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Tuesday
October 5, 1993

Briefings on How To Use the Federal Register
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WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

WASHINGTON, DC
(two briefings)

WHEN: October 19 at 9:00 am and 1:30 pm

WHERE: Office of the Federal Register, 7th Floor Conference Room, 800 North Capitol Street NW, Washington, DC (3 blocks north of Union Station Metro)

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

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Parts 1477 and 1478

RIN 0560-AD04

Disaster Payment Program for 1990, 1991, 1992, and 1993

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule

SUMMARY: This final rule amends the regulations for the 1990, 1991, and 1992 Disaster Payment Programs and adds the 1993 Disaster Payment Program and Tree Assistance Program (TAP) as authorized by the Food, Agriculture, Conservation, and Trade Act of 1990 (1990 Act); the Dire Emergency Supplemental Appropriations Act of 1992; the Second Dire Emergency Supplemental Appropriations Act, Fiscal Year 1992; the Supplemental Appropriations Act, Fiscal Year 1993; and the Emergency Supplemental Appropriations Act, Fiscal Year 1993 (1993 Act). This final rule includes technical changes to TAP to enhance the administration of the program and sets forth the manner in which the application period for disbursement of funds made available by these acts will be conducted

EFFECTIVE DATE: September 30, 1993.

FOR FURTHER INFORMATION CONTACT: Diane Sharp, Chief, Production Adjustment Branch, Cotton, Grain, and Rice Price Support Division, ASCS, United States Department of Agriculture (USDA), P.O. Box 2415, Washington, DC 20013-2415, telephone 202-720-4696.

SUPPLEMENTARY INFORMATION:

Executive Order 12291 and Department Regulation 1512-1

This final rule has been reviewed under USDA procedures established in accordance with provisions of Executive Order 12291 and Departmental Regulation 1512-1 and has been classified as "major" since the program will have an annual effect on the economy exceeding $100 million

Final Regulatory Impact Analysis

Final Regulatory Impact Analyses have been prepared with respect to the 1990, 1991, 1992, and 1993 disaster programs. Copies of the analyses are available to the public from Deputy Administrator for Policy Analyses, ASCS, USDA, room 3714, South Agriculture Building, 14th and Independence Ave., P.O. Box 2415, Washington, DC 20013-2415

Regulatory Flexibility Act and Environmental Evaluation

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this rule An Environmental Evaluation with respect to the Disaster Payment Program and TAP has been completed. It has been determined that this action is not expected to have a significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Federal Assistance Program

The titles and numbers of the Federal Assistance Programs, as found in the Catalog of Federal Domestic Assistance, to which this rule applies are: Cotton Production Stabilization—10.052; Feed Grain Production Stabilization—10.055; Wheat Production Stabilization—10.058; and Rice Production Stabilization—10.065.

Executive Order 12372

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

Paperwork Reduction Act

The reporting requirements of the regulations at 7 CFR parts 1477 and 1478 have been approved through August 31, 1996, by the Office of Management and Budget (OMB) and assigned OMB No. 0560-0050. These reporting requirements have not changed as a result of the amendments under this final rule. Public reporting burden for these collections is estimated to average 15 minutes per response, including time for reviewing instructions, searching existing 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 Department of Agriculture, Clearance Officer, OIRM, AG Box 7630, Washington, DC 20250; and to the Office of Management and Budget, Paperwork Reduction Project (OMB No 0560-0050), Washington, DC 20503.

5 U.S.C. 553

The 1990 Act provides that the regulations necessary for implementation of these programs are to be issued as soon as practicable and without regard to the requirements for notice and public participation in rulemaking prescribed in 5 U S C. 553 or in any directive of the Secretary of Agriculture

Executive Order 12778

This final rule has been reviewed in accordance with Executive Order 12778 The provisions of this final rule do not preempt State law, and are not retroactive. Before any judicial action may be brought regarding the provisions of this final rule, the administrative appeal remedies at 7 CFR part 780 must be exhausted.

Background

This rule provides for both losses for 1993 and quality adjustments for the 1990, 1991, 1992, and 1993 crops of wheat, corn, barley, oats, grain sorghum, upland cotton, rice, soybeans, sunflowers, peanuts, sugar beets, tobacco, and ELS cotton. Funds shall also be made available to producers for certain 1993, 1994, and 1995 crop losses if such losses are due to the occurrence of Hurricanes Andrew and Iniki and

Typhoon Omar. In addition, funds are made available for 1990, 1991, and 1992 crop production losses due to curly top virus condition in sugar beets. Assistance is made available to producers with losses due to damaging weather and related conditions. Applications for 1993 crop losses must be received by CCC in the county office by March 4, 1994. All other applications for such disaster benefits must be received by CCC in the county office by September 17, 1993.

The regulations are being amended to add new provisions that relate to curly top virus in sugar beets, availability of disaster payments, determining the actual production of program and nonprogram crops; de minimis yields; the application period for allowing producers to file new applications and adjust previously filed applications; the manner in which disbursement of the funds made available by these acts will be conducted; and assistance to producers who have 1993, 1994, and 1995 crop losses resulting from Hurricanes Andrew and Iniki and Typhoon Omar.

As a result of the passage of Public Law 103–50, CCC funds that were appropriated by Public Law 102–229 and Public Law 102–368 for losses of crop production in 1990, 1991, and 1992 and that are unexpended as of the date of enactment of Public Law 103–50 shall be made available to producers of 1990, 1991, and 1992 crops of agricultural commodities for losses of production due to quality and curly top virus condition in sugar beets and 1993 through 1995 losses because of Hurricanes Andrew and Iniki and Typhoon Omar.

Public Law 103–75 appropriated $1.05 billion to make 1993 crop disaster payments to cover crop losses resulting from damaging weather or related floods associated with the excessive rainfall in the Midwest, and other natural disasters. An additional amount of $300 million which shall be made available only to the extent an official budget request, for a specific dollar amount, that includes designation of the entire amount of the request as an emergency requirement as defined in the Balanced Budget and Emergency Deficit Control Act of 1985, as amended, is transmitted by the President to Congress, the total to remain available until June 30, 1994. From funds previously made available in Public Law 102–368, $100 million is to remain available until June 30, 1994, for 1993 crop losses only. If prior to April 1, 1994, the President determines that extraordinary circumstances exist that warrant further assistance, the Secretary of Agriculture shall use funds of the CCC as are necessary to make 1993 payments in an amount equal to 100 percent of each eligible claim, after payment limitation is taken into consideration

Producers on a farm whose production has been affected by a natural disaster which occurred in calendar year 1993 will not be required by the Secretary of Agriculture to repay 1993 advance deficiency payments prior to January 1, 1994.

This final rule would amend the regulations for the 1990, 1991, 1992, and 1993 TAP as authorized by the 1990 Act, the Dire Emergency Supplemental Appropriations Act of 1992, Public Law 102–229, Public Law 102–368, Public Law 101–624, and Public Law 103–75. This rule establishes the 1993 TAP and provides further definition of an eligible person, qualifying loss for orchardists, obligations of an eligible owner, and payment limitations for the TAP. Funds provided by Public Law 103–75 shall cover 1993 orchard tree and forest tree seedling losses resulting from damaging weather or related floods associated with the conditions (as defined in section 2251 of Public Law 101–624).

The regulations are being amended to add new provisions that relate to the application period, to begin on September 20, 1993, through March 4, 1994, for allowing owners of orchard trees and forest tree seedlings to file new applications; the manner in which disbursement of the funds made available will be conducted. In accordance with Public Law 101–624, Public Law 102–229, and Public Law 102–368, TAP is required for losses of nursery inventory, orchard trees planted to produce annual crops and forest tree seedlings planted to produce timber, pulp, or Christmas trees that were lost due to hurricane, typhoon, freeze, drought, earthquake, or related condition during calendar year 1992. In addition, orchard trees lost in 1990 and 1991 due to freeze or earthquake, and forest tree seedlings lost in 1990 and 1991 due to drought or earthquake are also eligible.

Payments are provided for the amount of loss on each individual stand that exceeds 35 percent of the stand, adjusted for normal mortality. Payments provide 65 percent of the cost to replant or rehabilitate that portion of the loss that exceeds this 35 percent, plus the normal mortality.

Also, in accordance with the 1993 Act (Public Law 103–75) and Public Law 101–624, a 1993 TAP is required for orchard tree and forest tree seedling losses resulting from damaging weather or related floods associated with the conditions (as defined in section 2251 of Public Law 101–624), in 1993

List of Subjects

7 CFR Part 1477

Agriculture commodities, Disaster assistance, Fraud, Grant programs/agriculture, Reporting and recordkeeping requirements.

7 CFR Part 1478

Disaster assistance, Grant programs/agriculture, Reporting and recordkeeping requirements, Trees.

Accordingly, 7 CFR parts 1477 and 1478 are amended as follows

PART 1477—DISASTER PAYMENT PROGRAM FOR 1990 AND SUBSEQUENT CROPS

1. The authority citation for 7 CFR part 1477 is revised to read as follows·

Authority: 15 U S.C. 714b and 714c; Pub L. 101–624; Pub. L. 102–229, 105 Stat 1701, Pub. L. 102–368, 106 Stat. 117; Pub. L. 103–50, 107 Stat. 241; and Pub. L. 103–75; 107 Stat. 739

2. Section 1477.1 is revised to read as follows:

§ 1477.1 General statement.

This part implements a Disaster Payment Program for the 1990, 1991, 1992, and 1993 crop years. The purpose of the program is to make disaster payments available to eligible producers on a farm that have suffered a loss of production or quality of 1990, 1991, or 1992 crops, not to exceed two different crop years, and of 1993 crops due to damaging weather or related condition affecting the crop year for the crop for which a disaster application is made

3 Section 1477 3 is amended by revising the definitions of "actual production", "eligible crop", "eligible disaster", "initial signup period", and "nonprogram crop", and adding the definition for "crop signup period (1993)".

§ 1477.3 Definitions.

* * * * *

Actual production means the quantity of the crop actually harvested or which could have been harvested as determined by the county or State ASC committee in accordance with instructions issued by the Deputy Administrator, State and County Operations (DASCO). In the case of sugarcane, the quantity of sugar produced from such crop shall exclude acreage harvested for seed. For the crops listed below, an appraisal will be required on any unharvested production. The appraisal must show that the yield would be equal to or less

than the de minimis yield for the de minimis yield provision to apply. If a producer harvests a crop after receiving a de minimis appraisal and the actual production exceeds the de minimis level, the actual production shall be used to determine the yield. If an eligible producer has actual or appraised production equal to or less than the specified quantity for the following commodities, such production shall be considered to be zero:

(1) Wheat—4 bushels per acre.
(2) Corn—9 bushels per acre.
(3) Grain Sorghum—6 bushels per acre.
(4) Barley—5 bushels per acre.
(5) Oats—7 bushels per acre.
(6) Upland cotton—66 pounds per acre.
(7) ELS cotton—33 pounds per acre.
(8) Rice—628 pounds per acre.
(9) Soybeans—2 bushels per acre.
(10) Sunflower, Oil—100 pounds per acre.
(11) Sunflower, Confectionery—100 pounds per acre.
(12) Safflower—50 pounds per acre.
(13) Flax—1 bushel per acre.
(14) Canola—50 pounds per acre.
(15) Rapeseed—50 pounds per acre.
(16) Mustard seed—50 pounds per acre.

* * * * *

Crop signup period (1993) means the signup period ending March 4, 1994 (or other such date established by CCC), for assistance for eligible producers who have incurred 1993 crop losses.

* * * * *

Eligible crop for crop production losses means any of the 1990 through 1993 crops of wheat, feed grains, upland cotton, extra long staple cotton, rice, peanuts, oilseeds, sugarcane, sugar beets, tobacco, or nonprogram crops including ornamentals, nursery crops, and for 1990 through 1992, aquaculture.

Eligible disaster means damaging weather, including but not limited to drought, hail, excessive moisture, freeze, tornado, hurricane, earthquake, or excessive wind, or any combination thereof; or related condition, including but not limited to heat, insect infestation, plant disease, or other deterioration of a crop of a commodity, including aflatoxin, that is accelerated or exacerbated naturally as a result of damaging weather occurring prior to or during harvest as determined by CCC. Curly top virus condition is an eligible disaster condition for losses of 1990 through 1992 crops of sugar beets.

* * * * *

Initial signup period means the signup period ending March 13, 1992 (or other such date as established by CCC), for assistance for eligible producers who have incurred 1990 or 1991 losses.

* * * * *

Nonprogram crop means a crop (including ornamentals such as flowering shrubs, flowering trees, field or container grown roses, or turf, and sweet potatoes) produced on a farm for sale or exchange on a commercial basis in a large enough quantity to have a substantial impact on the producer's income, as determined by the county ASC committee in accordance with instructions issued by the Deputy Administrator, which is not a crop of a target price commodity, quota or additional peanuts, sugarcane, sugar beets, tobacco subject to marketing quotas, soybeans, or sunflowers. For 1990 through 1992, aquaculture production is considered to be nonprogram crops.

* * * * *

4. Section 1477.4 is amended by:
A. Revising paragraph (b), and
B. Adding paragraphs (c) and (d) to read as follows:

§ 1477.4 Availability of disaster payments.

* * * * *

(b) Eligible producers with 1992 losses of production in excess of 65 percent of expected production must agree to obtain crop insurance, if available, any time during the subsequent or final disaster signup periods, under the Federal Crop Insurance Act for the 1993 crop of the commodity. The requirement is waived if the sales closing date passed for the 1992 crop before October 13, 1992.

(c) Eligible producers with losses of production in excess of 65 percent of expected production must agree to obtain crop insurance, if available, any time during the applicable signup period, under the Federal Crop Insurance Act for the 1994 crop of the commodity for:

(1) Producers requesting 1993 crop loss benefits, and

(2) Producers requesting 1993 through 1995 loss benefits in accordance with § 1477.22.

(d) The requirements of paragraphs (b) and (c) of this section are waived if one of the following exists:

(1) Crop insurance is not available for the commodity for which a disaster payment is requested;

(2) The amount of the producer's annual premium rate is greater than 125 percent of the average premium rate on that commodity in the county in which the producer is located;

(3) The amount of the premium is greater than 25 percent of the amount of the disaster payment, deficiency forgiveness, or FmHA loans; or

(4) The county committee determines, based on an appeal by the producer, that the purchase of crop insurance would impose an undue financial hardship on the producer.

5. Section 1477.5 is amended by.
A. Revising paragraphs (a)(4)(ii) and (b)(4),
B. Adding paragraph (b) (5),
C. Revising paragraph (g)(4), and
D. Adding paragraphs (g)(7) and (g)(8) to read as follows:

§ 1477.5 Disaster benefits.

(a) * * *
(4) * * *
(ii) Unable to harvest at least 40 percent (or in the case of producers with crop insurance on such a crop, 35 percent) of the expected production; and

* * * * *

(b) * * *
(4) For the purposes of determining the total quantity of nonprogram crops that producers on a farm are able to harvest, exclude dockage, including husks and shells, if such dockage is excluded in determining yields in accordance with § 1477.3, paragraphs (4) and (5) of the definition of "disaster payment yield," excluding soybean disaster payment yields.

(5) For purposes of determining the total quantity of 1990 through 1992 nonprogram crops and the total quantity of all 1993 crops that producers on a farm are able to harvest, exclude commodities which the county committee determines cannot be sold in normal commercial channels of trade.

* * * * *

(g) * * *
(4) Acreage intended for haying or grazing and designated as ACR or CU for payment.

* * * * *

(7) Resource conserving use crops designated as ACR or CU for payment.
(8) Home gardens.

6. Section 1477.7 is amended by adding paragraphs (b)(5) through (b)(9) to read as follows:

§ 1477.7 Filing application for payment.

* * * * *

(b) * * *
(5) Applications for payments made during the special signup period with respect to the 1992 crop of corn for which production has been affected by low quality due to eligible disaster must be filed by May 7, 1993.

(6) Applications for payments made during the 1993 crop signup period with respect to 1993 crop losses and low

quality losses must be filed by March 4, 1994.

(7) Applications for payments for 1990 through 1992 crops eligible for quality adjustments according to § 1477.21 must be filed by September 17, 1993.

(8) Applications for payments for 1990 through 1992 sugar beet crop losses because of curly top virus condition must be filed by September 17, 1993.

(9) Applications for payments for 1993 through 1995 crop losses because of Hurricanes Andrew and Iniki and Typhoon Omar must be filed by September 17, 1993.

* * * * *

7. Section 1477.8 is amended by:

A. Designating the existing text as paragraph (a), and

B. Adding paragraph (b) to read as follows:

§ 1477.8 Availability of funds.

* * * * *

(b) In the event the total amount of claims submitted under § 1477.7 (b)(7), (b)(8), and (b)(9) exceeds the applicable funds available for such claims, such payments shall be reduced by a uniform national percentage. Such payment reductions shall be applied after the imposition of applicable payment limitation provisions.

8. Section 1477.9 is amended by revising paragraph (a)(1) to read as follows:

§ 1477.9 Report of acreage, production disposition, and indemnity payments.

(a)(1) Eligible producers shall report, in accordance with instructions issued by the Deputy Administrator, the acreage, production, and disposition of all commodities produced in an applicable year on an acreage for which an application for a disaster payment is filed. Such production reports submitted with respect to 1993 signup period must be submitted by March 18, 1994; and with respect to 1990 through 1992 crop quality and curly top virus condition in sugar beets must be submitted by September 30, 1993; and with respect to 1993 through 1995 losses because of Hurricanes Andrew and Iniki and Typhoon Iniki must be submitted by October 8, 1993.

* * * * *

9. Section 1477.10 is amended by revised paragraphs (c), (d)(2), and (e) to read as follows:

§ 1477.10 Payment limitations.

* * * * *

(c) No person shall be eligible to receive payments under this part for a specific year with respect to target price crops, peanuts, sugar beets, sugarcane, tobacco, soybeans, sunflowers, and nonprogram crops in excess of $100,000.

* * * * *

(d) * * *

(2) Persons filing an application during the 1993 crop signup period who are subject to the provisions of paragraph (d)(1) of this section must elect the provisions under which such payments or benefits shall be received by notifying the county office by June 30, 1994.

(e) All disaster program applications within a specific signup period submitted in accordance with this part, except 1993 crop applications, shall be totaled at the end of the signup period. In order to ensure that there is no duplication of benefits, deficiency payments made in accordance with part 1413 of this chapter and emergency livestock feed program benefits made in accordance with part 1475 of this chapter shall not be made with respect to any loss of production for which assistance is requested under this part. Accordingly, the quantity of the loss of production otherwise eligible for disaster assistance under this part on which a producer had previously obtained a deficiency payment or an emergency livestock feed program benefit shall be reduced. In order to make such a reduction, the deficiency payments and emergency livestock feed program benefits except those payments applicable to the 1993 crop year shall be adjusted by a national factor obtained by:

(1) Dividing the sum of the applicable fund available and such reduced payments by

(2) The total amount of claims submitted during each applicable signup period. If the total amount of funds is insufficient to result in payments to producers during the initial, subsequent and final signup periods at the rate of .5004, the Secretary shall use such funds of the Commodity Credit Corporation as are necessary to make payments at such a rate.

* * * * *

§ 1477.20 [Amended]

10. Section 1477.20 is amended by revising the heading to read: "Special 1992 crop corn quality adjustment".

11. Section 1477.21 is redesignated as § 1477.25, a new § 1477.21 and § 1477.22 are added to read as follows, and §§ 1477.23 and 1477.24 are reserved.

§ 1477.21 Adjustments to crop production.

Notwithstanding any other provision of this part, the following provisions are applicable to producers of 1990 through 1993 crops: Wheat, corn, barley, oats, grain sorghum, upland cotton, rice, soybeans, sunflowers, peanuts, sugar beets, tobacco, and ELS cotton, whose production has been affected by low quality due to an eligible disaster.

(a) Adjustments will be made to the actual production of wheat, corn, barley, oats, grain sorghum, upland cotton, rice, soybeans, sunflowers, peanuts, sugar beets, tobacco, and ELS cotton, if the quality of such production has been affected by eligible disaster. CCC shall adjust the actual production of the crop by factors as determined by CCC to reflect the loss in value in such crop

(b) A request for assistance under this section must be submitted to CCC at the county office in the county where the farm is administratively located by March 4, 1994, for 1993 crops.

(c) A request for assistance under this section must be submitted to CCC at the county office in the county where the farm is administratively located by September 17, 1993, for 1990, 1991, and 1992 crops. Producers who have:

(1) Previously filed an application for disaster benefits for a farm for any crop for either 1990 only, 1991 only, or 1992 only may file a new application for all eligible crops for one of the crop years not previously chosen or file a new application to include quality adjustments for all eligible crops for a year previously approved for production losses.

(2) Previously filed an application for a farm for any crop for any two years may file new applications to include quality adjustments for all eligible crops previously approved for production losses and for other crops now eligible in such years. Producers cannot apply for quality adjustments for a different year for any crop on the farm.

(3) Not previously filed an application for a farm for any year may file new applications for 2 years to include quality adjustments for all eligibility crops.

(4) Received benefits in one year shall not refund those benefits for that year to allow the farm to become eligible for a different year.

(d) Any producer entitled to any 1990, 1991, or 1992 quality adjustment payment may assign any such payments in accordance with part 1404 of this chapter if the assignment is executed after December 12, 1991.

(e) No payments to producers may be greater than 50.04 percent of the producer's eligible claim for crop losses in 1990, 1991, or 1992.

§ 1477.22 1993, 1994, and 1995 crop losses due to Hurricanes Andrew and Iniki and Typhoon Omar.

Notwithstanding any other provision of this part, the following provisions apply to producers of 1993, 1994, and 1995 crops whose production was affected by Hurricanes Andrew and Iniki and Typhoon Omar.

(a) Crop losses shall be determined as follows:

(1) For nursery and aquaculture crops, CCC shall:

(i) Determine one loss for 1993 through 1995 by reducing from the inventory on hand at the time of the disaster, the inventory remaining immediately after the disaster occurred; and

(ii) Calculate payments using a rate based on the value of the product at the time of the loss.

(iii) The calculated payment shall be prorated to each year 1993 through 1995, for limiting payments according to section 1477.10, based on the percent of production that would have been sold in each of the years.

(2) For tree crops, CCC shall determine the loss for each year 1993 through 1995 based on expected production and the recovery period as determined by CCC.

(b) A request for assistance under this section must be submitted to CCC at the county office in the county where the farm is administratively located by September 17, 1993. Producers who have:

(1) Filed an application for a farm for 1990 only, 1991 only, or 1992 only may then file for 1993 to 1995 benefits.

(2) Filed an application for a farm for any crop for crop year 1992 and either 1990 or 1991 may file for 1993 to 1995 benefits.

(3) Filed application for both crop years 1990 and 1991 then the farm is not eligible for 1993 to 1995 benefits.

(4) Not filed an application for any year may file for 1993 to 1995 benefits.

(5) Received benefits in one year shall not refund those benefits for that year to allow the farm to reapply for a different crop year.

(c) Any producer entitled to any payment may assign any such payments in accordance with part 1404 of this chapter if the assignment is executed after July 2, 1993.

§§ 1477.23–1477.24 [Reserved]

PART 1478—TREE ASSISTANCE PROGRAM

12. The authority citation for 7 CFR part 1478 is revised to read as follows:

Authority: 15 U.S.C. 714b and 714c; Pub. L. 102–624 (7 U.S.C. 1421 note); Pub. L. 102–229, 105 Stat. 1701; Pub. L. 102–368, 106 Stat. 117, and Pub. L. 103–75.

13. Section 1478.3 is amended by removing the definition of "eligible trees or eligible seedlings"; by revising the definitions of "eligible owner", and "nursery inventory"; and by adding the definition of "eligible trees" in paragraph (b) to read as follows:

§ 1478.3 Definitions.

* * * * *

Eligible owner means an individual, partnership, corporation, association, estate, trust, or other business enterprise or legal entity and includes any Indian tribe under the Indian Self-Determination and Education Assistance Act; any Indian organization or entity chartered under the Indian Reorganization Act; any tribal organization under the Indian Self-Determination and Assistance Act; and, any economic enterprise under the Indian Financing Act of 1974 which meets the requirements of this part. Federal, State, and local governments and agencies and political subdivisions thereof are specifically excluded. In determining whether an individual or other entity is an eligible owner, such person, as determined under part 1497 of this chapter, must own 1,000 acres or less of trees which: produce annual crops for commercial purposes; or are grown for harvest for commercial purposes. Such person, as determined under part 1497 of this chapter, must also have annual gross revenue of $2.0 million or less, as determined under this part. Such person must also have owned the trees when the natural disaster occurred and when the application is submitted. As successor-in-interest, the applicant is allowed to receive TAP benefits if an otherwise eligible person:

(i) Acquires ownership of land or trees for which TAP benefits have been applied;

(ii) Agrees to complete all practices which the original owner has not completed;

(iii) Agrees to maintain the practice during the life span; and

(iv) Agrees to receive any remaining payments and assumes full responsibility for all provisions of TAP, including refund of payments made to the original participant, if necessary.

Eligible trees means:

(i) For 1990, 1991, and 1992 losses, eligible seedlings, or nursery inventory which are determined by CCC to have been planted for the production of wood products, fruits, nuts, syrup, or similar products; or, harvest as Christmas trees.

(ii) For the 1993 losses, forest tree seedlings and orchard trees.

* * * * *

Nursery inventory means all commercial nursery plants grown for transplant or sale, including aquatic plants, ornamental, field or container grown plants, excluding open grown field grown sod, grasses, legumes, and similar plants as determined by DASCO.

* * * * *

14. Section 1478.4 is revised to read as follows:

§ 1478.4 Program availability.

(a) A request for assistance under this part made available during the initial signup period must be submitted to CCC at the county office in the county where the farm is located by April 1, 1994 (or such other date as established by CCC). Eligible owners shall not receive assistance under this part with respect to losses of seedlings or nursery plants:

(1) That were planted under the Conservation Reserve Program;

(2) That were the subject of any cost-share assistance or other assistance under any other Federal program, unless approved in writing by DASCO; and

(3) As determined eligible for benefits under part 1477 of the chapter.

(b) Final signup period means the signup period beginning on September 20, 1993, and ending on March 4, 1994, (or other such date as established by CCC) for assistance to eligible producers who have incurred losses in 1993 caused by damaging weather.

15. Section 1478.5 is amended by:

A. Revising paragraph (a), and

B. Adding paragraph (d) to read as follows:

§ 1478.5 Qualifying loss.

(a) A person shall be eligible to receive assistance under this part with respect to losses due to drought, freeze, earthquake, or related condition in 1990, 1991, 1992; in addition, losses due to hurricane, typhoon, or related condition in 1992, only if such owner is an eligible owner, as defined in this part and has sustained a qualifying loss or of eligible trees, tree seedlings, or nursery inventory as determined by CCC. The only type of losses which may be considered qualifying are the following:

(1) A qualifying loss of an individual stand of trees on which the total mortality rate exceed 35 percent plus the normal mortality rate by an eligible owner who is an orchardist who is the owner of eligible trees planted in any year for commercial purposes which are lost as a result of a freeze, earthquake, or related condition in 1990, 1991, or freeze, earthquake, hurricane, typhoon, or related condition in 1992, or damaging weather in 1993 as determined by the county committee in

accordance with the instructions of DASCO;

(2) A qualifying loss of an individual stand of trees on which the total mortality rate exceeds 35 percent plus the normal mortality rate by an eligible owner who grows trees for harvest for commercial purposes and is the owner of eligible tree seedlings which were either planted in 1989 or 1990 and were lost due to drought, earthquake, or related condition in 1991, or planted in 1991 or 1992 and were lost due to drought, earthquake, hurricane, typhoon, or related condition in 1992, or damaging weather in 1993, as determined by the county committee in accordance with instructions of DASCO; or

(3) A loss by an eligible owner who grows nursery inventory for commercial purposes which is lost as a result of freeze, drought, earthquake, hurricane, typhoon, or related condition in 1992, as determined by the county committee in accordance with instructions of DASCO.

* * * * *

(d) Losses from 1990, 1991, and 1992 disasters with respect to nursery inventory plants that produced an annual crop which were also lost are eligible if assistance was not provided with respect to such plant under part 1477 of this chapter. Payment under TAP is also authorized for owners who replant or rehabilitate orchard trees when the crop from such trees are also enrolled for benefits under part 1477 of this chapter. Also, a person shall be eligible to receive assistance under this part for 1993 crop losses (forest tree seedlings and orchard trees) resulting from damaging weather or related floods as associated with the conditions (as defined in section 2251 of Public Law 101–624) in 1993.

16. Section 1478.8 is amended by revising paragraphs (b) and (d) to read as follows:

§ 1478.8 Obligations of an eligible owner.

* * * * *

(b) Eligible owners must:

(1) Comply with all terms and conditions of this part;

(2) Execute all required documents;

(3) Comply with all applicable noxious weed laws; and

(4) Maintain the practice for either 5 years after installation, unless CCC determines that a shorter period is necessary, or 10 years if the trees established on acreage received previous Federal cost-share assistance for tree establishment.

* * * * *

(d) Eligible owners are not required to implement replanting practices before payment is provided by CCC. Eligible owners who are paid before they implement their practices will be afforded 24 months after the end of signup to complete their practices. In cases where delays beyond this practice expiration date occur, State committees may grant up to an additional 24 months. Extensions beyond the 48 months after signup may be provided by DASCO. Eligible owners who have been paid before they implement their practices will be given 24 months after end of signup to complete their practices. In cases where delays beyond this practice expiration date occur, State ASC Committees may grant up to an additional 24 months. The eligible owner may be authorized extension beyond the 48 months after end of signup by DASCO. Eligible owners who have been paid who choose not to implement their practices by the final practice expiration date shall refund their payments with interest. Interest on these refunds shall be calculated beginning on the date the payment was disbursed. Such refund amounts may be reduced by CCC, at CCC's discretion, when only part of the required replanting practice is not implemented.

* * * * *

17. Section 1478.9 is amended by revising paragraphs (a) and (b) to read as follows:

§ 1478.9 Payment limitations.

(a) The amount of payments which any person, as determined in accordance with part 1497 of this chapter, may receive under this part in connection with losses of orchard trees planted to produce annual crops shall not exceed $25,000 for 1990 losses due to freeze, earthquake, or related condition; $25,000 for 1991 losses due to freeze, earthquake, or related condition; $25,000 for 1992 losses due to freeze, earthquake, or related condition; $25,000 for 1992 losses due to hurricane, typhoon, or related condition; and $25,000 for 1993 losses resulting from damaging weather or related floods associated with the conditions (as defined in section 2251 of Public Law 101–624). Participants may elect not to replant the maximum amount of eligible trees because of the limitation being reached for payment limitation purposes or any other reason. If an original owner has entered into TAP and the ownership of land or trees is transferred to another owner, County offices shall not pay an increased amount for the trees covered by the original agreement because of an increase in the number of "persons" associated with the new ownership.

(b) The amount of payments which any person, as determined in accordance with part 1497 of this chapter, may receive under this part in connection with losses of forest tree seedlings planted to produce trees for harvest shall not exceed $25,000 for 1990 losses due to drought, earthquake, or related conditions; $25,000 for 1991 losses due to drought, earthquake, or related condition; $25,000 for 1992 losses due to drought, earthquake, or related condition; and $25,000 for 1992 losses due to hurricane, typhoon, or related condition; and $25,000 for 1993 losses resulting from damaging weather or related floods associated with the condition (as defined in section 2251 of Public Law 101–624). Participants may elect not to replant the maximum amount of eligible trees because of the limitation being reached for payment limitation purposes or any other reason. If an original owner has entered into TAP and the ownership of land or trees is transferred to another owner, County offices shall not pay an increased amount for the trees covered by the original agreement because of an increase in the number of "persons" associated with the new ownership.

* * * * *

Signed at Washington, DC, on September 29, 1993.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–24412 Filed 9–30–93; 3:23 pm]

BILLING CODE 3410–05–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

RIN 3150–AE15

List of Approved Spent Fuel Storage Casks; Additions

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission (NRC) is amending its list of approved spent fuel storage casks to add one spent fuel storage cask (TN–24 cask) to the list of approved casks. This amendment will allow holders of power reactor operating licenses to store spent fuel in this approved cask under a general license.

EFFECTIVE DATE: November 4, 1993.

ADDRESSES: Copies of the environmental assessment and finding of no significant impact are available for inspection and/or copying for a fee at the NRC Public

Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the environmental assessment and the finding of no significant impact are available from the individuals listed under the next heading below.

FOR FURTHER INFORMATION CONTACT: Mr. Gordon E. Gundersen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–3803, or Mr. James F. Schneider, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 504–2692.

SUPPLEMENTARY INFORMATION:

Background

Section 218(a) of the Nuclear Waste Policy Act of 1982 (NWPA) directs that, "(T)he Secretary [of DOE] shall establish a demonstration program in cooperation with the private sector, for the dry storage of spent nuclear fuel at civilian nuclear power reactor sites, with the objective of establishing one or more technologies that the [Nuclear Regulatory] Commission may, by rule, approve for use at the sites of civilian nuclear power reactors without, to the maximum extent practicable, the need for additional site-specific approvals by the Commission." After subsequent DOE technical evaluations and based on a full review of all available data, the Commission approved dry storage of spent nuclear fuel in a final rule published in the **Federal Register** on July 18, 1990 (55 FR 29181). The final rule established a new subpart K within 10 CFR part 72 entitled "General License for Storage of Spent Fuel at Power Reactor Sites."

Irradiated reactor fuel has been handled under dry conditions since the mid-1940's when irradiated fuel examinations began in hot cells. Light water reactor fuel has been examined dry, in hot cells since approximately 1960. Some of these fuels have been stored continuously at hot cells under dry conditions for approximately two decades. Experience with storage of spent fuel in dry casks is extensive (54 FR 19379; May 1989). Further, the United States has extensive experience in the licensing and safe operation of independent spent fuel storage installations (ISFSI's). At the beginning of 1993, the following five site specific licenses for dry cask storage had been issued: Virginia Power Surry Station, issued July 2, 1986; Carolina Power and Light (CP&L) HB Robinson Station, issued August 13, 1986; Duke Power Oconee Station, issued January 29, 1990; Public Service of Colorado Fort St. Vrain Facility, issued November 4, 1991; and Baltimore Gas and Electric (BG&E) Calvert Cliffs station, issued November 25, 1992. All have commenced operation and loaded fuel with the exception of BG&E. Two hundred and fifty-two assemblies are in storage at Virginia Power, 56 assemblies are in storage at CP&L, 96 assemblies are in storage at Duke Power, and 1482 fuel elements are in storage at Public Service of Colorado; BG&E anticipates loading fuel later in 1993.[1]

As a result of the growing use of dry storage technology, NRC has gained over 25 staff years of experience in the review and licensing of dry spent fuel storage systems. To further support the NRC technical staff, the agency draws upon the knowledge and experience of outside scientists and engineers recognized as experts within their respective fields in the performance of the independent safety analysis of the systems and components submitted by applicants for dry cask licenses or certification. Reviews of numerous applications, seeking either site-specific ISFSIs, certificates of compliance or approval of a topical report, have been conducted over the past seven years.

Section 133 of the NWPA states, in part, that "the Commission shall, by rule, establish procedures for the licensing of any technology approved by the Commission under section 218(a) for use at the site of any civilian nuclear power reactor." This directive was implemented on July 18, 1990, (55 FR 29181) by the publication in the **Federal Register** of a final rule establishing new subparts K and L within 10 CFR part 72 entitled, respectively, "General License for Storage of Spent Fuel at Power Reactor Sites," and "Approval of Spent Fuel Storage Casks." As a result of that 1990 rulemaking, four casks were listed in § 72.214 of subpart K as approved by the NRC for storage of spent fuel at power reactor sites under the general license.

More recently, the NRC published a notice of proposed rulemaking in the **Federal Register** on June 26, 1992 (57 FR 28645) which would have amended 10 CFR 72.214 to include two additional spent fuel storage casks (i.e., the Transnuclear, Inc., TN–24 cask and the Pacific Sierra Nuclear Associates, VSC–24 cask) on the list of approved spent fuel storage casks that power reactor licensees may use under the provisions of a general license issued by NRC in 10 CFR part 72, subpart K.

[1] EIA Service Report SR/CNEAF/92–01 Spent Fuel Discharges from U.S. Reactors 1990, March 1992.

Subsequent to the expiration of the 75-day public comment period on September 9, 1992, NRC took steps to implement the provision of § 2.790(c) of its regulations (41 FR 11808; March 22,1976) which requires that "information submitted in a rulemaking proceeding which subsequently forms the basis for the final rule will not be withheld from public disclosure by the Commission." The NRC bifurcated the rulemaking proceeding into two separate rulemakings for the TN–24 and VSC–24 casks, respectively. Accordingly, on January 21, 1993, additional information relating to the VSC–24 cask, which was previously categorized as vendor proprietary information, was placed in the NRC's Public Document Room (PDR) in Washington, DC, and all NRC Local Public Document Rooms. In addition, the comment period for the June 26, 1992, proposed rule was reopened to provide opportunity for public comment on the additional information relating to the VSC–24 cask (January 21, 1993; 58 FR 5301). This comment period expired on February 22, 1993, and the NRC published a notice of final rulemaking in the **Federal Register** on April 7, 1993 (58 FR 17948) which added the VSC–24 cask to the list of approved spent fuel storage casks.

On April 16, 1993, additional information relating to the TN–24 cask, which was previously categorized as vendor proprietary information, was placed in the NRC PDR in Washington, DC, and all NRC Local Public Document Rooms. In addition, the comment period for the June 26, 1992, proposed rule was reopened for public comment on the additional information relating to the TN–24 cask (April 16, 1993; 58 FR 19786). The reopened comment period expired on May 17, 1993. This notice of final rulemaking deals exclusively with the TN–24 cask. It addresses the general comments on dry cask storage, as they relate to the proposed addition of the TN–24, and the specific comments on the TN–24 cask. This notice does not address the VSC–24 cask.

