eliminate the submission of routine endorsements as official recommendations. Additionally, SPOCs are requested to differentiate clearly between mere advisory comments and those official State process recommendations which they intend to trigger the "accommodate or explain" rule.

When comments are submitted directly to OHDS, they should be addressed to: Youth Gang Drug Prevention Program, Department of Health and Human Services, Office of Human Development Services, Grants and Contracts Management Division, Room 345–F, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201. A list of single points of contact for each State and territory is included in Appendix I of this announcement.

Dated: March 3, 1989.

Dodie Truman Borup,

Commissioner, Administration for Children, Youth and Families.

Approved: March 22, 1989.

Sydney Olson,

Assistant Secretary for Human Development Services.

Appendix I

Executive Order 12372—State Single Points of Contact

Alabama

Mrs. Donna J. Snowden, SPOC, Alabama State Clearinghouse, Alabama Department of Economic and Community Affairs, 3465 Norman Bridge Road, Post Office Box 2939, Montgomery, Alabama 36105–0939, Tel. (205) 284–8905

Alaska

None

Arizona

Janice Dunn, Arizona State Clearinghouse, Department of Commerce, State of Arizona, 1700 West Washington, Fourth Floor, Phoenix, Arizona 85007, Tel. (602) 255–5004

Arkansas

Joe Gillesbie, Manager, State Clearinghouse, Office of Intergovernmental Services, Department of Finance and Administration, P.O. Box 3278, Little Rock, Arkansas 72203, Tel. (501) 371–1074

California

Glenn Stober, Grants Coordinator, Office of Planning and Research, 1400 Tenth Street, Sacramento, California 95814, Tel. (916) 323–7480

Colorado

State Single Point of Contact, State Clearinghouse, Division of Local Government, 1313 Sherman Street, Rm. 520, Denver, Colorado 80203, Tel. (303) 866–2156

Connecticut

Under Secretary, Attn: Intergovernmental Review, Coordinator, Comprehensive Planning Division, Office of Policy and Management, Hartford, Connecticut 06106–4459, Tel. (203) 566–3410

Delaware

Francine Booth, State Single Point of Contact, Executive Department, Thomas Collins Building, Dover, Delaware 19903, Tel. (302) 736–4204

District of Columbia

Lovetta Davis, State Single Point of Contact, Executive Office of the Mayor, Office of Intergovernmental Relations, Rm. 416, District Building, 1350 Pennsylvania Avenue NW., Washington, DC 20004, Tel. (202) 727–9111

Florida

George H. Meier, Director of Intergovernmental Coordination, State Single Point of Contact, Executive Office of the Governor, Office of Planning and Budgeting, The Capitol, Tallahassee, Florida 32301, Tel. (904) 488–8114

Georgia

Charles H. Badger, Administrator, Georgia State Clearinghouse, 270 Washington Street, SW.—Room 608, Atlanta, Georgia 30334, Tel. (404) 656–3855

Hawaii

Harold S. Masumoto, Acting Director, Office of State Planning, Department of Planning and Economic Development, Office of the Governor, Honolulu, Hawaii 96813, Tel. (808) 548–3016 or 548–3085

Idaho

None

Illinois

Tom Berkshire, Office of the Governor, State of Illinois, Springfield, Illinois 62706, Tel. (217) 782–8639

Indiana

Ms. Peggy Boehm, Deputy Director, State Budget Agency, 212 State House, Indianapolis, Indiana 46204, Tel. (317) 232–5604

Iowa

Stephen R. McCann, Division of Community Progress, Iowa Dept. of Economic Development, Division of Community Progress, 200 East Grand Avenue, Tel. (515) 281–3725

Kansas

None

Kentucky

Robert Leonard, State Single Point of Contact, Kentucky State

Clearinghouse, 2nd Floor, Capital Plaza Tower, Frankfort, KY 40601, Tel. (502) 564–2382

Louisiana

Colby S. La Place, Assistant Secretary, Department of Urban & Community Affairs, Office of State Clearinghouse, P.O. Box 94455; Capitol Station, Baton Rouge, Louisiana 70804, Tel. (504) 342–9790

Maine

State Single Point of Contact, Attn: Joyce Benson, State Planning Office, State House Station #38, Augusta, Maine 04333, Tel. (207) 289–3161

Maryland

Guy W. Hager, Director, Maryland State Clearinghouse, Department of State Planning, 301 West Preston Street, Baltimore, Maryland 21201–2365, Tel. (301) 225–4490

Massachusetts

State Single Point of Contact, Attn: Beverly Boyle, Executive Office of Communities and Development, 100 Cambridge Street, Rm. 904, Boston, Massachusetts 02202, Tel. (617) 727–3253

Michigan

Michelyn Pasteur, Deputy Director, Local Development Services, Department of Commerce, P.O. Box 30225, Lansing, Michigan 48909, Tel. (517) 373–1838

Note: Please direct correspondance and questions to: Manager Federal Project Review System, 6500 Mercantile Way, Suite 2, Lansing, MI 48911, (517) 334–6190

Minnesota

None

Mississippi

Marlan Baucum, Office of Federal State Programs, Department of Planning and Policy, 2000 Walter Sillers Bldg., 500 High Street, Jackson, Mississippi 39202, Tel. (601) 359–3150

Missouri

Lois Pohl, Federal Assistance Clearinghouse, Office of Administration, Division of General Services, P.O. Box 809—Room 460, Truman Building, Jefferson City, MO 65102, Tel. (314) 751–4834

Montana

Deborah Davis, State Single Point of Contact, Intergovernmental Review Clearinghouse, c/o Office of the Lieutenant Governor, Capitol Station, Room 210—State Capitol, Helena, MT 59620, Tel. (406) 444–5522

Nebraska

None

Nevada

Ms. Jean Ford, Director, Nevada Office of Community Services, Capitol Complex, Carson City, Nevada 89710, Tel. (702) 885–4420

Note: Please direct correspondence and questions to: John Walker, Clearinghouse Coordinator, Tel. (702) 885–4420

New Hampshire

John E. Dabuliewicz, Director, New Hampshire Office of State Planning, Attn: Intergovernmental Review Process, 2½ Beacon Street, Concord, New Hampshire 03301, Tel. (603) 271–2155

New Jersey

Mr. Barry Skokowski, Director, Division of Local Government Services, Department of Community Affairs, CN 803, 363 West State Street, Trenton, New Jersey 08625–0803, Tel. (609) 292–6613

Note: Please direct correspondence and questions to: Nelson S. Silver, State Review Process, Division of Local Government Services, CN 803, Trenton, New Jersey 08625–0803, Tel. (609) 292–9025

New Mexico

Dean Olson, Director, Management and Program Analysis Division, Department of Finance and Administration, Room 424, State Capitol Building, Santa Fe, New Mexico 87503, Tel. (505) 827–3885

New York

New York State Clearinghouse, Division of the Budget, State Capitol, Albany, NY 12224, (518) 474–1605

North Carolina

Mrs. Chrys Baggett, Director, Intergovernmental Relations, North Carolina Department of Administration, 116 West Jones Street, Raleigh, North Carolina 27611, Tel. (919) 733–0499

North Dakota

William Robinson, State Single Point of Contact, Office of Intergovernmental Affairs, Office of Management and Budget, 14th Floor, State Capitol, Bismarck, North Dakota 58505, Tel. (701) 224–2094

Ohio

Larry Weaver, State Single Point of Contact, State/Federal Funds Coordinator, State Clearinghouse, Office of Budget and Management, 30 East Broad Street, Columbus, OH 43266–0411, Tel. (614) 466–0698

Note: Please direct correspondence and questions to: Linda E. Wise

Oklahoma

Don Strain, State Single Point of Contact, Oklahoma Department of Commerce, Office of Federal Assistance Management, 6601 Broadway Extension, Oklahoma City, Oklahoma 73116, Tel. (405) 843–9770

Oregon

Attn: Delores Streete, State Single Point of Contact, Intergovernmental Relations, Division State Clearinghouse, 155 Cottage Street NE., Salem, OR 97310, (503) 373–1998

Pennsylvania

Laine A. Heltebridle, Special Assistant, Pennsylvania Intergovernmental Council, P.O. Box 11880, Harrisburg, Pennsylvania 17108, Tel. (717) 783–3700

Rhode Island

Daniel W. Varin, Associate Director, Statewide Planning Program, Department of Administration, Division of Planning, 265 Melrose Street, Providence, Rhode Island 02907, Tel. (401) 277–2656

Note: Please direct correspondence and questions to: Review Coordinator, Office of Strategic Planning

South Carolina

Danny L. Cromer, State Single Point of Contact, Grant Services, Office of the Governor, 1205 Pendleton Street, Rm. 477, Columbia, South Carolina 29201, Tel. (803) 734–0435

South Dakota

Susan Comer, State Clearinghouse Coordinator, Office of the Governor, 500 East Capitol, Pierre, South Dakota 57501, Tel. (605) 773–3212

Tennessee

Charles Brown, State Single Point of Contact, State Planning Office, 500 Charlotte Avenue, 309 John Sevier Building, Nashville, Tennessee 37219, Tel. (615) 741–1676

Texas

Thomas C. Adams, Office of the Budget and Planning, Office of the Governor, P.O. Box 12427, Austin, Texas 78711, Tel. (512) 463–1778

Utah

Dale Hatch, Director, Office of Planning and Budget, State of Utah, 116 State Capitol Building, Salt Lake City, Utah 84114, Tel. (801) 533-5245

Vermont

Bernard D. Johnson, Assistant Director, Office of Policy Research and Coordination, Pavilion Office Building, 109 State Street, Montpelier, Vermont 05602, Tel. (802) 828–3326

Virginia

Nancy Miller, Intergovernmental Affairs Review Officer, Department of Housing and Community Development, 205 North 4th Street, Richmond, Virginia 23219, Tel. (804) 786–4474

Washington

Catherine Townley, Coordinator, Intergovernmental Review Process, Department of Community Development, Ninth and Columbia Building, Olympia, Washington 98504–4151, Tel. (206) 753–4978

West Virginia

Mr. Fred Cutlip, Director, Community Development Division, Governor's Office of Community, and Industrial Development, Building #6, Rm. 553, Charleston, West Virginia 25305, Tel. (304) 348–4010

Wisconsin

James R. Krauser, Secretary, Wisconsin Department of Administration, 101 South Webster—CEF 2, P.O. Box 7864, Madison, Wisconsin 53707–7864, Tel. (608) 266–1741

Note: Please direct correspondence and questions to: Thomas Krauskopf, Federal-State Relations Coordinator, Wisconsin Department of Administration

Wyoming

Ann Redman, State Single Point of Contact, Wyoming State Clearinghouse, State Planning Coordinator's Office, Capitol Building, Cheyenne, Wyoming 82002, Tel. (307) 777–7574

American Samoa

None

Guam

Michael J. Reidy, Director, Bureau of Budget and Management Research, Office of the Governor, P.O. Box 2950, Agana, GU 96910, (671) 472–2285

Northern Mariana Islands

State Single Point of Contact, Planning and Budget Office, Office of the Governor, Saipan, CM Northern, Mariana Islands 96950

Palau

None

Puerto Rico

Ms. Patricia G. Custodio/Isael Soto Marrero, Chairman/Director, Minillas Government Center, P.O. Box 41119, San Juan, Puerto Rico 00940–9985, Tel. (809) 727–4444

Virgin Islands

Jose L. George, Director, Office of Management and Budget, No. 32 and 33 Kongens Gade, Charlotte Amalle, VI 00802, (809) 774–0750

BILLING CODE 4130-01-M

AT II

OMB Approval No 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

2 DATE SUBMITTED	Applicant Identifier
3 DATE RECEIVED BY STATE	State Application Identifier
4 DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

1 TYPE OF SUBMISSION

Application: ☐ Construction ☐ Non-Construction

Preapplication: ☐ Construction ☐ Non-Construction

5 APPLICANT INFORMATION

Legal Name | Organizational Unit

Address (give city, county, state, and zip code) | Name and telephone number of the person to be contacted on matters involving this application (give area code)

6 EMPLOYER IDENTIFICATION NUMBER (EIN):

7 TYPE OF APPLICANT (enter appropriate letter in box) ☐

A State H Independent School Dist
B County I State Controlled Institution of Higher Learning
C Municipal J Private University
D Township K Indian Tribe
E Interstate L Individual
F Intermunicipal M Profit Organization
G Special District 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: 1 3 . 6 6 0

TITLE: Drug Prevention and Education for Youth Gangs

11 DESCRIPTIVE TITLE OF APPLICANT'S PROJECT

Priority Area: _____

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.
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.)

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
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OMB Approval No. 0348-0044

BUDGET INFORMATION — Non-Construction Programs

SECTION A – BUDGET SUMMARY

Grant Program Function or Activity (a)	Catalog of Federal Domestic Assistance Number (b)	Estimated Unobligated Funds		New or Revised Budget		
		Federal (c)	Non-Federal (d)	Federal (e)	Non-Federal (f)	Total (g)
1.		$	$	$	$	$
2.						
3.						
4.						
5. TOTALS		$	$	$	$	$

SECTION B – BUDGET CATEGORIES

6 Object Class Categories	GRANT PROGRAM, FUNCTION OR ACTIVITY (1)	(2)	(3)	(4)	Total (5)
a. Personnel	$	$	$	$	$
b. Fringe Benefits					
c. Travel					
d. Equipment					
e. Supplies					
f. Contractual					
g. Construction					
h. Other					
i. Total Direct Charges (sum of 6a - 6h)					
j. Indirect Charges					
k. TOTALS (sum of 6i and 6j)	$	$	$	$	$
7 Program Income	$	$	$	$	$

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Standard Form 424A (4-88)
Prescribed by OMB Circular A-102

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.