Transnuclear Inc. submitted to the NRC, a revised Topical Safety Analysis Report (TSAR) entitled "TN–24 Dry Storage Cask Topical Report" dated December 11, 1989. On July 5, 1989, the NRC issued a Safety Evaluation Report (SER) approving the TSAR. The NRC conducted additional evaluations and issued a draft Certificate of Compliance dated April 1992, in support of the notice of proposed rulemaking published in the **Federal Register** on June 26, 1992.

The paramount objective of 10 CFR part 72 is to protect the public health

and safety by providing for the safe confinement of the fuel and preventing the degradation of the fuel cladding. The review criteria used by the NRC for review and approval of dry cask storage under 10 CFR part 72 consider the following factors: Siting, design, quality assurance, emergency planning, training, and physical protection of the fuel. Included in the review of a specific system, either for a certificate of compliance or a site specific license, are the following phenomena: Earthquakes, high winds, tornados, tornado driven missiles, lightning, and floods. In addition, applicants must demonstrate to NRC's satisfaction that their proposed dry cask system will resist man-made events such as explosions, fire, and drop or tipover accidents.[2]

Based on further staff review and analysis of public comments, both the SER and Certificate of Compliance for TN-24 were modified. The TN-24 cask, when used in accordance with the conditions specified in its Certificate of Compliance meets the requirements of 10 CFR part 72. Thus, use of the TN-24 cask, as approved by the NRC, will provide adequate protection of the public health and safety and the environment. With this rulemaking, NRC is approving the use of the TN-24 cask under a general license by the holders of power reactor operating licenses under 10 CFR part 50. Simultaneously, NRC is issuing a final Certificate of Compliance. A copy of the Certificate of Compliance is available for public inspection and copying for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

Public Responses

In response to the June 26, 1992 and April 16, 1993 **Federal Register** Notices, 250 comments were received from individuals, public interest groups, environmental groups, associations, industry representatives, Congressional Representatives and States. Although a number of the comments were received after the respective September 9, 1992 and May 17, 1993 comment closure dates for the two notices, NRC has considered all comments received including those received after the comment closure dates. A number of comments that addressed the VSC-24 cask exclusively, were fully considered by NRC in the VSC-24 proceeding (58 FR 17948) and accordingly, are not addressed in this notice on the TN-24 cask.

[2] The design bases for these events and accidents are contained within 10 CFR part 72.

A number of comments, which responded to the proposed addition of the TN-24 cask, related to disposal of high-level waste and the use of dry cask storage technology in general. Examples of these comments include:

—The Federal Government's failure to resolve questions about the permanent storage of nuclear wastes leaves both the plant and public with limited options: Additional storage in pools, additional storage in dry casks or plant shutdown. The Federal Government has an obligation to resolve the issue of permanent or interim storage. It would be difficult to overstate the need for the dispatch in doing so, as hundreds of American communities will eventually face this problem.

—Ten years ago, there was an erroneous assumption that the search for and construction of a final resting place for high-level waste would be much swifter than it has been. A "demonstration" program required by law was supposed to have been for temporary storage. Because of the societal and technical obstacles which radioactive waste disposal presents, even a temporary "demonstration" program is likely to have much longer-term implications. Temporary dry cask storage should not become de facto permanent disposal.

These comments deal with broad policy and program issues relating to the storage and disposal of high-level radioactive waste including the Department of Energy's repository program. However, although comments do not directly deal with the TN-24 cask, commenters will find a summary of relevant information on many of these broad issues in the response to comments presented in response to comment numbers 11 and 18 in the following analysis of comments.

Many of the comment letters addressing the proposed addition of the TN-24 cask contained comments that were similar in nature. These comments have been grouped as appropriate and addressed as single issues. In this notice on the TN-24 cask, the NRC has identified and responded to 19 separate issues that include the significant points raised by each commenter.

In addition to or in lieu of comments on the TN-24 cask, many commenters discussed topics that were not the subject of this rulemaking and thus were not specifically addressed by the NRC as a part of this final rulemaking action. These comments expressed opposition to the use of dry cask storage and included suggestions such as the following:

(1) Nuclear plants generating radioactive waste should be shut down;
(2) The production of radioactive waste should be stopped when the existing spent fuel pool (and off-load-reactor capacity) is full;
(3) A formal hearing should be required at each site using dry storage casks;
(4) The use of nuclear power should be stopped and existing sites cleaned up;
(5) A research and development program should be conducted on productive uses of spent fuel and on alternative energy sources.

Finally, many commenters expressed concern over the ability of dry cask storage designs, presumably including the TN-24 cask, to safely store spent fuel. The following responses to these comments reflect a small but important portion of NRC's review of health, safety, and environmental aspects of the TN-24 cask, to ensure that the cask is designed to provide protection of the public health and safety and environment under both normal conditions and severe, unlikely, but credible accident conditions. Dry cask storage systems are massive devices, designed and analyzed to provide shielding from direct exposure to radiation, confine the spent fuel in a safe storage condition, and prevent releases of radiation to the environment. They are designed to perform these tasks relying on passive heat removal and confinement systems without moving parts and with minimal reliance on human intervention to safely fulfill their function for the term of storage. The designs include margins of safety under both normal and accident conditions to provide additional assurance of protection for the public health and safety, the common defense and security and the environment.

Analyses of Public Comments

1. *Comment.* One commenter stated that bolted closures with metal O-rings have shown poor operating characteristics (i.e. leaky) at Surry and in Idaho. Double seal welds at H.B. Robinson and Oconee have shown good operating characteristics. The commenter suggested that all closures should be double seal welds.

Response. Several casks with metallic O-rings have been in operation for at least seven years. Licensees are required to file formal reports if problems with O-rings occur. The NRC has not received any reports concerning O-ring problems. Similarly, there were no reports of problems with metallic O-rings during testing at Idaho National Engineering Laboratory (INEL).

However, the NRC discussed this issue with personnel at Virginia Power who are knowledgeable of the cask leak tests at Surry and personnel who worked on tests of the TN–24 cask at INEL. These individuals said that they did not have any problems with metallic O-rings leaking on any of the casks that they loaded.

The metallic O-ring seals may not necessarily last the 20-year term of the Certificate of Compliance. That is why double seals are used with a higher pressure between the O-rings with pressure monitoring equipment to quickly detect a seal failure. Failed seals can readily be replaced.

2. *Comment.* One commenter stated that the TN–24 cask is seriously flawed. Test and operation at Idaho showed the TN–24 storage sleeves to be subject to warpage after only a few years storage. A fuel assembly became stuck in the TN–24 cask while trying to remove it. It could not be removed and it was forced back into the cask.

Response. The NRC discussed this issue with personnel at INEL who worked on the tests of the TN–24 cask and other casks. These individuals said that a canister of consolidated fuel, not a fuel assembly, got stuck in the TN–24 cask. The canister was larger than a fuel assembly and, unlike a fuel assembly, it had many screws and nuts protruding from it. The storage sleeves in the TN–24 Basket did not warp. The individuals suspect that one of the screws or nuts got caught on an interlocking plate in the basket of the TN–24. The Certificate of Compliance does not allow the storage of consolidated fuel in canisters. Additionally, the basket of the TN–24 tested at INEL is slightly different from the one which Transnuclear plans to use in its certified cask.

3. *Comment.* Some commenters speculated that a catastrophic release of radiation may occur from a possible explosion caused by spontaneously flammable uranium hydride in the presence of oxygen. It is postulated that the temperature inside the cask will be hot enough to rupture fuel rods which will, in turn, cause the presence of hydrogen to create uranium hydride.

Response. The NRC does not believe that an explosion inside a storage cask caused by flammable uranium hydride in the presence of oxygen is credible for the following reasons. Oxygen gas is not expected to be present because all casks are designed to have an inert atmosphere. Further, the formation of uranium hydride is not credible because of the lack of a significant source of hydrogen. Finally, all casks are designed so that the internal temperature will not cause the fuel rods to rupture. Therefore, the conditions necessary for this scenario to occur would not exist.

4. *Comment.* A number of comments related to gaseous releases from dry storage casks. The commenters asked the following questions. What happens to gaseous components of the decay chain? Are they released to the environment? If not, is pressure buildup over time being considered? A commenter expressed the opinion that casks should have individual radionuclide emission monitoring. An issue was raised about the effects of release of Krypton-85 (Kr-85) gas on electric conditions in the atmosphere.

Response. The gaseous components of the decay chain are expected to be retained within the matrix of the spent fuel or within the fuel rod. In the case of pinhole leaks in the fuel rod cladding, the cask is designed as a secondary confinement barrier to retain gaseous products. Therefore, gaseous components are not released to the environment, and routine monitoring is not required. Pressure build-up of gaseous components in the cask is not significant due to the age of the fuel and integrity of the fuel rod cladding. However, the cask has been analyzed for a hypothetical condition in which all the fuel rods rupture. The resulting pressure within the cask is negligible. The purpose of maintaining an inert atmosphere in the cask is to ensure that fuel rod cladding degradation does not occur, thereby preventing gross fuel rod cladding rupture. In addition to ensuring that new pin hole leaks do not develop in the fuel clad during the storage period, the licensee is responsible for monitoring the environment within the cask prior to its opening to ensure that no unplanned release of radioactive material takes place. The amount of Kr-85 that could be potentially released from dry cask storage is so small that it would not significantly affect the physics or chemistry of the atmosphere.

5. *Comment.* The general licensee must have specific plans for the constant and careful monitoring of the casks and for the safeguarding of the waste to prevent catastrophic accidents or terrorism.

Response. In accordance with § 72.212(b)(5), each reactor licensee must have a physical security organization and program to detect intrusion into the protected area including acts of terrorism, and to take any corrective action. The physical security program, as well as environmental monitoring and radiation protection programs for each reactor facility, provide the necessary monitoring for the casks and safeguarding of the spent fuel. Thus, the licensee will be able to determine when corrective action needs to be taken to maintain safe storage conditions to protect the public health and safety. (Also see response to comment number 6).

6. *Comment.* Some commenters expressed concern that no evacuation plan was required. They also stated that there is a lack of contingency planning for catastrophic events. They noted these events could include but would not be limited to:

a. Direct or indirect lightning strikes on the casks;
b. Plane crash into the casks;
c. Sabotage;
d. Earthquakes;
e. Fire; and
f. Emergency planning for cask malfunctions.

A commenter wanted the utility to notify either State or local governments before loading casks to make sure local services know what is going on and know how to respond if necessary under the emergency plan.

Response. The NRC regulations in 10 CFR parts 50 and 72 require that nuclear plant structures, systems, and components important to safety be designed and appropriately protected against dynamic effects, including the effects of tornado-driven missiles, that may result from events and conditions outside the nuclear power unit. If appropriate, this requirement also applies to the effects of possible airplane crashes.

The licensee's site evaluation for a nuclear plant also considers the effect of nearby transportation and military activities. A licensee proposing to use the TN–24 cask is required to evaluate and verify that the Final Safety Analysis Report for the facility encompasses the design basis analysis performed for the TN–24 or any certified cask. Generally, a cask's inherent design will withstand tornado missiles and other design loads and thus, it would be expected that it would also provide protection against the collision forces imposed by light general aviation aircraft (i.e. 1500–2000 pounds) which constitute the majority of aircraft in operation today. NUREG–0800, section 3.5.1.6 "Standard Review Plan for Light Water Reactors," contains methods and acceptance criteria for determining whether the probability of an accident involving larger aircraft (both Military and civilian) exceeds the acceptable criterion. It is incumbent upon the licensee to determine whether or not the reactor site parameters including analysis of earthquake intensity and tornado missiles are enveloped by the cask design basis as

required by § 72.212(b)(3). This would include, an evaluation demonstrating that the requirements of § 72.106 (controlled area for an ISFSI) have been met.

NRC reviewed potential issues related to possible radiological sabotage of storage casks at reactor site ISFSIs in the 1990 rulemaking that added subparts K and L to 10 CFR part 72 (55 FR 29181). NRC regulations in 10 CFR part 72 establish physical protection and security requirements for an ISFSI located within the owner controlled area of a licensed power reactor site. Section 72.212(b)(5) requires that the spent fuel in the ISFSI be protected against the design basis threat for radiological sabotage using provisions and requirements comparable to those applicable for other spent fuel at the associated reactor subject to certain additional conditions and exceptions described in § 72.212. Each utility licensed to have an ISFSI at its reactor site is required to develop security plans and to install a security system that provides high assurance against unauthorized activities which could constitute an unreasonable risk to the public health and safety. The security systems at an ISFSI and its associated reactor are similar in design features to ensure the detection and assessment of unauthorized activities. All alarm annunciations at the ISFSI are monitored by the security alarm stations at the reactor site. Response to intrusion is required. Each ISFSI is periodically inspected by NRC and annually audited by the licensee to ensure that the security systems are operating within their design limits. The validity of the threat is continually reviewed, with a formal evaluation by the NRC every six months.

An adequate evacuation plan exists for the use of certified casks because the existing reactor emergency plan covers the entire site. In addition, contingency planning for the events described exists because these events are covered within the emergency plans of the reactor facilities which will use the cask. In accordance with § 72.212(b), the reactor licensee must review the emergency plan to ensure it provides adequate protection. The licensee's emergency plan provides for responsive action if an event has happened which has the possibility of creating an emergency or after an actual emergency has occurred. Through communications between the utility and State and local governments, the contents of the emergency plan and the actions to be executed by each entity for various situations are understood. In addition, the utility is required to conduct a periodic emergency exercise involving the utility and government agency staff.

7. *Comment.* One commenter stated that there was no contingency for accidents except to reload the spent fuel back into the pool which may not be possible because of lack of pool storage space or impact on the spent fuel because of the accident.

Response. Because of the design features, as well as the procedures and requirements discussed elsewhere in this response and the associated safety analysis, the likelihood of an accident occurring which will require removal of the spent fuel from the cask is very small. However, even if such an unlikely accident occurs, the cask design is required to have capability to allow ready retrieval of the spent fuel for further processing or disposal (10 CFR 72.122(l)). The NRC does not require a licensee to maintain a specified reserve capability in the spent fuel pool. Many licensees may do so, and they would, therefore, have the option of returning the fuel to the pool in the unlikely event of an accident requiring removal of fuel from the cask. In addition, licensees will have other options available to cover this unlikely contingency including temporary storage in a spare storage cask or use of an existing certified transportation cask. Licensees would have to consider these, and other available options, in such an unlikely event.

8. *Comment.* One commenter noted that the NRC does not specifically require inspections against 10 CFR 72.236 (j)–(m).

Response. The NRC ensures compliance with 10 CFR 72.236 (j) and (k) through inspections, and ensures compliance with 10 CFR 72.236 (l) and (m) through the cask approval process. These inspections will identify different areas that may need correction. If a violation of the requirements is detected, the NRC can impose penalties, or even stop work.

9. *Comment.* Some commenters expressed concern that the measurement of actual effectiveness of a technology in delivering stated requirements must be demonstrated empirically, and that the NRC has not demonstrated the goal of this technology, defined acceptance criteria, or specified how compliance is demonstrated.

Response. For the issue of acceptance criteria, the NRC has established specific requirements in 10 CFR part 72 that must be met in order to obtain a Certificate of Compliance for a cask. The details of the review and bases for the NRC concluding that the cask meets the requirements of 10 CFR part 72 is provided in the SER. The goal of dry cask storage technology is to store spent fuel safely. That goal, and the effectiveness of the technology, has been demonstrated empirically and experimentally. Different cask designs may require different types of analysis to demonstrate their safety. Therefore different review methods may be appropriate to reach that conclusion. In each case, the level of review performed is the level necessary to provide assurance of adequate protection of the public health and safety.

10. *Comment.* One commenter requested that the proceeding be stopped until the NRC revises all regulatory requirements pertaining to the storage of high-level waste and spent fuel to require testing procedures which include testing to destruction.

Response. The NRC does not require testing to destruction or other tests if we have confidence in the analyses which are done or if the design relies on nationally recognized codes and standards that have been accepted by the NRC. Testing to destruction is an option that can be used to confirm design adequacy. However, destructive tests of an entire cask are not necessary to evaluate a design when other non-destructive tests or destructive testing of the components will provide the necessary information to evaluate a design.

11. *Comment.* Some commenters suggested that the NRC should consider limiting the cask storage time and expressed concern that cask storage could become permanent if the DOE does not accept fuel as they are required to do. Commenters also noted that the NRC requirement that cask viability be evaluated for "at least" 20 years, does not, in itself, guarantee safety in the apparently likely event that the casks remain years or decades beyond the original intended duration.

Response. By approval of the Certificate of Compliance, the NRC has limited the cask storage time to 20 years. After the 20-year period the certificate can be renewed with each renewal period not to exceed 20 years, upon demonstration of continued protection of the public health and safety and the environment. In the event that safe storage of spent fuel in a particular cask cannot be demonstrated beyond 20 years, an alternate means of storage will be required. Finally, the DOE is required by the Nuclear Waste Policy Act of 1982 to accept spent fuel for ultimate disposal. As one commenter noted, DOE proposed a new strategy last winter in which Congress would authorize it to select a site in time to receive spent fuel for interim storage by 1998.

12. *Comment.* A number of commenters requested a public hearing on this rulemaking. Over half of the commenters requested that a full public hearing be held at each reactor facility site prior to the use of dry cask storage at that site.

Response. Consistent with the applicable procedure, the NRC does not intend to hold formal public hearings on the TN–24 cask rule or separate hearings at each reactor site prior to use of the dry cask technology approved by the Commission in this rulemaking. Rulemaking procedures, used by the NRC for generic approval of the TN–24 cask, including the underlying NRC staff technical reviews and the opportunity for public input, are more than adequate to obtain public input and assure protection of the public health, safety and the environment.

Section 133 of the Nuclear Waste Policy Act of 1982 authorizes NRC to approve spent fuel storage technologies by rulemaking. When it adopted the generic process in 1990 for review and approval of dry cask storage technologies, the Commission stated that "casks * * * [are to] be approved by rulemaking and any safety issues that are connected with the casks are properly addressed in that rulemaking rather than in a hearing procedure." 55 FR 29181 (July 18, 1990). Rulemaking under NRC rules of practice described in 10 CFR 2.804 and 2.805, provides full opportunity for expression of public views, but does not require formal hearings of the type requested by commenters.

In this proceeding, rulemaking clearly provided adequate avenues for members of the public to provide their views regarding NRC's proposed approval of the TN–24 cask, including the opportunity to participate through the submission of statements, information, data, opinions and arguments. In this connection, the NRC staff prepared for public examination two separate technical evaluations for the TN–24 dry cask, each time making detailed, documented findings of compliance with NRC safety, security, and environmental requirements. The NRC staff's first evaluation, prepared in July 1989, reviewed and approved the TN–24 for reference in a site-specific application for an independent spent fuel storage installation. In April 1992, the NRC staff reviewed the TN–24, and approved the design for purposes of initiating this rulemaking to grant a generic approval of the design. In addition, the NRC staff conducted a third review in response to the public comments on the TN–24 in this rulemaking, again finding compliance with NRC requirements as set forth in this notice of final rule and response to comments.

In addition to reviewing systematically and in depth the technical issues important to protecting public health, safety and the environment, the NRC has taken extra steps to obtain and fully consider public views on the TN–24 cask, and has made every effort to respond to public concerns and questions about the TN–24 cask's compliance with NRC safety, security and environmental requirements. The initial public comment period opened on June 26, 1992, and closed on September 9, 1992. In addition, NRC received a number of comments after the close of that period, all of which were fully considered. Subsequently, NRC extended the period for submission of public comments until May 17, 1993. Thus, the public comment period for this rule has effectively been almost 11 months. In addition, the NRC staff made every effort to consider comments received after May 17, 1993.

Under these circumstances, formal hearings would not appreciably add to NRC's efforts to ensure adequate protection of public health, safety and the environment, and are unnecessary to NRC's full understanding and consideration of public views on the TN–24 cask.

13. *Comment.* Some commenters believed that a full democratic process is needed in this decision.

Response. Because this rulemaking was conducted pursuant to the procedures for approving dry storage casks for use under a general license as required by Congress in the Nuclear Waste Policy Act of 1982 and pursuant to public notice and comment procedures of the Administrative Procedure Act, the resulting final rule approving the TN–24 cask is the product of a process prescribed by law.

14. *Comment.* Some commenters requested that the NRC prepare an environmental impact statement (EIS) and update the Generic EIS for the handling and storage of spent fuel.

Response. The potential environmental impacts of utilities using the TN–24 cask (or any of the other spent fuel casks approved by NRC (10 CFR 72.214)) have been fully considered and are documented in a published Environmental Assessment (EA) covering this rulemaking. Further, as described below, the EA indicates that use of the cask would not have significant environmental impacts. Specifically, the EA notes the 30-plus years of experience with dry storage of spent fuel, identifies the previous extensive NRC analyses and findings that the environmental impacts of dry storage are small, and succinctly describes what impacts there are including the non-radiological impacts of cask fabrication (i.e., the impacts associated with the relatively small amounts of steel, concrete, and plastic used in the casks are expected to be insignificant), the radiological impacts of cask operations (i.e., the incremental offsite doses are expected to be a small fraction of and well within the 25 mrem/yr limits in NRC regulations), the potential impacts of a possible dry cask accident (i.e., the impacts are expected to be no greater than the impacts of an accident involving the spent fuel storage basin), and the potential impacts due to possible sabotage (i.e., the offsite dose is calculated to be about one rem). All of the NRC analyses collectively yield the singular conclusion that the environmental impacts and risks are expected to be extremely small.

The absence of significant environmental impacts from dry cask storage at a reactor site is also the conclusion of other NRC EA's for previously approved dry casks analyzed in earlier rulemakings addressing part 72, and in the Commission's Waste Confidence decisions in 1984 (August 31, 1984; 49 FR 34658) and 1989 (September 29, 1989; 54 FR 39765). In the 1984 Waste Confidence decision, the Commission concluded there was reasonable assurance that spent fuel can be safely stored at reactor sites without significant environmental impacts, for at least 30 years beyond expiration of NRC reactor operating licenses. The 1989 Waste Confidence decision review reaffirmed prior Commission conclusions on the absence of significant environmental impacts.

Thus, given the Commission's specific consideration of the environmental impacts of dry storage summarized above, and given the absence of any new information casting doubt on the conclusion that such impacts are expected to be extremely small and not environmentally significant, no meaningful environmental insights are likely to be gained from further preparation of either an EIS or an updated GEIS for the dry storage methodology.

The EA covering the proposed rule, as well as the finding of no significant impact (FONSI) prepared and published for this rulemaking, fully comply with the NRC environmental regulations in 10 CFR part 51. Moreover, since the Commission's environmental regulations in part 51 implement the National Environmental Policy Act (NEPA) and give proper consideration to

the guidelines of the Council on Environmental Quality, they assure that the EA and the FONSI conform to NEPA procedural requirements, and that further analyses are therefore not legally required.

In connection with the EA and FONSI, it bears emphasizing that 10 CFR part 72, subpart K already authorizes dry cask storage and already approves dry casks for use by utilities to store spent fuel at reactor sites. See 10 CFR 72.214 for a listing information on Cask Certificate Nos. 1000 through 1003 and 1007. The present rulemaking is accordingly for the limited purpose of adding one more cask to the list of casks already approved by NRC. Furthermore, the cask, to be added to the NRC list by this rulemaking, will comply with all applicable NRC safety requirements.

Finally, this rulemaking applies to cask use by any power reactor licensee within the United States. Therefore, it is not dependent on any one individual State's actions including preparation of a separate EIS by any State. Further, nothing in this rulemaking would preclude any State from implementing its environmental statutes and regulations as may otherwise be permitted by law.

15. *Comment.* Some commenters believed that a cost/benefit analysis should be prepared.

Response. A Regulatory Analysis which considers both benefits and impacts of adding the TN–24 cask to the list of NRC-approved casks under 10 CFR part 72, subpart K, was prepared in support of this rulemaking action. It was included as part of the notice of proposed rulemaking and is also included in this final rulemaking notice. This regulatory analysis reflects the limited economic scope of this rulemaking.

16. *Comment.* Some commenters indicated that operating procedures, evaluation reports, and training programs should be submitted to the NRC, state and local government authorities, and placed in local libraries near such facilities.

Response. These documents expand on generically approved procedures in the SAR and Certificate of Compliance. In accordance with the NRC requirements, licensees are not required to submit this information to the NRC or other government authorities. Rather, this information is evaluated by the licensee and is available for inspection by the NRC. The NRC's inspection program includes requirements to inspect these procedures and these inspection reports are available in the NRC Public Document Room.

17. *Comment.* One commenter believed that the Certificate of Compliance should list all NRC regulations controlling the use of the specific cask for the storage of spent fuel.

Response. The Certificate of Compliance contains a general reference to the provisions of 10 CFR part 72, which includes in subpart K, the regulations relevant to the storage of spent fuel under a general license. A specific reference to each regulation section is, therefore, unnecessary.

18. *Comment.* Some commenters believed that it is not acceptable to increase the number of approved cask designs. Some suggested that alternative actions to dry cask storage should be considered.

Response. The NRC, in implementing the Nuclear Waste Policy Act of 1982, has an obligation to approve the use of casks for the storage of spent fuel, provided these casks meet applicable regulatory requirements. The NRC agrees with the commenter that these casks should contain radioactivity and protect workers, the public, and the environment. The previous rulemaking (55 FR 29181; July 18, 1990) found that spent fuel stored in dry storage casks designed to meet the NRC regulatory requirements can contain radioactivity safely. This rulemaking adds one cask design, which meets the safety requirements previously developed. The previous responses to comments, as well as the detailed safety and environmental analyses underlying this rulemaking, and described elsewhere in this document, all reveal that the TN–24 cask will conform to NRC requirements, and that its use should not pose the potential for significant environmental impacts.

The principal alternatives available to the NRC would be procedural in nature, whereby dry cask spent fuel storage could be approved under other existing or new parts of title 10, Code of Federal Regulations. Regardless of the method selected to approve such dry cask spent fuel storage, all would have similar environmental impacts.

The NWPA directed that the NRC approve one or more technologies, that have been developed and demonstrated by DOE, for the use of spent fuel storage at the sites of civilian nuclear power reactors without, to the extent practicable, the need for additional site-specific review. The NWPA also directed that the NRC, by rulemaking, set forth procedures for licensing the technology. Regulations for accomplishing this are in place. Therefore, the no action alternative is not acceptable.

Consideration of alternative spent fuel storage technologies is beyond the scope of this rulemaking. This action is being taken in response to section 218(a) of the Nuclear Waste Policy Act of 1982 which specifies dry storage.

19. *Comment.* Some commenters asked who would be responsible for oversight of fuel stored in casks after decommissioning of the reactor, shipment of the fuel off-site, and for decommissioning of the casks after stored fuel was shipped off-site.

Response. In accordance with § 50.54(bb), all operating nuclear power reactor licensees are required, no later than 5 years prior to the expiration of the operating license, to provide the NRC, for review and approval, the licensee's program to manage and provide funding for the management of all irradiated fuel. NRC's review of the licensee's fuel management program will be undertaken as part of continued licensing under the provisions of parts 50 and 72 of the Commission's regulations.

With respect to decommissioning, the licensee may select a decommissioning alternative that will:

1. Allow storage of spent fuel in the spent fuel pool, in which case the licensee will be required to maintain its part 50 license;
2. Allow storage of fuel in a certified cask under the provisions of part 72 as long as the part 50 license remains in effect; or
3. Allow storage in an on-site independent spent fuel storage installation under the site specific licensing provisions of part 72.

For any of the above alternatives, the licensee will be responsible for safe storage of spent fuel during the period of storage, for later shipment off-site for further storage or disposal by the Federal Government and for final decommissioning of the reactor spent fuel pool, dry storage cask or ISFSI to a level permitting unrestricted release of the site facility. The requirements for decommissioning are provided in § 72.30, the section that defines decommissioning planning, financial assurance, and recordkeeping provisions.

Finding of No Significant Environmental Impact: Availability

Under the National Environmental Policy Act of 1969, as amended, and the Commission's regulations in subpart A of 10 CFR part 51, the Commission has determined that this rule is not a major Federal action significantly affecting the quality of the human environment and, therefore, an environmental impact statement is not required. This final rule

adds an additional cask to the list of approved spent fuel storage casks that power reactor licensees can use to store spent fuel at reactor sites without additional site-specific approvals by the Commission. The environmental assessment and finding of no significant impact on which this determination is based is available for inspection at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC. Single copies of the Environmental Assessment and the Finding of No Significant Impact are available from Mr. Gordon E. Gundersen, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC, 20555, telephone (301) 492–3803.

Paperwork Reduction Act Statement

This final rule does not contain a new or amended information collection requirement subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). Existing requirements were approved by the Office of Management and Budget approval number 3150–0132.

Regulatory Analysis

On July 18, 1990 (55 FR 29181), the Commission issued an amendment to 10 CFR part 72, which provided for the storage of spent nuclear fuel under a general license. Any nuclear power reactor licensee can use these casks if: (1) They notify the NRC in advance; (2) The spent fuel is stored under the conditions specified in the cask's Certificate of Compliance; and (3) The other conditions of the general license are met. As part of the 1990 rulemaking (55 FR 29181), four spent fuel storage casks were approved for use at reactor sites, and were listed in 10 CFR 72.214. That rulemaking envisioned that storage casks certified in the future could be routinely added to the listing in § 72.214 through rulemaking procedures. Procedures and criteria for obtaining NRC approval of new spent fuel storage cask designs were provided in 10 CFR 72.230. On April 7, 1993 (58 FR 17948), a fifth storage cask was added to that list.

The present regulatory action is being taken to add a sixth storage cask to the listing in § 72.214 in response to the Congressional direction in Sections 133 and 218 of the Nuclear Waste Policy Act of 1982. The alternative to this action is to withhold certification of this new design and to consider the granting of a site-specific license to each utility that applied for permission to use this new cask. This would be in direct conflict with Congressional direction to establish procedures for the licensing of technologies for the use of spent fuel storage at the sites of civilian nuclear power reactors without, to the extent practicable, the need for additional site reviews. Site-specific licenses alternative would be more costly and time consuming because each site-specific license would require a specific review. In addition, withholding certification would ignore the rulemaking procedures and criteria in 10 CFR part 72, Subparts K and L, for the addition of new cask designs. Also, the alternative would exclude new vendor cask designs from the approved NRC list under Subpart K without cause and would arbitrarily limit choice of cask designs available to power reactor licensees.

This final rulemaking will eliminate the above problems. Further, this action will have no adverse effect on the public health and safety.

The benefit of this final rule to nuclear power reactor licensees is to make available a greater choice of spent fuel storage cask designs which can be used under a general license. However, the newer cask designs may or may not have an advantage over the existing designs in that power reactor licensees may or may not prefer to use the newer casks. The new cask vendors with casks to be listed in § 72.214 benefit by having to obtain NRC certificates once for a cask design which can then be used by many power reactor licensees under the general license. Vendors with cask designs already listed may be adversely impacted in that power reactor licensees may choose a newly listed design over an existing one. However, the NRC is required by its regulations and NWPA requirements to establish a procedure and consider applications to certify and list approved casks. The NRC also benefits because it will be able to certify a cask design based on one generic safety and environmental review, for use by multiple licensees. This final rulemaking has no significant identifiable impact or benefit on other Government agencies.

Based on the above discussion of the benefits and impacts of the alternatives, the NRC concludes that the requirements of the final rule are commensurate with the Commission's responsibilities for protection of the public health and safety and the common defense and security. No other available alternative is believed to be as satisfactory, thus, this action is recommended.

Regulatory Flexibility Act Certification

In accordance with the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities. This amendment affects only licensees owning and operating nuclear power reactors and cask vendors. The owners of nuclear power plants do not fall within the scope of the definition of "small entities" set forth in section 601(3) of the Regulatory Flexibility Act, 15 U.S.C. 632, 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 final rule, and, thus, a backfit analysis is not required for this final rule, because this amendment does not involve any provisions which would impose backfits as defined in § 50.109(a)(1).

List of Subjects in 10 CFR Part 72

Manpower training programs, Nuclear materials, Occupational safety and health, Reporting and recordkeeping requirements, Security measures, Spent fuel.

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 72.

PART 72—LICENSING REQUIREMENTS FOR THE INDEPENDENT STORAGE OF SPENT NUCLEAR FUEL AND HIGH-LEVEL RADIOACTIVE WASTE

1. The authority citation for Part 72 continues to read as follows:

Authority: Secs. 51, 53, 57, 62, 63, 65, 69, 81, 161, 182, 183, 184, 186, 187, 189, 68 Stat. 929, 930, 932, 933, 934, 935, 948, 953, 954, 955, as amended, sec. 234, 83 Stat. 444, as amended (42 U.S.C. 2071, 2073, 2077, 2092, 2093, 2095, 2099, 2111, 2201, 2232, 2233, 2234, 2236, 2237, 2238, 2282); sec. 274, Pub. L. 86–373, 73 Stat. 688, as amended (42 U.S.C. 2021); sec. 201, as amended, 202, 206, 88 Stat. 1242, as amended, 1244, 1246 (42 U.S.C. 5841, 5842, 5846); Pub. L. 95–601, sec. 10, 92 Stat. 2951 (42 U.S.C. 5851); sec. 102, Pub. L. 91–190, 83 Stat. 853 (42 U.S.C. 4332); secs. 131, 132, 133, 135, 137, 141, Pub. L. 97–425, 96 Stat. 2229, 2230, 2232, 2241, sec. 148, Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10151, 10152, 10153, 10155, 10157, 10161, 10168).

Section 72.44(g) also issued under secs. 142(b) and 148(c), (d), Pub. L. 100–203, 101 Stat. 1330–232, 1330–236 (42 U.S.C. 10162(b), 10168(c)(d)). Section 72.46 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). Section 72.96(d) also

issued under sec. 145(g), Pub. L. 100–203, 101 Stat. 1330–235 (42 U.S.C. 10165(g)). Subpart J also issued under secs. 2(2), 2(15), 2(19), 117(a), 141(h), Pub. L. 97–425, 96 Stat. 2202, 2203, 2204, 2222, 2244 (42 U.S.C. 10101, 10137(a), 10161(h)). Subparts K and L are also issued under sec. 133, 98 Stat. 2230 (42 U.S.C. 10153) and sec. 218(a), 96 Stat. 2252 (42 U.S.C. 10198).

2. In § 72.214, Certificate of Compliance 1005 is added to read as follows:

§ 72.214 List of approved spent fuel storage casks.

* * * * *

Certificate Number: 1005.

SAR Submitted by: Transnuclear, Inc.

SAR Title: TN–24 Dry Storage Cask Topical Report.

Docket Number: 72–1005.

Certification Expiration Date: November 4, 2013.

Model Number: TN–24.

Dated at Rockville, Maryland, this 23rd day of September, 1993.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 24400 Filed 10–4–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93–SW–11–AD; Amendment 39–8684; AD 93–17–13]

Airworthiness Directives; Schweizer Aircraft Corp. and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, 269C, and TH55A Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, 269C, and TH55A helicopters. This action requires installation of a declutched limit marking on the lens of the engine and rotor tachometer gauge. It also requires an initial and repetitive inspection of the lower coupling drive shaft (shaft) for cracks and manufacturing abnormalities. This amendment is prompted by reports that shaft damage has occurred as a result of engine overspeeds during engine start-up. The actions specified in this AD are intended to prevent failure of the shaft, loss of power to the rotor system, and subsequent loss of control of the helicopter.

DATES: Effective October 20, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 20, 1993.

Comments for inclusion in the Rules Docket must be received on or before December 6, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 93–SW–11–AD, 4400 Blue Mound Road, bldg. 3B, room 158, Fort Worth, Texas 76106.

The service information referenced in this AD may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 4400 Blue Mound Road, bldg 3B, room 158, Fort Worth, Texas 76106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Raymond O'Neill, Aerospace Engineer, New York Aircraft Certification Office, FAA, ANE–174, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581, telephone (516) 791–7421, fax (516) 791–9024.

SUPPLEMENTARY INFORMATION: This amendment adopts a new airworthiness directive (AD) that is applicable to Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, 269C, and TH55A helicopters. Reports indicate that damage to the lower coupling drive shaft (shaft) has occurred as a result of engine overspeeds during start-up in several Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269 helicopters. Any material imperfection that results in a stress concentration (surface flaws, cracks, etc.) reduces the stress tolerance for operating in the resonant revolutions-per-minute (RPM) range, and can lead to fatigue damage in the shaft. This condition, if not corrected, could result in failure of the shaft, loss of power to the rotor system, and subsequent loss of control of the helicopter.

The FAA has reviewed and approved Schweizer Aircraft Corporation Service Bulletin B–257.1, dated May 21, 1993, that describes procedures for installing a declutched limit marking on the engine and rotor tachometer gauge of certain Model 269 series helicopters; a one-time inspection of certain shafts for proper surface finish cleanup during the manufacturing grinding operation; and an inspection for defects such as cracks, manufacturing tool marks, machining steps, or other imperfections.

Since an unsafe condition has been identified that is likely to exist or develop on other Schweizer Aircraft Corporation and Hughes Helicopters, Inc. Model 269A, 269A–1, 269B, 269C, and TH55A helicopters of the same type design, this AD is being issued to prevent failure of the shaft, loss of power to the rotor system, and subsequent loss of control of the helicopter. This AD requires installation of a declutched limit marking on the lens of the engine and rotor tachometer gauge to provide an additional display of the existing speed limitation, and initial and repetitive inspections of the shaft for cracks and manufacturing abnormalities. The actions are required to be accomplished in accordance with the service bulletin described previously.

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified under the caption "ADDRESSES." All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact

concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-SW-11-AD." The postcard will be date stamped and returned to the commenter.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

AD 93-17-13 Schweizer Aircraft Corporation and Hughes Helicopters, Inc.: Amendment 39-8684. Docket Number 93-SW-11-AD.

Applicability: Model 269A, 269A-1, 269B, 269C, and TH55A helicopters, certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent failure of the lower coupling drive shaft (shaft), loss of power to the rotor system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Within the next 30 days or 100 hours' time-in-service after the effective date of this AD, whichever occurs first—

(1) Install engine and rotor tachometer markings in accordance with Part II of Schweizer Aircraft Corporation Service Bulletin B-257.1, dated May 21, 1993 (SB).

Note: Figure B-257.1-2 indicates the position of the white slippage mark on the lens and lens frame.

(2) Visually inspect the shaft for cracks, machining steps, manufacturing tool marks, surface defects, and lack of cleanup during the production grinding operation in accordance with Part I of the SB.

Note: Failure to accomplish proper cleanup of the shaft surface is evidenced by a non-uniform surface smoothness. The actual surface finish value may vary from shaft to shaft.

(b) Repeat the visual inspection for cracks as described in paragraph (a)(2) of this AD at intervals not to exceed 300 hours' time-in-service from the last inspection.

(c) Replace any shaft found to be unairworthy during the inspection required by this AD with an airworthy shaft, before further flight.

(d) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Valley Stream, New York 11581. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, New York Aircraft Certification Office.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the New York Aircraft Certification Office.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the helicopter to a location where the requirements of this AD can be accomplished.

(f) The modification and inspections shall be done in accordance with Part I and II of Schweizer Aircraft Corporation Service Bulletin B-257.1, dated May 21, 1993. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Schweizer Aircraft Corporation, P.O. Box 147, Elmira, New York 14902. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 4400 Blue Mound Road, bldg. 3B, room 158, Fort Worth, Texas 76106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(g) This amendment becomes effective on October 20, 1993.

Issued in Fort Worth, Texas, on August 31, 1993.

James D. Erickson,

Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 93-24351 Filed 10-4-93; 8:45 am]

BILLING CODE 4910-13-P

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14 CFR Part 39

[Docket No. 93-CE-03-AD; Amendment 39-8705; AD 93-19-06]

Airworthiness Directives: Fairchild Aircraft SA26, SA226, and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 89-06-02, which currently requires repetitively inspecting acrylic cabin and cockpit windows for cracks on certain Fairchild Aircraft (Fairchild) SA26, SA226, and SA227 series airplanes. This action requires the same inspections as the current AD, but shortens the repetitive inspection interval. Several acrylic window failures that occurred prior to the currently required inspection intervals prompted this action. The actions specified by this AD are intended to prevent acrylic cockpit or cabin window failures, which could result in airframe damage and decompression injuries.

DATES: Effective November 19, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 19, 1993.

ADDRESSES: Service information that applies to this AD may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279-0490; Telephone (512) 824-9421. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Hung Viet Nguyen, Aerospace Engineer, FAA, Airplane Certification Office, 4400 Blue Mound Road, Fort Worth, Texas 76193–0150; Telephone (817) 624–5155; Facsimile (817) 740–3394.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Fairchild SA26, SA226, and SA227 airplanes was published in the **Federal Register** on May 12, 1993 (58 FR 27957). The action proposed to supersede AD 89–06–02, Amendment 39–6153, with a new AD that would retain the requirements of repetitively inspecting the acrylic cabin and cockpit windows, and replacing any cracked windows, but would shorten the repetitive inspection interval. It would also add the Model SA227–TT airplanes to the applicability list of AD 89–06–02. The proposed actions would be accomplished in accordance with the following service information, as applicable:

Fairchild SB 226–56–001, Issued: February 2, 1983; Revised: November 26, 1991.
Fairchild SB 227–56–001, Issued: February 2, 1983; Revised: November 26, 1991.
Fairchild SB 226–56–002, Issued: March 3, 1983; Revised: May 29, 1992.
Fairchild SB 227–56–002, Issued: January 5, 1984; Revised: May 29, 1992, and April 1, 1993.
Fairchild SB 226–56–003, Issued: September 13, 1984; Revised: November 2, 1989.
Fairchild SB 227–56–003, Issued: September 13, 1984; Revised: November 2, 1989.
Fairchild SB 26–56–10–038, Issued: October 8, 1984; Revised: February 7, 1991.
Fairchild SB 26–56–20–042, Issued: November 28, 1988; Revised: February 7, 1991.

Interested persons have been afforded an opportunity to participate in the making of this amendment. One comment was received in favor of the proposed rule and no comments were received on the FAA's determination of the cost to the public.

After careful review, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD nor add any additional burden upon the public than was already proposed.

The compliance time for the required AD is presented in both hours time-in-service (TIS) and calendar time. The referenced acrylic cabin and cockpit windows are affected by those conditions present while the airplane is in flight and while the airplane is on the ground. In addition, the utilization rates of the affected airplanes vary among operators. For example, operators in unscheduled service utilize their airplanes an average of approximately 300 to 400 hours TIS annually, while those in commuter service (scheduled) utilize their airplanes an average of approximately 2,000 hours TIS annually. Based on this wide utilization rate variance and the fact that these windows are affected when the airplane is in flight and on the ground, the FAA has determined that the affected acrylic cabin and cockpit windows should be repetitively inspected every 1,000 hours TIS or every 12 calendar months, whichever occurs first.

The FAA estimates that 633 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 3 workhours per airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $104,445. AD 89–06–02 currently requires the same inspections as the required AD for affected models except the Model SA227–TT airplanes, which have been added to the applicability; however, this AD would reduce the interval time between the repetitive inspections. Therefore, the cost impact of this AD on U.S. operators of all affected models other than the Model SA227–TT airplanes is the same as AD 89–06–02, except for an increase in the number of repetitive inspections.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 89–06–02, Amendment 39–6153 (54 FR 10139, March 10, 1989), and by adding the following new airworthiness directive:

93–19–06 Fairchild Aircraft: Amendment 39–8705; Docket No. 93–CE–03–AD. Supersedes AD 89–06–02, Amendment 39–6153.

Applicability: Models SA26–T, SA26–AT, SA226–T, SA226–T(B), SA226–AT, SA226–TC, SA227–AT, SA227–AC, and SA227–TT airplanes (all serial numbers for all models), certificated in any category.

Note 1: The applicability of this AD takes precedence over that specified in the service information.

Compliance: Required within the next 50 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished within the last 1,000 hours TIS (compliance with AD 89–06–02), and thereafter at intervals not to exceed 1,000 hours TIS or every 12 calendar months, whichever occurs first.

To prevent acrylic cockpit or cabin window failures, which could result in airframe damage and decompression injuries, accomplish the following:

Note 2: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

(a) Visually inspect all acrylic cabin side windows for cracks in accordance with the following service bulletins (SB), as applicable:

Model	Service bulletin
SA26–T	26–56–20–042, Issued: November 28, 1988, Revised: November 26, 1991.

Model	Service bulletin
SA26-AT ..	26-56-20-042, Issued: November 28, 1988, Revised: November 26, 1991.
SA226-T ...	226-56-001, Issued: February 2, 1983, Revised: February 7, 1991.
SA226-T(B).	226-56-001, Issued: February 2, 1983, Revised: February 7, 1991.
SA226-AT	226-56-002, Issued: March 3, 1983, Revised: May 29, 1992.
SA226-TC	226-56-002, Issued: March 3, 1983, Revised: May 29, 1992.
SA227-AT	227-56-002, Issued: January 5, 1984, Revised: May 29, 1992, and April 1, 1993.
SA227-AC	227-56-002, Issued January 5, 1984, Revised: May 29, 1992, and April 1, 1993.
SA227-TT .	227-56-001, Issued February 2, 1983, Revised: November 26, 1991.

(b) Visually inspect all acrylic cockpit windows for cracks in accordance with the following service bulletins, as applicable:

Model	Service bulletin
SA26-T	26-56-10-038, Issued: October 8, 1984, Revised: February 7, 1991.
SA26-AT ..	26-56-10-038, Issued: October 8, 1984, Revised: February 7, 1991.
SA226-T ...	226-56-003, Issued: September 13, 1984, Revised: November 2, 1989.
SA226-T(B).	226-56-003, Issued: September 13, 1984, Revised: November 2, 1989.
SA226-AT	226-56-003, Issued: September 13, 1984, Revised: November 2, 1989.
SA226-TC	226-56-003, Issued: September 13, 1984, Revised: November 2, 1989.
SA227-AT	227-56-003, Issued: September 13, 1984, Revised: November 2, 1989.
SA227-AC	227-56-003, Issued: September 13, 1984, Revised: November 2, 1989.
SA227-TT .	227-56-003, Issued: September 13, 1984, Revised: November 2, 1989.

(c) If cracks are found during the inspections specified in paragraphs (a) and (b) of this AD that meet or exceed 4.3 inches in combined total length, prior to further flight, replace the window with a new or serviceable window.

(d) If cracks are found during the inspections specified in paragraphs (a) and (b) of this AD that are less than 4.3 inches in combined total length, prior to further flight, accomplish one of the following:

(1) Replace the window with a new or serviceable window; or

(2) Fabricate a placard with the following words in letters at least 0.10-inch in height and install this placard within the pilot's clear view close to the pressurization controls: "AIRPLANE MUST BE OPERATED UNPRESSURIZED", and

(i) Insert a copy of this AD into the Limitations Section of the FAA-approved Airplane Flight Manual (AFM).

(ii) Reinspect the cracked window for crack progression in accordance with the inspection specified in paragraph (a) or (b) of this AD, as applicable, within the next 30 calendar days, and accomplish either paragraph (c) or (d) of this AD as applicable.

Note 3: The repetitive inspections required by this AD are also referenced in the FAA-approved Fairchild Airframe Airworthiness Limitations Manual, ST-UN-M001.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office, FAA, Fort Worth, Texas 76193-0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Airplane Certification Office.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth Airplane Certification Office.

(g) The inspections required by this AD shall be done in accordance with the following, as applicable:

Fairchild SB 226-56-001, Issued: February 2, 1983; Revised: November 26, 1991;
Fairchild SB 227-56-001, Issued: February 2, 1983; Revised: November 26, 1991;
Fairchild SB 226-56-002, Issued: March 3, 1983; Revised: May 29, 1992;
Fairchild SB 226-56-003, Issued: September 13, 1984; Revised: November 2, 1989;
Fairchild SB 227-56-003, Issued: September 13, 1984; Revised: November 2, 1989.
Fairchild SB 26-56-10-038, Issued: October 8, 1984; Revised: February 7, 1991;
Fairchild SB 26-56-20-042, Issued: November 28, 1988; Revised: February 7, 1991; or
Fairchild SB 227-56-002, which incorporates the following pages:

Pages	Date
1, 3, 4, 5, 7, 8, 9, and 11 through 14.	Issued: January 5, 1984; Revised: May 29, 1993.
2, 6, and 10	Issued: January 5, 1984; Revised: April 1, 1993.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279-0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment (39-8705) supersedes AD 89-06-02, Amendment 39-6153.

(i) This amendment (39-8705) becomes effective on November 19, 1993.

Issued in Kansas City, Missouri, on September 28, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-24261 Filed 10-4-93; 8:45 am]

BILLING CODE 4910-13-U

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14 CFR Part 71

[Airspace Docket No. 93-ANM-39]

Amendment to Class E Airspace; Montrose, CO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace at Montrose, CO. Construction of a new runway, relocation of the VOR, and installation of an Instrument Landing System require amended controlled airspace to contain new instrument approach procedures. The Class E airspace will be depicted on aeronautical charts for pilot reference when the new approach procedures become effective.

EFFECTIVE DATE: 0901 UTC, November 11, 1993.

FOR FURTHER INFORMATION CONTACT: Ted Melland, ANM-536, Federal Aviation Administration, Docket No. 92-ANM-39, 1601 Lind Avenue SW., Renton, Washington 98055-4056, Telephone: (206) 227-2536.

SUPPLEMENTARY INFORMATION:

History

A new runway was constructed to improve safety and efficiency at the Montrose Airport. A new instrument landing system further improves safety and efficiency by providing precision approach procedures. In the course of these improvements it was necessary to relocate the VOR, and now, to amend controlled airspace in the vicinity of the airport.

Airspace reclassification, in effect as of September 16, 1993, has discontinued use of the terms "transition area" and "control zone." Some airspace extending upward from the surface, and other airspace from 700 feet or more above ground level is now designated as Class E airspace. Class E airspace designations for airspace extending upward from the surface are published in Paragraph 6002 of FAA Order

7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). Class E airspace designations for airspace extending upward from 700 feet or more above the surface of the earth are published in Paragraph 6005 of FAA Order 7400.9A dated June 17, 1993, and effective September 16, 1993, which is incorporated by reference in 14 CFR 71.1 (58 FR 36298; July 6, 1993). The Class E airspace designations listed in this document will be published subsequently in the Order. The coordinates in this final rule are in North American Datum 83.

The Rule

This amendment to part 71 of the Federal Aviation Regulations amends Class E airspace at Montrose, Colorado. It will provide amended controlled airspace to encompass new instrument approach procedures at the airport. Amendment of the Class E airspace will result in greater safety and efficiency at, and in the vicinity of, the airport. I find that notice and public procedure under 5 U.S.C. 553(b) are impracticable and contrary to the public interest because corrective action is required in the interest of flight safety.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—[AMENDED]

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. app. 1348(a), 1354(a), 1510; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389; 49 U.S.C. 106(g); 14 CFR 11.69.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9A, Airspace Designations and Reporting Points, dated June 17, 1993, and effective September 16, 1993, is amended as follows:

Paragraph 6002 Class E Airspace areas designated as a surface area for an airport.

* * * * *

ANM CO E2 Montrose, CO [Amended]
Montrose Regional Airport, CO
(lat. 38°30'01" N, long. 107°53'41" W)
Montrose VOR/DME
(lat. 38°30'23" N, long. 107°53'57" W)

That airspace extending upward from the surface within a 4.3-mile radius of the Montrose Regional Airport, and within 3.5 miles each side of the Montrose VOR/DME 313° radial extending from the 4.3 mile radius to 12.2 miles northwest of the VOR/DME and within 2.5 miles each side of the Montrose VOR/DME 360° radial extending from the 4.3 mile radius to 8.5 miles north of the VOR/DME. This Class E airspace area is effective during the specific dates and times established in advance by Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

* * * * *

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM CO E5 Montrose, CO [Amended]
Montrose Regional Airport, CO
(lat. 38°30'01" N, long. 107°53'41" W)
Montrose VOR/DME
(lat. 38°30'23" N, long. 107°53'57" W)

That airspace extending upward from 700 feet above the surface within 4.3 miles northeast and 8.3 miles southwest of the Montrose VOR/DME 313° and 133° radials extending from 6.1 miles southeast to 21.4 miles northwest of the VOR/DME and within 4 miles each side of the Montrose VOR/DME 360° radial extending to 9.5 miles north of the VOR/DME; and that airspace extending upward from 1,200 feet above the surface within an area bounded by a point beginning at lat. 39°00'00" N, long. 108°39'32" W; to lat. 39°00'00" N, long. 107°30'00" W; to lat. 38°11'30" N, long. 107°30'00" W; to lat. 38°11'30" N, long. 107°56'32" W; to lat. 38°22'00" N, long. 108°39'32" W, to the point of beginning.

* * * * *

Issued in Seattle, Washington, on September 24, 1993.

Temple H. Johnson, Jr.,
Manager, Air Traffic Division.

[FR Doc. 93–24438 Filed 10–4–93; 8:45 am]

BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27467; Amdt. No. 1566]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigation airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue SW., Washington, DC 20591; or
2. The FAA Regional Office of the region which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical

Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviations Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and affective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification, and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled. The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

This amendment to part 97 contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice Airmen (NOTAM) as a emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPs. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find the notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule"' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (air), Weather.

Issued in Washington, DC on September 24, 1993.

Thomas C. Accardi,

Director, Flight Standard Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C. app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33 and 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

Effective	State	City	Airport	FDC No.	SIAP
09/08/93	NJ	Teterboro	Teterboro	FDC 3/5050	VOR/DME RNAV Rwy 24 Orig; This corrects Notam Pub IN TL 93–20.
09/10/93	VA	Richmond	Chesterfield County	FDC 3/5064	NDB Rwy 33 Amdt 7.
09/14/93	AK	Galena	Galena	FDC 3/5119	VOR/DME or Tacan Rwy 7 Amdt 6.
09/14/93	AK	Galena	Galena	FDC 3/5120	VOR Rwy 25 Amdt 9.
09/15/93	AL	Montgomery	Dannelly Field	FDC 3/5151	NDB Rwy 9, Amdt 18A.
09/15/93	AL	Montgomery	Dannelly Field	FDC 3/5152	ILS Rwy 27, Amdt 8A.
09/15/93	AL	Montgomery	Dannelly Field	FDC 3/5153	ILS Rwy 9 Amdt 23A.
09/15/93	AL	Montgomery	Dannelly Field	FDC 3/5154	Radar-1 Amdt 8.

Effective	State	City	Airport	FDC No.	SIAP
09/15/93 ...	FL	Pensacola	Pensacola Regional	FDC 3/5148	ILS Rwy 17 Amdt 13B.
09/15/93 ...	KY	Frankfort	Capital City	FDC 3/5145	VOR Rwy 24 Amdt 1.
09/15/93 ...	MA	Worcester	Worcester Muni	FDC 3/5133	ILS Rwy 11 Amdt 19.
09/15/93 ...	MA	Worcester	Worcester Muni	FDC 3/5191	NDB Rwy 11 Amdt 18.
09/15/93 ...	MA	Worcester	Worcester Muni	FDC 3/5192	NDB Rwy 29 Amdt 10.
09/15/93 ...	MA	Worcester	Worcester Muni	FDC 3/5194	LOC Rwy 29 Amdt 1.
09/15/93 ...	NJ	Atlantic City	Atlantic City Intl	FDC 3/5131	Radar-1 Amdt 13A.
09/15/93 ...	NJ	Atlantic City	Atlantic City Intl	FDC 3/5132	VOR Rwy 31 Amdt 15.
09/16/93 ...	NY	Islip	Long Island MacArthur	FDC 3/5228	NDB Rwy 6 Amdt 20.
09/16/93 ...	NY	Islip	Long Island MacArthur	FDC 3/5229	ILS Rwy 6, Amdt 20.
09/16/93 ...	WY	Casper	Natrona County Intl	FDC 3/5147	ILS Rwy 3 Amdt 4.
09/17/93 ...	AK	Bethel	Bethel	FDC 3/5234	LOC/DME BC Rwy 36 Amdt 4A.
09/17/93 ...	OK	Antlers	Antlers Muni	FDC 3/5233	NDB Rwy 35 Amdt 2.
09/21/93 ...	CO	Pueblo	Pueblo Memorial	FDC 3/5285	NDB Rwy 26R, Amdt 17.
09/21/93 ...	SC	Rock Hill	Rock Hill/York County/Bryant Field	FDC 3/5281	LOC Rwy 1 Orig.
09/21/93 ...	SC	Rock Hill	Rock Hill/York County/Bryant Field	FDC 3/5282	NDB Rwy 1 Orig.
09/21/93 ...	SC	Rock Hill	Rock Hill/York County/Bryant Field	FDC 3/5283	VOR/DME RNAV Rwy 1 Amdt 4.
09/22/93 ...	NJ	Linden	Linden	FDC 3/5310	VOR/DME–D Orig-A.

[FR Doc. 93–24441 Filed 10–4–93; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 97

[Docket No. 27466; Amdt. No. 1565]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: *Effective:* An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification, and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC)

Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are unnecessary, impracticable, and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Incorporation by reference, Navigation (Air), Weather.

Issued in Washington, DC on September 24, 1993.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read as follows:

Authority: 49 U.S.C app. 1348, 1354(a), 1421 and 1510; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective December 9, 1993*

South Haven, MI, South Haven Area Regional, VOR RWY 22, Amdt. 9

** * * Effective November 11, 1993*

Red Bluff, CA, Red Bluff Muni, NDB RWY 33, Orig.
Montrose, CO, Montrose Regional, VOR RWY 13, Amdt. 7
Montrose, CO, Montrose Regional, VOR/DME RWY 13, Amdt. 8
Atlanta, GA, Peachtree City-Falcon Field, VOR/DME RNAV RWY 31, Orig.
Alexandria, LA, Alexandria Esler Regional, LOC BC RWY 8, Amdt. 9
Alexandria, LA, Alexandria Esler Regional, ILS RWY 26, Amdt. 12
Alexandria, LA, Alexandria Intl, VOR RWY 14, Orig.
Alexandria, LA, Alexandria Intl, VOR RWY 32, Orig.
Alexandria, LA, Alexandria Intl, ILS/DME RWY 14, Orig.
Alexandria, LA, Alexandria Intl, RADAR–1, Orig.
Bunkie, LA, Bunkie Municipal, VOR/DME–A, Amdt. 5
Marksville, LA, Marksville Municipal, VOR/DME–A, Amdt. 3
Natchitoches, LA, Natchitoches Regional, LOC RWY 34, Amdt. 2
Natchitoches, LA, Natchitoches Regional, NDB RWY 34, Amdt. 3
Slidell, LA, Slidell, NDB RWY 36, Orig.
Bar Harbor, ME, Hancock County-Bar Harbon, NDB RWY 22, Admt. 2A, CANCELLED
Las Vegas, NV, McCarran Intl, RADAR–1, Amdt. 11, CANCELLED
Painesville, OH, Concord Airpark, VOR/DME–A, Amdt. 1
Dallas-Fort Worth, TX, Dallas-Fort Worth International, ILS RWY 35L, Orig.
Dallas-Fort Worth, TX, Dallas-Fort Worth International, converging ILS RWY 35L, Orig.
Deer Park, WA, Deer Park, NDB–A, Orig.
Necedah, WI, Necedah, NDB RWY 36, Orig.
Cowley/Lovell/Byron, WY, North Big Horn County, NDB RWY 9, Amdt. 1

** * * Effective October 14, 1993*

Idaho Falls, ID, Fanning Field, LOC BC RWY 2, Amdt. 5
Idaho Falls, ID, Fanning Field, ILS RWY 20, Amdt. 10
Spencer, IA, Spencer Muni, VOR RWY 12, Amdt. 2
Spencer, IA, Spencer Muni, VOR RWY 30, Amdt. 2
Spencer, IA, Spencer Muni, NDB RWY 12, Amdt. 1
Spencer, IA, Spencer Muni, NDB RWY 30, Amdt. 8
Spencer, IA, Spencer Muni, ILS RWY 12, Amdt. 1
Decatur, IL, Decatur, NDB RWY 6, Amdt 5
Decatur, IL, Decatur, ILS RWY 6, Amdt 12
Great Bend, KS, Great Bend Muni, LOC RWY 35, Amdt. 3A, CANCELLED
Great Bend, KS, Great Bend Muni, ILS RWY 35, Orig.
Boston, MA, General Edward Lawrence Logan Intl, ILS RWY 4R, Amdt. 8
Mosinee, WI, Central Wisconsin, NDB RWY 17, Orig.
Mosinee, WI, Central Wisconsin, RNAV RWY 17, Amdt. 5, CANCELLED

** * * Effective September 16, 1993*

Ormond Beach, FL, Ormond Beach Muni, VOR RWY 17, Amdt. 1
Salt Lake City, UT, Salt Lake City Intl, VOR or TACAN RWY 16, Amdt. 22
Salt Lake City, UT, Salt Lake City Intl, VOR or TACAN RWY 17, Amdt. 10
Salt Lake City, UT, Salt Lake City Intl, VOR/DME or TACAN RWY 34, Amdt. 6
Salt Lake City, UT, Salt Lake City Intl, ILS/DME RWY 16, Amdt. 7
Salt Lake City, UT, Salt Lake City Intl, ILS RWY 17, Amdt. 9
Salt Lake City, UT, Salt Lake City Intl, ILS RWY 34, Amdt. 40

[FR Doc. 93–24439 Filed 10–4–93; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 35, 38, 292, 293, and 382

[Docket Nos. RM87–12–000, RM88–4–000, RM88–5–000, and RM88–17–000]

Congeneration; Small Power Production; Public Conference and Request for Comments; Order Terminating Proceedings

In the Matter of Regulations Governing Independent Power Producers, Regulations Governing Bidding Programs, Regulations Governing the Public Utility Regulatory Policy Act of 1978.

Issued September 29, 1993.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Order terminating proceedings.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is terminating these four proceedings, a notice of public conferences and request for comments and three notices of

proposed rulemakings, because the matters at issue in the proceedings have since been overtaken by events.

EFFECTIVE DATE: This order is effective on September 29, 1993.

FOR FURTHER INFORMATION CONTACT: Lawrence R. Greenfield, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. Telephone: (202) 208–0415.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in room 3104, at 941 North Capitol Street NE., Washington, DC 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing (202) 208–1397. To access CIPS, set your communications software to use 300, 1200, or 2400 bps, full duplex, no parity, 8 data bits and 1 stop bit. CIPS can also be accessed at 9600 bps by dialing (202) 208–1781. The full text of this order will be available on CIPS for 30 days from the date of issuance. The complete text on diskette in WordPerfect format may also be purchased from the Commission's copy contractor, La Dorn Systems Corporation, also as located in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

In 1988, the Commission issued three Notices of Proposed Rulemaking.[1] For the reasons given below, we are exercising our discretion to terminate these proceedings.[2]

Background

In Regulations Governing Independent Power Producers, 53 FR 9327 (March 22, 1988), IV FERC Stats. & Regs. ¶32,456 (1988) (IPP NOPR), the Commission issued a Notice of Proposed Rulemaking proposing to streamline the regulation of a class of then-developing, non-traditional power producers known as independent power producers or IPPs. In the NOPR, the Commission broadly defined an IPP as: A power producer that is unaffiliated with the local utility in the area in which it sells power; and that lacks significant market power. However, at the time there was no precedent, general or case-specific, that addressed precisely who would be considered IPPs, whether market-based (as opposed to cost-based) rates would be allowed for IPPs, and what accounting, reporting, and recordkeeping requirements should be applied to IPPs. The proposed regulations included authorization of rates determined through competitive bidding or negotiation (subject to a price cap) and exemption from various accounting, reporting, and recordkeeping requirements, as well as streamline non-rate regulation.

In Regulations Governing Bidding Programs, 53 FR 9324 (March 22, 1988), IV FERC Stats. & Regs. ¶32,455 (1988) (Bidding NOPR), the Commission issued a Notice of Proposed Rulemaking proposing to adopt regulations that would allow bidding procedures to be used in establishing rates for purchases from qualifying facilities or QFs. The Commission noted that its pre-existing rules provided for rates for purchases from QFs that would, as a general proposition, be set at the purchasing utility's full avoided cost. The proposed regulations provided for non-mandatory bidding procedures to determine avoided cost as an alternative to using an administratively determined avoided cost.

Finally, in Regulations Governing the Public Utility Regulatory Policies Act of 1978, 53 FR 31,021 (August 17, 1988), IV Stats. & Reg. ¶33,465 (1988) (PURPA NOPR), the Commission issued a Notice of Proposed Rulemaking proposing to revise its regulations governing the criteria and procedures by which power producing facilities could become QFs. The Commission proposed amending its regulations to, among other things, promote self-certification, improve the certification process by adopting standardized application forms and specifying what information must be submitted, and streamline the review of recertification requests when projects are modified. The Commission also considered (and solicited comments on) changes in its regulations concerning electric utility ownership of QFs and proposed revisions to its regulations concerning the technical standards that QFs must meet.

While proposed as separate NOPRs, the Commission recognized that the NOPRs all were linked. IPP NOPR, IV FERC Stats. & Regs. at 32,105; Bidding NOPR, IV FERC Stats. & Regs. at 32,024. All of the NOPRs arose out of concerns expressed to the Commission that the Commission's QF regulations required revision and that Commission regulations be developed to deal with the newly-developing IPPs (which, like QFs, are non-traditional power producers). IPP NOPR, IV FERC Stats. & Regs. at 32,103–3–05, Bidding NOPR, IV FERC Stats. & Regs. at 32,023–24.

In both written and oral comments on the NOPRs, there were many who objected to the proposed regulations—to the broad outline as well as the details. They argued, for example, that the Commission had insufficient experience with IPPs and bidding programs to adopt generic regulations and that the Commission should not move so quickly in these areas. Others supported the NOPRs, at least in part. Few, if any, parties supported the NOPRs in their entirety, however.

Discussion

The NOPRs issued in 1988 addressed a host of issues involving IPPs and QFs. Since then, however, much has changed. Most significant has been the passage of the Energy Policy Act of 1992, Public Law 102–486, 106 Stat. 2776 (1992), which created a new category of power producers, exempt

[1] A fourth Notice of Proposed Rulemaking, *Administrative Determination of Full Avoided Costs, Sales of Power to Qualifying Facilities, and Interconnection Facilities*, 53 FR 9331 (March 22, 1988), IV FERC Stats. & Regs. ¶ 32,457 (1988) (*ADFAC NOPR*), issued at roughly the same time will be addressed at a later date.

[2] In 1987, in Docket No. RM87–12–000, the Commission issued a notice providing for a series of regional public conferences and requesting comments. Cogeneration; Small Power Production—Notice of Public Conference and Request for Comments, 52 FR 2552 (January 23, 1987), IV FERC Stats. & Regs. ¶ 35,011 (1987), *revised*, 52 FR 6622 (March 5, 1987), IV FERC Stats. & Regs. ¶ 35,013 (1987). These conferences and comments were to provide the public with an opportunity to address the Commission's qualifying facilities program implementing section 210 of the Public Utility Regulatory Policies Act of 1978, 16 U.S.C. § 824a–3 (1988). *Id.* at 35,083–84. More specifically, the Commission requested interested persons to address four topics: (1) the Commission's avoided cost rule; (2) state commission and non-regulated electric utility implementation of the avoided cost rule; (3) the standards to obtain qualifying facility status; and (4) access to transmission services. *Id.* at 35,084.

Docket No. RM87–12–000 is not a rulemaking proceeding. Rather, the Commission simply called for oral and written comments. In that proceeding, approximately 160 parties participated in the regional conferences, and approximately 220 written comments (including those of conference participants) were submitted. Participants and commenters included state regulatory authorities, public utilities, potential and current non-public utility power producers, and industry suppliers. The Commission's review of their views and comments was reflected in the proposed rules discussed *infra*. Thus, Docket No. RM87–12–000 has served its purpose. *Id.* at 35,084. Moreover, events such as the enactment of the Energy Policy Act of 1992, discussed *infra*, which, for example, grants the Commission the authority to act on applications to obtain transmission service, have overtaken issues that were of importance in 1987. In these circumstances, we find that we can and should terminate this particular proceeding. *See* Regulation of Electricity Sales for Resale and Transmission Service, 61 FERC ¶ 61,371 at 62,470 & n.9 (1992).

wholesale generators or EWGs.[3] EWGs are non-traditional power producers like IPPs, but they are exempt from the requirements of the Public Utility Holding Company Act of 1935, 15 U.S.C. 79a *et seq.* (1988) (PUHCA). Many of the entities that would meet the criteria for an EWG in the Energy Policy Act would meet the proposed criteria for an IPP in the IPP NOPR. However, the criteria do differ.[4]

In addition, since 1988 the Commission has acted on close to 50 requests for market-based rates, including rates for non-traditional power producers such as IPPs,[5] and has developed definitions for IPPs and criteria for regulation of IPPs that differ from those originally proposed in the IPP NOPR.[6] The cases acted upon have involved rates resulting from both competitive bidding and competitive negotiation.[7] Thus, the proposed regulations in the IPP NOPR have been overtaken by both the Energy Policy Act and case-specific precedent.

In addition to the Commission's case-by-case experience regarding regulation of non-traditional power producers, including IPPs, substantial experience has been gained by state regulatory commissions and utilities themselves regarding non-traditional power producers and competitive bidding. At the time of the Bidding NOPR only a few states had taken steps to allow competitive bidding. Now 30 states use competitive bidding (i.e., either the state has adopted provisions for utilities to use bidding or the state at least permits utilities to use bidding). Compare Bidding NOPR, IV FERC Stats. & Regs. at 32,025 with 4 Robertson's Current Competition No. 3 at 16 (August 1993). Thus, both state regulatory commissions and utilities appear to be making substantial progress without the need for additional Commission guidance.

In regard to criteria for QF status, since the PURPA NOPR was issued, Congress passed the Solar, Wind, Waste, and Geothermal Power Production Incentives Act of 1990, Public Law 101-575, 104 Stat. 2834, as amended by, Public Law 102-46, 105 Stat. 249 (1991) (codified at 16 U.S.C. 796(17)), which changed the statutory provisions applicable to qualifying small power production facilities. Furthermore, in a 1992 Notice of Proposed Rulemaking, the Commission has proposed, and received comments on, changes in its QF regulations that are the same or similar to many of the changes originally considered in the earlier PURPA NOPR.[8]

In summary, the electric utility industry, and Commission and state regulation of the industry, have evolved substantially since the 1988 NOPRs were issued. In addition, the law has changed substantially. Matters and concerns that were relevant in 1988, and that fostered the need for the NOPRs, have been or are being addressed in other fora. Accordingly, because the NOPRs, and the reasons why the NOPRs were issued, have been overtaken by events, the Commission will exercise its discretion to terminate the proceedings.[9]

The Commission orders:

Docket Nos. RM87-12-000, RM88-4-000, RM88-5-000, and RM88-17-000 are hereby terminated.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-24448 Filed 10-4-93; 8:45 am]

BILLING CODE 6717-01-M

[3] The Energy Policy Act also expanded the Commission's authority to order transmission for, among others, QFs and the newly-created EWGs.

[4] *Compare* 15 U.S.C.A. § 79z-5a(a) (West Supp. 1993) *with IPP NOPR*, IV FERC Stats. & Regs. at 32,110-14.

[5] *See, e.g.*, Doswell Limited Partnership, 50 FERC ¶61,251 (1990) (*Doswell*); Enron Power Enterprise Corporation, 52 FERC ¶61,193 (1990) (*Enron*).

[6] The Commission in individual cases has characterized non-traditional power producers as either independent power producers (IPPs) or affiliated power producers (APPs).

Generally speaking, it has characterized an IPP as not affiliated with a traditional investor-owned utility (IOU), and an APP as affiliated with a traditional IOU. *Compare supra* note 5 *with* Terra Comfort Corporation, 52 FERC ¶61,241 (1990) *and* Boston Edison Company Re. Edgar Electric Energy Company, 55 FERC ¶61,382 (1991).

The Commission has allowed market-based rates for all categories of public utility sellers if the seller could show that it lacked or adequately mitigated its market power by showing that: (1) Neither it nor its affiliates is a dominant firm in the sale of generation services in the relevant market; (2) neither it nor its affiliates owns or controls transmission facilities which could be used to block the buyer in reaching alternative generation suppliers (or has adequately mitigated the ability to block the buyer); and (3) neither it nor its affiliates is able to erect or control any other barriers to market entry. *See, e.g.*, Louisville Gas and Electric Company, 62 FERC ¶61,016 (1993).

[7] *See, e.g.*, *Doswell*, *supra* note 5; *Enron*, *supra* note 5.

[8] Streamlining of Regulations Pertaining to Parts II and III of the Federal Power Act and the Public Utility Regulatory Policies Act of 1978, Notice of Proposed Rulemaking, 57 FR 55,176 and 58,168 (Nov. 24, 1992 and Dec. 9, 1992), IV FERC Stats. & Regs. ¶32,489 at 32,643-56, 32,663-68 (1992). Comments on the proposed changes to the regulations are presently under review.

[9] *E.g.*, *Professional Drivers Council* v. *Bureau of Motor Safety*, 706 F.2d 1216, 1220-21 (D.C. Cir. 1983) (discussing agency's decision not to promulgate new rules in an area already subject to agency regulation).

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting and Supervising Federal Prisoners: Disclosure of Regional Office File

AGENCY: United States Parole Commission.

ACTION: Final rule.

SUMMARY: The Parole Commission is adopting a new regulation, to state that the Chairman of the Commission is assuming responsibility under the Freedom of Information Act for deciding administrative appeals from decisions to deny a requester copies of documents (or portions thereof) from a parole file, and from other decisions related to the processing of FOIA requests. The regulation reflects a recent interpretation by the Department of Justice that the Chairman, rather than the Attorney General, is the appropriate official to act as "head of the agency" for purposes of the Freedom of Information Act.

EFFECTIVE DATE: November 4, 1993.

FOR FURTHER INFORMATION CONTACT: Pamela Posch, Office of the General Counsel, U.S. Parole Commission, 5550 Friendship Boulevard, Suite 420, Chevy Chase, Maryland, Telephone (301) 492-5959.

SUPPLEMENTARY INFORMATION: The Freedom of Information Act (5 U.S.C. 552) (FOIA) allows an appeal from the denial of documents or other decisions related to FOIA requests to the "head of the agency." 5 U.S.C. 552(a)(6)(i). For many years, the Office of Information and Privacy in the Department of Justice has handled the processing of the appeals from the Commission's FOIA responses because the Attorney General is the "head of the agency" for the Department of Justice.

Recently, the Office of Information and Privacy has advised the Commission that, since the Commission is an independent agency within the Justice Department (18 U.S.C. 4202) and is an "agency" for purposes of chapter 5 Title 5, U.S. Code (with several exceptions not pertinent here) (18 U.S.C. 4218(a)), the Chairman of the Commission is more appropriately considered to be the "head of the agency" for the limited purpose of deciding appeals of FOIA responses. Previously the Attorney General was treated as the head of the agency Therefore, the Chairman of the Commission will assume responsibility

for processing administrative appeals under FOIA, effective October 1, 1993.

List of Subjects in 28 CFR Part 2

Administrative practice and procedures, Probation and Parole, Prisoners.

PART 2—[AMENDED]

Accordingly, the Parole Commission makes the following amendment to 28 CFR part 2.