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

ASSURANCES REQUIRED BY

SECTION 3502 OF THE ANTI-DRUG ABUSE ACT OF 1988

The grantee certifies that, as a condition of the grant, the agency, organization, or individual will meet the following statutory requirements:

(1) provide that such project or activity shall be administered by or under the supervision of the applicant;

(2) provide for the proper and efficient administration of such project or activity;

(3) provide that regular reports on such project or activity shall be submitted to the Office of Human Development Services; and

(4) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

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).

U.S. Department of Health and Human Services

Certification Regarding

Drug-Free Workplace Requirements

Grantees Who Are 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 the 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 their conduct of grant activity will be drug-free. 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, as a condition of the grant, he or she will not engage in the unlawful manufacture, distribution, dispensing, possession or use of a controlled substance in conducting any activity with the grant.

Certification Regarding Debarment, Suspension, and Other Responsibility Matters - Primary Covered Transactions

By signing and submitting this proposal, the applicant, defined as the primary participant in accordance with 45 CFR Part 76, certifies to the best of its knowledge and believe that it and its principals:

(a) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Department or agency;

(b) have not within a 3-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) are not presently indicted or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) have not within a 3-year period preceding this application/proposal had one or more public transactions (Federal, State, or local) terminated for cause or default.

The inability of a person to provide the certification required above will not necessarily result in denial of participation in this covered transaction. If necessary, the prospective participant shall submit an explanation of why it cannot provide the certification. The certification or explanation will be considered in connection with the Department of Health and Human Services' (HHS) determination whether to enter into this transaction. However, failure of the prospective primary participant to furnish a certification or an explanation shall disqualify such person from participation in this transaction.

The prospective primary participant agrees that by submitting this proposal, it will include the clause entitled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion - Lower Tier Covered 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.

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federal register

Friday
April 14, 1989

Part V

Department of Defense

General Services Administration

National Aeronautics and Space Administration

48 CFR Part 36

Federal Acquisition Regulation (FAR); Performance Evaluations, Architect-Engineering Contracts; Proposed Rule

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Part 36

Federal Acquisition Regulation (FAR); Performance Evaluations, Architect-Engineering Contracts

AGENCIES: Department of Defense (DoD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council are considering changes to FAR 36.604(a) pertaining to A–E performance evaluations. The regulation is intended to ensure that performance of A&E contractors is fully evaluated at appropriate times and that this information is provided to contracting officers when selecting future A&E contractors. This will be accomplished by providing that the Government may complete a performance evaluation of the A&E design after actual construction of the project in addition to the evaluation performed after the completion of the work under the A&E contract.

DATE: Comments should be submitted to the FAR Secretariat at the address shown below on or before June 13, 1989, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to:

General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 89–24 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Margaret A. Willis, FAR Secretariat, Room 4041, GS Building, Washington, DC 20405, (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

The proposed change to the FAR is based on information which indicated that performance evaluations were being completed by the Government on A&E contracts before enough information was available to realistically evaluate the quality of the A&E design. The current regulation requires the cognizant contracting activity to prepare a performance evaluation after completion of the A&E design but does not address the need to perform an evaluation of the design after the construction phase is completed. This may lead to an evaluation based on incomplete information since many design defects cannot be identified until the construction project is completed. The objective of the proposed change is to ensure that the A&E performance evaluations are based on complete information. This will be accomplished by permitting the cognizant contracting activity to complete the evaluation after construction has been completed.

B. Regulatory Flexibility Act

The proposed changes may have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the results of past construction performance evaluations of A&E designs may affect award of subsequent A&E contracts. An Initial Regulatory Flexibility Analysis (IRFA) has been prepared and will be provided to the Chief Counsel for Advocacy for the Small Business Administration. A copy of the IRFA may be obtained from the FAR Secretariat. Comments are invited.

Comments from small entities concerning the affected FAR subpart will also be considered in accordance with Section 610 of the Act. Such comments must be submitted separately and cite section 88–610 (FAR Case 89–24) in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed changes to the FAR do not impose recordkeeping information collection requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Part 36

Government procurement.

Dated: April 7, 1989.

Harry S. Rosinski,

Acting Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, 48 CFR Part 36 is amended as set forth below:

PART 36—CONSTRUCTION AND ARCHITECT-ENGINEER CONTRACTS

1. The authority citation for 48 CFR Part 36 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2473(c).

2. Section 36.604 is amended by revising paragraph (a) to read as follows:

36.604 Performance evaluation.

(a) *Preparation of performance reports.* For each contract of more than $25,000, performance evaluation reports shall be prepared by the cognizant contracting activity, using the SF 1421, Performance Evaluation (Architect-Engineer). Performance evaluation reports may also be prepared for contracts of $25,000 or less.

(1) A report shall be prepared after final acceptance of the A&E contract work or after contract termination. Ordinarily, the evaluating official who prepares this report should be the person responsible for monitoring contract performance.

(2) A report may also be prepared after completion of the actual construction of the project.

(3) In addition to the reports in paragraphs (a) (1) and (2), interim reports may be prepared at any time.

(4) If the evaluating official concludes that a contractor's overall performance was unsatisfactory, the contractor shall be advised in writing that a report of unsatisfactory performance is being prepared and the basis for the report. If the contractor submits any written comments, the evaluating official shall include them in the report, resolve any alleged factual discrepancies, and make appropriate changes in the report.

(5) The head of the contracting activity shall establish procedures which ensure that fully qualified personnel prepare and review performance reports.

* * * * *

[FR Doc. 89–8747 Filed 4–13–89; 8:45 am]

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federal register

Friday
April 14, 1989

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 121

Flight Attendant Requirements; Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 121

[Docket No. 25874; Notice No. 89-9]

RIN 2120-AC32

Flight Attendant Requirements

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The Federal Aviation Administration proposes to revise the regulations dealing with the number of flight attendants required to be on board an airplane operating under Part 121 of the Federal Aviation Regulations. The current regulations need to be revised to account for the changed operational practices stemming from airline economic deregulation. This proposal, in part, results from a petition for clarification by the Air Transport Association of America. Tha proposed amendments would clarify or change the number of flight attendants required when passengers are on board an airplane, including at stops. This proposal includes two new requirements: one, a revision of the reduced number of flight attendants which, under certain conditions, a carrier is permitted to have on board a passenger-carrying airplane during stops; two, a requirement for a demonstration of competency by the other authorized persons who may be permitted to be substituted for required flight attendants when passengers are on board the airplane during stops. The proposal would change the current rule by clarifying and specifying the training required to be completed by these other authorized persons. In addition, the proposed change reorganizes the current rule by moving certain existing provisions from one section to a new section and by reorganizing the original section. Furthermore, the proposed new section would specify and clarify the location on board airplanes of required flight attendants and other persons performing flight attendant safety duties during stops.

DATE: Comments must be received on or before July 13, 1989.

ADDRESSES: Send comments on the proposal in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket (AGC-204), Docket No. 25874, 800 Independence Avenue, SW., Washington, DC 20591. One may deliver comments in duplicate to: FAA Rules Docket, Room 916, 800 Independence Avenue, SW., Washington, DC 20591. All comments must be marked "Docket No. 25874." Comments may be examined in the Rules Docket weekdays, except Federal holidays, between 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Dave Catey, Project Development Branch (AFS-240), Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; Telephone (202) 267-8096.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in this rulemaking by submitting written data, views, or arguments concerning the possible environmental, energy, economic, or federalism impact of this proposal. The comments should identify the regulatory docket or notice number and be submitted in duplicate to the address above. All comments received, as well as a report summarizing any substantive public contact with FAA personnel on this rulemaking, will be filed in the docket. The docket is available for public inspection both before and after the closing date for making comments.

Before taking any final action on the proposal, the Administrator will consider any comment made on or before the closing date for comments. The proposal may be changed in light of comments received.

The Federal Aviation Administration (FAA) will acknowledge receipt of a comment if the commenter submits with the comment a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 25874." When the comment is received, the postcard will be dated, time stamped, and returned to the commenter.

Availability of NPRM

Any person may obtain a copy of this notice of proposed rulemaking by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA-230, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Requests should be identified by the docket number of this proposed rule. Persons interested in being placed on a mailing list for future proposed rules should also request a copy of Advisory Circular No. 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

Background

In 1978, Congress substantially deregulated air transportation when it passed the Airline Deregulation Act of 1978. This Act mandated phased deregulation which led to the complete "sunset" of the Civil Aeronautics Board (CAB) which had jurisdiction over airline economic matters such as routes, and rates on December 31, 1984. While some economic regulation continues, following airline deregulation, airlines flying domestically are largely free to decide where they will fly and what fares they will charge. The large airlines have made major changes in their route structures by discarding many short-haul routes which are now serviced by smaller airlines.

An innovation now adopted as a common practice by the airlines is the "hub and spoke" system which allows shorter route segments to feed into a major terminal from which the longer haul routes originate. An integral feature of this system is "peaking." Peaking occurs when a large number of flights arrive at the hub airport within a compressed timeframe to connect to other flights which depart shortly thereafter. Peaking contrasts with a more uniform spread of flight arrivals and departures throughout the day. Since peaking involves compression of connection times and is dependent upon closely planned flight schedules, airline crews must sometimes leave an arriving flight to go to their next flight before passengers on that arriving flight have deplaned. This can result in passengers having to fend for themselves during enplaning and deplaning at the hub airport.

It is evident, therefore, that the use of the hub and spoke concept and its application to scheduling is a factor affecting the issue of crew complement. However, questions concerning the minimum number of flight attendants required to be on board airplanes when passengers are on board during various circumstances are not new. The issue has been addressed in previous rulemaking.

Shortly before Part 40 of the Civil Aviation Regulations (CAR) was recodified into Part 121 of the Federal Aviation Regulations (FAR) in 1964, § 40.265 required flight attendants on "all flights carrying passengers." Amendment 121.2 (30 FR 3200; March 9, 1965) to Part 121, substituted a requirement for flight attendants on "each passenger-carrying aircraft used." This revision implies that flight attendants are needed at times in addition to during "flights," that is,

whenever the aircraft is "in use." An aircraft has commonly been considered to be in use whenever passengers are on board.

However, as a result of the implementation of the hub and spoke system, questions have been raised regarding the minimum number of flight attendants required on board an aircraft during enplaning, deplaning, or during an intermediate stop where passengers remain on board. These questions led to Amendment 121.180 of § 121.391 (47 FR 56460; December 16, 1982). This amendment allowed a reduced number of flight attendants at intermediate stops where passengers remained on board the parked aircraft. The Federal Aviation Administration (FAA) found that an appropriate level of safety would be maintained using a reduced number of flight attendants during these intermediate stops or by allowing other qualified persons, trained to perform the safety duties of the flight attendants in accordance with § 121.417, to substitute for the flight attendants at intermediate stops.

Recently, another question of required crew complement during stops was raised. Specifically, the Association of Professional Flight Attendants (APFA) asked whether the minimum flight attendant crew must be on board during passenger enplaning. The FAA responded that during the enplaning and deplaning process, all of the flight attendants required by § 121.391(a) must be on board the airplane, including the deplaning and enplaning phases at an intermediate stop. However, hub and spoke operations may require crew members to board at the last moment if an inbound flight is delayed. In addition, the airlines now assign flight attendants responsibilities for tasks which were formerly performed by ground personnel. These tasks may take flight attendants away from the airplane (for example, to the jetway or boarding area to collect tickets), even during enplaning and deplaning.

Before economic deregulation, airlines usually competed largely based on service because regulated fares tended to be the same for all carriers. Since economic deregulation, however, much of airline competition is based on price. This increases the incentive for the airlines to reduce overhead and personnel costs by maximizing the utilization of crewmembers.

In August 1985, the Air Transport Association of America (ATA) petitioned the FAA for rulemaking to clarify § 121.391 (a) and (e) insofar as these paragraphs apply to the number of flight attendants required to be on board airline passenger carrying airplanes other than during flight time. Current § 121.391(a) specifies the minimum number of flight attendants required for each passenger carrying airplane used. Amendment 121.180 added new § 121.391(e) which allows for a reduction in the number of flight attendants at intermediate stops where passengers remain on board the airplane and proceed on that airplane to another destination.

Passenger enplaning and deplaning are not specifically mentioned in either of these paragraphs.

Because paragraphs (a) and (e) of § 121.391 do not specifically mention passenger enplaning and deplaning, and in response to the petition by ATA, the FAA has initiated this rulemaking action. After review and analysis of the ATA petition and related safety data, the FAA has tentatively concluded that the current regulation as interpreted by the FAA may contain an unnecessary requirement for a full complement of flight attendants at certain times other than flight time. Therefore, the FAA proposes to permit, when appropriate, a reduced complement of flight attendants on board passenger-carrying airplanes at all stops. This proposal would include the passenger enplaning and deplaning phases provided certain conditions are met.

Issues Involved

Three major areas were considered in developing this regulatory proposal. They are, first, the changes to the FAR which Amendment 121–180 introduced and the reasons for those changes. Next are the issues related to the proposed revision of the formula in current § 121.391(e) for the reduced complement of flight attendants at intermediate stops. Third are the issues involved in the proposed reduction of the flight attendant complement for enplaning and deplaning at all stops. In addition, the definition of "on board" and concerns related to the training of other persons authorized to act for flight attendants at stops were considered.

In issuing Amendment 121–180 the FAA attempted to produce a rule which could allow airlines to use a reduced complement of flight attendants at certain times while maintaining an appropriate level of safety. The amendment which resulted in current § 121.391(e) provided relief from the requirement that all flight attendants be on board whenever passengers were aboard the aircraft. This amendment was designed to ease an operational and economic burden for the airlines which produced delays and increased costs for the traveling public.

Among the reasons outlined in Amendment 121–180 which support the reduction in flight attendant complement during intermediate stops is the generally static state of the aircraft. The passenger compartments are normally in a relatively orderly state after passengers have deplaned and before enplaning begins at an intermediate stop. This static condition is in direct contrast to the disarray of a crash situation, during which the full complement of flight attendants is needed to aid in passenger evacuation.

Another supportive fact discussed in Amendment 121–180 was the analysis of the recorded safety data for 6 years preceding the amendment. This analysis revealed no significant safety problem which would have arisen because of a reduced number of flight attendants at the gate at intermediate stops. Intermediate stops were defined as stops where passengers remain on board and proceed on that aircraft to another destination.

To assure passenger safety during intermediate stops with the reduced number of flight attendants on board, the amendment specified certain necessary conditions. These conditions are that the aircraft's engines must be shut down and that at least one floor-level exit must be open. The requirement of an open exit was included to provide for the rapid deplaning of passengers during the intermediate stop with the reduced number of flight attendants if an emergency occurred. The condition that the aircraft's engines must be shut down was required to eliminate the chances of an emergency arising from engine torching or overheating. Since the aircraft auxiliary power unit (APU) normally is started and stabilized while the engines are still running, any problems associated with APU start should have been handled prior to engine shut down. A review of the accident and incident history related to fires due to fueling operations at the gate showed that this activity appeared to have little impact on the safety of on-board passengers during intermediate stops.

The supportive information provided in Amendment 121–180 for the reduction of the flight attendant complement at intermediate stops is still valid. However, after reviewing the adequacy of the formula for the reduction in the number of flight attendants required at intermediate stops, the FAA has concluded that some revision of the minimum number of flight attendants is warranted if a reduction in the number of flight attendants required at all stops

and during deplaning and enplaning is to be permitted.

Flight attendants are one of the primary safety factors during in-flight and ground emergencies. They provide leadership in the passenger compartments and perform emergency duties, including administering first aid, fighting fires, and assisting in evacuating passengers from disabled aircraft. For example, National Transportation Safety Board Aircraft Accident Report NTSB–AAR–79–1 (DC–10 rejected takeoff at Los Angeles International Airport, California, on March 1, 1978) states: "The Safety Board believes that the success of the emergency evacuation of the passengers, most of whom were elderly, was the direct result of the efforts of the entire flight crew and cabin crew * * *. Their immediate response and their initiative in seeking alternate escape routes when the normal routes were rendered useless, undoubtedly saved lives and decreased the number of injuries."

The role of the flight attendant is especially important during and immediately after enplaning because passengers who have just enplaned have not been briefed about location and operation of the exits. Their natural tendency may be to exit by the door through which they entered, which in some cases could be an inappropriate response since that entry door may be blocked by other passengers or some other obstacle such as fire.

Other safety considerations, in addition to the emergency evacuations and occurrences outlined above, require the presence of flight attendants on board. These reflect the external environment of the aircraft at the gate. It could be difficult to evacuate passengers with caterers and food trucks blocking exits, and with baggage carts and fuel trucks underneath or adjacent to the aircraft. Judgment about which exits are available and should be used in these circumstances is one of the flight attendant's primary duties. On most carriers, the emergency exits having escape slides are not armed while the aircraft is at the gate to prevent their accidental deployment. In an emergency, flight attendants would be required to assess the situation quickly and direct passengers to an appropriate exit. If this exit is not already open, the flight attendant must determine whether it is safe or appropriate to arm the escape slide for that exit, and then open it. It is equally important that doors which should not be used are not opened.

A recent analysis of the FAA's Cabin Safety Data Bank from 1970 through 1985 shows a total of 10 emergency evacuations at the gate out of a total of 326 emergency aircraft evacuations on land during the past 15 years. There were 36 additional occurrences while aircraft were parked at the gate which were not emergency evacuations; however, flight attendants played a safety role in these occurrences as well. These occurrences can be generally characterized as follows: (1) Deplanings caused by bomb threats (not included in the emergency evacuations counted above); (2) cabin fires which had to be fought and which could have resulted in evacuations; (3) problem passengers; (4) fires outside the aircraft, such as APU torching or service cart or truck fires; and (5) passengers who are ill or injured. Since 1985, there have also been incidents in which bomb threats, smoke in the cabin, and fire have resulted in evacuations from aircraft parked at the gate.

During an emergency is not the only time when flight attendant presence on the aircraft is important. They have normal safety-related duties to perform at the gate. For example, flight attendants inspect for the stowage of passengers' carry-on baggage, handle problem passengers, contribute to passenger compartment and cockpit security, and ensure proper restraint of galley and cargo items.

In considering the adequacy of the present formula for the minimum number of flight attendants required to be on board the airplane at all stops while passengers are aboard (including during deplaning and enplaning) the FAA has considered the dynamic and static states of the passenger compartments, as discussed below.

Passenger deplaning and enplaning phases are not necessarily clearly delineated, with precise beginnings and endings. Passengers start to leave the aircraft as soon as the doors are opened upon arrival. However, at an intermediate stop during the time between flights, through passengers may remain on board or deplane and enplane at various times during this stop. Enplaning of local passengers for the continuing flight may begin shortly after arrival and may go on until departure. Typically, the number of passengers on board the airplane is high immediately after arrival. This number then decreases relatively quickly during deplaning, remains at a lower level for some period of time and gradually increases until it reaches its maximum prior to departure.

Moreover, during deplaning, many passengers are moving about the passenger compartments removing baggage from stowage compartments and proceeding to the exits. During enplaning, a similar process occurs; passengers are locating their seats, putting their carry-on baggage into the appropriate compartments, and may be taking care of other personal concerns. The relatively static passenger compartment condition addressed in Amendment 121–180 may occur only during the period of time after deplaning and before enplaning; however, this static period does not have a distinguishable beginning or end.

Amendment 121.180 was based on consideration of the passenger compartment as a static environment. The FAA now concludes that this consideration was artificial. In fact, the environment in the passenger compartment at a stop is seldom static; passengers continue to get off with the number diminishing gradually, possibly to zero. However, some passengers may remain on board at stops, and more may join them prior to departure.

The FAA now has a better understanding of the passenger compartment environment at a stop. Hence, the FAA proposes to establish a new method for determining the minimum number of flight attendants required at stops which would generally use a different criterion than that now used to determine the minimum number of flight attendants required at intermediate stops. Instead of using a variable criterion, which is based on the number of passenger seats. in the proposed method, the number of attendants would generally be related to the number of floor level exits in the passenger compartment.

Relatively small airplanes (seating capacities of 10 to 50 passengers) which have only one exit used for enplaning and deplaning, normally at the rear, are required by § 121.391(a) to have at least one flight attendant. Of course, for these airplanes, such as on the Fokker F.27 and the deHavilland Dash.7, current § 121.391(e) does not permit a reduction.

The reduced flight attendant complement formula permitted by current § 121.391(e) requires at least one flight attendant to be on board certain other aircraft during intermediate stops, although more are required for flight. The FAA now considers that this reduction, requiring only one flight attendant on aircraft with seating capacities of 101 to 150 passengers, is not appropriate during all situations because it may increase the risk of potential problems being undetected and may present difficulties in certain emergency situations.

Among the situations the proposed amendment seeks to prevent is one in which the sole flight attendant, on an

airplane such as a Boeing 727 or an MD–80, may be stationed at the rear of the airplane during a stop allowing the open exit at the front of the airplane to be unmonitored for incursions. Normally, the cockpit door is open during stops to allow maintenance personnel and other authorized personnel to perform their duties during the time the airplane is at the gate. In one incident, which occurred at the gate, a mentally ill passenger was found flipping switches in the cockpit of a Boeing 727. A flight attendant stationed at the front of the airplane would have prevented this situation. On the other hand, in the event of a fire in the galley area or middle of the airplane, the stationing of the only flight attendant at the front of an airplane would prevent that flight attendant from assisting passengers in the area behind the fire.

The FAA has also considered the number of flight attendants required during enplaning and deplaning at all stops. In view of the dynamic state of the passenger compartments, the FAA proposes to revise the method for determining the reduced number of flight attendants required at stops using the number of floor level exits on an airplane as an index. The FAA considers that, for the reasons discussed above and since it has found little discernible distinction between passenger enplaning and deplaning at intermediate stops and at origin and destination, this proposed revision would provide an appropriate level of safety.

The proposed revision allows additional flexibility for the air carriers while maintaining an appropriate level of safety. By permitting a reduced number of flight attendants to be on board at all times during all stops, remaining crew members may perform other duties including aiding elderly or handicapped passengers, accompanying minors, coordinating with ground personnel, taking tickets, or proceeding to another flight.

The revision proposes a minimum number of required flight attendants or other trained personnel to ensure that there is approximately one flight attendant for every two floor-level exits. The proposal would accomplish this by establishing a relationship, when appropriate, between the number of required flight attendants or other trained personnel and the number of floor-level exits. For example, the number of flight attendants (which the present rule reduces from 3 to 1) would be reduced from 3 to 2 for 101–150 seat airplanes, such as the MD–80 and the Boeing 727, under this proposed change. Thus, operators of airplanes of this capacity would be required to have an additional flight attendant on the airplane during the time passengers are on board at stops.

Rather than key the number of flight attendants required to be present to the number of passengers on board, the FAA considers it more reasonable to base this number on the number of exits which would potentially be used for an evacuation. During enplaning, since most passengers have not yet been briefed on exit location and evacuation procedures, the presence and location of these flight attendants is particularly crucial to safety.

The FAA considers this requirement both safe and reasonable considering the increased size of airplanes, complexity of operation of their exits, the possible requirement to arm an evacuation slide and, in some instances, to deploy evacuation slides over the wing. Floor level exits are usually evenly distributed throughout the airplane. The requirement that flight attendants also be evenly distributed when passengers are on board will ensure that a flight attendant will be in the vicinity of these exits and will therefore be able to ensure the quickest possible evacuation of passengers. Additionally, the flight attendants will be able to redirect passengers to another exit should an exit be unusable.

Finally, for the purposes of § 121.391, the FAA proposes to define "on board" to mean that the required flight attendant is physically located on the airplane, rather than at another position near the airplane such as in the jetway or boarding areas. This definition is proposed to preclude misinterpretation of the location of the reduced number of flight attendants permitted on board during stops. A carrier would be required to replace a required flight attendant or to use another authorized person if a required flight attendant leaves the airplane.

Current § 121.391(e) requires that other persons who may be substituted for flight attendants at intermediate stops when passengers remain on board be "qualified in the emergency evacuation procedures for that aircraft as required in § 121.417." However, § 121.417 requires training which the FAA has determined is not necessary for these persons; certain emergency training is not material to the situations that these persons may face. Therefore, the proposal eliminates this training for the persons who may substitute for the flight attendants during stops. However, an additional requirement is proposed which would require these persons to demonstrate their competence to assure that they can adequately perform pertinent safety duties in place of flight attendants. Documentation or certification of training and checking, similar to that specified for crewmembers by § 121.401(c), upon satisfactory completion by these persons of the applicable training requirements of § 121.417 would satisfy this new requirement. Such documentation or certification would become a part of that employee's record.

Discussion of the Proposal

These proposed amendments to Part 121 would clarify the current rule. They would also change the number of flight attendants that are required to remain on board an airplane whenever passengers are on board including during passenger enplaning and deplaning at origin, intermediate stops, and destination. These requirements would provide the appropriate level of safety during passenger enplaning and deplaning and at other times during stops. The amendments specify the change in the minimum number of flight attendants or other authorized persons performing flight attendant safety duties who are required to be on board an airplane at stops where passengers remain aboard depending upon the passenger seating capacity of the airplane. This reduced number of flight attendants or other authorized persons applies only under the conditions of an open floor-level exit and of shut-down engines. The proposed amendments specify the training requirements for the persons who may substitute for flight attendants on board the airplane during these stops. Finally, the proposed amendments organize the requirements for the location of required flight attendants and other qualified persons into a new section, specifying that these persons must be uniformly distributed throughout the airplane.

The proposed amendments are partially based on a petition by the ATA and a request for interpretation of current § 121.391 by the APFA. Both of these organizations requested interpretation of the existing rules, clarification of the requirements, and specification of the phases of a flight to which the requirements apply. The FAA provided interpretations to both of these groups. However, because of the apparent inconsistencies in these interpretations, the agency has initiated rulemaking action to revise the regulation to clarify the requirements.

A section by section discussion of the proposed amendments to Part 121 follows:

Proposed § 121.391 Paragraph (a)

This proposal would replace the written formula in current § 121.391(a) with a tabular format specifying the number of flight attendants required on each passenger-carrying airplane. However, no change in the required number of flight attendants is proposed. This number may be reduced under the circumstances specified in paragraphs (b) and (d).

Proposed § 121.391 Paragraph (b)

This proposal would rewrite the current § 121.391(b) for clarity. No substantive changes would be made.

Proposed § 121.391 Paragraph (c)

This proposal would change current § 121.391(c) by replacing the words "approved under paragraphs (a) and (b) of this section" with the words "required by paragraph (a) of this section or by demonstration under § 121.291(a) or (b) of this part", and by deleting the words "as set forth in" and inserting the word "listed."