The Amendment

1. The authority citation for 28 CFR part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. 28 CFR part 2, § 2.56 is amended by revising the last sentence in paragraph (d) and by adding a new paragraph (h) which reads as follows:

§ 2.56 Disclosure of Parole Commission regional office file.

* * * * *

(d) * * * In addition, the requester must be informed of the right to appeal any non-disclosure to the Office of the Chairman.

* * * * *

(h) *Appeals.*—

(1) *Appeals to the Chairman.* When a request for access to Parole Commission records or a waiver of fees has been denied in whole or in part, or when the Commission fails to respond to a request within the time limits set forth in the FOIA, the requester may appeal the denial of the request to the Chairman of the Commission within thirty days from the date of the notice denying the request. An appeal to the Chairman shall be made in writing and addressed to the Office of the Chairman, U.S. Parole Commission, 5550 Friendship Boulevard, Suite 420, Chevy Chase, Maryland 20815.

(2) *Decision on appeal.* A decision affirming in whole or in part the denial of a request shall include a brief statement of the reason or reasons for the affirmance, including each FOIA exemption relied upon and its relation to each record withheld, and a statement that judicial review of the denial is available in the U.S. district court for the judicial district in which the requester resides or has his principal place of business, the judicial district in which the requested records are located, or in the District of Columbia. If the denial of a request is reversed on appeal to the Chairman, the requester shall be so notified and the request shall be processed promptly by Commission staff in accordance with the Chairman's decision on appeal.

* * * * *

Dated: September 14, 1993.

Edward F. Reilly, Jr.,

Chairman, U.S. Parole Commission.

[FR Doc. 93-24443 Filed 10-4-93; 8:45 am]

BILLING CODE 4410-01-P

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 40

RIN 0790-AF08

Standards of Conduct

AGENCY: Office of the Secretary of Defense, DoD.

ACTION: Final rule.

SUMMARY: The Department of Defense intends to publish another Standards of Conduct document in chapter I of title 32 of the Code of Federal Regulations. This document revises the heading of 32 CFR part 40 to prevent two parts having the same heading.

EFFECTIVE DATE: October 5, 1993.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, Correspondence and Directives Directorate, 1155 Defense Pentagon, Washington, DC 20301-1155, (703) 697-4111.

SUPPLEMENTARY INFORMATION:

List of Subjects in 32 CFR Part 40

Conflict of interests, Government procurement.

Accordingly, 32 CFR part is amended as follows:

PART 40—[AMENDED]

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

Authority: 5 U.S.C. 7301.

2. The heading for 32 CFR part 40 is revised to read "Standards of Conduct Cross-References".

Dated: September 28, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-24378 Filed 10-4-93; 8:45 am]

BILLING CODE 5000-04-M

DEPARTMENT OF DEFENSE

DEPARTMENT OF TRANSPORTATION

Coast Guard

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-AE49

Reservists Education; Procedural Due Process and the Montgomery GI Bill—Selected Reserve

AGENCY: Department of Defense, Department of Transportation (Coast Guard) and Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: VA (Department of Veterans Affairs) has been reviewing regulations for the purpose of improving due process procedures. This rule provides that in certain instances if claimants or beneficiaries under the Montgomery GI Bill—Selected Reserve can show good cause why they did not comply with the time limits within which they are required to act, those time limits do not apply. This rule will provide increased due process to reservists affected by time limits

EFFECTIVE DATE: October 5, 1993.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2092.

SUPPLEMENTARY INFORMATION: On pages 47024 and 47025 of the **Federal Register** of October 14, 1992, there was published a Notice of Intent to amend 38 CFR part 21 in order to implement increased due process to reservists affected by time limits. Interested people were given 30 days to submit comments, suggestions or objections. The agencies received no comments, suggestions or objections from the public. However, a subsequent revision and internal review have necessitated minor structural revisions which do not alter the intent of the original proposal. Accordingly, the departments are making the proposed regulation final.

The amendment to § 21.7639(b)(1)(ii) was originally proposed as an amendment to § 21.7639(b)(2). However, in the **Federal Register** of December 3, 1992, there were published final regulations needed to implement those provisions of the Veterans' Benefits and

Program Improvement Act of 1988 which affected the Montgomery GI Bill—Selected Reserve. In order to implement that Act, it was necessary to reorganize and rewrite § 21.7639. In the course of doing so, the material which was formerly contained in § 21.7639(b)(2) was moved to § 21.7639(b)(1)(ii). Consequently, these final regulations amend § 21.7639(b)(1)(ii) rather than § 21.7639(b)(2). There are no substantive changes in this regulation as it was proposed on October 14, 1992.

Furthermore, following additional consideration by VA, it was decided that the proposed revision found in § 21.7532(d)(2) might mislead some users of the regulations. The material included in the proposed § 21.7532(d)(2) was not intended to be limited to extensions of time periods in cases in which VA fails to furnish a form as the heading of § 21.7532(d) indicates. Consequently, it was determined to include the amendatory paragraph in a new paragraph, § 21.7532(f) with a heading reflecting its more general application. It is the view of VA that this § 21.7532(f) contains no substantive changes from the paragraph contained in § 21.7532(d)(2) as it was proposed on October 14, 1992, but merely reflects the departments' intent more clearly.

The Department of Defense, the Department of Transportation and the Department of Veterans Affairs have determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Defense, the Secretary of Transportation and the Secretary of Veterans Affairs have certified that these amended regulations, will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

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

The Catalog of Federal Domestic Assistance number for the program affected by these regulations is 12.609.

List of Subjects in 38 CFR Part 21

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

Approved: April 30, 1993.

Jesse Brown,
Secretary of Veterans Affairs.

Approved: June 16, 1993.

Nicolai Timenes, Jr.,
Principal Director (Military Manpower & Personnel Policy), Department of Defense.

Approved: August 3, 1993.

C.L. Rhinard, Jr.,
Acting Chief, Office of Readiness and Reserve.

For the reasons set out in the preamble, 38 CFR part 21, subpart L is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

1. The authority citation for part 21, subpart L continues to read as follows:

Authority: 10 U.S.C. Ch. 106; 38 U.S.C. 501(a).

2. Section 21.7532 is amended by adding paragraph (f) and its authority citation to read as follows:

§ 21.7532 Time limits.

* * * * *

(f) *Time limits for perfecting a claim.* Time limits within which reservists are required to act to perfect a claim or challenge an adverse VA decision may be extended for good cause shown. When an extension is requested after expiration of a time limit, the action required of the reservist must be taken concurrently with or prior to the filing of a request for extension of the time limit, and good cause must be shown as to why the required action could not have been taken during the original time period and could not have been taken sooner than it was. Denials of time limit extensions are separately appealable issues.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3431, 5101, 5113)

3. Section 21.7639 is amended by revising paragraph (b)(1)(ii) and adding its authority citation to read as follows:

§ 21.7639 Conditions which result in reduced rates.

* * * * *

(b) *Withdrawals and nonpunitive grades.*

(1) * * *

(ii) The reservist submits a description of the circumstances in writing to VA either within one year from the date VA notifies the reservist that he or she must submit the mitigating circumstances, or at a later date if the reservist is able to show good cause why the one-year time limit should be extended to the date on which he or she submitted the description of the mitigating circumstances.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3471, 5101, 5113)

* * * * *

[FR Doc. 93–24375 Filed 10–4–93; 8:45 am]
BILLING CODE 8320-01-M

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38 CFR Part 21

RIN 2900–AF78

Reservists Education; Implementation of the Veterans' Educational Assistance Amendments of 1991

AGENCY: Department of Defense, Department of Transportation (Coast Guard) and Department of Veterans Affairs.

ACTION: Final regulations.

SUMMARY: The Veterans' Educational Assistance Amendments of 1991 contains several provisions which affect the payment of benefits to those receiving educational assistance under the programs VA (Department of Veterans Affairs) administers. These provisions include restoring lost entitlement to members of the Selected Reserve called to active duty and an improvement in payments to these individuals. This proposal will inform the public of the way in which VA, the Department of Defense and the Coast Guard intend to implement these provisions of law with respect to the Montgomery GI Bill—Selected Reserve.

EFFECTIVE DATE: The amendments to §§ 21.7635 and 21.7639, like the provisions of law they implement, are retroactively effective on Aug. 1, 1990. The amendments to the remainder of these regulations, like the provisions of

law they implement, are retroactively effective on Oct. 10, 1991.

FOR FURTHER INFORMATION CONTACT: June C. Schaeffer (225), Assistant Director for Policy and Program Administration, Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 233-2092.

SUPPLEMENTARY INFORMATION: Many members of the Selected Reserve are receiving educational assistance under the Montgomery GI Bill—Selected Reserve. In the Persian Gulf War the United States relied heavily on these individuals, calling many of them to active duty. Consequently, many of these benefit recipients were among those reservists called to active duty during the Persian Gulf War. In many instances such individuals had to discontinue their training during a term or other enrollment period. Under the law then in effect, these individuals would have lost the entitlement used in pursuit of those discontinued courses unless their educational institutions discovered a method whereby the individuals could receive a grade for those courses. This could have adversely affected the ability on these individuals to complete their programs of education. Furthermore, in order to pay these individuals to the date they discontinued training, VA would have to determine in the individual case whether mitigating circumstances existed for these discontinuances.

The Veterans' Educational Assistance Amendments of 1991 was enacted in order to prevent eligible individuals from suffering these setbacks while serving the country during the Persian Gulf War. This Act contains several provisions which improve the educational assistance benefits for those who served on active duty during the Persian Gulf War. These include restoring lost entitlement to those who were called to active duty during an enrollment; providing for payment to the date these individuals withdrew from their courses; and extending the eligibility period for some reservists. These regulations implement such provisions of law for those receiving benefits under the Montgomery GI Bill—Selected Reserve program.

It should be noted that the provision of law which permits an extension of the eligibility period does not apply to all members of the Selected Reserve who are eligible for educational assistance under the Montgomery GI Bill—Selected Reserve. For example, if a reservist is called to active duty in the Persian Gulf War, and incurs a disability resulting in his or her discharge, the eligibility period remains a 10 year period beginning on the date the reservist became eligible for educational assistance. The amount of time such a reservist spent on active duty has no effect on the length of his or her eligibility period.

The Department of Veterans Affairs, the Department of Defense and the Coast Guard have determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a $100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of the United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

VA, the Department of Defense and the Coast Guard find for good cause that publishing these regulations for prior public comment is unnecessary and would serve no good purpose since these changes simply implement statutory requirements. Therefore, notice of proposed rulemaking will not be published for these regulations.

Since a notice of proposed rulemaking will not be published for these amended regulations, these changes of not fall within the definition of a rule in the Regulatory Flexibility Act. Nevertheless, these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

The amended regulations directly affect only individuals. They will have no significant economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

The Department of Veterans Affairs, the Department of Defense and the Coast Guard find that good cause exists for making the amendments to §§ 21.7635 and 21.7639, like the provisions of law they implement, retroactively effective on Aug. 1, 1990. The Department of Veterans Affairs, the Department of Defense and the Coast Guard find that good cause exists for making the amendments to the remainder of the regulations retroactively effective on Oct. 10, 1991.

It is necessary to implement these provisions of law as soon as possible. These provisions are intended to achieve a benefit for the individual. The maximum benefits intended in the legislation will be achieved through prompt implementation. Hence, a delayed effective date would be contrary to statutory design, would complicate administration of these provisions of law; and might result in the denial of a benefit to someone who is entitled to it.

List of Subjects in 38 CFR Part 21

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

Approved: March 31, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

Approved: August 6, 1993.

W.S. Sellman,

Director, Accession Policy, Military Manpower and Personnel Policy.

Approved: August 18, 1993.

C.L. Rhinard, Jr.,

Acting Chief, Office of Readiness and Reserve.

For the reasons set out in the preamble, 38 CFR part 21, subpart L is amended as set forth below.

PART 21—VOCATIONAL REHABILITATION AND EDUCATION

Subpart L—Educational Assistance for Members of the Selected Reserve

1. The authority citation for part 21, subpart L continues to read as follows:

Authority: 10 U.S.C. Ch. 106; 38 U.S.C. 501(a).

2. In § 21.7520 paragraph (b)(14)(i)(G) is revised; paragraphs (b) (30) through (33) are added and reserved; and paragraph (b)(34) and its authority citation are added to read as follows:

§ 21.7520 Definitions.

* * * * *

(b) *Other definitions.* * * *

(14) *Mitigating circumstances.*

(i) * * *

(G) Unanticipated active duty for training; and

* * * * *

(34) *Persian Gulf War.* The term "Persian Gulf War" means the period beginning on August 2, 1990, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(Authority: 38 U.S.C. 101(33))

3. In § 21.7550 paragraph (a), introductory text, is revised and

paragraph (a)(3) and its authority citation are added to read as follows:

§ 21.7550 Ending dates of eligibility.

(a) *Time limit on eligibility.* Except as provided in § 21.7551 and paragraphs (a)(3), (b) and (c) of this section, a reservist's period of eligibility expires effective the earlier of the following dates:

* * * * *

(3) If, during the Persian Gulf War, the reservist serves on active duty pursuant to an order to active duty issued under 10 U.S.C. 672 (a), (d), or (g), 673 or 673b, the period of this active duty service plus four months shall not be considered in determining the time limit on eligibility found in paragraphs (a)(1) and (a)(2) of this section.

(Authority: 10 U.S.C. 2133; Pub. L. 98–525, Pub. L. 102–127) (Oct. 10, 1991).

* * * * *

4. § 21.7570 and its authority citation are revised to read as follows:

§ 21.7570 Entitlement.

Except as provided in § 21.7576(e) each reservist is entitled to a maximum of 36 months of educational assistance (or its equivalent in part-time educational assistance) under this program, but is also subject to the provisions of § 21.4020 (a) and (b).

(Authority: 10 U.S.C. 2131(c); Pub. L. 98–525, Pub. L. 102–127) (Oct. 10, 1991)

5. In § 21.7576, introductory text is added to paragraph (b); paragraph (e) and its authority citation are added to read as follows:

§ 21.7576 Entitlement charges.

* * * * *

(b) *Determining entitlement charge.* This paragraph states how VA will generally determine the charge against the entitlement of a reservist who is receiving educational assistance. However, when the circumstances described in paragraph (e) of this section apply to a reservist, VA will use that paragraph to determine an entitlement charge instead of this paragraph.

* * * * *

(e) *No entitlement charge for some reservists.* When the criteria described in this paragraph are met, there is an exception to the charges against entitlement described in paragraph (b) of this section.

(1) VA will make no charge against a reservist's entitlement when the reservist—

(i) While not serving on active duty, had to discontinue pursuit of a course or courses as a result of being ordered, in connection with the Persian Gulf War, to serve on active duty under section 672(a), (d), or (g), 673, 673b, or 688 of title 10, U.S. Code; and

(ii) Failed to receive credit or lost training time toward completion of the reservist's approved educational, professional or vocational objective as a result of having to discontinue his or her course pursuit.

(2) The period for which receipt of educational assistance allowance is not charged against a reservist's entitlement shall not exceed the portion of the period of enrollment in the course or courses for which the reservist failed to receive credit or with respect to which the reservist lost training time.

(Authority: 10 U.S.C. 2131(c)(3)(A); Pub. L. 101–127) (Oct. 10, 1991).

6. In § 21.7635, paragraph (b)(1) and (b)(2) introductory text are revised; an authority citation is added to (b)(1) and the authority citation for (b)(2) is revised; in paragraph (c), introductory text is added and paragraphs (c)(1) and (c)(2) are revised and an authority citation is added at the end of (c)(2) to read as follows:

§ 21.7635 Discontinuance dates.

* * * * *

(b) *Course discontinued—course interrupted—course terminated—course not satisfactorily completed or withdrawn from.* (1) If the reservist, for reasons other than being called or ordered to active duty, withdraws from all courses or receives all nonpunitive grades, and in either case there are no mitigating circumstances VA will terminate or reduce educational assistance effective the first date of the term in which the withdrawal occurs or the first date of the term for which grades are assigned.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3680(a); Pub. L. 102–127) (Aug. 1, 1990)

(2) If the reservist withdraws from all courses with mitigating circumstances or withdraws from all courses such that a punitive grade is or will be assigned for those courses or the reservist withdraws from all courses because he or she is ordered to active duty, VA will terminate educational assistance for—

* * * * *

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3680(a); Pub. L. 98–525, Pub. L. 102–127) (Aug. 1, 1990)

(c) *Reduction in the rate of pursuit of the course.* If the reservist reduces the rate of training by withdrawing from part of a course, but continues training in part of the course, the provisions of this paragraph apply.

(1) If the reduction in the rate of training occurs other than on the first date of the term, VA will reduce the reservist's educational assistance at the end of the month or the end of the term in which the withdrawal occurs, whichever is earlier, either when—

(i) A nonpunitive grade is assigned for the part of the course from which he or she withdraws, and

(A) The reservist withdraws because he or she is ordered to active duty, or

(B) The withdrawal occurs with mitigating circumstances; or

(ii) A punitive grade is assigned for the part of the course from which the reservist withdraws.

(2) VA will reduce educational assistance effective the first date of the enrollment in which the reduction occurs when—

(i) The reduction occurs on the first date of the term, or

(ii) The reservist—

(A) Receives a nonpunitive grade for the part of the course from which he or she withdraws, and

(B) Withdraws without mitigating circumstances, and

(C) Does not withdraw because he or she is ordered to active duty.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3680(a); Pub. L. 102–127) (Aug. 1, 1990)

* * * * *

7. In § 21.7639, paragraph (b) is revised to read as follows:

§ 21.7639 Conditions which result in reduced rates.

* * * * *

(b) *Withdrawals and nonpunitive grades.* (1) Withdrawal from a course or receipt of a nonpunitive grade affects payments to a reservist. VA will not pay benefits to a reservist for pursuit of a course from which the reservist withdraws or receives a nonpunitive grade which is not used in computing requirements for graduation unless; the provisions of this paragraph are met.

(i) The reservist withdraws because he or she is ordered to active duty; or

(ii) Both of the following exist.

(A) There are mitigating circumstances, and

(B) The reservist submits a description of the circumstances in writing to VA either within one year from the date VA notifies the reservist that he or she must submit the mitigating circumstances, or at a later date if the veteran or servicemember is able to show good cause why the one-year time limit should be extended to the date on which he or she submitted the description of the mitigating circumstances.

(Authority: 10 U.S.C. 2136(b), 38 U.S.C. 3471, 3680(a), 5101, 5113; Pub. L. 102–127) (Aug. 1, 1990)

(2) If VA considers that mitigating circumstances exist because the reservist withdrew during a drop-add period or because the withdrawal constitutes the first withdrawal of no more than six credits after May 31, 1989, the reservist is not subject to the reporting requirement found in paragraph (b)(1)(ii)(B) of this section.

(Authority: 10 U.S.C. 2130(b), 38 U.S.C. 3680(a)) (Jun. 1, 1989)

* * * * *

[FR Doc. 93-24374 Filed 10-4-93; 8:45 am]

BILLING CODE 8320-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 61

[FRL-4785-3]

Asbestos NESHAP Clarification of Intent

AGENCY: Environmental Protection Agency.

ACTION: Notice of clarification.

SUMMARY: This document provides clarification regarding the requirements of the Asbestos NESHAP. It is intended to clarify possible misunderstandings in the regulated community regarding removal of asbestos-containing materials.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Ripp at (703) 308-8727.

SUPPLEMENTARY INFORMATION: On November 20, 1990, the **Federal Register** published the Environmental Protection Agency's (the Agency's) revision of the National Emission Standard for Hazardous Air Pollutants for Asbestos (Asbestos NESHAP), 40 CFR part 61, subpart M. 55 FR 48406. The Agency has learned that some part of the regulated community may have certain misunderstandings concerning the Asbestos NESHAP and that these misunderstandings may have resulted in removals of asbestos-containing materials (ACM) that are not required by the Asbestos NESHAP. One such misunderstanding is that the revised Asbestos NESHAP requires total ACM removal during any renovation whenever specific threshold amounts of ACM are involved. A second is the mistaken belief that since ACM must be removed before a demolition, it is appropriate in all cases to remove the ACM now. Because these misunderstandings may be encouraging unnecessary and unwise (from a health standpoint) removals, EPA makes this clarification.

This clarification does not supersede, alter, or in any way replace the existing Asbestos NESHAP. This memorandum is intended solely as guidance and does not represent an action subject to judicial review under section 307(b) of the Clean Air Act or section 704 of the Administrative Procedure Act.

I. The NESHAP Regulation

The notification requirements of the Asbestos NESHAP apply to the demolition of a facility regardless of the amount of asbestos involved. Other requirements of the rule apply and must be followed for the demolition of a facility that contains at least 260 linear feet of regulated asbestos-containing material (RACM) on pipes, 160 square feet of RACM on other facility components, or at least 35 cubic feet of RACM off facility components where the length or area could not be measured previously. (See 40 CFR 61.145(a).)

A renovation is covered if at least the same threshold amounts of RACM are "stripped, removed, dislodged, cut, drilled or similarly disturbed." (See 40 CFR 61.145(a)(4).) This language details but does not expand the slightly different language in the previous NESHAP rule that spoke of ACM to be "stripped or removed."

When the threshold amount of RACM is "stripped, removed, dislodged, cut, drilled or similarly disturbed" in a renovation, the NESHAP regulations require that specific work practices be followed, and that the owner and/or operator of the renovation activity notify the applicable state and local agencies and/or EPA Regional Offices before beginning work. (See 40 CFR 61.145(b)-(c).) The Asbestos NESHAP leaves to the Occupational Safety and Health Act (29 U.S.C. 651 *et seq.*) the determination of appropriate worker exposure levels during building renovations and demolitions. (EPA has promulgated regulations under the Toxic Substances Control Act (15 U.S.C. 2601 *et seq.*) to cover public sector employees exempt from the Occupational Safety and Health Act. 40 CFR part 763, subpart G.)

II. Clarification of Intent

The revised Asbestos NESHAP does not trigger requirements in any building where they would not have been triggered by the previous regulation. The revisions amend the rule to enhance enforcement and to promote compliance without affecting the stringency of existing controls.

The presence or absence of ACM in a facility does not trigger any requirements under the Asbestos NESHAP regarding whether or not an owner and/or operator needs to demolish a building or whether or not an owner and/or operator needs to remove materials that will not be disturbed during a renovation. Rather, the Asbestos NESHAP mandates work practice and notification requirements when threshold amounts of RACM are stripped, removed, dislodged, cut, drilled or similarly disturbed as a result of a building owner's independent decision to initiate renovation or demolition activities (except that notification is always required for demolition activities regardless of the amount of ACM). Moreover, removal of ACM that is not stripped, removed, dislodged, cut, drilled or similarly disturbed during a renovation is not required, even if the renovation is major in character.

EPA has previously stated, in guidance and other publications, that for the protection of health and the minimization of risk, removal of ACM is not always a building owner's best course of action to reduce asbestos exposure. See, e.g., Managing Asbestos In-Place: A Building Owner's Guide to Operations and Maintenance for Asbestos-Containing Material (July 1990) ("the Green Book"); Asbestos; Advisory to the Public: The Facts About Asbestos in Buildings (56 FR 13472, April 2, 1991). Thus, EPA generally recommends proper in-place management of ACM, rather than removal of ACM, as discussed in the Green Book. In many buildings, a well run in-place management program should be all that is necessary to control the release of asbestos fibers. However, in-place management procedures alone are not sufficient for ACM that is significantly damaged, and may not be sufficient for some types of ACM situated in highly accessible areas; in these areas some form of full scale abatement—repair, encapsulation, enclosure, encasement, or removal—will be necessary. Removal of the ACM may also be appropriate when performed in conjunction with major building renovation, or as part of long-term building management policies (such as staged removal in conjunction with renovation over the life of the building). The Asbestos NESHAP requirements are consistent with these EPA policies. In fact, as EPA has previously noted, unless all safeguards are properly applied, improper asbestos removal projects can actually increase asbestos exposures. Premature removal may also cause building owners to lose the benefit of possible future improvements in asbestos removal technology.

Dated: September 17, 1993.

Michael H. Shapiro,

Acting Assistant Administrator.

[FR Doc. 93–24431 Filed 10–4–93; 8:45 am]

BILLING CODE 6560–50–P

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40 CFR Part 372

[OPPTS–400068B; FRL–4642–6]

Di-n-octyl Phthalate; Toxic Chemical Release Reporting; Community Right-To-Know

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is deleting di-n-octyl phthalate (DnOP) from the list of toxic chemicals under section 313 of the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA). This action is based on EPA's conclusion that di-n-octyl phthalate meets the deletion criteria of EPCRA section 313(d)(3). By promulgating this rule, EPA is relieving facilities of their obligation to report releases of di-n-octyl phthalate that occurred during the 1993 reporting year, and releases that will occur in the future.

DATES: This rule is effective October 5, 1993.

FOR FURTHER INFORMATION CONTACT: Maria J. Doa, Petitions Coordinator, Emergency Planning and Community Right-to-Know Information Hotline, Environmental Protection Agency, Mail Stop OS–120, 401 M St., SW., Washington, DC 20460, Toll free: 800–535–0202, Toll free TDD: 800–553–7672.

SUPPLEMENTARY INFORMATION:

I. Introduction

A. Statutory Authority

This action is issued under section 313(d) and (e)(1) of the Emergency Planning and Community Right-to-Know Act of 1986 (42 U.S.C. 11023, "EPCRA"). EPCRA is also referred to as Title III of the Superfund Amendments and Reauthorization Act (SARA) of 1986.

B. Background

Section 313 of EPCRA requires certain facilities manufacturing, processing, or otherwise using toxic chemicals to report their environmental releases of such chemicals annually. Beginning with the 1991 reporting year, such facilities also must report pollution prevention and recycling data for such chemicals, pursuant to section 6607 of the Pollution Prevention Act (42 U.S.C. 13106, "PPA"). Section 313 established an initial list of toxic chemicals that was comprised of more than 300 chemicals and 20 chemical categories. Section 313(d) authorizes EPA to add or delete chemicals from the list, and sets forth criteria for these actions. Under section 313(e), any person may petition EPA to add chemicals to or delete chemicals from the list. EPA has added and deleted chemicals from the original statutory list.

EPA issued a statement of petition policy and guidance in the **Federal Register** of February 4, 1987 (52 FR 3479), to provide guidance regarding the recommended content and format for petitions. On May 23, 1991 (56 FR 23703), EPA issued guidance regarding the recommended content of petitions to delete individual members of the section 313 metal compound categories.

II. Effective Date

This action becomes effective immediately. Thus, the last year in which facilities had to report releases of DnOP was 1993, covering releases that occurred in 1992. The effect of this deletion is that, since DnOP will not be on the section 313 list when facilities report in 1994 for releases that occurred in 1993, these reports and all subsequent reports need not include DnOP release data. Facilities will therefore not have to collect release information for any releases of DnOP that occur during the 1993 reporting year or for any releases that occur in the future.

Section 313(d)(4) provides that "[a]ny revision [to the section 313 list] made on or after January 1 and before December 1 of any calendar year shall take effect beginning with the next calendar year. Any revision made on or after December 1 and before January 1 shall take effect beginning with the calendar year following the next calendar year." The Agency interprets this delayed effective date provision to apply only to actions that add chemicals to the section 313 list. For deletions, the Agency may, in its discretion, make such actions immediately effective. An immediate effective date is authorized, in these circumstances, under 5 U.S.C. section 553(d)(1), since a deletion from the section 313 list relieves a regulatory restriction.

The Agency believes that the purpose behind the section 313(d)(4) effective date provision is to allow facilities adequate planning time to incorporate newly added chemicals to their Toxic Release Inventory release data collection processes. A facility would not need additional planning time to not report releases of a given chemical. Thus, a reasonable construction of section 313(d)(4), given the overall purpose and structure of EPCRA--to provide the public with information about chemicals which meet the criteria for inclusion on the section 313 list--is to apply the delayed effective date requirement only to additions to the list. Where the Agency has determined, as it has with DnOP, that a chemical does not satisfy the criteria of section 313(d)(2)(A)–(C), no purpose is served by requiring facilities to collect release data or file release reports for that chemical, or, therefore, by leaving that chemical on the section 313 list for any additional period of time. Nothing in the legislative history suggests that 313(d)(4) was intended to apply to deletions as well as additions; indeed, such a construction would be incongruous, since deleted chemicals, by definition, do not satisfy the criteria for being on the section 313 list and their deletion from that list should not be delayed in the absence of any compelling reason to the contrary. This construction of section 313(d)(4) is also consistent with previous rules deleting chemicals from the section 313 list. Indeed, the Agency has not given any of its rules deleting chemicals from the section 313 list the delayed effective dates specified in section 313(d)(4).

III. Description of Petition and Rationale for Delisting

On January 28, 1992, the Vista Chemical Company submitted a petition to EPA to delete di-n-octyl phthalate (DnOP) (CAS No. 117–84–0) from the EPCRA section 313 list of toxic chemicals. Following a review of the petition, EPA issued a proposed rule in the **Federal Register** on January 13, 1993 (58 FR 4133), proposing to grant the petition and to delete DnOP. EPA's proposal was based on its conclusion that DnOP meets the EPCRA section 313(d)(3) criteria for deletion from the list. Specifically, EPA concluded that there is not sufficient evidence to establish that DnOP causes adverse acute human health effects, chronic human health effects, or environmental toxicity. This conclusion, which is detailed in the proposed rule, is based on the Agency's review of the petition, as well as other relevant materials. This final rule is also based on EPA's conclusion that DnOP induces toxicity only at relatively high dose levels to humans or environmental organisms and thus does not meet the EPCRA section 313(d)(2)(A)–(C) listing criteria. With respect to deletions, EPCRA provides at section 313(d)(3) that "[a] chemical may be deleted if the Administrator determines there is not sufficient evidence to establish any of

the criteria described in paragraph [(d)(2)(A)–(C)]." As DnOP exhibits acute toxicity only at levels that greatly exceed releases and resultant exposures, DnOP cannot reasonably be anticipated to cause ". . .significant adverse acute human health effects at concentration levels that are reasonably likely to exist beyond facility site boundaries as a result of continuous, or frequently recurring releases." Thus, EPA does not believe that DnOP meets the toxicity criteria for listing under EPCRA section 313(d)(2)(A).

EPA does not believe that DnOP meets the toxicity criteria of EPCRA section 313(d)(2)(B) because DnOP (1) cannot reasonably be anticipated to cause teratogenic effects, immunotoxicity, or neurotoxicity and (2) cannot reasonably be anticipated to cause liver toxicity, kidney toxicity, or reproductive and developmental toxicity, except, at relatively high dose levels. In addition, although animal data indicate that DnOP may have tumor promoting potential, there are no bioassay data. EPA cannot characterize the hazard potential and, therefore, cannot establish that DnOP can reasonably be anticipated to cause cancer.

EPA does not believe that DnOP meets the EPCRA section 313(d)(2)(C) toxicity criteria because adverse effects of DnOP on aquatic organisms occur only at levels that are in excess of the aqueous solubility limit of DnOP. Thus, EPA believes that any potential significant adverse effects on the aquatic environment are mitigated by DnOP's low solubility in water. Furthermore, although DnOP does bioconcentrate in aquatic organisms, it will become dispersed rather than biomagnified in higher organisms.

In addition, releases to the environment of DnOP and resultant exposures are relatively low. The fact that DnOP exhibits toxicity only at levels that far exceed releases and exposure results in a low level of concern for this chemical.

EPA received five comments on the proposed rule: Four comments in support of the deletion and one comment which objected to the proposed deletion. None of the comments received provided information warranting a change in EPA's determination that DnOP should be deleted from the EPCRA section 313 toxic chemical list. The Illinois Environmental Protection Agency (Illinois EPA) objected to the proposed deletion of DnOP because the State Agency has found residual contamination by phthalates at many sites in the State undergoing clean-up. Illinois EPA is concerned about the lack of information on the sources or activities which account for the presence of specific phthalates. Therefore, Illinois EPA believes that continued collection of emission data is a prudent course of action to preserve data which may be useful in determining the source of contamination. While this could be an appropriate use of the EPCRA section 313 data, it is not a statutory criterion for keeping DnOP on the EPCRA section 313 toxic chemical list. In addition, the Illinois EPA objected to the proposed rule to delist DnOP due to the limited evidence of its low toxicity. However, the Agency has determined that there is not sufficient evidence to establish that DnOP meets any of the EPCRA section 313 toxicity criteria. Therefore, consistent with section 313(d)(3), EPA is deleting DnOP from the EPCRA section 313 toxic chemical list.

Today's action is not intended, and should not be inferred to affect the status of DnOP under any statute or program other than the Toxic Release Inventory reporting under EPCRA section 313 and the Pollution Prevention Act section 6607. Specifically, the removal of DnOP from the EPCRA section 313 list does not in any way alter its continued status as a priority pollutant under section 307 of the Clean Water Act (33 U.S.C. 1317) (and related listing under section 102 of the Comprehensive Environmental Response, Compensation, and Liability Act [42 U.S.C. 9601 et seq.]). The Vista Chemical Company petition does not request the removal of DnOP from the priority pollutants list; moreover, the Agency feels such action at this time would be inappropriate. In support, the Agency notes that the two lists, and the two statutes under which they are maintained, serve relevantly different purposes. Furthermore, each statute prescribes different standards for adding or deleting chemicals or pollutants from its respective list.

IV. Regulatory Assessment Requirements

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore, requires a Regulatory Impact Analysis. EPA has determined that this is not a "major rule" because it will not have an effect on the economy of $100 million or more. This final rule will decrease the impact of the EPCRA section 313 reporting requirements on covered facilities and will result in cost-savings to industry, EPA, and the States. Therefore, this is a minor rule under Executive Order 12291.

In 1991, the number of facilities that reported on DnOP was 60. Thus, under this rule, these 60 sites would no longer report on this chemical. The estimated cost savings industry by deleting the listing is estimated to be $2,830 per year per reporting facility that no longer is required to report. The cost savings to EPA is $84 per facility per report. The total cost savings to EPA and industry is estimated to be $174,840 per annum.

B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires each Federal agency to perform a Regulatory Flexibility Analysis for all rules that are likely to have a "significant impact on a substantial number of small entities." Because this rule will result in cost savings to facilities, EPA certifies that small entities will not be significantly affected by this rule.

C. Paperwork Reduction Act

This rule relieves facilities from having to collect, maintain, and report information on the use and releases of DnOP. Therefore, there were no information collection requirements for OMB to review under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq.

List of Subjects in 40 CFR Part 372

Environmental protection, Community right-to-know, Reporting and recordkeeping requirements, Toxic chemicals.

Dated: September 27, 1993.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

Therefore, 40 CFR part 372 is amended to read as follows:

1. The authority citation for part 372 continues to read as follows:

Authority: 42 U.S.C. 11013 and 11028.

§ 372.65 [Amended]

2. Sections 372.65(a) and (b) are amended by removing the entire entry for n-Dioctyl phthalate under paragraph (a) and removing the entire CAS No. entry for 117–84–0 under paragraph (b).

[FR Doc. 93–24435 Filed 10–4–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-181; RM-8268]

Radio Broadcasting Services; Livingston, MT

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 264C to Livingston, Montana, as that community's second FM broadcast service in response to a petition filed by Henry Adams. See 58 FR 36376, July 7, 1993. The coordinates for Channel 264C are 45-39-45 and 110-33-37. With this action, this proceeding is terminated.

DATES: Effective November 15, 1993. The window period for filing applications for Channel 264C, Livingston, will open on November 16, 1993, and close on December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, MM Docket No. 93-181, adopted September 13, 1993, and released December 16, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the Commission's Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Services, Inc., 2100 M Street, NW., suite 140, Washington, DC 20037, (202) 857-3800.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Accordingly, 47 CFR chapter I is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Montana, is amended by adding Channel 264C at Livingston.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 93-24339 Filed 10-4-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 93-148; RM-8236]

Radio Broadcasting Services; Amite, LA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Amite Broadcasting, allots Channel 243A to Amite, Louisiana. See 58 FR 32504, June 10, 1993. Channel 243A can be allotted to Amite in compliance with the Commission's minimum distance separation requirements with a site restriction of 0.8 kilometers (0.5 miles) northeast in order to avoid a short-spacing to Station KRVE-FM, Channel 242C2, Brusly, Louisiana. The coordinates for the allotment of Channel 243A to Amite are 30-43-49 and 90-30-02. With this action, this proceeding is terminated.

DATES: Effective November 15, 1993. The window period for filing applications will open on November 16, 1993, and close on December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93-148, adopted September 13, 1993, and released September 29, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Accordingly, 47 CFR chapter I is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.20 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Amite, Channel 243A.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 93-24340 Filed 10-4-93; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 93-13; RM-8156, RM-8234]

Radio Broadcasting Services; Blanchard, LA, and Stephens, AR

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Daryl L. Bordelon (RM-8156), allots Channel 271C3 to Blanchard, Louisiana. See 58 FR 15321, March 22, 1993. Channel 271C3 can be allotted to Blanchard in compliance with the Commission's minimum distance separation requirements with a site restriction of 0.8 kilometers (0.5 miles) north to avoid a short-spacing conflict with Station KDET-FM, Channel 272, Center, Texas. The coordinates for Channel 271C3 at Blanchard are 32-35-18 and 93-53-31. The counterproposal filed by Arkansas Wireless Company (RM-8234), requesting the allotment of Channel 271A to Stephens, Arkansas, is dismissed. With this action, this proceeding is terminated.

DATES: Effective November 15, 1993. The window period for filing applications will open on November 16, 1993, and close on December 16, 1993.

FOR FURTHER INFORMATION CONTACT: Pamela Blumenthal, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93-13, adopted September 13, 1993, and released September 29, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, ITS, Inc., (202) 857-3800, 2100 M Street, NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Accordingly, 47 CFR chapter I is amended as follows:

PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Louisiana, is amended by adding Blanchard, 271C3.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 93-24341 Filed 10-4-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 73-20; Notice 18]

RIN 2127-AF11

Federal Motor Vehicle Safety Standards; Fuel System Integrity; Alcohol Fuels

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

ACTION: Final rule; technical amendment.