Proposed New § 121.391 Paragraph (d)

The proposed new paragraph (d) would replace current § 121.391(d) which would be moved to new § 121.392 along with portions of current § 121.391(e). The remainder of current § 121.391(e) would be deleted. The proposed new paragraph (d) would specify that passengers may not be permitted to remain on board an airplane at stops unless the flight attendants required by § 121.391(a) or (b) or, alternatively, a reduced number of flight attendants or other authorized persons remain on board. The proposal would specify the minimum number of flight attendants or other authorized persons that must be on board the airplane at these times. This minimum number would be specified by a table in proposed § 121.391(d)(3) to be consistent with the tabular format in proposed § 121.391(a). The numbers in this table represent a change from the numbers derived by applying the formula in current § 121.391(e) for airplanes with passenger-seating capacities of 101 to 150.

This section would also specify and change the conditions set forth in current § 121.391(e) under which a reduction in the number of flight attendants may be initiated by a certificate holder. The "other personnel" referred to in current § 121.391(e) would be termed "other authorized persons" in this section. This section would change the current requirement that these persons be "identified to the passengers" to specify that they be "readily identifiable by the passengers." Furthermore, this section would clarify the training required for these "authorized persons" who may substitute for flight attendants on board the airplanes during stops. The training requirements of § 121.417 which apply on the ground would be specified in the proposed amendment. It would also require a competence check of these "authorized persons" to determine their ability to perform assigned duties and responsibilities, and would require that they be considered crewmembers for the purposes of § 121.397.

This section would change the condition that the required open exit "provide for the deplaning of passengers" to "provide for the immediate deplaning of passengers using normal means of egress such as jetways, airstairs, passenger loading stairs, or their equivalent." This additional language is intended to clarify the rule.

Proposed New § 121.392

This proposed amendment would add a new § 121.392 which would organize the requirements for the location of the permitted flight attendants and the other authorized persons required to be on board the airplane. Portions of current § 121.391 (d) and (e) would be revised and incorporated into this new section.

Proposed New § 121.392 Paragraph (a)

The requirements of current § 121.391 (d) and (e) for flight attendants to be uniformly distributed would be restated in this new paragraph. The paragraph would require that flight attendants or other authorized persons be uniformly distributed throughout the airplane passenger compartment during all times other than during in flight to provide the most effective egress of passengers in the event of an emergency evacuation. It would permit two exceptions to this requirement: one, in paragraph (c) described below when an airplane requires only one flight attendant; and two, when a flight attendant must perform specific duties related to the safety of the airplane and passengers and because of those duties is unable to meet the uniform distribution requirement. It would delete the words "shall be located as near as practicable to required floor level exits" which appear in current § 121.391(d) and would restate them in proposed new § 121.392(b).

Proposed New § 121.392 Paragraph (b)

This paragraph would specify where flight attendants must be located during taxi, takeoff, and landing. It would refer to new § 121.392(a) with respect to the requirement of uniform distribution of flight attendants. This paragraph would add the requirement that flight attendants must be seated with their seat belts and shoulder harnesses fastened in flight attendant seats which meet the requirements of § 121.311 of this part. It would clarify that this seat is considered their duty station during taxi, takeoff, and landing except during performance of safety-related duties.

Proposed New § 121.392 Paragraph (c)

The location requirement for one flight attendant which is stated in current § 121.391(e) would be incorporated in this new paragraph and rewritten for clarity. In addition, this location requirement will now be contained in a certificate holder's operation specifications rather than in "FAA-approved operating procedures."

Economic Evaluation

The proposed amendments to Part 121 of the FAR would clarify the rules and most of the changes would impose no economic impact. Three of the proposed changes pose potential economic impacts. The first is the reduced number of flight attendants that must be on airplanes at origin, intermediate stops, and destination, under certain conditions. The second permits other authorized persons to replace flight attendants on airplanes during stops. The third is the proposed requirement that two flight attendants or other authorized persons must be on board any airplane with 101 to 150 passenger seats when passengers are on the airplane during stops.

Costs

Under the proposed rule the number of flight attendants required during enplaning and deplaning would be reduced to equal the number of flight attendants required when passengers remain aboard an airplane parked at the gate, or roughly half the normal complement of flight attendants required for flight. This proposal should result in some cost savings to the airline industry. These savings are further discussed with the benefits of these proposals.

The proposal, which would increase from one to two the number of flight attendants or other authorized persons required to be on board 101 to 150 passenger-seat airplanes when passengers are on board the airplane, is not expected to have a significant economic impact on the industry. The minimum number of flight attendants required to be on board all other airplanes would not change.

Certificate holders who are operating airplanes with passenger seating capacities of 101–150 could meet the requirements of the proposed rule and avoid most of the costs that may result from these regulations. In many instances, schedules and procedures could be adjusted so that flight attendants could remain on board the airplane with the passengers at shorter stops. Where layovers are long, making the adjusting of schedules and procedures impractical, passengers may be requested to deplane. At the certificate holder's option, these passengers may use their original boarding passes to reboard the airplane along with local passengers. If all passengers are deplaned, no flight attendants would need to remain on board the parked airplane and no passengers would be exposed to the risk of injury or death from accidents that may occur while the aircraft is parked at the gate. Deplaning and enplaning "through" passengers may slightly increase the groundtime required. However, this time increase should not be great enough to require schedule adjustments by the certificate holders. The FAA requests comments on this assumption. If a certificate holder chooses to continue operating without change—that is, keeping the passengers aboard at all of its stops—it may have to hire and train additional personnel to meet the requirement for an additional flight attendant to remain with the passengers aboard its parked 101–150 seat airplanes. Under these circumstances, the annual cost of replacing these flight attendants could range to as much as $746,000 for a typical certificate holder.

These costs were estimated by analyzing the route structure for an average air carrier. The number of intermediate stops were determined from the Official Airline Guide and the number of replacement personnel were estimated on the basis of these stops. Included in this cost estimate were a $12,000 annual salary for a gate agent or a B-scale flight attendant and a $208 one time training and qualification cost. The costs also include annual retraining that would be required by the proposed rule. For details of the cost estimates see the complete regulatory evaluation in the docket. The FAA solicits comments on these cost estimates.

Benefits

The proposed rule reducing the number of flight attendants required during enplaning and deplaning should provide a cost savings benefit. This rule would also permit the required flight attendants, including during enplaning and deplaning, to be replaced by other authorized persons.

The cost savings that may stem from this rule are difficult to measure for two reasons. First, some certificate holders have interpreted the current rule to require a full complement of flight attendants only during enplaning and deplaning. So, in fact, they are now taking advantage of some of the benefits. Second, the enplaning and deplaning procedures do not consume sufficient time to measurably reduce the flight attendants' duty time. Since enplaning and deplaning take from 5 to 20 minutes each, scheduling flight attendants with a sufficiently close margin to take advantage of this relief would be difficult. The FAA requests comments on this conclusion. However, flight attendants freed by the proposed rule could be utilized by the carriers for other purposes, such as directing passengers to other flights, taking tickets at the gate, checking boarding passes at the gate, etc.

Although the FAA cannot precisely measure the benefits that may result from reducing the number of flight attendants required during enplaning and deplaning, it can estimate them. Theoretically, if sufficient numbers of flight attendants, employed by the representative certificate holder, noted above, were released from having to remain aboard the airplane during enplaning and deplaning and were used as ticket takers at the gate or to perform other duties usually assigned to gate agents, they could replace gate agents. In the case of the representative certificate holder, a potential exists for cost savings estimated at $925,000 per year resulting from the replacement of gate agents. This estimate assumes (1) that, on average, enplaning requires 15 minutes; (2) that gate agents would be replaced only for the ticket taking process at all of the certificate holder's enplanings; (3) that gate agents earn $12,000 per year, or $5.77 per hour, based on a 2,080 hour work year; and (5) that the certificate holder's airplanes depart from numerous domestic cities an average of 642,000 times a year.

The FAA considers cabin safety one of the prime factors in proposing this amendment to FAR Part 121. The proposed regulations will help assure that sufficient flight attendants are available to assist passengers in evacuating airplanes that may be involved in incidents or accidents on the ground, thus reducing the risk of passenger injuries or fatalities. Between January 1, 1980, and September 18, 1986, 48 incidents occurred to aircraft on the ground that resulted in injuries to 19 persons and put at least 2,252 passengers at risk. The FAA's statistical value of a serious injury is $54,933. Assuming that all 19 of these injuries were serious, avoiding them would result in a maximum quantifiable benefit of $1,043,727 over the 6-year period or $132,495 per year, including a 10 percent capital recovery factor. Assuming that aircraft operations will increase at six percent per year for the next 10 years and that the number of incidents would increase proportionately, a maximum quantifiable benefit of $1,566,898 (1986 discounted dollars) for the period 1987 through 1996 could result from the proposal.

In addition, the following qualitative benefits may be associated with this proposal:

Flight attendants can assist passengers in executing evacuation techniques when the external environment of the aircraft is crowded with service trucks and baggage carts.

Flight attendants can help to reduce confusion and congestion interferences during an emergency situation. Sufficient flight attendants on board will increase coordination between the flight crew and cabin crew.

Economic Conclusion

Since it is possible to realize the maximum benefits of this proposal while incurring minimal costs, the FAA determines that no economic impact will be imposed on the air transportation industry. Even if certificate holders choose to continue operating as they do today, keeping passengers aboard parked aircraft during enroute stops, the $925,000 estimated cost savings, per year, per certificate holder, resulting from the reduced number of flight attendants required during enplaning and deplaning and the $156,000 per year in safety benefits would more than offset the $746,000 cost, per year, per certificate holder, of the additional authorized personnel required to remain with passengers on airplanes with 101–150 seats. Moreover, benefits, which have not been measured, resulting from the reduced flight attendants at deplaning and enplaning and the proposed ability to replace with other authorized personnel these attendants as well as attendants required to remain with passengers at enroute stops on airplanes having more or less than 101–150 seats can be charged against the cost of the proposed rule.

International Trade Impact Statement

The FAA has determined that adoption of this proposed amendment would not affect international trade.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. The RFA requires agencies to review rules which may have "a significant economic impact on a substantial number of small entities."

The small entities which could potentially be affected by the implementation of this notice are operators of aircraft operating under Part 121 who own 9 or fewer airplanes. Operators of aircraft under Part 121, who own 9 or fewer airplanes, are not likely to operate in a hub and spoke configuration. Such small operators should be able to accommodate the proposed changes to § 121.391 through crew scheduling adjustments. It is extremely unlikely that they will be required to hire additional personnel to accommodate the proposed regulatory changes. For these reasons the FAA has determined that a significant economic impact would not be imposed on these small entities.

Federalism Implications

The regulations set forth in this notice would be promulgated pursuant to authority in the Federal Aviation Act of 1958, as amended (49 U.S.C. 1301 et seq.), which statute is construed to preempt State law regulating the same subject. Thus, in accordance with Executive Order 12612, it is determined that such regulation does not have federalism implications warranting the preparation of a Federalism Assessment.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Regulatory Flexibility Determination and the International Trade Impact Analysis, the FAA has determined that this proposed regulation is not major under Executive Order 12291. In addition, this proposal, if adopted, 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. This proposal is considered significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). An initial regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and Trade Impact Analysis, has been placed in the docket. A copy may be obtained by contacting the person identified under "FOR FURTHER INFORMATION CONTACT."

List of Subjects in 14 CFR Part 121

Aviation safety, Safety, Air carriers, Air transportation, Airplanes, Handicapped, Transportation, Common carriers.

The Proposed Rule

In consideration of the foregoing the Federal Aviation Administration proposes to amend Part 121 of the Federal Aviation Regulations (14 CFR Part 121) as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS, AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation for Part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421, 1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97-449, January 12, 1983).

2. By revising § 121.391 to read as follows:

§ 121.391 Flight attendant requirements.

(a) Except as provided in paragraphs (b) and (d) of this section, no certificate holder may permit passengers on board any one of its airplanes unless the following number of flight attendants are on board that airplane to perform safety duties:

Minimum Number of Flight Attendants

Passenger seating configuration:	
10 through 50	1
51 through 100	2
101 through 150	3
151 through 200	4
201 through 250	5
251 through 300	6
301 through 350	7
351 through 400	8
401 through 450	9
451 through 500	10
501 through 550	11
551 through 600	12
601 through 650	13
651 through 700	14

(b) If, in conducting the emergency evacuation demonstration required under § 121.291 (a) or (b) of this part for passenger-carrying operations, the certificate holder used more flight attendants than is required by the table in paragraph (a) of this section for the seating configuration of the airplane used in the demonstration to determine that type and model airplane's maximum seating capacity, the certificate holder may not, thereafter, take off that airplane—

(1) In its maximum seating capacity configuration with fewer flight attendants than the number used during the emergency evacuation demonstration; or,

(2) In any reduced seating capacity configuration with fewer flight attendants than the number required by the table in paragraph (a) of this section for that seating configuration plus the number of flight attendants used during the emergency evacuation demonstration that were in excess of those required by that table.

(c) The number of flight attendants required by paragraph (a) of this section or by demonstration under § 121.291 (a) or (b) of this part must be listed in the certificate holder's operations specifications.

(d) No certificate holder may permit passengers to be on board any of its airplanes at stops unless the certificate holder provides and maintains on board that airplane to perform safety duties—

(1) The number of flight attendants required by paragraph (a) or (b) of this section; or

(2) A reduced number of flight attendants or other authorized persons as prescribed in paragraph (d)(3) of this section provided—

(i) Those authorized persons are readily identifiable by the passengers.

(ii) Those authorized persons have satisfactorily completed the following approved emergency training as specified in § 121.417 of this part for each airplane type, model, and airplane configuration in which they are authorized to serve—

(A) Section 121.417(a).

(B) Section 121.417(b)(1), (b)(2) (iii) and (iv), (b)(3) (ii) and (v), (b)(4).

(C) Section 121.417(c)(1) (i) and (ii), (c)(2)(i) (A), (B), and (C) (protective breathing equipment only); and (c)(2)(ii) (C) and (D).

(iii) Those authorized persons have satisfactorily completed a competence check to determine their ability to perform assigned duties and responsibilities.

(iv) Those authorized persons are deemed by the certificate holder to be required crewmembers for the purposes of § 121.397 of this part.

(v) The airplane engines are shut down and at least one floor-level exit on that airplane remains open during the stop and that such exit provides for the immediate deplaning of passengers using normal means of egress such as jetways, airstairs, passenger loading stairs, or their equivalent.

(3) The following table prescribes the minimum number of flight attendants or other authorized persons permitted under paragraph (d)(2) of this section to perform safety duties at stops when passengers are on board the airplane:

Minimum Number of Flight Attendants or Other Authorized Persons

Passenger seating configuration:	
10 through 50	1
51 through 100	1
101 through 150	2
151 through 200	2
201 through 250	2
251 through 300	3
301 through 350	3
351 through 400	4
401 through 450	4
451 through 500	5
501 through 550	5
551 through 600	6
601 through 650	6
651 through 700	7

3. By adding new § 121.392 to read as follows:

§ 121.392 Location on board airplanes of flight attendants or persons performing flight attendant safety duties.

(a) During all times other than in flight, the flight attendants required by § 121.391 (a) or (b) of this part or the flight attendants or other authorized persons permitted by § 121.391(d)(2) of this part must be uniformly distributed throughout each airplane passenger compartment in order to provide the most effective egress of passengers in the event of an emergency evacuation except—

(1) As provided in paragraph (c) of this section.

(2) To perform duties related to the safety of the airplane and its occupants.

(b) In addition to the requirements specified in paragraph (a) of this section, during taxi, takeoff, and landing, the flight attendants required by § 121.391 (a) or (b) of this part must be seated with safety belts and shoulder harnesses fastened in flight attendant seats (their duty station) which—

(1) Meet the requirements specified in § 121.311 of this part

(2) Are located as near as practicable to required floor level emergency exits.

(c) For those airplanes where only one flight attendant is required under § 121.391(a) of this part or where one flight attendant or authorized person is permitted under § 121.391(d)(2) of this part, that person's duty location in the passenger compartment shall be specified in the certificate holder's operations specification.

Issued in Washington, DC, on April 5, 1989.

Robert L. Goodrich,

Acting Director, Flight Standards Service.

[FR Doc. 89-8936 Filed 4-11-89; 2:07 am]

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federal register

Friday
April 14, 1989

Part VII

Department of Transportation

Federal Aviation Administration

14 CFR Parts 61 and 67

Drug Convictions; Drug- and Alcohol-Related Convictions; Falsification of Airman Medical Certificate Applications; Notice of Enforcement Policy

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 61 and 67

Drug Convictions; Drug- and Alcohol-Related Traffic Convictions; Falsification of Airman Medical Certificate Applications

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of enforcement policy.

SUMMARY: The Office of the Inspector General of the Department of Transportation (OIG) has referred to the FAA more than 6,000 cases of airmen with drug- or alcohol-related convictions. In most of these cases it appears that the airman failed to disclose such convictions on his or her application for an airman medical certificate. Such a failure may constitute a violation of § 67.20 of the Federal Aviation Regulations (14 CFR 67.20), which prohibits an applicant for an airman medical certificate from making or causing to be made an intentionally false or fraudulent statement on his or her application. Enforcement action by the FAA may be taken based on a violation of § 67.20. Enforcement action may also be taken on the basis of drug convictions, even apart from the issue of any false statement on an application for a medical certificate. This notice announces the action the FAA intends to take in the cases referred by the OIG as well as in other similar cases.

FOR FURTHER INFORMATION CONTACT: Peter J. Lynch and Vivian B. Wiesner, Enforcement Proceedings Branch, AGC-250, Office of the Chief Counsel, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-9956.

SUPPLEMENTARY INFORMATION: On February 17, 1987, then Secretary of Transportation Elizabeth H. Dole announced the start of a program designed to identify and prosecute pilots who failed to declare drug- or alcohol-related convictions on applications for airman medical certificates. Under this program, the OIG announced its intention to conduct two computer matches as part of an investigative effort to gather specific, detailed information (52 FR 5374; February 20, 1987) (52 FR 8545; March 18, 1987). For the first match, the OIG matched the Automated Medical Certification Data Base (the FAA's medical files) with certain records from the Identification Records of criminal history information of the Federal Bureau of Investigation (FBI). For the second match, the OIG matched the FAA's Automated Medical Certification Data Base with the State of Florida Department of Highway Safety and Motor Vehicles driver's license records involving alcohol- or drug-related traffic offenses.

The matching program resulted in the identification of a significant number of airmen who appear to have falsified their applications for airman medical certification with regard to drug convictions and drug- or alcohol-related traffic convictions. The OIG has now referred to the FAA more than 6,000 cases which it discovered as a result of the matching program.

On October 22, 1987, the FAA issued a notice of enforcement policy, which concerned cases of airmen who may have falsified their applications for airman medical certification by failing to disclose a record of traffic convictions. The notice was published at 52 FR 41557 (October 29, 1987). That notice stated, in part, the following:

> The Inspector General has identified some airmen who appear to have falsified their applications with regard to their record of traffic convictions. That information is being provided to the FAA for appropriate action. As of January 1, 1988, the FAA intends to take appropriate enforcement action based on falsification of the application with respect to those cases provided to the FAA by the IG, as well as any other cases of which the FAA has become or becomes aware, which appear to warrant such action.

The notice explained that persons who failed to disclose a record of traffic convictions on their applications for airman medical certification may have violated § 67.20 of the Federal Aviation Regulations. The notice also announced a policy under which such persons could avoid FAA certificate enforcement action, for falsification, by providing the FAA with corrected information. With regard to this policy, which has often been referred to as the FAA's "amnesty program," the notice stated:

> * * * from the date of this notice and until further notice, where the airman has voluntarily supplied to the FAA's Aeromedical Certification Branch information regarding a record of traffic convictions in his or her medical application prior to the FAA's becoming aware of any incorrect statement in the application, the FAA will not take action against the airman's certificates on the basis of falsification for any falsification disclosed by such voluntarily disclosed information.

This policy terminated on December 1, 1988, pursuant to a notice of enforcement policy issued on October 27, 1988, which was published at 52 FR 44166 (November 1, 1988).

In addition to the cases involving a record of traffic convictions, the OIG has also referred a number of cases involving drug convictions. This notice announces the FAA's policy with regard to its enforcement action in the OIG-referred cases as well as in similar cases which otherwise may come to the FAA's attention.

Applicants for an airman medical certificate who have failed to disclose a record of traffic or other convictions may have violated § 67.20 of the Federal Aviation Regulations (14 CFR 67.20). Section 67.20 provides, in pertinent part, that no person may make or cause to be made any fraudulent or intentionally false statement on any application for an airman medical certificate. Section 67.20 further provides that a violation of its terms is a basis for suspending or revoking any airman, ground instructor, or medical certificate or rating held by the violator.

Persons who made false statements on an application for an airman medical certificate may be criminally prosecuted under 18 U.S.C. 1001, which carries a fine or a term of imprisonment for up to 5 years, or both. The Department of Justice, not the FAA, determines whether to prosecute a person under this statute.

As noted above, the FAA has received a number of cases involving persons who have drug convictions. In addition to possible violations of § 67.20, information regarding drug convictions has implications for action against airman and other certificates under §§ 61.15(a), 63.12(a), and 65.12(a) of the Federal Aviation Regulations (14 CFR 61.15(a), § 63.12(a), and § 65.12(a)) and/or section 609(c) of the Federal Aviation Act of 1958, as amended, (49 U.S.C. App. 1429(c)). Sections 61.15(a), 63.12(a) and 65.12(a) state:

> (a) A conviction for the violation of any Federal or State statute relating to the growing, processing, manufacture, sale, disposition, possession, transportation, or importation of narcotic drugs, marijuana, or depressant or stimulant drugs or substances is grounds for—
>
> (b) Denial of an application for any certificate or rating issued under this part for a period of up to 1 year after the date of final conviction; or
>
> (2) Suspension or revocation of any certificate or rating issued under this part.

Section 609(c) provides, in part, that:

> The Administrator shall issue an order revoking the airman certificates of any person upon conviction of such person of a crime that is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance), if the Administrator determines that (A) an aircraft was used in the

commission of the offense or to facilitate the commission of the offense, and (B) such person served as an airman, or was on board such aircraft, in connection with the commission of the offense or the facilitation of the commission of the offense. The Administrator shall have no authority under this paragraph to review the issue of whether an airman violated a State or Federal law relating to a controlled substance.

Section 609(c) includes a similar provision with respect to the revocation of airman certificates of persons who, although not convicted, have knowingly engaged in such an activity. Section 609(c) applies to acts which occur after its effective date of October 19, 1984. Under section 602(b)(2) any person whose airman certificate is revoked under section 609(c) may not be issued a new airman certificate for a period of 5 years, unless the Administrator determines that circumstances warrant otherwise. On November 18, 1988 the President signed into law Pub. L. 100–690, which amended sections 602(b) and 609(c) by deleting the 5-year revocation period and forever prohibiting the re-issuance of an airman certificate revoked under Section 609(c) unless the Administrator, upon the request of a Federal or State law enforcement official, determines that a waiver of revocation action or re-issuance of an airman certificate will facilitate law enforcement efforts.

Accordingly, if a case involves a drug conviction as well as falsification of the medical certificate application, enforcement action may be taken under §§ 61.15, 63.12, or 65.12 and/or section 609(c), as well as under § 67.20. Also, even if it is determined that action under § 67.20 (for falsification) is not warranted, action under the other sections may still be taken in cases involving drug convictions.

The answers to the questions regarding whether an airman has ever had a record of traffic or other convictions are important because they may indicate a medical problem or may lead to further inquiry regarding an applicant's medical qualifications. (For example, driving under the influence may indicate alcoholism). The integrity of the entire medical qualification system is dependent on the truthfulness of the applicant. When an applicant is untruthful, the aviation medical examiner may be prevented from conducting a proper fitness review. In every case referred by the OIG, as well as in other similar cases, the FAA will take action. This notice outlines that action.

In all cases in which a prior drug- or alcohol-related conviction has been omitted from an application, further medical certificates will not be issued unless the required full disclosure is made on subsequent application forms, regardless of how old the conviction may be. (If an aviation medical examiner issues a certificate in such a case, action will be taken to reverse the issuance or revoke the certificate, as appropriate.)

Because of the large number of cases referred and the limitations on the agency's investigative and legal resources, the agency will not initiate legal enforcement action, against currently held medical or airman certificates in most cases involving relatively older convictions unless it is determined that the airman is not medically qualified to hold a medical certificate.

The FAA has determined that certificate action (hereinafter described) will ordinarily be initiated only in cases involving driving while intoxicated (DWI) or driving under the influence (DUI) convictions which occurred after February 17, 1984, which is 3 years before the FBI matching program was announced by the Department of Transportation. Such a 3-year "lookback" period is consistent with the approach taken by Congress in the Airport and Airway Safety and Capacity Expansion Act of 1987, under which Congress has allowed the FAA access to National Driver Register (NDR) information. Congress generally limited that access to information on convictions occurring not more than 3 years prior to a request for NDR information. Similarly, because of resource limitations, the same "lookback" period will be applied to most drug convictions.

Notwithstanding this "lookback" period, the FAA reserves the prerogative to take certificate action in any case it considers aggravated even if it falls outside the 3-year "lookback" period.

In all cases, including those in which certificate action based on falsification and/or convictions is not taken under this policy, the FAA will review the individual's medical eligibility, and take action, if appropriate.

In addition, any person who has omitted from an application information regarding drug- or alcohol-related convictions, even persons against whom no certificate action is taken under this policy for prior falsifications, is reminded that failure to fill out any future application completely and truthfully may lead to denial or revocation of medical certificates. Such a failure will also make them subject to action against their airman and ground instructor certificates, as well as potential criminal sanctions.

The FAA believes that safety in air commerce or air transportation and the public interest require the certificate actions provided under this notice of policy. Thus, for example, in those cases in which revocation is ordered, that sanction reflects the FAA's view that a lack of qualification to hold the certificate(s) exists. Below is an outline of the sanctions which will generally be ordered by the FAA in these cases. The FAA reserves the prerogative to take more or less stringent actions in individual cases where aggravating or mitigating circumstances are present. For example, if a falsification becomes known to the FAA only by the airman's voluntary disclosure of accurate information, that fact might be considered in mitigation.

A. Falsification of Convictions for Driving While Intoxicated or Driving Under the Influence (hereinafter DUI) (Cases involving § 67.20). (While the vast majority of DUIs involve alcohol, they might also involve driving under the influence of another drug.)

1. For a single DUI conviction, revocation of any current medical certificates and suspension of any airman or ground instructor certificates for 60 days. (Suspension of the airman or ground instructor certificates will be ordered even if the airman holds no current medical certificate.)

The 60-day suspension period applies only in a case which involves falsification of a single DUI conviction alone. Thus, if some other information has also been omitted, (e.g., treatment for alcoholism), another, more severe sanction may be imposed.

2. For multiple DUIs, revocation of any current medical certificate and, except in extraordinary circumstances, any airman or ground instructor certificates.

B. Drug Convictions (Cases involving §§ 61.15, 63.12, and 65.12 and/or 609(c)) and Falsification of Drug Convictions. (Cases involving § 67.20.)

1. For a single conviction for simple possession, revocation of any current medical certificates and suspension of any ground instructor certificate, or any airman or other certificates issued under Parts 61, 63, or 65, for 180 days. (Suspension of the airman certificate will be ordered even if the airman holds no current medical certificate.)