SUMMARY: In response to a petition for reconsideration from the Association of International Automobile Manufacturers, this notice makes a technical amendment to a final rule amending Federal Motor Vehicle Safety Standard No. 301, *Fuel System Integrity.* That rule established anti-siphoning requirements for vehicles manufactured to operate on alcohol fuels. The technical amendment concerns the outside diameter of the siphoning hose used in the compliance testing.

DATES: *Effective Date:* The amendment becomes effective October 5, 1993.

Petitions for reconsideration: Any petition for reconsideration of this rule must be received by NHTSA no later than November 4, 1993.

ADDRESSES: Any petition for reconsideration should refer to the docket and notice number set forth in the heading of this notice and be submitted to: Administrator, NHTSA, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Mr. Chris Flanigan, NRM-01.01, Special Projects Staff, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590 (202-366-4918).

SUPPLEMENTARY INFORMATION: Standard No. 301 specifies requirements for the integrity of the entire motor vehicle fuel system which includes the fuel tanks, emission controls, lines, and connections. On January 22, 1993, the agency issued a final rule amending the Standard to establish anti-siphoning requirements for vehicles manufactured to operate on alcohol fuels. (58 FR 5638) The agency anticipates that the amendment will reduce deaths and injuries by preventing the ingestion of highly toxic alcohol fuel, especially methanol.

The anti-siphoning requirements in section S6.6 amending Standard No. 301 require that

> Each vehicle shall have means that prevent a hose made of vinyl plastic or rubber, with a length of not less than 120 centimeters (cm) (47.2 inches) and an outside diameter of not more than 5.2 millimeters (mm) (0.20 inches), from contacting the level surface of the liquid fuel in the vehicle's fuel tank or fuel system, when the hose is inserted into the filler neck attached to the fuel tank with the fuel tank filled to any level from 90 to 95 percent of capacity.

The preamble contained an extensive discussion, explaining that a 5.2 mm outside diameter was the appropriate size for a test hose because it represented the smallest commercially available hose used for siphoning.

The agency received a petition for reconsideration dated February 16, 1993, from the Association of International Automobile Manufacturers (AIAM) requesting that the regulatory language be modified to state "an outside diameter of not less than 5.2 millimeters (mm) (0.20 inches)." AIAM stated that the final rule's regulatory language was inconsistent with the agency's intent to prevent any hose with an outside diameter of 5.2 mm or larger from entering the fuel system. The petitioner further stated that the current regulatory text might cause manufacturers problems in demonstrating compliance with the amendment, because a vehicle would theoretically be required to have sufficiently small pore size to prevent a hose with an outside diameter from 0.0 mm up to 5.2 mm from contacting the liquid. AIAM stated that this would be an impracticable test. The petitioner stated further that it would be inconsistent with the agency's intent to prevent the use of siphoning hoses that are 5.2 mm and larger. Accordingly, AIAM requested that the regulatory language be modified to state "* * * an outside diameter of not less than 5.2 millimeters * * *."

After reviewing AIAM's petition, NHTSA has determined that the petitioner's requested change in language is consistent with the agency's intent in establishing the final rule and will serve to clarify the requirement. This amendment would not impose any additional duties or responsibilities on any party not already imposed by the final rule. Discussion in the preamble to the final rule indicates that the agency intended to test the anti-siphoning device with a hose as small as 5.2 mm in diameter, but not with a smaller hose. Accordingly, NHTSA finds for good cause that notice and opportunity to comment on this amendment are not necessary.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles.

PART 571—[AMENDED]

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

1. The authority citation for part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.301 [Amended]

2. In § 571.301, S6.6 is revised to read as follows:

S6.6 *Anti-siphoning test for alcohol fuel vehicles.* Each vehicle shall have means that prevent any hose made of vinyl plastic or rubber, with a length of not less than 120 centimeters (cm) (47.2 inches) and an outside diameter of not less than 5.2 millimeters (mm) (0.20 inches), from contacting the level surface of the liquid fuel in the vehicle's fuel tank or fuel system, when the hose is inserted into the filler neck attached to the fuel tank with the fuel tank filled to any level from 90 to 95 percent of capacity.

Issued on September 29, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93-24365 Filed 10-4-93; 8:45 am]

BILLING CODE 4910-59-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 930953-3253; I.D. 092793A]

Interim Exemption for Commercial Fisheries

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; extension of expiration date and conforming amendment.

SUMMARY: NMFS issues this final rule to extend the expiration date of the regulations governing the interim exemption for commercial fisheries for a 6-month period until April 1, 1994. Since taking marine mammals by U.S. citizens is considered a violation of the Marine Mammal Protection Act, these regulations are necessary to authorize the incidental taking of marine mammals by commercial fishermen. This extension is required by recent legislation.

EFFECTIVE DATE: This rule is effective on October 1, 1993. The expiration date of part 229 is extended from October 1, 1993, to April 1, 1994.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, fishery biologist, Office of Protected Resources, National Marine Fisheries Service, 1335 East West Highway, Silver Spring, MD 20910.

SUPPLEMENTARY INFORMATION: The Marine Mammal Protection Act Amendments of 1988 (Pub. L. 100–711, signed November 23, 1988) established a new section 114 in the Marine Mammal Protection Act (16 U.S.C. 1361 *et seq.*; the MMPA) which directed the Secretary of Commerce (Secretary) to implement an interim exemption for certain incidental takings of marine mammals by commercial fishermen during the period November 23, 1988, through October 1, 1993. For a background on this issue, please refer to earlier regulatory actions (56 FR 23958, May 24, 1991 and 57 FR 59832, December 16, 1992).

The primary objective of the interim exemption is to provide a means for collecting reliable information about interactions between commercial fishing activities and marine mammals while allowing commercial fishing to continue. Based upon this and other relevant information, the Secretary was also directed to develop a suggested regime that would govern the incidental taking of marine mammals following the termination of the interim exemption program on October 1, 1993. With significant input from the general public, that report was formally submitted to the Committee on Commerce, Science, and Transportation of the U.S. Senate, and the Committee on Merchant Marine and Fisheries, House of Representatives, on December 4, 1992, and released to the general public on December 16, 1992 (57 FR 59832).

Since release of the final report, representatives of environmental organizations, animal welfare groups, and the fishing industry have been meeting to form their own proposal, which was released in late June 1993. On July 27, 1992, H.R. 2760 was introduced into the House of Representatives which incorporated many of the ideas in the original NMFS proposal as well as those of the other interested parties. A hearing on this bill was held on August 4, at which time it became clear that additional changes to H.R. 2760 were necessary.

During August, a series of meetings involving Senate and House staff, NMFS representatives, fishing industry representatives and members of environmental and animal welfare communities were held. In order to adequately address the concerns raised during those meetings and still allow commercial fishing to continue, the House and Senate passed H.R. 3049 on September 21, and September 22, 1993, respectively. This bill extended the period during which the Secretary is directed to implement the interim exemption until April 1, 1994. The President signed this bill on September 30, 1993. This final rule, therefore, extends the expiration date of the regulations governing the interactions between commercial fishing and marine mammals published in the interim rule (54 FR 21910, May 19, 1989) from October 1, 1993 to April 1, 1994, in order to comply with the requirements of section 114 of the MMPA, as revised by H.R. 3049.

Classification

The Assistant Administrator for Fisheries, NOAA, has determined that this rule is not a "major" rule requiring a regulatory impact analysis under E.O. 12291. NMFS has concluded that this regulation will not result in: (1) An annual major increase in costs or prices for consumers, individual industries or government agencies; (2) an annual effect on the economy of $100 million or more; or (3) significant adverse effect on competition, employment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Under section 114 of the MMPA as amended by H.R. 3049, the Secretary has no discretion and must extend the expiration date of the regulation implementing the interim exemption program until April 1, 1994. Therefore, notice and comment are unnecessary under 5 U.S.C. 553(b)(B). Delayed effectiveness is also unnecessary under 5 U.S.C. 553(d)(1) because this extension continues an exemption.

List of Subjects in 50 CFR Part 229

Administrative practice and procedure, Confidential business information, Fisheries, Marine mammals, Reporting and recordkeeping requirements.

Dated: September 30, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 229 is amended as follows:

PART 229—INTERIM EXEMPTION FOR COMMERCIAL FISHERIES UNDER THE MARINE MAMMAL PROTECTION ACT OF 1972

1. The authority citation for part 229 continues to read as follows:

Authority: 16 U.S.C. 1361 *et seq.*, unless otherwise noted.

2. At 54 FR 21921, May 19, 1989, a new part 229 was added and due to expire on October 1, 1993. This expiration date is extended until April 1, 1994.

§ 229.1 [Amended]

3. In § 229.1, paragraph (b) is amended by revising the date "October 1, 1993" to read "April 1, 1994" in the two places it appears.

[FR Doc. 93–24497 Filed 10–1–93; 10:47 am]

BILLING CODE 3510–22–M

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50 CFR Part 642

[Docket No. 930234–3218; 080993B]

Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Emergency interim rule.

SUMMARY: NMFS publishes this emergency interim rule to divide the eastern zone commercial quota for the Gulf migratory group of king mackerel into equal sub-quotas for the Florida east and west coast fisheries. The intended effect of this rule is to respond to social and economic emergencies in the commercial fishery for Gulf group king mackerel off the east coast of Florida.

EFFECTIVE DATES: October 5, 1993, through January 3, 1994.

ADDRESSES: Copies of documents supporting this action may be obtained

from Mark F. Godcharles, Southeast Regional Office, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

FOR FURTHER INFORMATION CONTACT: Mark F. Godcharles, 813–893–3161.

SUPPLEMENTARY INFORMATION: The fishery for coastal migratory Pelagic resources (king mackerel, Spanish mackerel, cero, cobia, little tunny, dolphin, and, in the Gulf of Mexico only, bluefish) is managed under the Fishery Management Plan for the Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic (FMP). The FMP was prepared by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils), and is implemented through regulations at 50 CFR part 642 under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

During the last fishing year (July 1, 1992, through June 30, 1993), the commercial quota for king mackerel from the eastern zone of the Gulf of Mexico migratory group was reached, and the fishery was closed, on January 13, 1993, before fishermen on the east coast of Florida could harvest an equitable share. Disproportionate catches between Florida's east and west coast fisheries during the last fishing year were caused, in part, by a Federal district court ruling that prevented Florida from enforcing its trip/landing limits and regional closures that would have divided equally the Federal eastern zone quota of Gulf group king mackerel between Florida's east and west coast commercial fisheries. The early fishery closure caused a record low catch of king mackerel in the east coast fishery. The record low catch was determined to constitute social and economic emergencies. The South Atlantic Fishery Management Council requested, and NMFS implemented, an emergency interim rule (58 FR 10990, February 23, 1993) to reopen the commercial king mackerel fishery in the exclusive economic zone off the east coast of Florida between the Volusia/Flagler and Dade/Monroe county boundaries from February 18, 1993, through March 26, 1993, under a possession limit of 25 fish per vessel per day.

The conditions that precipitated the social and economic emergencies during the last fishing year continue to exist. The Councils have initiated action to address these conditions. Specifically, the Councils have proposed trip limits applicable to the commercial harvest of Gulf group king mackerel from the eastern zone and the establishment of separate, equal quotas for Florida's east coast and west coast fisheries. However, the quota measure requires an amendment to the FMP, which cannot be completed and implemented in time for the 1993/94 winter fishery beginning November 1, 1993, by means other than emergency rule. Accordingly, the Gulf of Mexico Fishery Management Council (Gulf Council) requested that NMFS implement this measure through an emergency interim rule.

Equal sub-quotas of the eastern zone king mackerel quota, as contained in this rule, will ensure that the historic proportionate shares of the king mackerel harvest will be available to the Florida east and west coast commercial fisheries and would apply for the fishing year that commenced July 1, 1993.

The Gulf Council and NMFS have concluded that the present fishery situation constitutes a social and economic emergency, which is properly addressed by this emergency interim rule, and that the situation meets NMFS's policy guidelines for the use of emergency rules, as published on January 6, 1992 (57 FR 375). The situation (1) results from recent, unforeseen events; (2) presents a serious management problem; and (3) presents immediate benefits from the emergency interim rule that outweigh the value of advance notice, public comment, and deliberative consideration expected under the normal rulemaking process. The basis for these conclusions is summarized in the following paragraphs.

The situation is caused by unforeseen, and untimely, judicial action that negated Florida's controls on its east and west coast commercial king mackerel fisheries. Near equal sharing of the Gulf group king mackerel resource between Florida's east and west coast commercial fisheries is evident in historical landings. Yearly and average landing estimates for the past 23 years, both before and after implementation of Federal quota management, indicate that, despite some disproportionate yearly catches, east/west coast catches trend toward parity. The Florida program, with industry support, equally apportioned the Federal eastern zone quota between east and west coast commercial fisheries during the 1991/92 fishing year.

During the 1992/93 fishing year, a Federal court decision compelled Florida not to enforce its trip/landing limits and regional fishery closures that, during the previous 1991/92 season, equally divided the Federal eastern zone quota of Gulf group king mackerel between east and west coast commercial fisheries. As a result, a fishing derby developed during the 1992/93 season whereby the Key West fleet harvested an excessive portion (81 percent) of the Federal quota. The fishery was closed before fishermen on the east coast could harvest an equitable share. A substantial and/or crucial portion of the annual income of virtually all full-time and some part-time fishermen in the commercial king mackerel fishery on the east coast of Florida is earned during the winter season (November–March). Opportunities to offset lost income by participating in other fisheries are limited and not readily available. Other fisheries in which presently owned gear could be used or converted for use are mostly overcapitalized and/or overfished. These conditions continue to exist and, as was the case in the 1992/93 fishing year, will cause serious social and economic management problems in the fishery.

Implementation of this emergency interim rule has the immediate benefit of ensuring equitable access to the king mackerel resource by fishermen in the Florida east and west coast fisheries. It restores an important part of the management regime for Gulf king mackerel from the eastern zone that had been provided by Florida's regulations—a part that has industry support. This benefit cannot be attained for the forthcoming winter fishery using the normal rulemaking process for amending the FMP and its implementing regulations.

The Gulf Council believes that emergency action is the only means to provide expedient relief from the current social and economic problems in the fishery. NMFS concurs. Accordingly, NMFS publishes this emergency interim rule, effective October 5, 1993, through January 3, 1994, as authorized by section 305(c) of the Magnuson Act. By agreement of NMFS and the Gulf Council, this emergency interim rule may be extended for an additional period of 90 days.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has determined that this rule is necessary to respond to an emergency situation and is consistent with the Magnuson Act and other applicable law.

This emergency interim rule is exempt from the normal review procedures of E.O. 12291 as provided in section 8(a)(1) of that order. It is being reported to the Director of the Office of Management and Budget with an explanation of why it is not possible to follow the procedures of that order.

This rule is exempt from the procedures of the Regulatory Flexibility Act because the rule is issued without opportunity for public comment.

The Assistant Administrator prepared an environmental assessment (EA) for this action, which concludes that there will be no significant impact on the human environment. A copy of the EA is available (see **ADDRESSES**).

This rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal zone management program of Florida, the only State involved. This determination has been submitted for review by the responsible Florida agencies under section 307 of the Coastal Zone Management Act.

This emergency interim rule does not contain a collection-of-information requirement for purposes of the Paperwork Reduction Act.

This rule does not contain regulatory provisions with federalism implications sufficient to warrant preparation of a federalism assessment under E.O. 12612.

The Assistant Administrator for good cause under section 553(b)(B) of the Administrative Procedure Act (APA) finds that the need to relieve social and economic hardships makes it impracticable and contrary to the public interest to provide prior notice and opportunity for public comment on this rule. Similarly, to implement measures to relieve the economic hardship in a timely manner, the Assistant Administrator finds for good cause under section 553(d)(3) of the APA that the effective date of this rule should not be delayed.

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: September 27, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR part 642 is amended as follows:

PART 642—COASTAL MIGRATORY PELAGIC RESOURCES OF THE GULF OF MEXICO AND SOUTH ATLANTIC

1. The authority citation for part 642 continues to read as follows:

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

2. In § 642.25, effective October 5, 1993, through January 3, 1994, paragraph (a)(1)(i) is suspended and new paragraph (a)(1)(iii) is added to read as follows:

§ 642.25 Commercial allocations and quotas.

* * * * *

(a) * * *

(1) * * *

(iii) 1.73 million pounds (0.78 million kg) for the eastern zone, which is further divided into quotas as follows:

(A) 865,000 pounds (392,361 kg) for the Florida east coast zone, which is that part of the eastern zone north of a line extending directly east from the Dade/Monroe County, Florida boundary (25°20.4′ N. latitude); and

(B) 865,000 pounds (392,361 kg) for the Florida west coast zone, which is that part of the eastern zone south and west of the Dade/Monroe County, Florida boundary (25°20.4′ N. latitude).

* * * * *

[FR Doc. 93-24401 Filed 10-4-93; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 672

[Docket No. 921107-3068; I.D. 092893C]

Groundfish of the Gulf of Alaska

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason adjustment; request for comments.

SUMMARY: NMFS issues an inseason adjustment closing the season for directed fishing for the deepwater flatfish species group and for rockfish of the genera *Sebastes* and *Sebastolobus* by vessels using trawl gear in the Gulf of Alaska (GOA). This action is necessary to prevent overfishing of thornyhead rockfish.

DATES: Effective 12 noon, Alaska local time (A.l.t.), October 4, 1993, through 12 midnight, A.l.t., December 31, 1993. Comments must be received at the following address no later than 4:30 p.m., A.l.t., October 19, 1993.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 [Attn. Lori Gravel], or be delivered to the fourth floor of the Federal Building, 709 West 9th Street, Juneau, AK.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, Resource Management Specialist, Fisheries Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the Fishery Management Plan for Groundfish of the GOA (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act). Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

The Magnuson Act requires that conservation and management measures prevent overfishing. The 1993 overfishing level for thornyhead rockfish in the GOA is established by the final 1993 initial specifications (58 FR 16787, March 31, 1993) as 1,441 metric tons (mt). As of September 11, 1993, 1,364 mt of thornyhead rockfish have been caught.

NMFS closed directed fishing for thornyhead rockfish in the GOA on June 28, 1993 (58 FR 35897, July 2, 1993), and prohibited retention of thornyhead rockfish on July 22, 1993 (58 FR 40075, July 27, 1993). Substantial trawl fishing effort will be directed at remaining amounts of groundfish in the GOA after October 4, 1993, when the fourth seasonal apportionment of Pacific halibut to trawl gear becomes available. These fisheries can have significant bycatch of thornyhead rockfish.

The Director, Alaska Region, NMFS, has determined, in accordance with § 672.22 (a)(1)(i) and (a)(4), that closing directed fishing with trawl gear for the deepwater flatfish species group and rockfish species of the genera *Sebastes* and *Sebastolobus* is necessary to prevent overfishing of thornyhead rockfish, and is the least restrictive measure to achieve that purpose.

Therefore, NMFS is prohibiting directed fishing for the deepwater flatfish species group and rockfish species of the genera *Sebastes* and *Sebastolobus* by vessels using trawl gear in the GOA effective from 12 noon, A.l.t., October 4, 1993, until 12 midnight, A.l.t., December 31, 1993.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that providing prior notice and public comment or delaying the effective date of this action is impracticable and contrary to the public interest. Without this inseason adjustment, thornyhead rockfish in the GOA will be overfished, jeopardizing the long-term capacity of that stock. Under § 672.22(c), interested persons are invited to submit written comments on this action to the above address until October 19, 1993.

Classification

This action is taken under § 672.22 and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: September 29, 1993.

David S. Crestin,

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

[FR Doc. 93-24402 Filed 10-4-93; 8:45 am]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 191
Tuesday, October 5, 1993

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 TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-119-AD]

Airworthiness Directives; Airbus Industrie Model A320 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Airbus Industrie Model A320 series airplanes. This proposal would require visual inspections and end-float checks of the ram air turbine (RAT), and replacement of the RAT, if necessary. This proposal is prompted by a report that, during an on-ground functional test of the RAT, the RAT broke away from its support leg. The actions specified by the proposed AD are intended to prevent the RAT from breaking away from its support leg, which could damage the airplane structure and systems, and could injure ground personnel.

DATES: Comments must be received by December 1, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-119-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056. Comments may be inspected at this location between 9 a.m. and 3 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Stephen Slotte, Aerospace Engineer, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2797; fax (206) 227-1320.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93-NM-119-AD." The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-119-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

The Direction Générale de l'Aviation Civile (DGAC), which is the airworthiness authority for France, recently notified the FAA that an unsafe condition may exist on certain Airbus Industrie Model A320 series airplanes. The DGAC advises that, during an on-ground functional test of the ram air turbine (RAT), the RAT became loose and broke away from its support leg. Subsequent investigation revealed that a deteriorated RAT ball bearing caused the RAT to break away from its support leg. If the RAT breaks away from its support leg, the airplane structure and systems could be damaged, and ground personnel could be injured.

The RAT is deployed during flight when the airplane loses normal sources of onboard electrical power. During such an emergency, the RAT provides power to drive the onboard electrical systems. Although the RAT could become loose during flight, air pressure, which drives the RAT, would keep the RAT connected to its support leg.

Airbus Industrie has issued Service Bulletin A320-29-1061, dated April 13, 1993, that describes procedures for a detailed visual inspection to detect annular wear marks in the black paint surface of the RAT, and to verify if any of the eight bolt heads at the rear of the RAT are contacting one or more of the six studs securing the RAT to the leg assembly; an end-float check to measure axial free movement of the RAT relative to its support leg; and replacement of the RAT with a new RAT, if necessary. (This service bulletin references Dowty Aerospace Service Bulletin 600-29-171, dated January 4, 1993, for additional service information.) The DGAC classified the Airbus service bulletin as mandatory and issued French Airworthiness Directive 93-057-041(B), dated April 28, 1993, in order to assure the continued airworthiness of these airplanes in France.

This airplane model is manufactured in France and is type certificated for operation in the United States under the provisions of Section 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the DGAC has kept the FAA informed of the situation described above. The FAA has examined the findings of the DGAC, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United

States, the proposed AD would require detailed visual inspections and end-float checks of the RAT, and replacement of the RAT with a new RAT, if necessary. The actions would be required to be accomplished in accordance with the Airbus Industrie service bulletin described previously.

The FAA estimates that 74 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the proposed AD on U.S. operators is estimated to be $4,070, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the proposed requirements of this AD action.

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

Authority: 49 U.S.C. App. 1354(a), 1421 and 1423; 49 U.S.C. 106(g); and 14 CFR 11.89.

§ 39.13 [Amended]

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

Airbus Industrie: Docket 93–NM–119–AD.

Applicability: Model A320 series airplanes equipped with ram air turbine (RAT) part number 680203019, 680203020, 680203021, or 680203027; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent the RAT from breaking away from its support leg, which could damage the airplane structure and systems, and could injure ground personnel, accomplish the following:

(a) Perform a detailed visual inspection and an end-float check of the RAT between turbine and leg, in accordance with Airbus Industrie Service Bulletin A320–29–1061, dated April 13, 1993, at the earliest of the times specified in paragraph (a)(1), (a)(2), or (a)(3) of this AD:

(1) Within the next 450 flight hours after the effective date of this AD; or

(2) Before and after the first functional ground check of the RAT that is performed after the effective date of this AD; or

(3) After the first in-flight deployment of the RAT that occurs after the effective date of this AD.

(b) If no discrepancy is detected, repeat the detailed visual inspection and the end-float check after each functional ground check of the RAT, and after each in-flight deployment of the RAT.

Note 1: Airbus Industrie Service Bulletin A320–29–1061, dated April 13, 1993, references Dowty Aerospace Service Bulletin 600–29–171, dated January 4, 1993, which provides specific descriptions of the discrepancies in paragraph 2 of that service bulletin.

Note 2: The discrepancies that are addressed in this AD can only occur during use of the RAT and not during stowage of the RAT; therefore, it is not necessary to perform the repetitive inspections and end-float checks before each functional ground check of the RAT if the RAT has not been used since the preceding inspection.

(c) If any discrepancy is detected as a result of any detailed visual inspection required by this AD, prior to further flight, accomplish the requirements of paragraph (c)(1) and (c)(2) of this AD.

(1) Replace the RAT in accordance with Airbus Industrie Service Bulletin A320–29–1061, dated April 13, 1993.

(2) After replacement, repeat the detailed visual inspection and the end-float check required by paragraph (a) of this AD. Thereafter, repeat the detailed visual inspection and the end-float check after each functional ground check of the RAT, and after each in-flight deployment of the RAT.

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Standardization Branch, ANM–113.

(e) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on September 29, 1993.

David G. Hmiel,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–24395 Filed 10–5–93; 8:45 am]
BILLING CODE 4910–13–P

Federal Highway Administration

23 CFR Part 660

[FHWA Docket No. 93–16]

RIN 2125–AD13

Forest Highway Portion of Public Lands Highway Program

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes to revise the Forest Highway Program regulations to conform to the requirements of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA). Section 1032 of the ISTEA amends, among other things, 23 U.S.C. 202 and 204 to combine the forest highway category with the public lands highway category. The proposed revision would assure expeditious and proper allocation of funds to provide public road access to the National Forest system.

DATES: Comments must be received on or before December 6, 1993.

ADDRESSES: Submit written, signed comments to FHWA Docket No. 93–16, Federal Highway Administration, Office of the Chief Counsel, HCC–10, room 4232, 400 Seventh St., SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard.

FOR FURTHER INFORMATION CONTACT: Mr. Allen W. Burden, Chief, Program Planning, Development, and

Administration Division, Federal Lands Highway Office, (202) 366–9488, or Mr. Wilbert Baccus, Office of the Chief Counsel, (202) 366–1396, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal Holidays.

SUPPLEMENTARY INFORMATION: On December 18, 1991, the President signed the ISTEA, Public Law 102–240, 105 Stat. 1914. Section 1032 of the ISTEA amends 23 U.S.C. 202 and 204 by, among other things, incorporating new planning provisions, including metropolitan and statewide transportation plan requirements; establishing management systems provisions, including highway safety, bridges on and off Federal-aid highways, and highway pavements; adding and revising definitions for key terms relating to the Federal Lands Highway Program; and modifying existing allocation procedures to conform to the ISTEA.

Section-by-Section Analysis

Section 660.103 Definitions

Six new definitions would be added to the regulation due to the ISTEA amendments: *Jurisdiction, metropolitan planning organization, public authority, public lands highway, public road,* and *Statewide transportation planning.* A definition for *resources* would be added to include renewable and other resources, such as minerals, oil, and gas, in accordance with the Forest and Rangeland Renewable Resource Planning Act of August 17, 1974 (88 Stat. 476) as amended by the National Forest Management Act of October 22, 1976 (90 Stat. 2949; 16 U.S.C. 1600–1614) to reflect the Forest Service's policy to include all resources, both renewable and nonrenewable, in their planning and land and resource management planning process. References to "renewable resources" throughout the regulation would be revised to read "resources."

Section 660.105 Designation of Forest Highways

The title to this section would be revised to read "Planning and route designation" to incorporate the planning aspect of the program. A new paragraph would be added to reflect the provision of resource planning and related information by the Forest Service to the State highway agencies for use in developing metropolitan and statewide transportation plans. The State highway agencies would provide planning information to the FHWA. The State highway agencies would also provide the results for forest highways from a State's pavement, bridge, and safety management systems to the FHWA for consideration in development of programs under § 660.109 of this part. The FHWA will provide pavement management information for forest highways that are not on the Federal-aid system.

Section 660.107 Allocations

Under the ISTEA, the allocation procedures call for 66 percent of Public Lands Highway funds to be allocated using the same allocation formula established for forest highways in the Surface Transportation and Uniform Relocation Assistance Act of 1987 (1987 STURAA), Public Law 100–17, 101 Stat. 132, with equal consideration given for funding roads providing access to or within the National Forest systems. The remaining 34 percent is to be allocated under the previous Public Lands Highway discretionary procedures. Subpart A of 23 CFR part 660 would address only the forest highway portion of the Public Lands Highway Program. The discretionary portion of the Public Lands Highway program would remain under part 667 of this title.

Section 660.109 Program and Project Selection

The title of this section would be revised to read "Program development" to include the whole range of program development activities, rather than just project selection. This section would be revised to include provisions for tourism and recreational travel as part of the enhancement of economic development at the local, regional, and national levels. The section would also address the new requirement of the ISTEA that the States and metropolitan planning organizations include Federal Lands Highway Program projects in their transportation improvement programs.

Section 660.111 Agreements

This paragraph would be revised to emphasize the importance of documenting the transfer of jurisdiction and maintenance to the appropriate party.

Section 660.112 Project Development

This new section would be added to better delineate and separate the project development-related activities from those of construction.

Section 660.113 Construction

This section would be revised to remove the requirement for FHWA approval of plans, specifications, and estimates to be more consistent with Federal-aid procedures.

Section 660.115 Maintenance

This section would be revised to add the stipulation that the cooperator having jurisdiction shall assume operation and maintenance responsibilities on the project upon construction acceptance of the completed project by the FHWA. It would also include minor wording changes to clarify the maintenance responsibilities of the cooperator and more closely follow the language of 23 U.S.C. 116.

Section 660.117 Funding, Records and Accounting

A new paragraph would be added to include the use of forest highway funds for planning, Federal Lands Highway research, and preliminary and construction engineering as well as construction. Other new paragraphs would be added to list the uses of funds as provided in the ISTEA, including provisions for other transportation-related improvement purposes.

Rulemaking Analyses and Notices

All comments received before the close of business on the comment closing date indicated above will be considered and will be available for examination in the docket at the above address. Comments received after the comment closing date will be filed in the docket and will be considered to the extent practicable, but the FHWA may issue a final rule at any time after the close of the comment period. In addition to late comments, the FHWA will also continue to file in the docket relevant information that becomes available after the comment closing date, and interested persons should continue to examine the docket for new material.

Executive Order 12291 (Federal Regulation) and DOT Regulatory Policies and Procedures

The FHWA has determined that this action is not major within the meaning of executive Order 12291 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking would be minimal because it would not require any new funding or impose new costs on the public which were not already in place under the existing program. Therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96–354, 5 U.S.C. 605(b)), the FHWA has evaluated the effects of this rule on small entities. The revised regulation will not directly affect small businesses because the regulation applies only to Federal agency, State, and local government transportation programs. However, a minor positive secondary effect may result from the employment of small businesses, such as engineering consultant firms, to implement some of the planning and management systems required by the ISTEA. Based on the evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

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

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

This action does not contain a collection of information requirement for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

The agency has analyzed this action for the purpose of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and has determined that this action would not have any effect on the quality of the environment.

Regulation Identification Number

A regulation identification number (RIN) is assigned to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. The RIN number contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 23 CFR Part 660

Forest highways, Highways and roads, Public lands highways.

In consideration of the foregoing, the FHWA proposes to amend chapter I of title 23, Code of Federal Regulations, part 660, subpart A as set forth below.

Issued on: September 27, 1993.

Rodney E. Slater,

Federal Highway Administrator.

PART 660—SPECIAL PROGRAMS [DIRECT FEDERAL]

1. Part 660, subpart A is revised to read as follows:

Subpart A—Forest Highways

Sec.
660.101 Purpose.
660.103 Definitions.
660.105 Planning and route designation.
660.107 Allocations.
660.109 Program development.
660.111 Agreements.
660.112 Project development.
660.113 Construction.
660.115 Maintenance.
660.117 Funding, records and accounting.

Authority: 16 U.S.C. 1608–1610; 23 U.S.C. 101, 202, 204, and 315; 49 CFR 1.48.

§ 660.101 Purpose.

The purpose of this regulation is to enhance local, regional, and national benefits by providing forest highways which serve the National Forest System (NFS) and its resources, and which are funded as a portion of the coordinated public lands highway category of the Federal Lands Highway Program.

§ 660.103 Definitions.

In addition to the definitions in 23 U.S.C. 101(a), the following apply to this subpart:

Cooperator means a non-Federal public authority which has jurisdiction and maintenance responsibility for a forest highway.

Forest highway means a forest road under the jurisdiction of, and maintained by, a public authority and open to public travel.

Forest road means a road wholly or partly within, or adjacent to, and serving the NFS and which is necessary for the protection, administration, and utilization of the NFS and the use and development of its resources.

Jurisdiction means the legal right or authority to control, operate, regulate use of, maintain, or cause to be maintained, a transportation facility, through ownership or delegated authority. The authority to construct or maintain such a facility may be derived from fee title, easement, written authorization, or permit from a Federal agency, or some similar method.

Metropolitan Planning Organization (MPO) means that organization designated as the forum for cooperative transportation decisionmaking pursuant to the provisions of part 450 of this title.

National Forest System means lands and facilities administered by the Forest Service (FS), U.S. Department of Agriculture, as set forth in the Forest and Rangeland Renewable Resource Planning Act of 1974, as amended (16 U.S.C. 1601 note, 1600–1614).

Open to public travel means except during scheduled periods, extreme weather conditions, or emergencies, open to the general public for use with a standard passenger auto, without restrictive gates or prohibitive signs or regulations, other than for general traffic control or restrictions based on size, weight, or class of registration.

Public authority means a Federal, State, county, town, or township, Indian tribe, municipal or other local government or instrumentality with authority to finance, build, operate, or maintain toll or toll-free facilities.

Public lands highway means (1) a forest road under the jurisdiction of and maintained by a public authority and open to public travel or (2) any highway through unappropriated or unreserved public lands, nontaxable Indian lands, or other Federal reservations under the jurisdiction of and maintained by a public authority and open to public travel.

Public road means any road or street under the jurisdiction of and maintained by a public authority and open to public travel.

Renewable resources means those elements within the scope of responsibilities and authorities of the FS as defined in the Forest and Rangeland Renewable Resource Planning Act of August 17, 1974 (88 Stat. 476) as amended by the National Forest Management Act of October 22, 1976 (90 Stat. 2949; 16 U.S.C. 1600–1614) such as recreation, wilderness, wildlife and fish, range, timber, land, water, and human and community development.

Resources means those renewable resources defined above, plus other nonrenewable resources such as minerals, oil, and gas which are included in the FS's planning and land management processes.

Statewide transportation plan means the official transportation plan that is (1) intermodal in scope, including bicycle and pedestrian features, (2) addresses at least a 20-year planning horizon, and (3) covers the entire State.

§ 660.105 Planning and route designation.

(a) The FS will provide resource planning and related transportation

information to the Metropolitan Planning Organization (MPO) and/or State Highway Agency (SHA) for use in developing metropolitan and statewide transportation plans (23 U.S.C. 134 and 135). Cooperators shall provide various planning (23 U.S.C. 134 and 135) information to the FHWA for coordination with the FS.

(b) The management systems required under 23 U.S.C. 303 shall fulfill the requirement in 23 U.S.C. 204(a) regarding the establishment and implementation of pavement, bridge, and safety management systems for forest highways. The results for forest highways from the pavement, bridge, and safety management systems will be provided to the FHWA for consideration in development of programs under § 660.109 of this part. The FHWA will provide pavement management results for forest highways off the Federal-aid system in accordance with 23 U.S.C. 204(a).

(c) The FHWA, in consultation with the FS, SHA, and other cooperators where appropriate, will designate forest highways.

(1) The SHA and the FS will nominate roads for forest highway designation.

(2) The SHA will represent the interests of all cooperators. All other agencies shall send their proposals for forest highways to the SHA.

(d) A forest highway will meet the following criteria:

(1) Generally, it is under the jurisdiction of a public authority and open to public travel, or a cooperator has agreed, in writing, to assume jurisdiction of the facility and to keep the road open to public travel once improvements are made.

(2) It provides a connection between adequate and safe public roads and the resources of the NFS which are essential to the local, regional, or national economy, and/or the communities, shipping points, or markets which depend upon those resources.

(3) It serves:

(i) Other local needs such as schools, mail delivery, commercial supply, and access to private property within the NFS; or

(ii) Traffic of which a preponderance is generated by use of the NFS and its resources; or

(iii) NFS-generated traffic volumes that have a substantial impact on roadway design and construction.

§ 660.107 Allocations.

On October 1 of each fiscal year, the FHWA will allocate 66 percent of Public Lands Highway (PLH) funds, by FS Region, for forest highways using values based on relative transportation needs of the various elements of the NFS, after deducting such sums as deemed necessary for the administrative requirements of the FHWA and the FS; the necessary costs of forest highway planning studies; and the forest highway share of costs for approved Federal Lands Coordinated Technology Implementation Program studies.

§ 660.109 Program development.

(a) The FHWA will arrange and conduct a conference with the FS and the current fiscal year and at least the next 4 years. Projects included in each year's program will be selected considering the following criteria:

(1) The development, utilization, protection, and administration of the NFS and its resources;

(2) The enhancement of economic development at the local, regional, and national level, including tourism and recreational travel;

(3) The continuity of the transportation network serving the NFS and its dependent communities;

(4) The mobility of the users of the transportation network and the goods and services provided;

(5) The improvement of the transportation network for economy of operation and maintenance and the safety of its users; and

(6) The protection and enhancement of the rural environment associated with the NFS and its resources.

(b) The recommended program will be prepared by the FHWA and concurred in by the FS and the SHA. The FHWA will approve the program. Following approval, the SHA shall advise any other cooperators in the State of the projects included in the final program and shall incorporate the approved program into the Statewide Transportation Improvement Program. For projects located in metropolitan areas, the FHWA and the SHA will work with the MPO to incorporate the approved program into the MPO's Transportation Improvement Program.

§ 660.111 Agreements.

(a) A statewide forest highway agreement shall be executed between the FHWA and each SHA prior to the expenditure of any funds by the FHWA in the State. This agreement shall set forth the responsibilities of each party, including that of adherence to the applicable provisions of Federal and State statutes and regulations.

(b) The design and construction of Forest highway projects will be administered by the FHWA unless otherwise provided for in an agreement approved under this subpart.