The 180-day suspension period applies only in a case which involves falsfication of a single conviction for possession alone. Thus, if some other information has also been omitted, (e.g., treatment for drug dependence), another, more severe sanction may be imposed.

2. For one conviction for more than simple possession revocation of any current medical certificates and, except in extraordinary circumstances, any ground instructor certificate, or any airman or other certificates issued under Parts 61, 63, or 65.

3. For two or more drug convictions of any type, revocation of any current medical certificate and, except in extraordinary circumstances, any ground instructor certificate, or any airman or other certificates issued under Parts 61, 63, or 65.

C. Drug Convictions Which Do Not Involve Falsification of Medical Certificate Application. (Cases Under §§ 61.15, 63.12, 65.12 and/or 609(c)).

1. For single conviction for simple possession, suspension of any airman or other certificates issued under Parts 61, 63, or 65 for 120 days.

2. For one conviction for more than a simple possession, except in extraordinary circumstances, revocation of any airman or other certificates issued under Parts 61, 63, or 65.

3. For two or more convictions, except in extraordinary circumstances, revocation of any airman or other certificates issued under Parts 61, 63, or 65.

The FAA will also take appropriate action, when and as necessary, in cases involving drug convictions but no charge of falsification, in order to determine whether the airman is qualified to hold a medical certificate.

The enforcement policy set forth in this notice applies only to the convictions specified. The FAA reserves the right to take enforcement action in cases involving failure to disclose other types of convictions, as appropriate. Similarly, the falsification addressed in this policy relates to airman medical certificate applications. The FAA reserves the right to take enforcement action in cases involving falsification of other types of documents.

Availability of this Notice

Any person may obtain a copy of this notice by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center, APA–230, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484.

Issued in Washington, DC on April 11, 1989.

Robert E. Whittington,

Acting Administrator.

[FR Doc. 89–9007 Filed 4–11–89; 2:35 pm]

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federal register

Friday
April 14, 1989

Part VIII

Department of Transportation

Federal Aviation Administration

14 CFR Part 61 et al.
Anti-Drug Program for Personnel Engaged in Specified Aviation Activities; Final Rule; Request for Comment

DEPARTMENT OF TRANSPORTATION

14 CFR Parts 61, 63, 65, and 121

[Docket No. 25148; Amdts. 61-83, 63-26, 65-33, 121-203]

RIN 2120-AC33

Anti-Drug Program for Personnel Engaged in Specified Aviation Activities

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comment.

SUMMARY: On November 14, 1988, the FAA issued a final rule requiring specified aviation employers and operators to submit and to implement anti-drug programs for personnel performing sensitive safety- and security-related functions. This final rule extends certain compliance dates and revises the method by which certain entities may be covered by anti-drug programs approved by the FAA. This document also makes minor editorial changes and clarifications to the final anti-drug rule to aid an employer's development of a program and implementation of an approved anti-drug program. These issues were addressed in the prior rulemaking actions that led to promulgation of the final anti-drug rule. This rulemaking action is necessary to facilitate implementation of the final rule issued on November 14, 1988. This rulemaking action is intended to clarify the requirements of the final anti-drug rule and to improve administration of the rule.

DATES: *Effective date:* This final rule is effective on April 11, 1989. Comments must be received not later than May 15, 1989.

ADDRESS: Send or deliver comments on this notice, in duplicate, to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Room 915G, Docket No. 25148, 800 Independence Avenue SW., Washington, DC 20591. Comments must be marked "Docket No. 25148." Comments may be examined in the Rules Docket between 8:30 a.m. and 5:00 p.m. on weekdays, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Ms. Heidi Mayer, Office of Aviation Medicine, Drug Abatement Branch (AAM-220), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3410.

SUPPLEMENTARY INFORMATION:

Comments Invited

The amendments contained in this final rule extend certain compliance dates and revise the procedures by which certain entities may be covered under an anti-drug program. Because these issues were set forth in previous rulemaking actions and interested persons commented on these issues, the amendments are being adopted without prior notice and prior public comment. However, the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 26, 1979) provide that, to the maximum extent possible, operating administrations of the Department of Transportation (DOT) should provide an opportunity for public comment on regulations issued without prior notice.

Accordingly, interested persons are invited to participate in this rulemaking by submitting such written data, views, or arguments as they may desire. Comments must include the regulatory docket number or the amendment number identified in this final rule. Comments also must be submitted in duplicate to the address listed under the caption "**ADDRESS**" above. All comments received will be available for examination by interested persons in the Rules Docket. These amendments may be changed in light of the comments received on this final rule.

Commenters who want the FAA to acknowledge receipt of comments submitted on this final rule must submit a preaddressed, stamped postcard with those comments on which the following statement is made: "Comments to Docket 25148." The postcard will be date-stamped by the FAA and will be returned to the commenter. A report summarizing each substantive contact with FAA personnel concerned with this rulemaking will be filed in the public docket.

Availability of Final Rule

Any person may obtain a copy of this final rule by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attn: Public Inquiry Center (APA-230), 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 267-3484. Requests must include the amendment number identified in this final rule. Persons interested in being placed on a mailing list for future rulemaking actions should request a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Background

The rulemaking process that led to promulgation of the final anti-drug regulation began in late 1986. On December 4, 1986, the FAA issued an advance notice of proposed rulemaking (ANPRM) (51 FR 44432; December 9, 1986). The ANPRM invited comment from interested persons on drug and alcohol abuse by personnel in the aviation industry. The ANPRM also solicited comment on the options that the FAA should consider to protect and to maintain aviation safety in light of any drug and alcohol use in the aviation industry.

On March 3, 1988, the FAA issued a notice of proposed rulemaking (NPRM) (53 FR 8368; March 14, 1988) that analyzed the comments submitted on the ANPRM and set forth proposed regulations for comment by interested persons. The FAA received over 900 comments in response to the ANPRM and the NPRM.

The FAA also held three public hearings across the country on the proposed regulations contained in the NPRM. Each hearing was recorded by a court reporter and the hearing transcript was placed in the public docket for the rulemaking.

The FAA issued the final anti-drug rule requiring certain aviation employers and operators to develop and to implement an anti-drug program for employees performing specified aviation activities on November 14, 1988 (53 FR 47024; November 21, 1988). After the final rule was issued, the FAA continued to review the timeframes and implementation schedules contained in the final anti-drug rule. The FAA became aware of various practical implementation questions and issues as a result of the agency's responsibility to provide guidance on rule compliance to the industry. Also, representatives of aviation organizations and employers subject to the final rule expressed concern about certain procedural aspects of the final anti-drug rule. These entities maintain that the timeframes in the final rule for program submission are not realistic in light of the complexities of the final rule and that several detailed requirements of the final rule should be clarified or modified. These basic issues were addressed generally by the commenters in the prior rulemaking action, but the process of actually developing an anti-drug program has increased the awareness of the impact of certain detailed portions of the final rule. Thus, these issues and the concerns expressed to the FAA are not unique nor are they new issues being raised for the first time.

Several issues identified by the FAA are reflected in a formal petition submitted by the Air Transport

Association of America (ATA) and the Regional Airline Association (RAA). A copy of the petition is available for review by interested persons in Docket No. 25148. The petitioners jointly request that the FAA extend the effective date of the final rule as it applies to required testing of contract employees. The petitioners suggest that this additional time should be used by the industry and the FAA to fully explore the most effective methods for including contract employees in an anti-drug program. The petitioners ask that the FAA reconsider whether contractors may file their own drug testing plans directly to the FAA for approval. The petitioners also request that the FAA defer testing of employees located outside the territory of the United States indefinitely. Under the final rule, testing outside the United States must be conducted unless it would violate the laws of a foreign country or the foreign government has objected to the application of the final rule within its jurisdiction. The petitioners suggest that testing outside the United States should be suspended until DOT, the Department of State, and foreign governments have considered and discussed the international implications of the final rule.

The amendments contained in this final rule address, among other things, the request of ATA and RAA in their petition to revise the final anti-drug rule. With respect to the issue of testing contractor employees, these amendments, as discussed in more detail below, extend the compliance date for testing contractor employees and permit contractors to submit plans directly to the FAA. Before the rulemaking petition was received, the FAA determined that these amendments were necessary. For this reason, and because this rulemaking action addresses all issues raised in the petition submitted by ATA and RAA, the FAA determined that publication of the petition in the **Federal Register** is unnecessary and would unduly delay this rulemaking action.

The FAA believes that these actions are fully responsive to the concerns raised in the petition. Nevertheless, the FAA is aware that the industry's experience under this rule may result in the identification of other issues that may need to be addressed to facilitate the effective and efficient implementation of anti-drug programs. The FAA intends to schedule periodic meetings to receive comments and recommendations regarding implementation of the final anti-drug rule. In this regard, representatives of DOT, including personnel from the FAA, have attended several meetings in the past few months sponsored by ATA and RAA to discuss rule implementation issues. Information obtained at future meetings or experience gained by the FAA and the industry may result in further modifications of the final anti-drug rule.

Discussion of the Amendments

The first and most crucial issue being amended by this final rule is extension of the timeframes by which employers must submit an anti-drug plan to the FAA for approval. Representatives of aviation organizations and employers maintain that the administrative and logistical problems related to development and submission of an anti-drug plan are much greater than anticipated. The FAA agrees. In light of the significant amount of work associated with development and planning of an effective and comprehensive anti-drug program, the FAA is convinced that the existing timeframes are unrealistic. The FAA believes that effective implementation of an employer's or an operator's anti-drug program will be much easier if additional time is given to these entities to develop the anti-drug program.

Although the FAA is restructuring the schedule for developing and submitting anti-drug plans to the FAA, the date by which the employer's approved anti-drug program must begin has not been changed. Thus, the date by which drug testing would begin pursuant to the final rule remains the same. The commenters do not express the same concern regarding the date that testing must begin as has been expressed regarding development and submission of an anti-drug plan. The FAA believes that additional time for development of an anti-drug plan that is unique to each affected employer and operator will lead to more effective and more efficient implementation of the anti-drug program.

In this amendment, the FAA is adding 120 days to the time period by which employers and operators must submit an anti-drug plan to the FAA for approval. This amendment correspondingly reduces, by an equivalent time period, the interval between approval of an anti-drug program and implementation of that program. For example, in the final anti-drug rule, Part 121 and large Part 135 certificate holders were given a 120-day period for plan submission and a 180-day period after program approval to implement drug testing, a total of 300 days for these portions of the overall schedule. This amendment provides a 240-day period for program submission and a 60-day period to implement the approved program, or an identical 300-day total period.

As a result of amending the plan submission date for these employers, the interval between program approval and initiation of all types of drug tests is substantially shortened. Hence, the FAA is deleting the requirement that these entities begin preemployment testing not later than 10 days after approval of the employer's anti-drug program by the FAA. These employers now will implement preemployment testing at the same time that all other testing begins as required by the final anti-drug rule (on or about December 16, 1989). This will permit Part 121 and large Part 135 certificate holders to implement their approved anti-drug programs in an efficient and uniform manner.

The FAA is adding a similar extension of time in other sections of the final anti-drug rule that address the dates by which other employers and operators must submit anti-drug plans to the FAA for approval. The amendment correspondingly reduces the interval between program approval and implementation of the program.

The FAA believes that extending the time period by which employers and operators must develop and submit a plan to the FAA for approval will greatly enhance the quality and coverage of an employer's anti-drug program. Yet, at the same time, the goal of implementing a drug testing regimen and providing education and training on drug use and abuse to employees will not be delayed.

In addition to delaying the date by which plans must be submitted to the FAA for approval, the amended schedule creates a distinction with respect to individuals who are directly employed by an affected employer and those employees who provide sensitive safety- or security-related functions pursuant to a contract with the covered employer. The FAA firmly believes that contractor employees performing sensitive safety- or security-related functions for an employer or an operator should be tested. However, the FAA also believes that delaying the date by which testing of these employees must begin would have the salutary effect of allowing employers and operators to gain useful experience in implementing anti-drug programs for their own employees before addressing the added complexity and responsibility of testing contractor employees.

The FAA reconsidered the timeframe for including contractor employees in an employer's anti-drug program and the issue of whether contractors could submit anti-drug plans directly to the

FAA for approval. Because of the significant administrative and logistical difficulties associated with including contractor employees in an employer's anti-drug program, the FAA is revising the final rule to give employers additional time regarding testing of contractor employees.

As a result of the amendment, an employer's initial anti-drug program need only specify testing for direct employees of the employer. An employer's anti-drug program must be submitted and testing of the employer's direct employees must begin not later than the dates contained in this final rule. However, testing of contractor employees would not be required until 360 days after testing is initiated for direct employees under that employer's approved anti-drug program. Therefore, Part 121 certificate holders and Part 135 certificate holders employing more than 50 covered employees are permitted to use contractor employees, even if these employees are not covered by an FAA-approved anti-drug program, for an additional 1-year period after initial implementation of the employer's anti-drug program. A similar extension applies in the case of Part 135 certificate holders that employ 11 to 50 covered employees, Part 135 certificate holders that employ 10 or fewer covered employees, and operators as defined in the final anti-drug rule.

Under the provisions of the FAA's final anti-drug rule, contractors were required to come under the "umbrella" of a covered employer's anti-drug program. The NPRM implied that contractors could submit anti-drug plans directly to the FAA for approval. In the final anti-drug rule, that section was amended so that contractors were required to be part of one covered employer's program for whom the contractors provided covered services. However, at both the NPRM and the final rule phases of this rulemaking, the ultimate obligation to ensure that direct or contract employees are part of a drug testing program always has rested with the certificate holder or the operator subject to the final anti-drug rule. At the final rule stage, only the method by which contractor employees would be included in an approved plan was revised. DOT and the FAA are fully aware of the administrative and logistical complexity of this requirement and addresses that issue in this document.

In addition to extending the timeframe for including contractor employees in an approved anti-drug program, the FAA is amending the final anti-drug rule to permit contractors and consortiums (which may be comprised of a combination of contractors, employers, or operators) to submit plans directly to the FAA for approval. These provisions are designed to facilitate implementation of the final anti-drug rule in the area of testing contractor employees and to permit employers and operators subject to the final rule to join together to take advantage of economies of scale. Thus, Appendix I to Part 121 contains a provision that enables repair stations certificated by the FAA to submit anti-drug programs directly to the FAA for approval. The FAA also is including a provision that would enable contractors that do not hold a Part 145 certificate and consortia of contractors or employers to submit a plan directly to the FAA for approval. Unlike certificated repair stations, some companies that provide employees to assist air carriers in the screening of persons and property are not certificated nor regulated directly by the FAA. Similarly, consortia that may develop to help small or remote aviation employers in developing and implementing anti-drug programs are neither certificated nor regulated by the FAA. However, after review of the final anti-drug rule and concerns expressed by the aviation community, the FAA believes that it would be wise to permit these entities to submit plans directly to the FAA for approval. These entities will be permitted to submit anti-drug programs to the FAA on a form and in a manner prescribed by the Administrator so that an appropriate mechanism and procedures can be developed for these types of entities. The FAA is adding a provision to the final anti-drug rule to provide such a mechanism for these entities.

The FAA believes that the delay in requiring contractor employees to be covered will provide sufficient time for many contractors to develop their own comprehensive anti-drug programs. Contractors actually may benefit from this delay since Part 121 and Part 135 certificate holders will have submitted anti-drug programs to the FAA and will have implemented approved anti-drug programs. Aviation contractors will gain valuable experience regarding the development of anti-drug programs and the administrative requirements from employers who have implemented anti-drug programs.

This final rule amendment also addresses the issue of the impact of the final rule on persons outside the United States. Under the terms of the final rule, the appendix is not effective until January 1, 1990, with respect to any person for whom a foreign government contends that application of the appendix raises questions of compatibility with that country's domestic laws or policies.

After the final anti-drug rule was issued, the Department of State sent diplomatic notes to foreign governments regarding the requirements of the final rule. In response, 12 foreign governments objected to the potential impact of the final rule within their jurisdiction and contended that the final rule is incompatible with the foreign country's laws or policies. DOT and the FAA recognize that government-to-government discussion is critical, and has already begun in some cases, to reach permanent resolution of any conflict between the final rule and a foreign country's laws or policies.

In their petition, ATA and RAA state that a foreign country's silence or failure to communicate its objections should not be construed as tacit approval or affirmative consent to the final rule in that country. Because of the added complexity of this rule in an international arena, DOT and the FAA believe that the timeframe set forth in the final rule may be insufficient to ensure that each foreign government understands the significance of the final anti-drug rule and initiates appropriate governmental action to notify the U.S. government of its position regarding the final rule. Neither DOT nor the FAA wish to place a U.S. air carrier in an untenable position while this government-to-government process is developing. Therefore, the FAA is deleting the affirmative obligation for a diplomatic response from a foreign government and is extending the effective date of the final rule, as it may apply outside the territory of the United States, to January 1, 1991. DOT and the FAA believe that this action is necessary to avoid inconsistent or ineffective implementation of the rule by air carriers and to provide additional time for government-to-government discussions in this area. Moreover, the FAA believes that this extension will enable U.S. air carriers to obtain administrative expertise with their domestic anti-drug programs before implementing similar programs, and assuming the significantly greater logistical and administrative burden, of testing covered employees in foreign countries.

The FAA also is making several minor, editorial changes in the final anti-drug rule. These are technical changes to reflect the FAA's original intent regarding the final rule or to correct errors that occasionally occur during a rulemaking project of this magnitude.

For example, the term "ground dispatcher" is being deleted from Appendix I to Part 121. That term was intended to ensure that individuals performing aircraft dispatcher duties (e.g., preparation of a dispatch release or document, flight release form, load manifest, or flight plan) would be included in an employer's approved anti-drug program despite the title that was given to that employee or the fact that the employee did or did not hold an aircraft dispatcher certificate issued by the FAA.

The focus of the FAA's final anti-drug rule has always been on the "employer" or "operator." Thus, the provision that specifies sanctions for a certificated employee's refusal to submit to a drug test is amended to delete references to FAA inspectors and law enforcement offices. As amended, the specified sanctions apply only when an employee refuses to submit to a drug test in accordance with the appendix when requested by the employer or operator.

Reason for no Notice and Immediate Adoption

These amendments to the final anti-drug rule are needed immediately to delay the compliance dates specified in the final rule. Under the implementation schedule published in the **Federal Register** on November 21, 1988, certain aviation employers would have been required to submit an anti-drug program to the FAA for approval by April 20, 1989. It is necessary to delay implementation of the final anti-drug rule due to the administrative and logistical problems associated with implementation of comprehensive anti-drug programs. The FAA believes that delay of the date by which plans must be submitted to the FAA, and certain other provisions intended to relieve difficult burdens on employers, will lead to efficient and effective industry anti-drug programs.

For these reasons, notice and public comment procedures are impracticable, unnecessary, and contrary to the public interest. Moreover, the FAA has determined that good cause exists to make this final rule effective in less than 30 days. In accordance with the Regulatory Policies and Procedures of the Department of Transportation, an opportunity for public comment on the final rule is provided.

Economic Assessment

In accordance with the requirements of Executive Order 12291, the FAA reviewed the costs and the benefits of the final anti-drug rule issued on November 14, 1988. At that time, the FAA prepared a comprehensive Regulatory Impact Analysis of the final anti-drug rule. The FAA included that analysis in the public docket. The FAA also summarized and analyzed the comments submitted by interested persons on the economic issues in the final rulemaking document published in the **Federal Register** on November 21, 1988.

This final rule extends certain compliance dates and revises the method by which certain entities may be covered by anti-drug programs approved by the FAA. This document also makes minor editorial changes and clarifications to the final anti-drug rule to aid an employer's development of a program and implementation of an approved anti-drug program. These issues were addressed in the prior rulemaking actions that led to promulgation of the final anti-drug rule. This rulemaking action does not change the basic regulatory structure and requirements promulgated in the final anti-drug rule. Therefore, the FAA anticipates that there would be little or no cost associated with the extension of certain compliance dates and the technical amendments of this final rule. In addition, there would be little or no change in the benefits identified in the final rule. Thus, the FAA has determined that revision of the comprehensive Regulatory Impact Analysis for the final anti-drug rule is not necessary and preparation of a separate economic analysis for this final rule is not warranted.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 requires a Federal agency to review any final rule to assess its impact on small business. The amendments contained in this final rule extend certain compliance dates, provide an additional, but not required, method by which some contractors may submit anti-drug programs directly to the FAA, and make certain editorial or clarifying changes to the final anti-drug rule. In consideration of the nature of these amendments, the FAA has determined that this final rule will not have a significant economic impact, positive, or negative, on a substantial number of small entities.

International Trade Impact Statement

This final rule contains an amendment that extends the date by which an employer must ensure that employees outside the United States are in compliance with the final rule issued on November 14, 1988. The amendment provides that Appendix I to Part 121 is not effective with respect to any employee located outside the territory of the United States until January 1, 1991. Thus, the FAA has determined that this final rule will not have an impact on trade opportunities for U.S. firms doing business overseas or on foreign firms doing business in the United States.

Paperwork Reduction Act Approval

The recordkeeping and reporting requirements of the final anti-drug rule, issued on November 14, 1988, previously were submitted to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1980. OMB approved those requirements on February 2, 1989. Because this final rule does not amend the recordkeeping and reporting requirements of the final rule, it is not necessary to amend the prior approval received from OMB.

Federalism Implications

The final rule 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, the FAA has determined that this final rule does not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Conclusion

This final rule extends certain compliance dates and revises the method by which certain entities may be covered by anti-drug programs approved by the FAA. This document also makes minor editorial changes and clarifications to the final anti-drug rule to aid an employer's development of a program and implementation of an approved anti-drug program. These issues were addressed in the prior rulemaking actions that led to promulgation of the final anti-drug rule. This rulemaking action is necessary to facilitate implementation of the final rule issued on November 14, 1988. This rulemaking action is intended to clarify the requirements of the final anti-drug rule and to improve administration of the rule.

Pursuant to the terms of the Regulatory Flexibility Act of 1980, the FAA certifies that the final rule will not have a significant economic impact, positive or negative, on a substantial number of small entities. In addition, the final rule will not result in an annual effect on the economy of $100 million or more and will not result in a significant increase in consumer prices; thus, the final rule is not a major rule pursuant to the criteria of Executive Order 12291.

However, because the rule involves issues of substantial interest to the public, the FAA determined that the final rule is significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034; February 2, 1979).

List of Subjects

14 CFR Part 61

Air safety, Air transportation, Aircraft, Aircraft pilots, Airmen, Aviation safety, Drug abuse, Drugs, Narcotics, Pilots, Safety, Transportation.

14 CFR Part 63

Air safety, Air transportation, Aircraft, Airmen, Airplanes, Aviation safety, Drug abuse, Drugs, Narcotics, Safety, Transportation.

14 CFR Part 65

Air safety, Air transportation, Aircraft, Airmen, Aviation safety, Drug abuse, Drugs, Narcotics, Safety, Transportation.

14 CFR Part 121

Air carriers, Air transportation, Aircraft, Aircraft pilots, Airmen, Airplanes, Aviation safety, Drug abuse, Drugs, Narcotics, Pilots, Safety, Transportation.

The Amendments

Accordingly, the FAA amends Parts 61, 63, 65, and 121 of the Federal Aviation Regulations (14 CFR Parts 61, 63, 65, and 121) as follows:

PART 61—CERTIFICATION: PILOTS AND FLIGHT INSTRUCTORS

1. The authority citation for Part 61 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

2. By revising the introductory text of § 61.14(b) to read as follows:

§ 61.14 Refusal to submit to a drug test.

* * * * *

(b) Refusal by the holder of a certificate issued under this part to take a test for a drug specified in Appendix I to Part 121 of this chapter, when requested by an employer as defined in that appendix or an operator as defined in § 135.1(c) of this chapter, under the circumstances specified in that appendix is grounds for—

* * * * *

PART 63—CERTIFICATION: FLIGHT CREWMEMBERS OTHER THAN PILOTS

3. The authority citation for Part 63, Subpart A, is revised to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1421, 1422, 1427, 1429, and 1430; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

4. By revising the introductory text of § 63.12b(b) to read as follows:

§ 63.12b Refusal to submit to a drug test.

* * * * *

(b) Refusal by the holder of a certificate issued under this part to take a test for a drug specified in Appendix I to Part 121 of this chapter, when requested by an employer as defined in that appendix or an operator as defined in § 135.1(c) of this chapter, under the circumstances specified in that appendix is grounds for—

* * * * *

PART 65—CERTIFICATION: AIRMEN OTHER THAN FLIGHT CREWMEMBERS

5. The authority citation for Part 65 continues to read as follows:

Authority: 49 U.S.C. 1354, 1355, 1421, 1422, and 1427; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

6. By revising the introductory text of § 65.23(b) to read as follows:

§ 65.23 Refusal to submit to a drug test.

* * * * *

(b) Refusal by the holder of a certificate issued under this part to take a test for a drug specified in Appendix I to Part 121 of this chapter, when requested by an employer as defined in that appendix or an operator as defined in § 135.1(c) of this chapter, under the circumstances specified in that appendix is grounds for—

* * * * *

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

7. The authority citation for Part 121 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502; 49 U.S.C. 106(g) (Revised, Pub. L. 97–449, January 12, 1983).

Appendix I—[Amended]

8. By revising paragraph e. of section III of Appendix I to Part 121 to read as follows:

* * * * *

e. Aircraft dispatcher duties.

* * * * *

9. By revising paragraphs (A)(2), (A)(3), (A)(4), and (A)(5) of section IX of Appendix I to Part 121 to read as follows:

* * * * *

(A) * * *

(2) Each employer who holds a Part 121 certificate and each employer who holds a Part 135 certificate and employs more than 50 employees who perform a function listed in section III of this appendix shall submit an anti-drug program to the FAA (specifying the procedures for all testing required by this appendix) not later than 240 days after December 21, 1988. Each employer shall implement the employer's anti-drug program for its direct employees not later than 60 days after approval of the anti-drug program by the FAA. Each employer shall implement the employer's approved anti-drug program for its contractor employees not later than 360 days after initial implementation of the employer's approved anti-drug program for its direct employees.

(3) Each employer who holds a Part 135 certificate and employs from 11 to 50 employees who perform a function listed in section III of this appendix shall submit an interim anti-drug program to the FAA (specifying the procedures for preemployment testing, periodic testing, postaccident testing, testing based on reasonable cause, and testing after return to duty) not later than 300 days after December 21, 1988. Each employer shall implement the employer's interim anti-drug program for its direct employees not later than 60 days after approval of the anti-drug program by the FAA. Each employer shall submit an amendment to its interim anti-drug program to the FAA (specifying the procedures for unannounced testing based on random selection) not later than 120 days after approval of the employer's interim anti-drug program by the FAA. Each employer shall implement the random testing provision of the employer's amended anti-drug program for its direct employees not later than 60 days after approval of the amended program by the FAA. Each employer shall implement the employer's approved anti-drug program for its contractor employees, including unannounced testing based on random selection, not later than 360 days after initial implementation of the employer's interim anti-drug program for its direct employees.