(c) A project agreement shall be entered into between the FHWA and the cooperator involved under one or more of the following conditions:

(1) A cooperator's funds are to be made available for the project or any portion of the project;

(2) Federal funds are to be made available to a cooperator for any work;

(3) Special circumstances exist which make a project agreement necessary for payment purposes or to clarify any aspect of the project; or

(4) It is necessary to document jurisdiction and maintenance responsibility.

§ 660.112 Project development.

(a) Projects to be administered by the FHWA will be developed in accordance with FHWA procedures for the Federal Lands Highway Program. Projects to be administered by a cooperator shall be developed in accordance with Federal-aid procedures.

(b) Forest highway projects shall be designed in accordance with part 625 of this chapter or those criteria specifically approved by the FHWA for a particular project.

§ 660.113 Construction.

(a) No construction shall be undertaken on any forest highway project until plans, specifications, and estimates have been concurred in by the cooperator(s) and the FS, and approved in accordance with procedures contained in the statewide forest highway agreement.

(b) The construction of forest highways will be performed by the contract method, unless construction by the FHWA or a cooperator on its own account is warranted under 23 U.S.C. 204(e).

(c) Construction of any project shall not be accepted by the FHWA as completed until the project has been inspected and concerns mutually identified and resolved by the cooperator, the FS, and the FHWA.

§ 660.115 Maintenance.

The cooperator having jurisdiction over a forest highway shall, upon construction acceptance of the completed project by the FHWA, assume operation responsibilities and maintain, or cause to be maintained, any project constructed under this subpart.

§ 660.117 Funding, records and accounting.

(a) The Federal share of funding for eligible forest highway projects may be any amount up to and including 100 percent. A cooperator may participate in the cost of project development and construction, but participation shall not be required.

(b) Funds for forest highways may be used for:

(1) Planning;

(2) Federal Lands Highway research;

(3) Preliminary and construction engineering; and

(4) Construction.

(c) Funds for forest highways may be made available for the following transportation-related improvement purposes which are generally part of a transportation construction project:

(1) Transportation planning for tourism and recreational travel;

(2) Adjacent vehicular parking areas;

(3) Interpretive signage;

(4) Acquisition of necessary scenic easements and scenic or historic sites;

(5) Provisions for pedestrians and bicycles;

(6) Construction and reconstruction of roadside rest areas including sanitary and water facilities; and

(7) Other appropriate public road facilities as approved by the FHWA.

(d) Use of forest highway funds for right-of-way acquisition shall be subject to specific approval by the FHWA.

(e) Cooperators which administer construction of forest highway projects and the SHAs shall maintain their forest highway records according to 49 CFR part 18.

(f) Funds provided to the FHWA by a cooperator shall be received in advance of construction procurement.

[FR Doc. 93-24367 Filed 10-4-93; 8:45 am]

BILLING CODE 4910-22-P

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

RIN 2900-AG46

Disease Subject to Presumptive Service Connection (Cancer of the Urinary Tract)

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) is proposing to amend its adjudication regulations concerning presumptive service connection for certain diseases resulting from exposure to ionizing radiation during military service. Congress has added cancer of the urinary tract to the list of radiogenic conditions for which presumptive service connection is authorized, but did not indicate which entities it considers part of the urinary tract. This amendment is intended to define the meaning of "urinary tract" for VA purposes.

DATES: Comments must be received on or before November 4, 1993. Comments will be available for public inspection until November 15, 1993. This amendment is proposed to be effective October 1, 1992, the date provided by Public Law 102-578.

ADDRESSES: Interested persons are invited to submit written comments, suggestions, or objections regarding this proposal to Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments will be available for public inspection only in the Veterans Services Unit, room 170, at the above address between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays) until November 15, 1993.

FOR FURTHER INFORMATION CONTACT: Caroll McBrine, M.D., Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, (202) 233-3005.

SUPPLEMENTARY INFORMATION: Section 2 of the Veterans' Radiation Exposure Amendments of 1992, Public Law 102-578, amended 38 U.S.C. 1112(c) by adding cancer of the urinary tract to the list of conditions for which presumptive service connection is authorized for veterans who participated in a radiation-risk activity. In the **Federal Register** of April 27, 1993 (58 FR 25563-64), VA published adjudication regulations at 38 CFR 3.309(d) to reflect this change. Although Congress did not indicate what they considered to be included in the urinary tract, they have granted the Secretary of Veterans Affairs broad authority in 38 U.S.C. 501(a), to establish all rules and regulations necessary or appropriate to carry out the laws administered by the Department. As an exercise of that authority, we propose to amend 38 CFR 3.309(d) to define the term "urinary tract" for VA purposes.

The urinary tract is made up of the organs and ducts which participate in the secretion and elimination of the urine ("Dorland's Illustrated Medical Dictionary", 1740 (27th Edition, 1988)).

VA had previously recognized kidney and bladder cancer as radiogenic conditions based on the advice of the Veterans Advisory Committee on Environmental Hazards, under the provisions of Public Law 98-542 (Veterans' Dioxin and Radiation Exposure Compensation Standards Act). In addition to those organs, we propose to recognize as parts of the urinary tract the renal pelvis, a funnel-shaped structure which collects urine as it is excreted by the kidney; the ureter, which conducts the urine from the kidney to the bladder; and the urethra, a narrow membranous canal extending from the neck of the bladder, through which urine exits the body.

VA therefore proposes, for the purpose of implementing Public Law 102-578, to amend 3.309(d)(2) by adding an explanatory note stating that for VA purposes the urinary tract consists of the kidneys, renal pelves, ureters, bladder, and urethra.

The Secretary hereby certifies that this regulatory amendment will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. The reason for this certification is that this amendment would not directly affect any small entities. Only VA beneficiaries could be directly affected. Therefore, pursuant to 5 U.S.C. 605(b), this amendment is exempt from the initial and final regulatory flexibility analysis requirements of sections 603 and 604.

In accordance with Executive Order 12291, Federal Regulation, the Secretary has determined that this regulatory amendment is non-major for the following reasons:

(1) It will not have an annual effect on the economy of $100 million or more.

(2) It will not cause a major increase in costs or prices.

(3) It will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Catalog of Federal Domestic Assistance program numbers are 64.104 and 64.109.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

Approved: August 26, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 3 is proposed to be amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, and Dependency and Indemnity Compensation

1. The authority citation for part 3, subpart A, continues to read as follows:

Authority: 38 U.S.C. 501(a), unless otherwise noted.

2. In § 3.309, paragraph (d)(2)(xv), add a note at the end of text to read as follows:

§ 3.309 Disease subject to presumptive service connection.

* * * * *

(d) * * *

(2) * * *

(xv) * * *

Note: For the purposes of this section, the term "urinary tract" means the kidneys, renal pelves, ureters, urinary bladder, and urethra.

* * * * *

[FR Doc. 93-24373 Filed 10-4-93; 8:45 am]

BILLING CODE 8320-01-M

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38 CFR Part 17

RIN: 2900-AG58

Contract Program for Veterans With Alcohol and Drug Dependence Disorders

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs is proposing to amend its medical regulations to adopt the 1991 edition of the Life Safety Code for the Contract Program for Veterans with Alcohol and Drug Dependence Disorders. The life safety component of the program is now governed by the 1981 edition of the Life Safety Code.

DATES: Comments must be received on or before November 4, 1993.

ADDRESSES: Interested persons are invited to submit written comments, suggestions or objections regarding this proposal to the Secretary of Veterans Affairs (271A), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection only in the Veterans Services Unit, Room 170 of the above address between the hours of 8 a.m. to 4 p.m., Monday through Friday (except holidays) until November 15, 1993.

FOR FURTHER INFORMATION CONTACT: Karen Boies, Ph.D., Deputy Associate Director for Addictive Disorders and Psychiatric Rehabilitation, Veterans Health Administration, Department of Veterans Affairs, (202) 535-7316.

SUPPLEMENTARY INFORMATION: The proposed amendment to §§ 17.53(a)(1)(i) and 17.53c(a)(1)(i) will adopt the 1991 edition of the Life Safety Code for VA's Contract Program for Veterans with Alcohol and Drug Dependence Disorders. The life safety component of the program is now governed by the 1981 edition of the Life Safety Code.

List of Subjects in 38 CFR Part 17

Alcoholism, Claims, Dental Health, Drug Abuse, Foreign Relations, Government contracts, Grants programs-health, Health care, Health facilities, Health professions, Medical devices, Medical research, Mental health programs, Nursing homes, Philippines, Veterans.

Approved: August 27, 1993.

Jesse Brown,

Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 17 is amended as set forth below:

PART 17—MEDICAL

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

Authority: 72 Stat. 114 38 U.S.C. 501, unless otherwise noted.

2. In § 17.53b, paragraph (a)(1)(i) is revised to read as follows:

§ 17.53b Contracts for residential treatment services for veterans with alcohol or drug dependency or abuse disabilities.

(a) * * *

(1) * * *

(i) The building must meet the requirements of the applicable residential and board and care and the general chapters of the Life Safety Code (NFPA 101) published by the National Fire Protection Association (NFPA), Batterymarch Park, Quincy, MA 02269, 1991 edition. The 1991 edition of the Life Safety Code is hereby incorporated by reference into this section as though set forth in full herein. This code is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC 20408. Any equivalences or variances to Department of Veterans Affairs requirements must be approved by the Director, Engineering Management and Field Support Office, Department of Veterans Affairs Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

* * * * *

3. In § 17.53c, paragraph (a)(1)(i) is revised to read as follows:

§ 17.53c Contracts for outpatient services for veterans with alcohol or drug dependency or abuse disabilities.

(a) * * *

(1) * * *

(i) The building must meet the requirements of the applicable business occupancy and the general chapters of the Life Safety Code (NFPA 101) published by the National Fire Protection Association (NFPA), Batterymarch Park, Quincy, MA 02269, 1991 edition. The 1991 edition of the Life Safety Code is hereby incorporated by reference into this section as though set forth in full herein. This code is available for inspection at the Office of the Federal Register, 800 North Capitol Street, NW., 7th Floor, suite 700, Washington, DC 20408. Any equivalences or variances to Department of Veterans Affairs requirements must be approved by the Director, Engineering Management and Field Support Office, Department of Veterans Affairs Central Office, 810 Vermont Avenue, NW., Washington, DC 20420.

* * * * *

[FR Doc. 93-24377 Filed 10-4-93; 8:45 am]

BILLING CODE 8320-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 93-249; RM-8330]

Radio Broadcasting Services; Calabash and Tabor City, NC

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Great American Media, Ltd. I, seeking the substitution of Channel 285C3 for Channel 285A at Tabor City, North Carolina, the reallotment of Channel 285C3 from Tabor City to Calabash, North Carolina, and the modification of Station WYNA's license to specify Calabash as its community of license. Channel 285C3 can be allotted to Calabash in compliance with the Commission's minimum distance separation requirements with a site restriction of 20.1 kilometers (12.5 miles) north, at coordinates North Latitude 34-04-05 and West Longitude 78-31-30, to accommodate petitioner's desired transmitter site.

DATES: Comments must be filed on or before November 22 1993, and reply comments on or before December 7, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Wade H. Hargrove, Esq., Tharrington, Smith & Hargrove, 209 Fayetteville Street Mall, P.O. Box 1151, Raleigh, North Carolina 27062 (Counsel to petitioner).

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

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93–249, adopted September 15, 1993, and released September 29, 1993. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 93–24342 Filed 10–4–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 390

[FHWA Docket No. MC–93–17]

RIN 2125–AD14

Federal Motor Carrier Safety Regulations; General; Intermodal Transportation

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Reopening of comment period.

SUMMARY: The FHWA published a notice of proposed rulemaking (NPRM) on July 14, 1993, in which the FHWA requested comments on its proposal to amend the Federal Motor Carrier Safety Regulations to implement the provisions of the Intermodal Safe Container Transportation Act of 1992. The comment period for the NPRM closed on September 13, 1993. In response to requests for an extension of the comment period, the FHWA is reopening the comment period and extending it until October 28, 1993.

DATES: Comments should be received no later than October 28, 1993.

ADDRESSES: All signed, written comments should refer to the docket number that appears at the top of this document and must be submitted to HCC–10, room 4232, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard/envelope.

FOR FURTHER INFORMATION CONTACT: Mr. Peter C. Chandler, Office of Motor Carrier Standards, (202) 366–5763, or Mr. Charles E. Medalen, Office of the Chief Counsel, (202) 366–1354, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: On October 28, 1992, the President signed the Intermodal Safe Container Transportation Act of 1992 (Safe Container Act) (Pub. L. 102–548, 106 Stat. 3646). The Act requires the Secretary to issue implementing regulations to reduce the number of overweight intermodal trailers and containers.

The use of intermodal equipment has increased significantly over the past 30 years. Almost every intermodal container and trailer travels over the highway at least once during shipment. Intermodal operations are complex and compliance with size and weight laws can be difficult when motor carriers do not know the weight of the container or trailer and when shippers are not familiar with vehicle weight laws in different States. In fact, intermodal containers and trailers which are not overweight for rail or water transportation may be overweight for highway transportation. The purpose of the Safe Container Act is to reduce the number of overweight vehicles illegally operating on the highway by requiring shippers and others to give motor carriers accurate information about the nature and weight of the cargo.

On July 14, 1993, the FHWA published an NPRM (58 FR 37895) to implement the provisions of the Safe Container Act. The FHWA has received two formal requests for an extension of the comment period for the NPRM. The requests were submitted by American President Companies, Ltd., and Matson Navigation Co. Both companies have requested additional time to collect information from corporate officials before submitting comments.

The FHWA has reviewed the requests and has decided to grant a 45 day extension of the comment period. Because of the importance of this rulemaking and the complexity of the issues raised in it, the FHWA believes that the public interest would be served by permitting the requesters, other regulated entities, and the public an additional 45 days in which to submit comments. Any additional time beyond 45 days however, would unnecessarily delay the issuance of a final rule. Accordingly, the FHWA is reopening the comment period for this docket until Thursday, October 28, 1993.

Authority: 49 U.S.C. app. 2503 and 2505; 49 U.S.C. 501, 508, 3102 and 3104; 49 CFR 1.48.

List of Subjects in 49 CFR Part 390

Highway safety, Intermodal transportation, Motor carriers, Reporting and recordkeeping requirements.

Issued on: September 30, 1993.

Rodney E. Slater,

Federal Highway Administrator.

[FR Doc. 93–24522 Filed 10–1–93; 8:45 am]

BILLING CODE 4910–22–P

INTERSTATE COMMERCE COMMISSION

49 CFR Parts 1105, 1121 and 1152

[Ex Parte No. 511]

Petition for Rulemaking; Protection of Surveying Benchmarks in Railroad Abandonments

AGENCY: Interstate Commerce Commission.

ACTION: Petition for rulemaking, notice of intent to institute rulemaking.

SUMMARY: The Commission is soliciting public comment on a petition for rulemaking filed by the American Congress on Surveying and Mapping to consider the protection and preservation of surveying benchmarks that may be affected by Commission actions in railroad abandonment proceedings. After the Commission has assessed the comments, it will decide whether to institute a rulemaking proceeding.

DATES: Comments are due by November 19, 1993.

ADDRESSES: Send comments (an original and 10 copies) referring to Ex Parte No. 511 to Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Ronald M. Smullian (202) 927–5292 or Beryl Gordon (202) 927–5610. [TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: By petition dated July 9, 1992, the American Congress on Surveying and Mapping (ACMS or Petitioner), requests a rulemaking to consider ways in which the Commission could require railroads to protect surveying benchmarks, monumentation, and mapping information (benchmarks) affected by the dismantling of railroad tracks pursuant to a Commission authorized abandonment. Petitioner maintains that benchmarks located on rail lines "serve as the basis for the nation's infrastructure" and the so-called National Geodetic Reference System. In addition, petitioner points out that benchmarks are used to denote property boundaries. It contends that when railroad tracks are dismantled, these benchmarks are destroyed, with little likelihood of their being restored. Petitioner believes that the problem is national in scope and could best be remedied through a rulemaking by the ICC.

We appreciate the concerns raised by petitioner but question whether the ICC is the proper forum to address these issues. Also, petitioner's request for rulemaking does not provide enough information for us to be able to understand fully the nature of the problem or to identify the exact type of relief being sought. Accordingly, we are issuing a notice of intent to institute a rulemaking to seek further information regarding the extent of the problem, and precisely what steps, if any, we could reasonably take to require the railroads to facilitate the protection of benchmarks.

Specifically, we request comments on whether the protection of benchmarks is within the scope of this agency's regulatory mission, or is more appropriately addressed by another Federal agency or agencies, or the States and/or local governments under their zoning, land use, or police powers. In addition, we seek more information with respect to the benchmarks in question, such as size, description, location (above ground or underground), ownership, and ease of identification. Comments are also invited on whether benchmarks have historical significance.

We note that railroads may have little or no information on the benchmarks on a line proposed for abandonment. Petitioner's request for rulemaking could be viewed, however, as an attempt to impose upon the carriers the expense of locating and preserving benchmarks, or conducting a survey of the abandoned right-of-way, and of increased reporting, mapping, and notice requirements. Commenters should address the burdens (financial and otherwise) which the railroads might incur.

Petitioner suggests that, at a minimum, railroads be required to give at least six months' advance notice to county surveyors or engineers when abandoned tracks are to be dismantled, and to provide updated valuation maps. However, we already impose extensive notice and reporting requirements (including the submission of detailed maps) in all abandonment cases. See 49 U.S.C. 10904; 49 CFR 1105.7; 1105.8; 1105.12; 1121; 1152.20; 1152.21; and 1152.50. Given our existing requirements, we invite comments on (1) whether there is a need for expanded notice, mapping and/or reporting; (2) whether six months' advance notice would be necessary, reasonable and consistent with our Congressional mandate to process abandonment applications within prescribed time frames; and (3) what, if anything, such additional requirements would accomplish. Finally, we invite specific proposals regarding what actions the Commission could reasonably require of the railroads in order to preserve or protect benchmarks.

In sum, we need additional information properly to consider petitioner's request. Therefore, we seek input on the specific issues discussed above, as well as any other relevant information. After we have assessed the comments received in response to this notice, we will determine whether to issue a notice of proposed rulemaking.

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC, 20423. Telephone: (202) 927–7428. [Assistance for the hearing impaired is available through TDD service (202) 927–5721.]

List of Subjects

49 CFR Part 1105

Environmental impact statements, Reporting and recordkeeping requirements.

49 CFR Part 1121

Rail exemption procedures.

49 CFR Part 1152

Administrative practice and procedure, Railroads, Reporting and recordkeeping requirements.

Authority: 49 U.S.C. 10321, 10505, 10903–10906, and 5 U.S.C. 553.

Decided: September 15, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin and Walden. Vice Chairman Simmons commented with a separate expression.

Sidney L. Strickland, Jr.

Secretary

[FR Doc. 93–24418 Filed 10–4–93; 8:45 am]

BILLING CODE 7035–01–P

Notices

Federal Register
Vol. 58, No. 191
Tuesday, October 5, 1993

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

Foreign Agriculture Service

Agricultural Policy and Technical Advisory Committees for Trade; Nominations

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice: request for nomination.

SUMMARY: The Secretary of Agriculture and the United States Trade Representative are seeking nominations for appointment to the Agricultural Policy Advisory Committee for Trade (APAC) and the Agricultural Technical Advisory Committees for Trade (ATACs). Pursuant to President Clinton's Executive Order dated February 10, 1993, the ten current ATACs will be terminated in January 1994, and six new ATACs will be chartered to take their place.

DATES: Nominations for membership on the Committees must be received in writing by October 19, 1993.

ADDRESSES: Send nominations for membership on the committees to John B. Winski, Executive Secretary, Agricultural Policy Advisory Committee for Trade, Foreign Agricultural Service, USDA, 14th & Independence Avenues, SW., Washington, DC 20250–1000.

FOR FURTHER INFORMATION CONTACT: John B. Winski or Denise Burgess, Foreign Agricultural Service, USDA, 14th & Independence Avenues, SW., Washington, DC 20250–1000, (202) 720–6829.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. appendix), notice is hereby given that the Secretary of Agriculture and the United States Trade Representative are seeking nominations for the Agricultural Policy Advisory Committee for Trade and the Agricultural Technical Advisory Committees for Trade.

In 1974, Congress established a private sector advisory committee system to ensure that U.S. trade policy and trade negotiation objectives adequately reflect U.S. commercial and economic interests. Congress expanded and enhanced the role of this system in three subsequent trade acts.

The private sector advisory system now consists of almost 40 committees, arranged in three tiers; The President's Advisory Committee on Trade and Policy Negotiations (ACTPN); seven policy advisory committees, including the Agricultural Policy Advisory Committee for Trade (APAC); and more than 30 technical advisory committees including the Agricultural Technical Advisory Committees for Trade (ATACs).

The duties of the APAC are to provide the Secretary and the Trade Representative with advice concerning: Negotiating objectives and bargaining positions before entering into a trade agreement; the operation of an agreement once entered into; and other matters arising in connection with the administration of the trade policy of the United States. The duties of the ATACs are to provide advice and information regarding trade issues which affect both domestic and foreign production and trade concerning the respective commodities, drawing upon the technical competence and experience of its members. Each committee is required to meet at the conclusion of negotiations for each trade agreement entered into under the Act to provide a report on such agreement to the President, to Congress, and to the U.S. Trade Representative.

The APAC consists of 50 members. The members elect a chairperson from the membership of the committee. The Assistant to the Administrator, Foreign Agricultural Service, and the Director, Office of Private Sector Liaison, Office of the U.S. Trade Representative, are the Committee's Joint Executive Secretaries. Each of the ATACs consist of 25 members. The members of each committee elect a chairperson from the membership of the committee. A full-time Federal Officer or employee of the Foreign Agricultural Service shall serve as the Executive Secretary of each Technical Advisory Committee.

Each committee is chartered for a period of two years, at which time all appointments expire. Reappointments are made at the discretion of the Secretary and of the U.S. Trade Representative.

The Secretary of Agriculture and the U.S. Trade Representative invite those individuals, organizations and interest groups affiliated with foreign trade and agriculture to nominate individuals for membership to any of the committees. Nominations should describe and document the proposed member's qualifications for membership to the committees. The Secretary and the U.S. Trade Representative seek a diverse group of members representing a broad spectrum of persons interested in the United States foreign trade policy, from every region of the country.

Equal opportunity practices will be followed in all appointments to the committees. To ensure that the recommendations of the committees have taken into account the needs of the diverse groups served by the USDA and the USTR, membership should include, to the extent practicable, individuals with demonstrated ability to represent minorities, women and persons with disabilities.

Issued at Washington, DC this 28th day of September, 1993.

John P. Kratzke,

Acting Assistant Secretary for Administration.

[FR Doc. 93–24362 Filed 10–4–93; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

[Docket No. 920536–3127]

RIN 0693–AA94

Approval of Federal Information Processing Standards Publication 181, Automated Password Generator (APG)

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

ACTION: The purpose of this notice is to announce that the Secretary of Commerce has approved a new standard, which will be published as FIPS Publication 181, Automated Password Generator (APG).

SUMMARY: On September 8, 1992, notice was published in the **Federal Register** (57 FR 40894) that a Federal Information Processing Standard for Automated

Password Generator (APG) was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the standard as a Federal Information Processing Standards Publication, and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Washington, DC 20230.

This FIPS contains two sections: (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATE: This standard becomes effective March 25, 1994.

ADDRESSES: Interested parties may purchase copies of this standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. Charles Dinkel, (301) 975–3367, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Dated: September 29, 1993.

Samuel Kramer,

Associate Director.

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

1. Name of Standard. Automated Password Generator.

2. Category of Standard. Computer Systems, Computer Security.

3. Explanation. A password is a protected character string used to authenticate the identity of a computer system user or to authorize access to system resources. When users are allowed to select their own passwords they often select passwords that are easily compromised. An automated password generator creates random passwords that have no association with a particular user.

This Automated Password Generator Standard specifies an algorithm to generate passwords for the protection of computer resources. This standard is for use in conjunction with FIPS PUB 112, Password Usage Standard, which provides basic security criteria for the design, implementation, and use of passwords. The algorithm uses random numbers to select the characters that form the random pronounceable passwords. The random numbers are generated by a random number subroutine based on the Electronic Codebook mode of the Data Encryption Standard (DES) (FIPS PUB 46–1). The random number subroutine uses a pseudorandom DES key generated in accordance with the procedure described in Appendix C of ANSI X9.17.

Similar to DES, the FIPS for Automated Password Generator is an interoperability standard. Interoperability standards specify functions and formats so that data transmitted can be properly acted upon when received by another computer. This type of standard is independent of physical implementation. Implementors are required to use the algorithm defined in the FIPS, however, they are not constrained in how they package it. For discussion purposes a NIST implementation of the Automated Password Generator is provided. It is expected that commercial implementations will be based on the latest technologies and differ from NIST's, however the results should be logically equivalent to that of this FIPS.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of Commerce, National Institute of Standards and Technology (NIST), Computer Systems Laboratory (CSL).

6. Cross Index.

a. American National Standards Institute (ANSI) X9.28, Financial Institution Multiple Center Key Management (Wholesale) Draft.

b. Department of Defense CSC–STD–002–85, Password Management Guideline.

c. Federal Information Processing Standards Publication (FIPS PUB) 48, Guidelines on Evaluation of Techniques for Automated Personal Identification.

d. Federal Information Processing Standards Publication (FIPS PUB) 46–1, Data Encryption Standard.

e. Federal Information Processing Standards Publication (FIPS PUB) 81, DES Modes of Operation.

f. Federal Information Processing Standards Publication (FIPS PUB) 83, Guideline on User Authentication Techniques for Computer Network Access Control.

g. Federal Information Processing Standards Publication (FIPS PUB) 112, Password Usage.

h. Federal Information Processing Standards Publication (FIPS PUB) 171, Key Management Using ANSI X9.17.

i. National Technical Information Service (NTIS) AD A 017676, A Random Word Generator for Pronounceable Passwords.

7. Objectives. The objectives of this standard are to:

a. improve the administration of password systems that are used for authenticating the identity of individuals accessing computer resources or files;

b. provide a standard automated method for producing pronounceable passwords that have no association with a particular user;

c. produce passwords that are easily remembered, stored and entered into computer systems, yet not readily susceptible to automated techniques that have been developed to search for and disclose passwords.

8. Applicability. This standard is applicable to the development of procurement or design specifications for implementing an automatic password generation algorithm within a computer system. It shall be used by all Federal departments and agencies when there is a requirement for computer generated pronounceable passwords for authenticating users of computer systems, or for authorizing access to resources in those systems.

This standard does not require the use of passwords in a computer system, but establishes an automatic password generation algorithm for use in systems where an agency's computer security policy requires computer generated pronounceable passwords. It should be used in conjunction with FIPS PUB 112, Password Usage Standard, which specifies basic security criteria for the design, implementation, and use of passwords.

9. Export Control. The Bureau of Export Administration, U.S. Department of Commerce, is responsible for administering export controls on cryptographic products used for authentication and access control, which categories would include

implementations of the Automated Password Generator. Vendors should contact the following for a product classification: Bureau of Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044. Telephone: (202) 482–0708.

Following this determination, the vendor will be informed whether an export license is required and will be provided further information as appropriate.

10. Specifications. Federal Information Processing Standard (FIPS) 181, Automated Password Generator (affixed);

11. Qualifications. The Automated Password Generator uses the Electronic Codebook (ECB) mode of the Data Encryption Standard (DES), Federal Information Processing Standard 46–1 (FIPS PUB 46–1), as the random number generator. This mode of operation is specified in FIPS 81, DES Modes of Operation.

The protection provided by the DES algorithm against potential threats has been reviewed every 5 years since its adoption in 1977 and has been reaffirmed during each of those reviews. The DES, and the possible threats reducing the security provided by the use of DES will undergo continual review by NIST and other cognizant Federal organizations. The new technology available at review time will be evaluated to determine its impact on the DES. In addition, the awareness of any breakthrough in technology or any mathematical weakness of the algorithm will cause NIST to reevaluate the DES and provide necessary revisions.

12. Implementation Schedule. This Standard becomes effective March 25, 1994.

13. Waivers. Under certain exceptional circumstances, the heads of Federal departments and agencies may approve waivers to Federal Information Processing Standards (FIPS). The head of such agency may redelegate such authority only to a senior official designated pursuant to section 3506(b) of Title 44, U.S. Code. Waivers shall be granted only when compliance with a standard would:

a. Adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

b. Cause a major adverse financial impact on the operator which is not offset by Government-wide savings.

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

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

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

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. Sec. 552(b), shall be part of the procurement documentation and retained by the agency.

14. Where to obtain copies. Copies of this publication are available for sale by the National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 181 (FIPSPUB181), and identify the title. When microfiche is desired, this should be specified. Payment may be made by check, money order, credit card, or deposit account.

[FR Doc. 93–24456 Filed 10–4–93; 8:45 am]
BILLING CODE 3510–LN–M

[Docket No. 911187–3064]

RIN 0693–AA96

Approval of Federal Information Processing Standards Publication 182, Integrated Services Digital Network (ISDN)

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

ACTION: The purpose of this notice is to announce that the Secretary of Commerce has approved a new standard, which will be published as FIPS Publication 182, Integrated Services Digital Network (ISDN).

SUMMARY: On January 13, 1992, notice was published in the **Federal Register** (57 FR 1255) that a Federal Information Processing Standard for Integrated Services Digital Network (ISDN) was being proposed for Federal use.

The written comments submitted by interested parties and other material available to the Department relevant to this standard were reviewed by NIST. On the basis of this review, NIST recommended that the Secretary approve the standard as a Federal Information Processing Standards Publication, and prepared a detailed justification document for the Secretary's review in support of that recommendation.

The detailed justification document which was presented to the Secretary is part of the public record and is available for inspection and copying in the Department's Central Reference and Records Inspection Facility, Room 6020, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues, NW., Washington, DC 20230.

This FIPS contains two sections. (1) An announcement section, which provides information concerning the applicability, implementation, and maintenance of the standard; and (2) a specifications section which deals with the technical requirements of the standard. Only the announcement section of the standard is provided in this notice.

EFFECTIVE DATE: This standard is effective April 15, 1994.

ADDRESSES: Interested parties may purchase copies of this standard, including the technical specifications section, from the National Technical Information Service (NTIS). Specific ordering information from NTIS for this standard is set out in the Where to Obtain Copies Section of the announcement section of the standard.

FOR FURTHER INFORMATION CONTACT: Mr. David Su, (301) 975–6194, National Institute of Standards and Technology, Gaithersburg, MD 20899.

Dated: September 23, 1993.

Samuel Kramer,

Associate Director.

Federal Information Processing Standards Publications (FIPS PUBS) are issued by the National Institute of Standards and Technology after approval by the Secretary of Commerce pursuant to section 111(d) of the Federal Property and Administrative Services Act of 1949 as amended by the

Computer Security Act of 1987, Public Law 100–235.

1. Name of Standard. Integrated Services Digital Network (ISDN) (FIPS PUB 182).

2. Category of Standard. Telecommunications Standard.

3. Explanation. This publication defines the generic protocols necessary to establish transparent Integrated Services Digital Network (ISDN) connections among government networks and between government and conformant common carrier networks. This FIPS provides a minimal set of bearer services, and is based on national standards, international standards, and implementation agreements developed by the North American ISDN Users' Forum (NIU–Forum). Future versions of this FIPS will provide protocols for additional services, teleservices and applications.

This standard supports a range of integrated services including voice, data, image, and video services. This standard is consistent with Federal Information Processing Standard 146–1, Government Open Systems Interconnection Profile (GOSIP), which provides protocols for computer to computer data communications using ISDN as a lower layer network technology.

4. Approving Authority. Secretary of Commerce.

5. Maintenance Agency. U.S. Department of Commerce, National Institute of Standards and Technology (NIST), Computer Systems Laboratory.

6. Cross Index. NIST Special Publication 500–195, North American ISDN Users' Forum Agreements on Integrated Services Digital Network (ISDN), September 1991.

7. Related Documents. a. Federal Information Resources Management Regulations (FIRMR) subpart 201.20.303, Standards, and subpart 201.39.1002, Federal Standards.

b. Related documents are listed in the Reference Section of the ISDN document.

8. Objectives. The primary objectives of this standard are:

—To achieve interconnection and interoperability of user and network equipment that are acquired from different manufacturers in an open systems environment;

—To reduce the costs of acquiring user equipment for ISDN services;

—To facilitate the use of advanced technology by the Federal Government;

—To stimulate the development of commercial products compatible with ISDN standards.

9. Specifications. Integrated Services Digital Network (ISDN) (affixed).

10. Applicability. This standard shall be used by Federal agencies for the acquisition of ISDN Customer Premise Equipment (CPE), switches, and ISDN services implementing the protocols specified herein.

11. Implementation. This standard is effective April 15, 1994. Agencies are permitted and encouraged to cite this standard in procurement requests immediately.

This standard shall be cited in solicitations and contracts initiated after April 15, 1994, when the services or products to be acquired provide the functionality specified in this standard, if conformant products and service providing the desired functionality are available, or are expected to be available, for delivery within the terms of the solicitation or contract. An acquisition agency may specify that a procurement request which is based on this FIPS require offerers to provide either evidence of conformance to the ISDN FIPS or to provide explicit evidence of the capability of a migration path towards conformance to the FIPS for the products and services offered in response to the procurement request. Even when conformant products and service provider offerings are not yet available, it is recommended to use this standard to the greatest extent possible, and to follow the recommendations of any subsequent user guidelines to this standard issued by the National Institute of Standards and Technology. In addition, for the indefinite future, agencies will be permitted to buy additional services that are beyond the scope of this standard. The ISDN Conformance Test working group in the NIU-Forum has developed a set of abstract test suites for selected standards and implementation agreements. Test systems implementing these abstract conformance test suites have been developed, or are being developed by testing organizations. As these test systems are complete, NIST will specify the test systems and testing organizations which are accredited to perform conformance testing for this standard.

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

a. Compliance with a standard would adversely affect the accomplishment of the mission of an operator of a Federal computer system, or

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

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

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

A copy of the waiver, any supporting documents, the document approving the waiver and any supporting and accompanying documents, with such deletions as the agency is authorized and decides to make under 5 U.S.C. 552(b), shall be part of the procurement documentation and retained by the agency.

13. Special Information. This FIPS encompasses the protocols and implementation agreements for the D channel procedures for the underlying (Layers 1, 2 and 3) ISDN protocols as well as a limited set of other protocols, such as ISDN bearer services, X.25 Packet Services, and Terminal Adaption. Common Channel Signalling—Signalling System #7 protocols are not included.

Where to Obtain Copies. Copies of this publication are for sale by the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, VA 22161. When ordering, refer to Federal Information Processing Standards Publication 182 (FIPSPUB182), and title. Specify microfiche if desired. Payment may be

made by check, money order, or NTIS deposit account.

[FR Doc. 93-24457 Filed 10-4-93; 8:45 am]

BILLING CODE 3510-CN-M

National Oceanic and Atmospheric Administration

[Docket No. 930831-3231; I.D. 082593A]

Financial Assistance for Oyster Disease Research

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of financial assistance.

SUMMARY: A total of $1.3 million in Fiscal Year (FY) 1993 funds is available through the NOAA/NMFS Chesapeake Bay Office to assist interested state fishery agencies, academic institutions, and other nonprofit organizations relating to cooperative research units, in carrying out research and development projects to provide information on oyster diseases. NMFS issues this notice describing the conditions under which applications will be accepted and how NMFS will determine which applications will be selected for funding.

DATES: Applications for funding under this program will be accepted between October 5, 1993, and 6 p.m. Eastern Standard Time on November 4, 1993. Applications received after that time will not be considered for funding. No applications will be accepted by facsimile machine submission.

Applications may be inspected at the NOAA Chesapeake Bay Office (see **ADDRESSES**) from November 9, 1993 through November 12, 1993.

Successful applicants generally will be selected within 90 days from the date of publication of this notice and the earliest start date for awards will normally be about 120 days after the date of publication of this notice.

ADDRESSES: Send applications to: M. Elizabeth Gillelan, Division Chief, NOAA Chesapeake Bay Office, National Marine Fisheries Service, 410 Severn Avenue, suite 107A, Annapolis, MD 21403.

Questions of an administrative nature should be referred to: Grants Management Division, Attn: Jean West, Chief, Grants Operations Branch, NOAA, SSMC2, OA321, 1325 East-West Highway, Silver Spring, MD 20910, telephone, 301-713-0926.

FOR FURTHER INFORMATION CONTACT: M. Elizabeth Gillelan, 410-280-1871.

SUPPLEMENTARY INFORMATION:

I. Introduction

The Fish and Wildlife Act of 1956, at 16 U.S.C. 753a, authorizes the Secretary of Commerce (Secretary) to conduct research to enhance U.S. fisheries. The Departments of Commerce, Justice, State, the Judiciary, and Related Agencies Appropriations Act of 1993 makes funds available to the Secretary.

The research to be funded is in support of the Oyster Disease Research Program, which provides information on American oyster disease-related research and management concerns in the northeastern United States. The program investigates selected aspects of the life cycle of oyster pathogens, physiological and genetic factors which influence disease resistance in the American oyster, *Crassostrea virginica*, and management strategies that would enhance survival of the public fishery and prospects for resource rehabilitation.

Oyster disease research is essential given the recent devastating effect of oyster diseases on the Maryland and Virginia oyster fisheries. Oyster harvests from the Chesapeake Bay reached record lows in 1992-1993. Fishery management approaches that manage around the diseases have not been able to guard against widespread disease outbreaks. New research into the diseases should provide new knowledge and new tools for managing and restoring these oyster populations.