(4) Each employer who holds a Part 135 certificate and employs 10 or fewer employees who perform a function listed in section III of this appendix, each operator as defined in § 135.1(c) of this chapter, and each air traffic control facility not operated by, or under contract with the FAA or the U.S. military, shall submit an anti-drug program to the FAA (specifying the procedures for all testing required by this appendix) not later than 480 days after December 21, 1988. Each employer or operator shall implement the employer's or operator's anti-drug program for its direct employees not later than 60 days after approval of the plan by the FAA. Each employer or operator shall implement the employer's or operator's approved anti-drug

program for its contractor employees not later than 360 days after initial implementation of the employer's or operator's approved anti-drug program for its direct employees.

(5) Each employer or operator, who becomes subject to the rule as a result of the FAA's issuance of a Part 121 or Part 135 certificate or as the result of beginning operations listed in § 135.1(b) for compensation or hire (except operations of foreign civil aircraft navigated within the United States pursuant to Part 375 or emergency mail service operations pursuant to section 405(h) of the Federal Aviation Act of 1958) shall submit an anti-drug plan to the FAA for approval, within the timeframes of paragraph (2), (3), or (4) of this section, according to the type and size of the category of operations. For the purposes of applicability of the timeframes, the date that an employer or operator becomes subject to the requirements of this appendix is substituted for "December 21, 1988."

10. By adding new paragraphs (6) and (7) to section IX of Appendix I to Part 121 to read as follows:

* * * * *

(6) In accordance with this appendix, an entity or individual that holds a repair station certificate issued by the FAA pursuant to Part 145 of this chapter and employs individuals who perform a function listed in section III of this appendix pursuant to a primary or direct contract with an employer or an operator may submit an anti-drug program (specifying the procedures for complying with this appendix) to the FAA for approval. Each certificated repair station shall implement its approved anti-drug program in accordance with its terms.

(7) An entity or individual whose employees perform a function listed in section III of this appendix pursuant to a contract with an employer or an operator or a consortium of contractors or employers subject to the requirements of this appendix may submit an anti-drug program (specifying the procedures for complying with this appendix) to the FAA for approval on a form and in a manner prescribed by the Administrator. Each contractor or consortium shall implement its approved anti-drug program in accordance with its terms.

11. By revising paragraph (B) of section XII of Appendix I to Part 121 to read as follows:

* * * * *

B. This appendix shall not be effective with respect to any employee located outside the territory of the United States until January 1, 1991.

Issued in Washington, DC, on April 11, 1989.

Robert E. Whittington,

Acting Administrator.

[FR Doc. 89-9004 Filed 4-11-89; 2:39 pm]

BILLING CODE 4910-13-M

federal register

Friday
April 14, 1989

Part IX

The President

Proclamation 5953—Crime Victims Week, 1989

Executive Order 12674—Principles of Ethical Conduct for Government Officers and Employees

Public Papers

Friday
April 14, 1933

Part IX

The President

Proclamation 2023—Crime Victims Week, 1983

Executive Order 12374—Principles of Ethical Conduct for Government Officers and Employees

Federal Register
Vol. 54, No. 71
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Presidential Documents

Title 3—

The President

Proclamation 5953 of April 12, 1989

Crime Victims Week, 1989

By the President of the United States of America

A Proclamation

A crime is more than a violation of the law; in every case it is the violation of the rights, property, person or trust of another human being. Justice, therefore, must mean more than a fair trial for the accused criminal and an appropriate sentence for the guilty. Justice also requires that the rights and losses of the innocent victim be duly vindicated.

For too long, our criminal justice system focused on the rights of offenders and paid little or no attention to the rights and needs of those victims who suffered physically, emotionally, and financially. However, the 1982 President's Task Force on Victims of Crime focused national attention on the numerous inequities in the system. Since then, the Federal Government has been working hard with the States to encourage the development and expansion of programs for crime victims. Last October, the Victims of Crime Act of 1984, which established a Crime Victims Fund in the U.S. Treasury that is financed by penalty assessments on all convicted Federal defendants, was reauthorized for 6 more years. Cooperative efforts at all levels of government will continue in order to improve responsiveness to the needs of crime victims.

This Administration is committed to maintaining the essential support system for victims and is determined to find additional ways to provide timely restitution to victims and to help them recover from the trauma of victimization. Federal and State dollars alone cannot do the job. Social service agencies, schools, hospitals, businesses, churches, and private citizens play a vital role in assisting victims of crime, and we must continue to support their efforts. Now more than ever, we need to enlist volunteers. I have spoken of a thousand points of light—of all the community organizations that are spread like stars throughout the Nation, doing good. We must ensure that those groups who offer the bright promise of hope and healing to crime victims continue to thrive. We must ensure that crime victims receive our special attention and that the combined efforts of concerned citizens, lawmakers, and criminal justice personnel help to improve and expand services for them.

NOW, THEREFORE, I, GEORGE BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim the week beginning April 9, 1989, as Crime Victims Week. As we rededicate ourselves to responding with speed and sensitivity to the needs of innocent crime victims, we must also resolve to educate our citizens about ways to minimize the risk of victimization. As always, we must rely on the courage and generosity of the American people in fighting crime and alleviating the suffering it causes. This week, we have an opportunity to express our gratitude to those who have worked tirelessly to meet the needs of innocent crime victims and their families. I urge all Americans to continue to show compassion for the victims of crime, as well as appreciation for those who work for justice.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of April, in the year of our Lord nineteen hundred and eighty-nine, and of the Independence of the United States of America the two hundred and thirteenth.

George Bush

[FR Doc. 89-9220
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Billing code 3195-01-M

Presidential Documents

Executive Order 12674 of April 12, 1989

Principles of Ethical Conduct for Government Officers and Employees

By virtue of the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish fair and exacting standards of ethical conduct for all executive branch employees, it is hereby ordered as follows:

PART I—PRINCIPLES OF ETHICAL CONDUCT

Section 101. *Principles of Ethical Conduct.* To ensure that every citizen can have complete confidence in the integrity of the Federal Government, each Federal employee shall respect and adhere to the fundamental principles of ethical service as implemented in regulations promulgated under sections 201 and 301 of this order:

(a) Public service is a public trust, requiring employees to place loyalty to the Constitution, the laws, and ethical principles above private gain.

(b) Employees shall not hold financial interests that conflict with the conscientious performance of duty.

(c) Employees shall not engage in financial transactions using nonpublic Government information or allow the improper use of such information to further any private interest.

(d) An employee shall not, except pursuant to such reasonable exceptions as are provided by regulation, solicit or accept any gift or other item of monetary value from any person or entity seeking official action from, doing business with, or conducting activities regulated by the employee's agency, or whose interests may be substantially affected by the performance or nonperformance of the employee's duties.

(e) Employees shall put forth honest effort in the performance of their duties.

(f) Employees shall make no unauthorized commitments or promises of any kind purporting to bind the Government.

(g) Employees shall not use public office for private gain.

(h) Employees shall act impartially and not give preferential treatment to any private organization or individual.

(i) Employees shall protect and conserve Federal property and shall not use it for other than authorized activities.

(j) Employees shall not engage in outside employment or activities, including seeking or negotiating for employment, that conflict with official Government duties and responsibilities.

(k) Employees shall disclose waste, fraud, abuse, and corruption to appropriate authorities.

(l) Employees shall satisfy in good faith their obligations as citizens, including all just financial obligations, especially those—such as Federal, State, or local taxes—that are imposed by law.

(m) Employees shall adhere to all laws and regulations that provide equal opportunity for all Americans regardless of race, color, religion, sex, national origin, age, or handicap.

(n) Employees shall endeavor to avoid any actions creating the appearance that they are violating the law or the ethical standards promulgated pursuant to this order.

Sec. 102. *Limitations on Outside Earned Income.* No employee who is appointed by the President to a full-time noncareer position in the executive branch, including all full-time employees in the White House Office and the Office of Policy Development, shall receive any earned income for any outside employment or activity performed during that Presidential appointment.

PART II—OFFICE OF GOVERNMENT ETHICS AUTHORITY

Sec. 201. *The Office of Government Ethics.* The Office of Government Ethics shall be responsible for administering this order by:

(a) Promulgating, in consultation with the Attorney General and the Office of Personnel Management, regulations that establish a single, comprehensive, and clear set of executive-branch standards of conduct that shall be objective, reasonable, and enforceable.

(b) Developing, disseminating, and periodically updating an ethics reference manual for employees of the executive branch describing the applicable statutes, rules, decisions, and policies.

(c) Promulgating, with the concurrence of the Attorney General, regulations interpreting the provisions of the general conflict-of-interest statute, section 208 of title 18, United States Code, and the statute prohibiting supplementation of salaries, section 209 of title 18, United States Code.

(d) Promulgating, in consultation with the Attorney General and the Office of Personnel Management, regulations establishing a system of nonpublic (confidential) financial disclosure by executive branch employees to complement the system of public disclosure under the Ethics in Government Act of 1978. Such regulations shall include criteria to guide agencies in determining which employees shall submit these reports.

(e) Ensuring that any implementing regulations issued by agencies under this order are consistent with and promulgated in accordance with this order.

Sec. 202. *Executive Office of the President.* In that the agencies within the Executive Office of the President (EOP) currently exercise functions that are not distinct and separate from each other within the meaning and for the purposes of section 207(e) of title 18, United States Code, those agencies shall be treated as one agency under section 207(c) of title 18, United States Code.

PART III—AGENCY RESPONSIBILITIES

Sec. 301. *Agency Responsibilities.* Each agency head is directed to:

(a) Supplement, as necessary and appropriate, the comprehensive executive-branch-wide regulations of the Office of Government Ethics, with regulations of special applicability to the particular functions and activities of that agency. Any supplementary regulations shall be prepared as addenda to the branch-wide regulations and promulgated with the concurrence of the Office of Government Ethics.

(b) Ensure the review by all employees of this order and regulations promulgated pursuant to the order.

(c) Coordinate with the Office of Government Ethics in developing annual agency ethics training plans. Such training shall include mandatory annual briefings on ethics and standards of conduct for all employees appointed by the President, all employees in the Executive Office of the President, all officials required to file public or nonpublic financial disclosure reports, all employees who are contracting officers and procurement officials, and any other employees designated by the agency head.

(d) Where practicable, consult formally or informally with the Office of Government Ethics prior to granting any exemption under section 208 of title

18, United States Code, and provide the Director of the Office of Government Ethics a copy of any exemption granted.

(e) Ensure that the rank, responsibilities, authority, staffing, and resources of the Designated Agency Ethics Official are sufficient to ensure the effectiveness of the agency ethics program. Support should include the provision of a separate budget line item for ethics activities, where practicable.

PART IV—DELEGATIONS OF AUTHORITY

Sec. 401. *Delegations to Agency Heads.* Except as provided in section 402 and except in the case of the head of an agency, the authority of the President under section 208(b) of title 18, United States Code, to grant exemptions to individuals, is delegated to the head of the agency in which an individual requiring an exemption is employed or to which the individual is attached for purposes of administration.

Sec. 402. *Delegations to the Counsel to the President.* The authority of the President under section 208(b) of title 18, United States Code, to grant exemptions for Presidential appointees to committees, commissions, boards, or similar groups established by the President is delegated to the Counsel to the President.

Sec. 403. *Delegation Regarding Civil Service.* The Office of Personnel Management and the Office of Government Ethics, as appropriate, are delegated the authority vested in the President by 5 U.S.C. 7301 to establish general regulations for the implementation of this Executive order.

PART V—GENERAL PROVISIONS

Sec. 501. *Revocations.* The following are hereby revoked:

(a) Executive Order No. 11222 of May 8, 1965.

(b) Executive Order No. 12565 of September 25, 1986.

Sec. 502. *Savings Provision.*

(a) All actions already taken by the President or by his delegates concerning matters affected by this order and in force when this order is issued, including any regulations issued under Executive Order 11222, Executive Order 12565 or statutory authority, shall, except as they are irreconcilable with the provisions of this order or terminate by operation of law or by Presidential action, remain in effect until properly amended, modified, or revoked pursuant to the authority conferred by this order or any regulations promulgated under this order. Notwithstanding anything in section 102 of this order, employees may carry out preexisting contractual obligations entered into before the date of this order.

(b) Financial reports filed in confidence (pursuant to the authority of Executive Order No. 11222, 5 C.F.R. Part 735, and individual agency regulations) shall continue to be held in confidence.

Sec. 503. *Definitions.* For purposes of this order, the term:

(a) "Contracting officers and procurement officals" means all such officers and officials as defined in the Office of Federal Procurement Policy Act Amendments of 1988.

(b) "Employee" means any officer or employee of an agency, including a special Government employee.

(c) "Agency" means any executive agency as defined in 5 U.S.C. 105, including any executive department as defined in 5 U.S.C. 101, Government corporation as defined in 5 U.S.C. 103, or an independent establishment in the executive branch as defined in 5 U.S.C. 104 (other than the General Accounting Office), and the United States Postal Service and Postal Rate Commission.

(d) "Head of an agency" means, in the case of an agency headed by more than one person, the chair or comparable member of such agency.

(e) "Special Government employee" means a special Government employee as defined in 18 U.S.C. 202(a).

Sec. 504. *Judicial Review.* This order is intended only to improve the internal management of the executive branch and is not intended to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

George Bush

THE WHITE HOUSE,
April 12, 1989.

[FR Doc. 89-9221
Filed 4-13-89; 11:56 am]
Billing code 3195-01-M

Editorial note: For the President's message to the Congress and a fact sheet, both dated April 12, see the *Weekly Compilation of Presidential Documents* (vol. 24, no. 15).

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