II. Areas of Special Emphasis

A. Proposals should exhibit familiarity with related work that is completed or ongoing. Where appropriate, proposals should be multidisciplinary. Coordinated efforts involving multiple institutions or persons are encouraged. Women and minority individuals and groups are encouraged to submit applications. While the areas for special emphasis are listed below, proposals in other areas will be considered on a funds-available basis. Primary consideration for funding will be given to applications addressing the specific priorities listed in this section. These priorities are not listed in any implied order or priority. The NMFS will accept proposals which address other significant areas of research on *C. virginica;* however, consideration cannot be guaranteed.

Consideration will be given to applications which address the following American oyster disease research and management priorities for the northeastern United States:

1. Technical Priorities

a. Investigate the basic mechanisms (physiological, genetic, etc.) that may produce *C. virginica* more resistant/susceptible to the diseases currently affecting the Northeast Region's oyster populations. Applied research on existing techniques is encouraged.

b. Investigate selected aspects of the life cycle and natural history of *C. virginica* pathogens such as: Modes of transmission and identification of intermediate hosts; possible genetic basis (mechanisms) for disease transmission; effect of ambient conditions on host-parasite relationships; and development of culture media for study of parasitic life cycle stages.

c. Develop a population dynamics model that would distinguish disease effects on *C. virginica* from the effects of anthropogenic and other natural factors, using historical and current data available from affected populations in the Northeast Region.

d. Investigate juvenile oyster mortalities occurring in the Northwest Region. The identification of the definitive disease agent, its range, and impact on the oyster aquaculture industry remain unknown.

2. Management-Related Priorities

a. Develop and test new management strategies that would enhance survival of the fishery in the continuous presence of disease, such as the establishment of brood stock sanctuaries, genetic selection programs, aquaculture techniques, and oyster reef research and development.

b. Initiate resource surveys for effectively managing disease-affected oyster populations and providing background data to support development of management options for resource rehabilitation.

c. Evaluate the potential of a Geographic Information System approach for characterizing the transmission dynamics of oyster diseases.

d. Using sampling theory to assess oyster population dynamics, estimate the potential impact of diseases on oyster physiology, growth rates, and reproduction; develop simulation models for demonstrating effects of management strategies, such as fishery closures and catch limits; enhance mathematical programming models developed to optimize the oyster repletion program and refine model parameter estimates.

B. Applications addressing the priorities should build upon or take into account any related past of current

work. During FY 1992, funds under this program were awarded for the following projects, at a total cost of $1.3 million:

1. Use of immuno-stimulants to augment the resistance of the Eastern oyster *Crassostrea virginica* to infection by *Perkinsus marinus*.

2. A stock-recruitment model of the James River oyster fishery.

3. Studies of genetic variation between and within strains of the American oyster selected for disease resistance II. Analysis of anonymous nuclear loci.

4. Development of a microcomputer-based geographic information system (GIS) for the visualization, interpretation, and analysis of Maryland Chesapeake Bay oyster disease and population information.

5. American oyster stock assessment in Maryland.

6. *In vitro* propagation of *Perkinsus marinus*.

7. Resistance of *Crassostrea virginica* races to *Perkinsus marinus* isolates: A foundation for breeding and management.

8. Life cycle studies or *Haplosporidium nelsoni* (MSX) spores and non-oyster hosts.

9. Relative effects of harvest pressure and disease mortality on the population dynamics of the Eastern oyster in Delaware Bay.

10. Development of a DNA probe to investigate the life cycle of *Haplosporidium nelsoni* (MSX).

11. Life cycle studies of *Perkinsus marinus*-host specificity.

12. Flow cytometric quantification and analysis of *Perkinsus marinus* cells present in estuarine waters.

13. Integrated physiological investigation of the effects of protozoan parasitism in the oyster, *Crassostrea virginica*.

III. How to Apply

A. Eligible Applicants

1. The cooperative agreement has been determined as the appropriate funding instrument because of the substantial involvement of NMSF in developing program research priorities and evaluating the performance of recipients for effectiveness in meeting national and regional goals for Chesapeake Bay oyster conservation and restoration. Applications for cooperative agreements under the oyster disease research and management program may be submitted, in accordance with the procedure set forth in this notice, by any state agency, university, or other nonprofit organizations relating to cooperative research units. All solicited proposals will be considered by NMFS. Applicants will be expected to identify the principal investigators who will be conducting the research. Curricula vitae should also be provided for all essential personnel.

2. No award of Federal funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

a. The delinquent account is paid in full,

b. A negotiated repayment schedule is established and at least one payment is received, or

c. Other arrangements satisfactory to the Department of Commerce are made.

Successful applicants for oyster disease research funding, at the discretion of the NOAA Grants Officer, may be required to have their financial management system certified by an independent public accountant as being in compliance with Federal standards specified in the applicable Office of Management and Budget (OMB) circulars prior to execution of the award. Any first-time applicant for Federal grant funds is subject to a preaward accounting survey prior to execution of the award. NOAA employees, including full, part-time, and intermittent personnel (or their immediate families), and NOAA offices or centers are not eligible to submit an application under this solicitation, or aid in the preparation of an application, except to provide necessary information or guidance about the priorities and procedures included in this solicitation. However, NOAA employees are permitted to provide information about ongoing and planned NOAA programs and activities that may have implication for an application.

B. Amount and Duration of Funds

Under this solicitation, NMFS estimates that up to $1.3 million will be available to fund American oyster disease research and development projects under this program for one-year cooperative agreements. Projects start dates should be scheduled to begin no later than March 1, 1994. Publication of this notice does not obligate NMFS to award any specific grant or to obligate any part of the entire amount of funds available.

C. Cost-Sharing Requirements

Applications must reflect the total budget necessary to accomplish the project, including contributions and/or donations. Cost sharing is not required under the oyster disease research program. However, cost sharing is encouraged to enhance the value of a project, and in case of a tie in considering proposals for funding, cost-sharing may affect the final decision. The appropriateness of all cost-sharing will be determined on the basic of guidance provided in applicable Federal Cost principles. If an applicant chooses to cost-share and if that application is selected for funding, the applicants will be bound by the percentage of cost share reflected in the grant award.

The non-Federal share may include funds received from private sources or from State or local governments or the value of in-kind contributions. Federal funds may not be used to meet the non-Federal share of matching funds except as provided by Federal statute. In-kind contributions may be in the form of, but are not limited to, personal services rendered in carrying out functions related to the project, and permission to use real or personal property owned by others (for which consideration is not required) in carrying out the project.

The total cost of a project begins on the effective date of a cooperative agreement between the applicant and an authorized representative of the United States Government and ends on the date specified in the award. Accordingly, the time expended and costs incurred in either the development of a project or the financial assistance application, or in any subsequent discussions or negotiations prior to the award, are neither reimbursable nor recognizable as part of the recipient's cost share.

D. Format

1. Applications for project funding must be complete. Applicants must identify the specific research priority or priorities to which they are responding. For applications containing more than one primary project, each project component must be identified individually using the format in this section. If an application is not in response to a priority, it should be so stated. Applicants should not assume prior knowledge on the part of NMFS as to the relative merits of the project described in the application. Applications are not to be bound in any manner and should be one-sided. All incomplete applications will be returned to the applicant. Applicants must submit one signed original and two (2) copies of the complete application.

2. Applications must be submitted in the following format:

a. *Cover Sheet:* An applicant must use OMB Standard Form 424 (revised 4/88) as the cover sheet for each project. Applicants may obtain copies of these forms from the NOAA Grants Management Division or the NOAA Chesapeake Bay Office (see **ADDRESSES**).

b. *Project Summary:* Each proposal must contain a summary of not more than one page that provides the following:

(1) Project title.

(2) Project status (new or continuing). If continuing, show previous financial assistance award number and beginning/ending date.

(3) Project duration (beginning and ending dates).

(4) Name, address, and telephone number of applicant.

(5) Principal Investigator(s).

(6) Project objectives.

(7) Summary of work to be performed.

(8) Total Federal funds requested.

(9) Cost-sharing to be provided from non-Federal sources, if any. Specify whether contributions are project-related cash or in-kind.

(10) Total project cost.

c. *Project Description.* Each project must be completely and accurately described. Each project description may be up to 15 pages in length. NMFS will make all portions of the project description available to the public for review and comment; therefore, NMFS cannot guarantee the confidentiality of any information submitted as part of any project, nor will NMFS accept for consideration any project requesting confidentiality of any part of the project.

Each project must be described as follows:

(1) *Identification of Problem(s):* Describe the specific problem to be addressed and the area of emphasis to which the project responds (see section II above).

(2) *Project Goals and Objectives:* This is one of the most important parts of the Project Proposal. Use the following guidelines for stating the goal or objective of the project.

(a) Keep it simple and easily understandable.

(b) Be as specific and quantitative as possible.

(c) Specify the "what and when;" avoid the "how and why."

(d) Keep it attainable within the time, money, and manpower available.

(e) Use action verbs that are accomplishment oriented.

(3) *Need for Government Financial Assistance:* Demonstrate the need for assistance. Any appropriate data base to substantiate or reinforce the need for the Project should be included. Explain why other funding sources cannot fund all the proposed work. List all other sources of funding that are or have been sought for the project.

(4) *Benefits or Results expected:* Identify and document the results or benefits to be derived from the proposed activities.

(5) *Project Statement of Work:* The Statement of Work is the scientific or technical action plan of activities that are to be accomplished during each budget period of the project. This description must include the specific methodologies, by project job activity, proposed for accomplishing the proposal's objective(s). If the work described in this section does not contain sufficient detail to allow for proper technical evaluation, NMFS will not consider the application for funding and will return it to the applicant. Each Statement of Work must include the following information:

(a) The applicant's name.

(b) The inclusive dates of the budget period covered under the Statement of Work.

(c) The title of the proposal.

(d) The scientific or technical objectives and procedures that are to be accomplished during the budget period. Devise a detailed set of objectives and procedures to answer who, what, how, when, and where. The procedures must be of sufficient detail to enable competent workers to be able to follow them and to complete scheduled activities.

(e) Location of the work.

(f) A list of all project personnel and their responsibilities.

(g) A milestone table that summarizes the procedures (from item (d)) that are to be attained in each month covered by the statement of work.

(6) *Participation by Persons or Groups Other Than the Applicant:* Describe the level of participation required in the project(s) by NOAA or other government and non-government entities. Specific NOAA employees should not be named in the initial proposal.

(7) *Federal, State and Local Government Activities:* List any programs (Federal, State, or local government or activities including Sea Grant, state Coastal Zone Management programs, NOAA Chesapeake Bay Stock Assessment Committee, EPA/state Chesapeake Bay Program, etc.) this project would affect and describe the relationship between the project and those plans or activities.

(8) *Project Management:* Describe how the project will be organized and managed. Include resumes of Principal Investigators. List all persons directly employed by the applicant who will be involved in the project, their qualifications, and their level of involvement in the project.

(9) *Monitoring of Project Performance:* Identify who will participate in monitoring the projects.

(10) *Project Impacts:* Describe the impact of the project in terms of anticipated increased production, sales, product quality and safety, improved management, or any other values that will be produced by this project. Describe how these products or services will be made available to the fisheries and management communities.

(11) *Evaluation of Project:* The applicant is required to provide an evaluation of project accomplishments at the end of each budget period and in the final report. The application must describe the methodology or procedures to be followed to determine technical feasibility, or to quantify the results of the project in promoting increased production, product quality and safety, management effectiveness, or other measurable factors.

(12) *Total Project Costs:* Total Project costs is the amount of funds required to accomplish the proposed statement of work, and includes contributions and donations. All costs must be shown in a detailed budget. Cost-sharing must not come from another Federal source. Costs must be allocated to the Federal share and non-Federal share provided by the applicant or other sources. Non-Federal costs are to be divided into cash and in-kind contributions. A standard budget form (SF–424A) is available from the offices listed (see **ADDRESSES**). NMFS will not consider fees or profits as allowable costs for grantees. To support its budget, the applicant must describe briefly the basis for estimating the value of the non-Federal funds derived from in-kind contributions. Additional cost detail may be required prior to a final analysis of overall cost allowability, allocability, and reasonableness. The date, period covered, and findings for the most recent financial audit performed as well as the name of the audit firm, the contact person, and phone number and address must be also provided. Costs for the following categories must be detailed in the budget as follows:

(i) *Personnel.*

(a) Names and titles must be included for all project personnel.

Abbreviated curricula vitae are to be submitted with each proposal. Publication lists must be limited to all those documents prepared within the last three years. Up to five other relevant documents which fall outside this time frame will be accepted.

(b) *Salaries:* Identify salaries by position and percentage of time and annual/hourly salary of each individual dedicated to the project.

(c) *Fringe Benefits:* Indicate benefits associated with personnel working on the project. This entry should be the proportionate cost of fringe benefits paid for the amount of time spent in the

project. For example, if an employee spends 20 percent of his/her time on the project, 20 percent of his/her fringe benefits should be charged to the project.

(ii) *Consultants and Contract Services:* Identify all consultant and/or contractual service costs by specific task in relation to the project. If a commitment has been made prior to application to contract with a particular organization, explain how the organization was selected. Describe the type of contract, budget, deliverables expected, and time frame. A detailed budget must be submitted (with supporting documentation) for the total amount of funding requested for a subcontractor/consultant. All contracts must meet the standards established in OMB circulars.

(iii) *Travel and Transportation:* Identify the number of trips to be taken, destination, purpose, and number of people to travel. Itemize estimated costs, including approximate cost of transportation (air fare at coach rates), per diem rates, and any additional fees associated with the trip, such as registration fees, conference fees, etc. All applicants must include an estimated budget for the principal investigator to attend an annual meeting in the Mid-Atlantic region to review the progress being made on attaining the objectives of ongoing project activities.

(iv) *Equipment, Space, or Rental Costs:* Identify and itemize equipment costs or rental costs with intended use. Equipment purchases greater than $500 are discouraged, since experienced investigators are expected to have sufficient capital equipment on hand. Use of leave to purchase (LTOP) or similar leases are prohibited. Identify space or rental costs with specific uses.

(v) *Other Costs.*

(a) *Supplies:* Identify specific supplies necessary for the accomplishment of the project. Consumable office supplies must be included under Indirect Costs unless purchased in a large quantity to be used specifically for the project.

(b) *Postage and Shipping:* Include postage for correspondence and other project-related material, as well as air freight, truck, or rail shipping of bulk materials.

(c) *Printing Costs:* Include costs associated with producing materials in conjunction with the project.

(d) *Long Distance Telephone and Telegraph:* Identify estimated monthly bills.

(e) *Final audit:* Include costs of having a special audit of the project performed. This cost should not be included if an organizational audit will be used in place of a special audit for the project.

(f) *Utilities:* These costs should be included under Indirect Costs unless purchased in a large quantity to be specifically identified to the project. Identify costs of utilities and percentage of use in conjunction with performance of project.

(g) *Indirect costs:* This entry should be based on the applicant's established indirect cost agreement rate with the Federal government. A copy of the current, approved, negotiated Indirect Cost Agreement must be included. It is the policy of the Department of Commerce that indirect costs shall not exceed direct costs. In the case of considering closely ranked proposals for funding, the percentage of the budget allocated for indirect costs may affect the final decision.

(h) *Additional costs:* Indicate any additional costs associated with the project which are allowable under OMB Circulars A–21, A–87, and A–122 as applicable.

(i) *Geographic location.* Field, laboratory, and office locations must be identified for all project activities.

d. *Supporting Documentation:* This section should include any required documents and any additional information necessary or useful to the description of the project. The amount of information given in this section will depend on the type of project proposed, but should be no more than 20 pages. The applicant should present any information that would emphasize the value of the project in terms of the significance of the problems addressed. Without such information, the merits of the project may not be fully understood, or the value of the project may be underestimated. The absence of adequate supporting documentation may cause reviewers to question assertions made in describing the project and may result in lower ranking of the project. Information presented in this section should be clearly referenced in the project description.

IV. Review Process and Criteria.

A. Evaluation and Ranking of Proposed Projects

1. Unless otherwise specified by statute, in reviewing applications for cooperative agreements that include consultants and contracts, NOAA will make a determination regarding the following:

a. Is the involvement of the applicant necessary to the conduct of the project and the accomplishment of its goals and objectives?

b. Is the proposed allocation of the applicant's time reasonable and commensurate with the applicant's involvement in the project?

c. Are the proposed costs for the applicant's involvement in the project reasonable and commensurate with the benefits to be derived from applicant's participation?

2. For applications meeting the requirements of this solicitation, NMFS will conduct a technical evaluation of each project prior to any other review. This review normally will involve experts from non-NOAA as well as NOAA organizations. All comments submitted to NMFS will be taken into consideration in the technical evaluation of projects. NMFS will provide point scores on proposals based on the following evaluation criteria:

a. Problem description and project conceptual approach toward resolution, especially the applicant's comprehension of the problem(s), familiarity with related work that is completed or ongoing, and the overall concept proposed to resolve the problem(s) (30 points).

b. Soundness of project design/technical approach, especially whether the applicant provided sufficient information to technically evaluate the project and, if so, the strengths and weaknesses of the technical design proposed for problem resolution (35 points).

c. Project management and experience and qualifications of personnel, including organization and management of the project, and the personnel experience and qualifications (15 points).

d. Justification and allocation of the budget in terms of the work to be performed (20 points).

3. Applications will be ranked by NMFS into three groups: (a) Highly recommended, (b) recommended, and (c) not recommended. These rankings will be presented to a panel of fishery experts convened by NMFS. The panel members will also individually consider the significance of the problem addressed in the project, along with the technical evaluation and need for funding. The panel members' individual recommendations will aid NMFS in determining the appropriate level of funding for each project.

B. Consultation With Others

NMFS will make project descriptions available for review as follows:

1. *Public Review and Comment:* Applications may be inspected at the NOAA Chesapeake Bay Office (see **ADDRESSES** and **DATES**).

2. *Consultation with Members of the Fishing Industry, Management Agencies, Environmental Organizations,*

and Academic Institutions: NMFS shall, at its discretion, request comments from members of the fishing and associated industries, groups, organizations and institutions who have knowledge in the subject matter of a project or who would be affected by a project.

3. *Consultation with Government Agencies:* Applications will be reviewed by the NOAA Chesapeake Bay Office in consultation with the NMFS Northeast Regional Office, and appropriate NMFS laboratory personnel, NOAA Grants Officer, and as appropriate, Department of Commerce bureaus and other Federal and State agencies, for elimination of duplicate funding.

C. Funding Decision

After projects have been evaluated, the Chief of the NOAA Chesapeake Bay Office, in consultation with the NOAA Assistant Administrator for Fisheries, will ascertain which projects do not substantially duplicate other projects that are currently funded by NOAA or are approved for funding by other Federal offices, determine the projects to be funded, and determine the amount of funds available for the program. The exact amount of funds awarded to each project will be determined in pre-award negotiations between the applicant, the Grants Office, and the NOAA Chesapeake Bay Office staff. A project must not be initiated by a recipient until a signed award is received from the Grants Office.

V. Other Requirements

Recipients and subrecipients are subject to all applicable Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal financial assistance awards.

Primary Applicant Certification—All primary applicants must submit complete FORM CD–511, "Certification Regarding Debarment, Suspension and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying." Applicants are also hereby notified of the following:

1. *Nonprocurement Debarment Suspension*—Prospective participants (as defined at 15 CFR part 26, section 105) are subject to 15 CFR part 26, "Nonprocurement Debarment and suspension" and the related section of certification form prescribed above applies;

2. *Drug-Free Workplace*—Grantees (as defined at 15 CFR part 26, subpart F, "Governmentwide Requirements for Drug-Free Workplace (Grants)" and the related section of the certification form prescribed above applies;

3. *Anti-Lobbying*—Persons (as defined at 15 CFR part 28, section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, "Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions," and the lobbying section of the certification form prescribed above applies to applications/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

4. *Anti-Lobbying Disclosure*—Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, "Disclosure of Lobbying Activities," as required under 15 CFR part 28, appendix B.

Lower Tier Certifications—Recipients must require applicants/bidders for subgrants, contracts, subcontracts, or other lower tier covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, "Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying" and disclosure form, SF–LLL, "Disclosure of Lobbying Activities." Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or subrecipient should be submitted to DOC in accordance with the instructions contained in the award document.

Potential recipients may be required to submit an "Identification-Application for Funding Assistance" (Form CD–346), which is used to ascertain background information on key individuals associated with the potential recipient. The Form CD–346 requests information to reveal if any key individuals in the organization have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters pertinent to management honesty or financial integrity. Nonprofit and for-profit applicants will also be subject to credit check reviews.

A false statement on the application may be grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding. In addition, any recipient and or researcher who is past due for submitting acceptable progress reports on any previous project funded under this program may be ineligible to be considered for new awards until the delinquent reports are received, reviewed and deemed acceptable by the NMFS.

If an application for an award is selected for funding, the Department of Commerce has no obligation to provide any additional prospective funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of the Department of Commerce. Under no circumstances should an applicant proceed with the proposed project until such time that he/she has received a signed award from the Grants Officer. Notwithstanding any verbal assurance that the applicant may have received, there is no obligation on the part of the Department of Commerce to cover any costs. An applicant that incurs costs prior to an award being made proceeds solely at his/her own risk.

Grants awarded pursuant to pertinent statutes shall be in accordance with the Fisheries Research Plan (comprehensive program of fisheries research) in effect on the date of the award.

Classification

NMFS reviewed this solicitation in accordance with the E.O. 12291 and the Department of Commerce guidelines implementing that Order. This solicitation is not "major" because it is not likely to result in: (1) An annual effect on the economy of $100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

This notice does not contain policies with sufficient federalism implications to warrant preparation of a federalism assessment under E.O. 12612.

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

This notice contains collections of information subject to the Paperwork Reduction Act, which have been approved by the Office of Management and Budget under OMB Control Numbers 0348–0043 and 0605–0001.

This program is subject to the provisions of E.O. 12372. The Oyster Disease Research Program is listed in

the Catalog of Federal Domestic Assistance as 11.457, Chesapeake Bay Studies.

(Authority: 16 U.S.C. 753a)

Dated: September 30, 1993.

Samuel W. McKeen,

Program Management Officer.

[FR Doc. 93-24398 Filed 9-30-93; 12:19 pm]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Fiscal Year 1994 Updates

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of updated partial hospitalization per diem rates.

SUMMARY: This notice provides for the updating of per diem rates for both full-day and half-day CHAMPUS Partial Hospitalization Programs for fiscal year 1994.

EFFECTIVE DATE: The rates contained in this notice are effective for services occurring on or after October 1, 1993.

ADDRESSES: Office of the Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS), Program Development Branch, Aurora, CO 80045-6900.

For copies of the **Federal Register** containing this notice, contact the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238. The charge for the **Federal Register** is $1.50 for each issue payable by check or money order to the Superintendent of Documents.

FOR FURTHER INFORMATION CONTACT: David Bennett, Program Development Branch, OCHAMPUS, telephone (303) 361-1094. To obtain copies of this document, see the "ADDRESSES" section above. Questions regarding payment of specific claims under the CHAMPUS Partial Hospitalization Programs should be addressed to the appropriate CHAMPUS contractor.

SUPPLEMENTARY INFORMATION: The final rule published in the **Federal Register** on July 1, 1993, (58 FR 35400) set forth maximum per diem rates for all partial hospitalization admissions on or after September 29, 1993. Included in this final rule were provisions for updating reimbursement rates for each federal fiscal year. The rates were to be updated to the current fiscal year using the same factors as used under the CHAMPUS mental health per diem reimbursement system; i.e.; each per diem shall be updated by the Medicare update factor for hospitals and units exempt from the Medicare prospective payment system. Medicare has recommended an update factor of 4.3 percent for federal fiscal year 1994 for hospitals and units excluded for the prospective payment system. CHAMPUS will adopt this update for fiscal year (FY) 1994 as the final update factor. CHAMPUS Partial Hospitalization Programs will have their FY 1993 CHAMPUS per diem rates updated by 4.3 percent for FY 1994.

The following reflect an update of 4.3 percent.

PARTIAL HOSPITALIZATION RATES FOR FULL-DAY AND HALF-DAY PROGRAMS

United States census regions	Full-day rate (6 hrs or more)	Half-day rate (3-5 hours)
Northeast:		
New England (ME, NH, VT, MA, RI, CT)	$203	$153
Mid-Atlantic (NY, NJ, PA)	221	166
Midwest:		
East North Central (OH, IN, IL, MI, WI)	197	148
West North Central (MN, IA, MO, ND, SD, NE, KS)	194	146
South:		
South Atlantic (DE, MD, DC, VA, WV, NC, SC, GA, FL)	210	158
East South Central (KY, TN, AL, MS)	228	171
West South Central (AR, LA, TX, OK)	225	169
West:		
Mountain (MT, ID, WY, CO, NM, AZ, UT, NV)	234	176
Pacific (WA, OR, CA, AK, HI)	230	173

Dated: September 29, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-24381 Filed 10-4-93; 8:45 am]

BILLING CODE 5000-04-M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense 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).

Title and Applicable Form: Statement of Claimant Requesting Recertified Check; DD Form 2660.

Type of Request: New collection.

Number of Respondents: 350,000.

Responses per Respondent: 1.

Annual Responses: 350,000.

Average Burden per Response: 1/12 (5 min).

Annual Burden Hours: 29,167.

Needs and Uses: To identify payee in order to check issue records and to issue a replacement check based on payee's claim of non-receipt, loss, destruction, or theft of original check issued.

Affected Public: Individuals or households, state or local government, businesses or other for profit, federal agencies or employees, non-profit institutions, small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202-4302.

Dated: September 29, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93-24379 Filed 10-4-93; 8:45 am]

BILLING CODE 5000-04-M

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice.

The Department of Defense 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).

Title and OMB Control Number: DoD FAR Supplement, Subpart 209.1, Responsible Prospective Contractors, and the Provision at 252.209-7002, Disclosure of Ownership or Control by a Foreign Government; OMB Control Number 0704-0353.

Type of Request: Extension.
Number of Respondents: 25.
Responses per Respondent: 1.
Annual Responses: 25.
Average Burden Per Response: 1 hour.
Annual Burden Hours: 25.

Needs and Uses: Section 836 of Public Law 102–484, the National Defense Authorization Act for Fiscal Year 1993, prohibits award of a DoD contract under a national security program to a company owned by an entity controlled by a foreign government, if access to a proscribed category of information is necessary for performance of the contract. The guidance at DFARS 209.104 and the solicitation provision at DFARS 252.209–7002 implement the requirements of section 836 of the Public Law. The provision at DFARS 252.209–7002 requires companies submitting offers under solicitations for contracts requiring access to proscribed information to disclose any interest a foreign government has in the offeror, when that interest constitutes control by a foreign government.

Affected Public: Businesses of other for-profit and Small businesses or organizations.

Frequency: On occasion.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Mr. Peter N. Weiss.

Written comments and recommendations on the proposed information collection should be sent to Mr. Weiss at the Office of Management and Budget, Desk Officer for DoD, room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. William P. Pearce.

Written requests for copies of the information collection proposal should be sent to Mr. Pearce, WHS/DIOR, 1215 Jefferson Davis Highway, suite 1204, Arlington, VA 22202–4302.

Dated: September 29, 1993.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–24380 Filed 10–4–93; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF ENERGY

Floodplain/Wetlands Involvement for Environmental Restoration and Waste Management Activities at the Department of Energy's Paducah Gaseous Diffusion Plant; Paducah, KY

AGENCY: Department of Energy (DOE).

ACTION: Notice of floodplain and wetlands involvement.

SUMMARY: DOE proposes to perform environmental monitoring and site characterization, as well as extensive remedial action at the Paducah Gaseous Diffusion Plant (PGDP) in and around Paducah, Kentucky. Some areas of the approximately 5,000-acre site and adjacent areas, as well as areas where baseline information is sought, are within floodplains or include wetlands, and some proposed environmental monitoring and environmental restoration activities would take place in floodplains or wetlands. Site characterization and remedial actions would be undertaken pursuant to the applicable provisions of the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Some of the proposed actions could affect wetlands on or around the site or could be located in the floodplains of Big Bayou Creek, Little Bayou Creek, and the Ohio River and its tributaries. In accordance with 10 CFR part 1022, DOE will prepare a floodplain and wetlands assessment and will perform the proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplains and wetlands. Maps and further information on the proposed actions are available from DOE at the address below.

DATES: Comments on the proposed action are due to the address below no later than October 20, 1993.

ADDRESSES: Comments should be addressed to: Ms. Nancy K. Hendrix-Ward, National Environmental Policy Act, Program Manager, Environmental Restoration Division, U.S. Department of Energy, Information Resource Center, Post Office Box 2001, Oak Ridge, Tennessee 37831–8541. Fax comments to: (615) 576–6074.

FOR FURTHER INFORMATION CONTACT: Information on general DOE floodplain/wetlands environmental review requirements is available from: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: DOE proposes to carry out site characterization, as well as remedial/corrective actions, some of which would be located within floodplains or wetlands, at the PGDP. The proposed actions include:

1. Collection of samples—Collection of samples for environmental monitoring, site characterization, and treatability studies will be conducted to better understand the nature of the environment around the PGDP and to identify possible releases of contaminants or migration of contaminants already released to the environment. Environmental monitoring would occur throughout the site and would continue for the foreseeable future. Site characterization is tied chiefly to Remedial Investigations/RCRA Facility Investigations (RI/RFI) under CERCLA and RCRA and would be performed for each of the operable units (OUs).

The following types of activities could occur in a floodplain or wetland: (a) Sampling of air, surface water, ground water, sediments, surface and deeper soils; sampling, assessment, and evaluation of terrestrial and aquatic biota, and measurement of meteorological characteristics; (b) drilling of boreholes to obtain soil/geological samples (some of the boreholes would be completed as ground-water monitoring wells); (c) digging soil test pits by hand or backhoe; (d) taking a variety of noninvasive surveys (such as radiological surveys); (e) taking invasive surveys (such as with soil penetrometers and similar devices); and (f) conducting underground tests (such as aquifer pump, tracer geophysical log, vertical seismic profile, and seismic tests). The majority of the remaining RI/RFI field work to be done at PGDP is in OUs that are comprised of predominantly upland areas. Only a few sampling locations, such as those needed for surface waste, sediment, and a very few boreholes or wells and soil test pits, are expected to be in floodplains or wetlands.

2. Drilling or abandonment of boreholes and monitoring wells—Drilling new boreholes and monitoring wells involves driving a drilling rig to the designated site and drilling a hole, usually within a 1-day time-frame. It is possible that some of the wells could be drilled in wetlands. Drilling sites would be located outside of wetlands whenever possible and maintain the integrity of the sampling program. When relocation is not possible, measures will be taken to minimize disturbance of wetlands, as appropriate. Travel within floodplains will be restricted to established roads and tracks where available; if unavailable, measures will be taken to minimize the disturbance to the floodplain, as appropriate.

Abandoning a well typically involves removal of all foreign material from the well, including the existing bentonite grout, the bentonite seal, the silica-sand filter, and the well casing. The casing can be removed by one of several different methods—pulling it out of the well, destroying the casing in the hole and removing the pieces, overdrilling,

or over-coring. Each of these methods involves driving a drilling rig to the well site. Once in the field, it may be determined that some casings are not removable due to well depth, casing condition, or other factors. In these situations, the well casing and possibly the protective surface casing (a larger diameter pipe surrounding the upper portion of the well casing) will be left in place. Abandonment will be accomplished in this manner only when necessary. If the casing is removed, regardless of the removal method used, the resulting hole is reamed to the original construction depth and diameter to remove any remaining annular material and debris. The borehole is then filled with bentonite grout. For wells whose casing is not removed, abandonment would be accomplished by filling the casing with bentonite grout. The well casing and protective casing would be cut off below the ground surface. A concrete pad would be poured at all well abandonment locations to provide a surface seal. A metal cap showing the well identification number and the date of abandonment would be anchored to the concrete slab. Abandonment of a well would typically take 1 to 2 days, depending on the method used and the depth of the well.

3. Construction and Operation—Construction and operation of interim and final remedial/corrective actions and the construction and operation of buildings to implement or facilitate these actions will be based on the results of the RI/RFI now being conducted or planned. These proposed actions may consist of in-situ treatment, bioremediation, ground-water treatment, surface water treatment, soil treatments, and soil excavation. While remedial actions are expected to be constructed outside floodplains or wetlands, portions of such projects (particularly activities such as water collection, sampling, and installation of monitoring or similar devices) could be located within floodplains or could affect wetlands.

In accordance with DOE regulations for compliance with floodplain and wetland environmental review requirements (10 CFR part 1022), DOE will prepare a floodplain and wetland assessment for the proposed actions. For an action involving floodplains, a Statement of Findings will be issued separately or included in a NEPA document when the floodplain assessment has been completed and prior to taking the action. The Statement would be published in the **Federal Register** if an Environmental Impact Statement or Environmental Assessment is not prepared.

Clyde W. Frank,

Acting Principal Deputy Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 93–24445 Filed 10–4–93; 8:45 am]

BILLING CODE 6450–01–M

Floodplain and Wetlands Involvement for Proposed Remedial Investigation Activities at Waste Area Grouping 2, Oak Ridge National Laboratory, Oak Ridge, TN

AGENCY: U.S. Department of Energy (DOE).

ACTION: Notice of floodplain and wetlands involvement.

SUMMARY: DOE proposes to perform Remedial Investigation (RI) activities at Waste Area Grouping (WAG) at Oak Ridge National Laboratory (ORNL) on Oak Ridge Reservation in Oak Ridge, Tennessee. Some of the RI activities could be performed in the floodplains and wetlands associated with White Oak Lake and White Oak Creek, their tributaries, and the Clinch River. In accordance with DOE Regulations for Compliance with Floodplain/Wetlands Environmental Review Requirements (10 CFR part 1022), DOE will prepare a floodplain and wetlands assessment and will perform this proposed action in a manner so as to avoid or minimize potential impacts to or within the affected floodplain and wetlands.

DATES: Comments are due to the address below by October 20, 1993.

ADDRESSES: Mail comments to: Mr. Robert C. Sleeman, Director, Environmental Restoration Division, Oak Ridge Operations Office, U.S. Department of Energy, Post Office Box 2001, Oak Ridge, Tennessee 37831–8541. Fax comments to: (615) 576–6074.

FOR FURTHER INFORMATION CONTACT: For further information on general DOE floodplain environmental review requirements, contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight, EH–25, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: DOE would perform the proposed RI activities, such as sampling, in compliance with the Comprehensive Environmental Response, Compensation, and Liability Act and the National Contingency Plan (40 CFR 300.430). WAG 2, located in Melton Valley, consists of White Oak Creek and its tributaries downgradient of the ORNL mail facilities complex in Bethel Valley, White Oak Lake, the White Oak Creek Embayment on the Clinch River, and associated floodplain and wetlands. Although no buried sites are located within the WAG 2 boundaries, portions of WAG 2 have become radioactively contaminated as a result of operations and waste disposal activities in upgradient areas. Phase I RI activities may include, but are not limited to, soil, sediment, surface water, and ground-water sampling in streams and associated floodplain and wetlands areas. In accordance with DOE Regulations for Compliance with Floodplain and Wetlands Environmental Review Requirements (10 CFR part 1022), DOE will prepare a floodplain and wetlands assessment for this proposed DOE action. After DOE issues the assessment, a floodplain statement of findings will be published in the **Federal Register**.

Clyde W. Frank,

Acting Principal Deputy Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 93–24447 Filed 10–4–93; 8:45 am]

BILLING CODE 6450–01–M

Notice of Floodplain/Wetlands Involvement for Environmental Restoration and Waste Management Activities at the Department of Energy's Portsmouth Gaseous Diffusion Plant; Piketon, OH

AGENCY: Department of Energy (DOE).

ACTION: Notice of floodplain and wetlands involvement.

SUMMARY: DOE proposes to perform environmental monitoring and site characterization, as well as extensive remedial action and restoration at the Portsmouth Gaseous Diffusion Plant (PORTS) in and around Piketon, Ohio. Some areas of the approximately 7,000-acre site and adjacent areas, as well as areas where baseline information is sought, are within floodplains or include wetlands, and some proposed environmental monitoring and environmental restoration activities would take place in floodplains or wetlands. Site characterization and remedial actions would be undertaken pursuant to the applicable provisions of the Resource Conservation and Recovery Act (RCRA) and the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). Some of the proposed actions could be located in the floodplains of Little Beaver Creek, Big Beaver Creek, and the Scioto and Ohio Rivers and their tributaries, or could

affect wetlands on or around the site. In accordance with 10 CFR part 1022, DOE will prepare a floodplain and wetlands assessment and will perform the proposed actions in a manner so as to avoid or minimize potential harm to or within the affected floodplains and wetlands. Maps and further information on the proposed actions are available from DOE at the address below.

DATES: Comments are due to the address below no later than October 20, 1993.

ADDRESSES: Comments should be addressed to: Ms. Nancy K. Hendrix-Ward, National Environmental Policy Act, Program Manager, Environmental Restoration Division, U.S. Department of Energy, Information Resource Center, Post Office Box 2001, Oak Ridge, Tennessee 37831–8541. Fax comments to: (615) 576–6074.

FOR FURTHER INFORMATION CONTACT: Information on general DOE floodplain/wetlands environmental review requirements is available from: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH–25), U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–4600 or (800) 472–2756.

SUPPLEMENTARY INFORMATION: DOE proposes to carry out site characterization, as well as remedial/corrective actions, some of which would be located within floodplains or wetlands, at the PORTS. The proposed actions include:

1. Collection of samples.—Collection of samples for environmental monitoring, site characterization, and treatability studies will be conducted to better understand the nature of the environment around the PORTS and to identify possible releases of contaminants or movement of contaminants already released to the environment. Environmental monitoring would occur throughout the site and would continue for the foreseeable future. Site characterization is tied chiefly to Remedial Investigations/RCRA Facility Investigations (RI/RFI) under CERCLA and RCRA and would be performed for each of the operable units (OUs).

The following types of activities could occur in a floodplain or wetland: (a) Sampling of air, surface water, ground-water, sediments, surface and deeper soils; sampling, assessment, and evaluation of terrestrial and aquatic biota, and measurement of meteorological characteristics; (b) drilling of boreholes to obtain soil/geological samples (some of the boreholes would be completed as ground-water monitoring wells); (c) digging soil test pits by hand or backhoe; (d) taking a variety of noninvasive surveys (such as radiological surveys); (e) taking invasive surveys (such as with soil penetrometers and similar devices); and (f) conducting underground tests (such as aquifer pump, tracer geophysical log, vertical seismic profile, and seismic tests). The majority of the remaining RI/RFI field work to be done at PORTS is in OUs that are comprised of predominantly upland areas. Only a few sampling locations, such as those needed for surface waste, sediment, and a very few boreholes or wells and soil test pits, are expected to be in floodplains or wetlands.

2. Drilling or abandonment of boreholes and monitoring wells.—Drilling new boreholes and monitoring wells involves driving a drilling rig to the designated site and drilling a hole, usually within a 1-day time-frame. It is possible that some of the wells could be drilled in wetlands. Drilling sites would be located outside of wetlands whenever possible and maintain integrity of the sampling program. When relocation is not possible, measures will be taken to minimize disturbance of wetlands, as appropriate. Travel within floodplains will be restricted to established roads and tracks where available; if unavailable, measures will be taken to minimize the disturbance to the floodplain, as appropriate.

Abandoning a well typically involves removal of all foreign material from the well, including the existing bentonite grout, the bentonite seal, the silicia-sand filter, and the well casing. The casing can be removed by one of several different methods—pulling it out of the well, destroying the casing in the hole and removing the pieces, over-drilling, or over-coring. Each of these methods involves driving a drilling rig to the well site. Once in the field, it may be determined that some casings are not removable due to well depth, casing condition, or other factors. In these situations, the well casing and possibly the protective surface casing (a larger diameter pipe surrounding the upper portion of the well casing) will be left in place. Abandonment will be accomplished in this manner only when necessary. If the casing is removed, regardless of the removal method used, the resulting hole is reamed to the original construction depth and diameter to remove any remaining annular material and debris. The borehole is then filled with bentonite grout. For wells whose casing is not removed, abandonment would be accomplished by filling the casing with bentonite grout. The well casing and protective casing would be cut off below the ground surface. A concrete pad would be poured at all well abandonment locations to provide a surface seal. A metal cap showing the well identification number and the date of abandonment would be anchored to the concrete slab. Abandonment of a well would typically take 1 to 2 days, depending on the method used and the depth of the well.

3. Construction and operation.—Construction and operation of interim and final remedial/corrective actions and the construction and operation of buildings to implement or facilitate these actions will be based on the results of the RI/RFI being conducted or planned. These proposed actions may consist of in-situ treatment, bioremediation, ground-water treatment, surface water treatment, soil treatments, and soil excavation. While remedial actions are expected to be constructed outside floodplains or wetlands, portions of such projects (particularly activities such as water collection, sampling, and installation of monitoring or similar devices) could be located within floodplains or could affect wetlands.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements (10 CFR part 1022), DOE will prepare a floodplain and wetland assessment for the proposed actions. For an action involving floodplains, a Statement of Findings will be issued separately or included in a NEPA document when the floodplain assessment has been completed and prior to taking the action. The Statement would be published in the **Federal Register** if an Environmental Impact Statement or Environmental Assessment is not prepared.

Clyde W. Frank,

Acting Principal Deputy Assistant Secretary for Environmental Restoration and Waste Management.

[FR Doc. 93–24453 Filed 10–4–93; 8:45 am]

BILLING CODE 4000–01–P

Financial Assistance Award: Nez Perce Tribe

AGENCY: U.S. Department of Energy (DOE), Richland Field Office.

ACTION: Notice of intent to renew a noncompetitive financial assistance award.

SUMMARY: The DOE Richland Field Office, in accordance with 10 CFR 600.7(b)(2), gives notice of its plan to renew a noncompetitive grant to the Nez Perce (Indian) Tribe. Under the terms of

the award, the Nez Perce will continue to conduct activities related to the protection of Nez Perce treaty rights which may be impacted by activities associated with DOE's environmental restoration activities at the Hanford Site. This award implements elements of the DOE Five-Year Plan recognizing DOE's commitment to the participation of affected Indian tribes in the planning and implementation of the Five-Year Plan. It is also relevant to DOE's responsibility to comply with the Federal Trust Responsibility toward Native American groups.

DOE has determined that award on a noncompetitive basis is appropriate because the recipient is a unit of government and the activities to be supported are related to the performance of governmental functions within the jurisdiction of that unit of government, thereby precluding DOE provision of support to another entity. Since the award relates to agreements and treaties already made between the United States Government and the Nez Perce, it would be inappropriate for DOE to consider funding any other entity to be responsible for carrying out these activities. The duration of the renewal is expected to be 12 months from the effective date of the award.

FOR FURTHER INFORMATION CONTACT: Marji W. Parker, U.S. Department of Energy, Richland Field Office, P.O. Box 550, Richland, WA 99352, Telephone: (509) 376–2029.

Dated: September 28, 1993.

Robert D. Larson,

Director, Procurement Division, Richland Operations Office.

[FR Doc. 93–24446 Filed 10–4–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. CP93–739–000]

Panhandle Eastern Pipe Line Co.; Request Under Blanket Authorization

September 29, 1993.

Take notice that on September 24, 1993, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251–1642, filed in Docket No. CP93–739–000 a request pursuant to §§ 157.205 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.216) for authorization to abandon metering and regulation facilities located in Defiance County, Ohio, and Monroe County, Michigan, under Panhandle's blanket certificate issued in Docket No. CP83–83–000 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.

Panhandle proposes to abandon a metering and regulating facility in Ohio that was installed to deliver natural gas to the Johns-Manville Sales Corporation Manufacturing Plant. It is stated that no deliveries have been made using this facility since February 1987. Panhandle proposes to abandon a metering and regulating facility in Michigan that was installed to deliver gas to Michigan Gas Utilities. It is stated that no deliveries have been made using this facility since March 1988. It is explained that both sets of facilities are being abandoned at the written request of the respective customers, who no longer require service at these locations.

Any person or the Commission's staff may, within 45 days after 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.

Lois D. Cashell,

Secretary.

[FR Doc. 93–24353 Filed 10–4–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP93–741–000]

Tennessee Gas Pipeline Co.; Request Under Blanket Authorization

September 29, 1993.

Take notice that on September 24, 1993, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP93–741–000 a request pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212) for authorization to construct and operate a delivery point to Kentucky Utilities Company (Kentucky Utilities), in Garrard County, Kentucky, under Tennessee's blanket certificate issued in Docket No. CP82–413–000 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 proposes to construct and operate a delivery point to Kentucky Utilities, in Garrard County, Kentucky, to enable Kentucky Utilities source its gas under one or more of Tennessee's existing contracts under Rate Schedule IT. Such gas would be transported under § 284.223 of the Regulations. It is stated that the delivery tap involves two 12-inch hot taps and would cost $119,865 which would be reimbursed by Kentucky Utilities.

Any person or the Commission's staff may, within 45 days after 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.

Lois D. Cashell,

Secretary.

[FR Doc. 93–24354 Filed 10–4–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP93–147–000]

Tennessee Gas Pipeline Co.; Technical Conference

September 29, 1993.

In the Commission's order issued on August 31, 1993 in the above-captioned proceeding, the Commission directed that a technical conference be convened to discuss non-prudence issues concerning Tennessee Gas Pipeline Company's recovery of unrecovered Account No. 191 costs.

The conference to address the issues pertaining to Account No. 191 costs will be held on Wednesday, October 20, 1993, at 2 p.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 93–24355 Filed 10–4–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket Nos. RP93-148-000, RP93-148-001]

Tennessee Gas Pipeline Co.; Technical Conference

September 23, 1993.

In the Commission's order issued on August 31, 1993 in the above-captioned proceeding, the Commission directed that a technical conference be convened to discuss non-prudence issues concerning Tennessee Gas Pipeline Company's recovery of costs incurred for transportation on other pipelines, as reflected in Account No. 858.

The conference to address the issues pertaining to Account No. 858 costs will be held on Tuesday, October 19, 1993, at 2 p.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 93-24356 Filed 10-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. RP93-151-000, RP93-151-001 and RS92-23-013]

Tennessee Gas Pipeline Co.; Technical Conference

September 29, 1993.

In the Commission's order issued on August 31, 1993 in the above-captioned proceeding, the Commission directed that a technical conference be convened to discuss non-prudence issues concerning Tennessee Gas Pipeline Company's recovery of gas supply realignment (GSR) costs.

The conference to address the GSR costs will be held on Tuesday, October 19, 1993, at 10 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 93-24357 Filed 10-4-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP93-166-000]

Tennessee Gas Pipeline Co.; Technical Conference

September 29, 1993.

In the Commission's order issued on September 9, 1993 in the above-captioned proceeding, the Commission directed that a technical conference be convened to discuss Tennessee Gas Pipeline Company's method of resolving transportation imbalances.

The conference to address the issues concerning transportation imbalances will be held on Wednesday, October 20, 1993, at 10 a.m., in a room to be designated at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426.

All interested persons and Staff are permitted to attend.

Lois D. Cashell,

Secretary.

[FR Doc. 93-24358 Filed 10-4-93; 8:45 am]

BILLING CODE 6717-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-211034; FRL 4644-2]

Response to TSCA Section 21 Petition to Amend the Definition of Incinerator

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Denial.

SUMMARY: This notice responds to a citizen's petition submitted by the Hazardous Waste Treatment Council (HWTC), the Sierra Club, and the Izaak Walton League of America under section 21 of the Toxic Substances Control Act (TSCA)(15 U.S.C. 2620) to initiate a rulemaking to amend the definition of "incinerator" under 40 CFR 761.3 as it applies to disposal of polychlorinated biphenyls (PCBs). EPA is denying the petition because the petitioners' request that standards for non-incinerator thermal treatment technologies be adequate to protect human health and the environment from unreasonable risk of injury from PCBs is already met under the current TSCA PCB regulations. Other issues in the petition that are outside the scope of TSCA, such as the amendment of regulations governing hazardous waste treatment permits issued under the Resource Conservation and Recovery Act (RCRA) are not addressed in this response to the TSCA section 21 portion of the petition.

ADDRESSES: Copies of the petition and all related information used by the Agency to develop this response are located in the TSCA Public Docket Office (TS-793), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. G-102 East Tower, 401 M St., SW., Washington, DC 20460. They are available for review and copying from 8 a.m. to 12 noon, and 1 p.m. to 4 p.m., Monday through Friday, except for legal holidays.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (TS-799), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-543B, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD (202) 554-0551.

SUPPLEMENTARY INFORMATION: This notice responds to a citizen's petition submitted by the Hazardous Waste Treatment Council (HWTC), the Sierra Club, and the Izaak Walton League of America under section 21 of the Toxic Substances Control Act (TSCA)(15 U.S.C. 2620) to initiate a rulemaking to amend the definition of "incinerator" under 40 CFR 761.3 as it applies to disposal of polychlorinated biphenyls (PCBs).

I. Background

A. TSCA Section 21

Section 21 of the Toxic Substances Control Act (TSCA) provides that any person may petition the Administrator of EPA to initiate a proceeding for the issuance, amendment, or repeal of, among other things, rules imposing substantive controls on chemical substances or mixtures under section 6 of TSCA. Section 21(b)(3) requires that EPA grant or deny a petition within 90 days of its filing. If EPA, in its discretion, grants a section 21 petition, EPA must promptly commence an appropriate proceeding. If EPA denies the petition, the reasons for denial must be published in the **Federal Register**.

If EPA denies a petition within 90 days of the filing date, or fails to grant or deny within the 90-day period, the petitioner may commence a civil action in a Federal district court to compel EPA to initiate the requested action. This suit must be filed within 60 days of the denial, or within 60 days of the expiration of the 90-day period if EPA fails to grant or deny the petition within that period.

B. Summary of Petition

On July 14, 1993, the Hazardous Waste Treatment Council (HWTC), the Sierra Club, and the Izaak Walton League of America ("petitioners") petitioned EPA under section 21 of TSCA, section 7004(a) of the Resource Conservation and Recovery Act (RCRA), and the Administrative Procedure Act, 5 U.S.C. 553(e), for the amendment of EPA's regulations to address the thermal oxidation of material contaminated with polychlorinated biphenyls (PCBs) and/or hazardous wastes in various treatment devices, including thermal desorbers and sludge dryers. Specifically, the petitioners ask EPA to

revise the definition of incinerator in the Code of Federal Regulations (CFR) at 40 CFR 761.3 and 260.10 to:

(1) Define any device that "heats the waste in an oxidizing environment" as an incinerator.

(2) Exclude thermal desorbers, provided they meet certain design and operating criteria (nonoxidative atmosphere, indirect or radiant heat, no fuel combustion in presence of waste).

(3) Delete references in the § 761.3 incinerator definition to rotary kilns, liquid injection incinerators, cement kilns, and high temperature boilers.

(4) Delete the reference to sludge dryers in § 260.10.

The petitioners maintain that certain new alternative technologies are allowed to be used in the treatment of waste, including incidental combustion, without meeting the same standards required of incinerators, thereby endangering the health of the public and the environment by releasing excessive amounts of waste and combustion byproducts to the air. As an example, the petition describes a thermal desorber technology ("hybrid desorber") used at the Reynolds Metals Company Superfund cleanup site in Massena, New York. The petitioners did not provide specific data indicating that the unit in question poses an unreasonable risk, rather they indicate that its design possibly allows incomplete combustion and the release of products of incomplete combustion, particularly if the unit is improperly operated. The petitioners maintain that due to ambiguities in the current incinerator definitions, technologies such as these are able to avoid the strict hazardous waste incinerator standards of 40 CFR part 264, subpart O. Moreover, "overly-flexible interpretation" of applicable or relevant and appropriate requirements (ARARs) at CERCLA remediation sites has resulted in even less stringent regulation of these alternative technologies.

II. EPA's Decision

This notice addresses only the TSCA section 21 portion of the petition. Section 21 of TSCA authorizes any person to petition the Administrator to "initiate a proceeding for the issuance, amendment, or repeal" of a rule under section 4, 6, or 8, or an order under section 5(e) or 6(b)(2) of TSCA. Section 21 does not authorize a person to petition EPA to issue, amend or repeal rules issued under RCRA, CERCLA or any statute administered by EPA other than TSCA. Accordingly, this notice is not a response to the portion of the petition addressed to section 553(e) of the APA or section 7004(a) of RCRA to amend the definition of incinerator in 40 CFR 260.10. The portion of the petition addressing RCRA is still under review and will be addressed in a separate response later. To the extent the petitioners seek review of a site-specific application of TSCA regulations to a site being addressed under CERCLA, 42 U.S.C. 9601 et seq., that challenge is also not appropriate in the form of a TSCA section 21 petition.

EPA has concluded that, in the TSCA portion of the petition the petitioners have not presented information that warrants initiating rulemaking. Specifically, EPA is denying the portion of the petition filed under section 21 of TSCA for the following reasons:

1. A change to the definition of incinerator at 40 CFR 761.3 is not necessary, because all devices permitted under TSCA must already meet equivalent standards for the protection of health and the environment, irrespective of whether they are permitted as incinerators or they are permitted as "alternative methods," and the existing standards already protect against unreasonable risks from disposal of PCBs.

EPA's PCB regulations at 40 CFR 761.3 define "incinerator" to mean:

> An engineered device using controlled flame combustion to thermally degrade PCBs and PCB Items. Examples of devices used for incineration include rotary kilns, liquid injection incinerators, cement kilns, and high temperature boilers.

EPA does not interpret this definition to include what the petitioners describe as a "thermal desorber." Rather, a thermal desorber used to destroy PCBs and PCB Items that are required to be destroyed by incineration would be regulated as an "alternative method" under 40 CFR 761.60(e). Under that section, "any person who is required [by 40 CFR part 761] to incinerate any PCBs and PCB Items ***and who can demonstrate that an alternative method of destroying PCBs and PCB Items exists and that this alternative method can achieve a level of performance equivalent to § 761.70 incinerators," may submit a request for an exemption from the incinerator requirements and a request for an approval to use an alternative method to destroy PCBs and PCB Items. Any person requesting approval for such an alternative method must also show that the alternative method "will not present an unreasonable risk of injury to health or the environment." 40 CFR 761.60(e).

EPA may only approve the use of the alternative method for the disposal of PCBs if it determines that the method provides PCB destruction equivalent to that required for incinerators or high efficiency boilers, and the use of the method will not present an unreasonable risk of injury to health or the environment. (Section 761.60(a)(2) and (3) specifies that only liquid PCBs at concentrations below 500 ppm may be destroyed in "high efficiency boilers" as an alternative to incineration; accordingly, for the destruction of these low concentration liquids, EPA may approve alternative methods if it determines that they are equivalent to high efficiency boilers, and that they pose no unreasonable risk of injury to health or the environment.) EPA believes that the regulation for permitting of alternative methods already provides for adequate protection from unreasonable risk of injury to health and the environment, and provides protections equivalent to those afforded by the regulations for permitting of incinerators under 40 CFR part 761.

For example, the measure of performance for all technologies destroying PCBs in the TSCA PCB regulations is the proportion of PCBs that is destroyed. This proportion is expressed as the destruction and removal efficiency (DRE) and a minimum DRE of 99.9999 percent is required to be achieved for the incineration of both liquid and non-liquid PCBs. Petitioners maintain that amending the definition of incinerator to include devices such as thermal desorbers would subject thermal desorbers to a standard of efficiency not now required, a DRE of 99.9999 percent. However, § 761.60(e) already requires alternative methods to incineration to meet a level of performance equivalent to that required for incinerators, which EPA has always interpreted to mean that alternative technologies must demonstrate a minimum DRE of 99.9999 percent for PCBs before the Agency will issue a TSCA disposal permit. (The Agency has never received a request for approval of an alternative method to high efficiency boilers, and minimum standards for these units have not been set. High efficiency boiler standards are not addressed by this petition.) Thus, the petitioners' contention that amending the definition of incinerator to include devices such as thermal desorbers would subject the devices to a higher efficiency standard is incorrect.

It should be noted that EPA does not interpret the performance standards for the incineration of liquid and non-liquid PCBs to be exactly the same. Rather, EPA interprets these standards to be equivalent. This is significant, because, in a footnote to their statement advocating a revised definition of

incinerator, the petitioners state that incineration of non-liquid PCBs must comply with the requirements established in § 761.70(a)(1) for incineration of liquid PCBs. This is not correct. Section 761.70 establishes provisions for regulation of those facilities used to incinerate PCBs. Paragraph (a) of § 761.70 provides the standards for incineration of liquid PCBs and paragraph (b) provides the standards for incineration of non-liquid PCBs. The standards for incineration of liquid and non-liquid PCBs are essentially the same except that for incineration of liquid PCBs, the regulations provide dwell time, combustion temperature, and excess oxygen requirements not specifically required for the incineration of non-liquid PCBs. The standards for liquid PCBs are intended to result in the equivalent thermal destruction of PCBs as the 99.9999 percent DRE provided in § 761.70(b)(1) for non-liquid PCBs; specific combustion temperature, dwell time, and excess oxygen levels are not required for the destruction of non-liquid PCB wastes. The TSCA PCB disposal regulations recognize that the combustion criteria specified in § 761.70(a)(1) for the incineration of liquid PCBs are not appropriate for incineration of non-liquid PCBs for three major reasons: it is much more difficult to adjust and control the charging and dispersal of non-liquid PCBs than liquid PCBs; there is usually less material which supports thermal combustion, and more that retards thermal combustion, in non-liquid PCBs than liquid PCBs; and there is usually much less consistency in the PCB concentration in non-liquid PCBs than there is in liquid PCBs. Therefore, the standards for incineration of liquid and non-liquid PCBs differ, but both are intended to result in a DRE of 99.9999 percent.

Further, contrary to the petitioners' claim, amending the definition of "incinerator" would not subject a device such as a thermal desorber to more stringent "operating standards". Operating standards and conditions, such as combustion efficiency, feed rate, temperature, stack monitoring, and stack emission controls ensure that a unit is operating according to specification, meeting the performance standard (DRE), and minimizing emissions of harmful combustion byproducts. Monitoring conditions and the maintenance of records also allow EPA to monitor the unit's performance for compliance purposes. Operating conditions for all incinerators are set forth in 40 CFR 761.70(a)(2)–(9) and (b)(2). Under § 761.60(e) operating conditions for alternative methods are not enumerated in the regulations, but are left to the Agency to specify when it approves a new technology. The petitioners imply that because the operating standards for destruction of PCBs using an alternative method are not established in the regulations, the operating standards for incinerators are therefore more stringent. However, they provide no evidence to support such a claim. In fact, the operating standards specified for any alternative disposal unit approved under § 761.60(e) are as stringent as necessary to provide equivalent destruction as produced under the operating standards required for incinerators pursuant to § 761.70(a)(2)–(9) and (b)(2). When EPA issues a TSCA approval, any conditions necessary to ensure the correct operation of an alternative disposal unit are included in the approval. Specific operating conditions for alternative methods are not established by regulation because the variety of methods demands that the Agency tailor conditions to each new technology as it is developed. Moreover, the operating requirements specified for incinerators at § 761.70(a) and (b) may be inappropriate for many of these non-incinerator disposal technologies.

In sum, both the performance standard and any relevant and appropriate operating conditions must protect against unreasonable risk of injury to health and the environment, regardless of whether a thermal desorber or other alternative thermal or non-thermal disposal technology is permitted under § 761.60(e) or § 761.70. Amending the definition of incinerator at § 761.3 to include devices such as thermal desorbers is unnecessary and would not result in greater protection to health or the environment, because the existing regulations provide equivalent and adequate protection against unreasonable risk.

2. The petitioners' proposed change to the definition of incinerator at § 761.3 could create definitional ambiguity and subsequent administrative difficulties that the Agency believes should be avoided.

The petitioners state that their proposed new definition of incinerator will establish a "bright line" to distinguish between incinerators and non-incinerators. The Agency believes, however, that the overly broad nature of the proposed definition has a potential to create substantial ambiguity, and consequently, confusion in the regulated community. The definition of an incinerator as any device that "heats the waste in an oxidizing environment" is so broad in scope that it could be interpreted to include almost any destruction unit, even devices bearing little resemblance to a traditional incinerator, or those where oxidation is only incidental to other waste treatment, if oxidation occurs at all. Many PCB disposal processes, such as the biological degradation of PCBs in aerobic conditions at incubation temperatures slightly above ambient temperature, or the physical separation of PCBs from solvents through distillation under atmospheric, non-reducing, or non-inert conditions could be considered "heating waste in an oxidizing environment" under the petitioners' suggested definition for an incinerator. As a result, to avoid confusion, the Agency would need to develop a comprehensive listing of those units it does not consider to be engaged in incineration. Compiling such a list, and keeping it current and accurate would be difficult in terms of time and resources. For example, EPA would need to modify the list, perhaps through rulemaking, every time a new technology was introduced, introducing extra expenses for the Agency, and delaying the development of new technologies — delays that are unwarranted by the risks posed.

III. Public Record

A. Supporting Documentation

EPA has established a record for its response to this petition under section 21 of TSCA (docket number OPPTS–211034). The record contains the basic information considered by EPA in reaching this decision.

B. References

The following references are included in the record for this action:

1. Letter from Richard C. Fortuna, Executive Director, Hazardous Waste Treatment Council, et al. to Richard J. Guimond, Acting Assistant Administrator, OSWER, and Victor J. Kimm, Acting Assistant Administrator, OPPTS, USEPA. (July 13, 1993): 2pp.

2. Petition for rulemaking to amend EPA's regulations to address thermal oxidation of hazardous wastes and PCBs in thermal desorbers, sludge dryers and other devices. Submitted to the USEPA by Richard C. Fortuna, Executive Director, Hazardous Waste Treatment Council, et al. (July 13, 1993): 32pp and attachments.

3. Letter from John W. Noland, President, SoilTech ATP Systems, Inc., to Carol M. Browner, Administrator, USEPA. Subject: references to SoilTech disposal unit in petition (July 29, 1993): 3 pp.

4. Letter from John A. Millett and Connie Glover Ritzert, Aluminum Company of America (Alcoa), to Carol M. Browner, Administrator, USEPA. Subject: references in petition to use of SoilTech unit at Alcoa's

Massena, NY, cleanup site (August 11, 1993): 3pp.

5. Letter from Eugene Berman, Vice President, Regulatory Affairs, Molten Metal Technology, Inc., to Richard Guimond, Acting Assistant Administrator, OSWER, and Victor J. Kimm, Acting Assistant Administrator, OPPTS, USEPA. Subject: references in petition to Molten Metal Technology's Catalytic Extraction Process (September 1, 1993): 4pp.

IV. Conclusion

EPA is hereby denying the portion of this petition filed under and addressed to section 21 of TSCA, because the Agency has determined that the action requested by the petitioners is not necessary to protect against unreasonable risk of injury to human health or the environment.

List of Subjects

Environmental protection, Polychlorinated biphenyls.

Authority: 15 U.S.C. 2620

Dated: September 27, 1993.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 93-24434 Filed 10-4-93; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4784-9]

Nebraska; Partial Program Adequacy Determination of State/Tribe Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency.

ACTION: Notice of tentative determination on program application of Nebraska for partial program adequacydetermination, public hearing and comment period.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA) as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site- specific flexibility provided by 40 CFR part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Criteria will apply to all permitted and unpermitted MSWLF facilities.

Nebraska applied for a partial determination of adequacy under section 4005 of RCRA. EPA has reviewed Nebraska's MSWLF application and made a tentative determination for those portions of Nebraska's MSWLF permit program that are adequate to assure compliance with 40 CFR part 258. These portions are described later in this notice. Nebraska plans to revise the remainder of its permit program to assure complete compliance with 40 CFR part 258 and gain full program approval. Nebraska's application for partial program adequacy determination is available for public review and comment.

Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF program, the Region has tentatively scheduled a public hearing on this determination. If a sufficient number of people express interest in participating in a hearing by writing the Region or calling the contact given below within 30 days of the date of publication of this notice, the Region will hold a hearing on the date given below in the "**DATES**" section. The Region will notify all persons who submit comments on this notice if it decides to hold the hearing. In addition, anyone who wishes to learn whether the hearing will be held may call the person listed in the "**FOR FURTHER INFORMATION CONTACT**" section below.

DATES: All comments on Nebraska's application for a partial determination of adequacy must be received by the close of business on November 4, 1993 or, if a public hearing is held, at the close of the public hearing. If the Region holds a public hearing, it will be held on November 19, 1993 from 1 to 5 p.m., at the Nebraska Center, University of Nebraska-Lincoln, East Campus, 33rd and Holdrege, North Platte Room # 103 NCEE, Lincoln, Nebraska. Representatives of the State of Nebraska will participate in the public hearing held by EPA on this subject.

ADDRESSES: Copies of Nebraska's application for partial adequacy determination are available from 8 a.m. to 4:30 p.m., Monday through Friday, at the following addresses for inspection and copying: Office of Public Affairs, Atrium Building, Suite 400, 1200 N Street, Lincoln, Nebraska 68509 Attn: Mr. Joseph Francis, telephone 402-471-0001; and U.S. EPA Region VII Library, 726 Minnesota Avenue, Kansas City, Kansas 66101, telephone 913-551-7000.

Written comments should be sent to Ms. Altheà M. Moses, Mail Code WSTM/RCRA/STPG, EPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: EPA Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, Attn: Ms. Altheà M. Moses, Mail Code WSTM/RCRA/STPG, telephone 913-551-7055.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated 40 CFR part 258. Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria under part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with 40 CFR part 258. To fulfill this requirement, the Agency has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in the STIR to allow partial approvals if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with 40 CFR part 258; (2) changes to a limited, narrow part(s) of the Nebraska permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal

permit program are a clearly identifiable and separable subset of 40 CFR part 258. These requirements if promulgated, will address the potential problems posed by the dual State/Tribal and Federal programs that will come into effect on October 9, 1993 in those States/Tribes that only have partial approvals of their MSWLF programs. On that date, Federal rules covering any portion of a State/Tribe's program that has not received EPA approval will become enforceable under RCRA. Owners and operators of MSWLF's subject to such dual programs must be able to understand which requirements apply and comply with them. In addition, the pieces of the Federal program that are in effect must mesh well enough with the approved portions of the State/Tribal program to leave no significant gaps in regulatory control of MSWLF's. Partial approval would allow the Agency to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State/Tribal permitting agency to take advantage of the 40 CFR part 258 flexibility for those portions of the program which have been approved.

40 CFR part 258 will take effect on October 9, 1993 in any State/Tribe that lacks an approved program. Consequently, any remaining portions of 40 CFR part 258 which are not included in an approved State/Tribal program by October 9, 1993 would apply directly to the owner/operator.

EPA intends to approve portions of State/Tribal permit programs prior to the promulgation of STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to 40 CFR part 258. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

EPA also is requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. EPA notes that it intends to propose to make submission of a schedule mandatory in STIR.

The October 9, 1991 publication of 40 CFR part 258 included an exemption at 40 CFR 258.1(f) for owners and operators of certain small MSWLF units (existing, new, or lateral expansion) from the design (subpart D) and ground water monitoring and corrective action (subpart E) requirements of 40 CFR part 258. To qualify for the exemption, the small landfill had to accept less than 20 tons per day on an average annual basis, exhibit no evidence of ground-water contamination, and serve either:

(i) A community that experiences an annual interruption of at least three consecutive months of surface transportation that prevents access to a regional waste management facility, or

(ii) A community that has no practicable waste management alternative, and the landfill unit is located in an area that annually receives less than or equal to 25 inches of precipitation.

In adopting this exemption, the Agency maintained that it had complied with the statutory standard to protect human health and the environment, taking into account the practicable capabilities of small landfill owners and operators.

On February 12, 1992, the National Resources Defense Council (NRDC) filed petition with the U.S. Court of Appeals, District of Columbia Circuit, for review of the Criteria. The NRDC suit alleged, among other things, that EPA acted illegally when it exempted these small landfills from the ground water monitoring requirements. On May 7, 1993 the United States Court of Appeals issued an opinion pertaining to the NRDC challenge to the small landfill exemption in *Sierra Club* v. *United States Environmental Protection Agency*, 992 F.2d 337 (D.C. Cir. 1993).

The Court held that under RCRA section 4010(c), the only factor EPA could consider in determining whether facilities must monitor their ground water was whether such monitoring was necessary to detect contamination, not whether such monitoring is "practicable". The Court noted that while EPA could consider such factors as size, location, and climate in determining the extent or kind or ground water monitoring that a landfill owner/operator must conduct, EPA could not justify the complete exemption from ground water monitoring requirements. Thus, the Court vacated the small landfill exemption as it pertains to ground water monitoring, directing the Agency to revise its final rule to require ground water monitoring, as necessary to detect contamination, at all landfills.

As a result of the Court decision in *Sierra Club*, for all State/Tribal landfill permit programs which had adopted the small facilities exemption from ground water monitoring, this portion of their programs is inadequate.

On July 28, 1993 the proposed rule, "Solid Waste Disposal Facility Criteria; Delay of the Effective Date" was published in the **Federal Register**. Within this proposal the Agency solicited comments on alternative ground water monitoring programs that could accommodate the practicable capability of small landfill owners/operators through consideration of size, location, and climate, while ensuring that the program is adequate to detect contamination.

B. The State of Nebraska

On August 19, 1993, Nebraska submitted an application for partial program adequacy determination. EPA reviewed Nebraska's application and tentatively determined that all portions of the Nebraska's landfill permit program, except the exemption from ground water monitoring at small facilities which appears in Nebraska Department of Environmental Quality, Title 132, *Rules and Regulations Pertaining to Solid Waste Management*, Chapter 10 Section 001, will ensure compliance with 40 CFR part 258.

Not all States/Tribes will have existing permit programs through which they can ensure compliance with all provisions of the 40 CFR part 258. Were EPA to restrict a State/Tribe from submitting its application until it could ensure compliance with the entirety of 40 CFR part 258, many States/Tribes would need to postpone obtaining approval of their permit programs for a significant amount of time. This delay in determining the adequacy of the State/Tribe permit program while the State/Tribe revises its statutes or regulations could impose a substantial burden on owners and operators of landfills because the State/Tribe would be unable to exercise the flexibility

available to States/Tribes with permit programs which have been approved as adequate.

To ensure compliance with all of 40 CFR part 258, Nebraska needs to revise particular aspects of its permit program. Nebraska proposes to amend their regulations to comply with the decision in *Sierra Club*, by April 1995. EPA reviewed the State's proposal and believes it is reasonable because the State of Nebraska in good faith adopted the requirements of 40 CFR part 258 in its entirety as it appeared on October 9, 1991 in the **Federal Register**. The portion of the Nebraska program which is not approvable today was vacated in the Court decision mentioned above, which vacated the exemption from ground water monitoring at small facilities. To allow the State/Tribe to begin exercising some of the flexibility allowed in States/Tribes with adequate permit programs, EPA is proposing to approve those portions of the State/Tribes's program that are ready for action today.

The public may submit written comments on EPA's tentative determination until November 4, 1993 or, if a public hearing is held, at the close of the public hearing. Copies of Nebraska's application are available for inspection and copying at the location indicated in the "ADDRESSES" section of this notice. Region VII will hold a public hearing, if significant requests are received within 30 days of the date of publication of this notice, on its tentative decision on November 19, 1993 at the Nebraska Center on the University of Nebraska–Lincoln in Lincoln, Nebraska.

The State of Nebraska's landfill permit program is not enforceable on Indian Lands.

EPA will consider all public comments on its tentative determination received during the public comment period and during any public hearing held. Issues raised by those comments may be the basis for a determination of inadequacy for Nebraska's program. EPA intends to make a final decision on whether or not to approve Nebraska's program by December 6, 1993 and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all significant comments.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to 40 CFR part 258, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with 40 CFR part 258. See 56 FR 50978, 50995 (October 9, 1991).

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C 605(b), I hereby certify that this approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: September 28, 1993.

Susan Gordon,

Acting Regional Administrator.

[FR Doc. 93–24429 Filed 10–4–93; 8:45 am]

BILLING CODE 6560–50–F

[FRL–4785–4]

North Dakota; Final Determination of Partial Program Adequacy of State/Tribal Municipal Solid Waste Landfill Permit Program

AGENCY: Environmental Protection Agency (Region VIII).

ACTION: Notice of final determination of partial program adequacy of North Dakota's application.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or conditionally exempt small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). RCRA section 4005(c)(1)(C) requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is in the process of proposing a State/Tribal Implementation Rule (STIR) that will provide procedures by which EPA will approve, or partially approve, State/Tribal landfill permit programs. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide for interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal landfill Criteria will apply to all permitted and unpermitted MSWLFs.

North Dakota applied for a partial program determination of adequacy under section 4005 of RCRA. EPA reviewed North Dakota's application and made a tentative determination of adequacy for those portions of the MSWLF permit program that are adequate to ensure compliance with the revised MSWLF Criteria. After reviewing all comments received, EPA today is granting final approval to North Dakota's partial program.

EFFECTIVE DATE: The determination of adequacy for North Dakota shall be effective on October 5, 1993.

FOR FURTHER INFORMATION CONTACT: Gerald Allen, Mail Code 8HWM-WM, Waste Management Branch, U.S. EPA Region VIII, 999 18th Street, Suite 500, Denver, Colorado 80202–2466, telephone (303) 293–1496.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that facilities comply with the Federal Criteria under part 258. Subtitle D also requires in section 4005 that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the

State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in STIR to allow partial approval if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with part 258; (2) changes to a limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of part 258.

As provided in the October 9, 1991, municipal landfill rule, EPA's national Subtitle D standards will take effect in October 1993. Consequently, any remaining portions of the Federal Criteria which are not included in an approved State/Tribal program by October 1993 would apply directly to the owner/operator.

On July 28, 1993, EPA proposed to modify the effective date of the landfill Criteria for certain classifications of landfills (50 FR 40568). Thus, for certain small landfills, the Federal Criteria may not be effective until April 9, 1994, instead of October 9, 1993. EPA intends to publish the final ruling on the effective date extension prior to October 9, 1993. The exact classifications of landfills and final extent of the effective date extension will depend on comments received in response to the proposal.

The requirements of the STIR, if promulgated, will ensure that any mixture of State/Tribal and Federal rules that take effect will be fully workable and leave no significant gaps in environmental protection. These practical concerns apply to individual partial approvals granted prior to the promulgation of the STIR rule. Consequently, EPA reviewed the program approved today and concluded that the State/Tribal and the Federal requirements mesh reasonably well and leave no significant gaps. Partial approval would allow the Agency to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State/Tribal permitting agency to take advantage of the Criteria's flexibility for those portions of the program which have been approved.

EPA will review State/Tribal requirements to determine whether they are "adequate" under section 4005(c)(1)(C) of RCRA. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF Criteria. Next, the State/Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program. EPA also is requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. EPA notes that it intends to propose to make submissions of a schedule mandatory in STIR.

B. State of North Dakota

On June 25, 1993, North Dakota submitted an application to obtain a partial program adequacy determination for the State's municipal solid waste landfill permit program. On July 29, 1993, EPA published a tentative determination of adequacy for North Dakota's program. Further background on the tentative partial program determination of adequacy appears at 58 FR 40643 (July 29, 1993).

Along with the tentative determination, EPA announced the availability of the application for public comment. EPA also tentatively scheduled a public hearing for September 14, 1993, to be held if a sufficient number of peopled expressed interest in participating. After no one expressed interest, the Agency cancelled the public hearing.

EPA has reviewed North Dakota's application and has determined that the following portions of the State's MSWLF permit program will ensure compliance with the revised Federal Criteria.

1. Location restrictions for airport safety (40 CFR 258.10(a), (c), and (d)), flood plains (40 CFR 258.11), wetlands (40 CFR 258.12), fault areas (40 CFR 258.13), seismic impact zones (40 CFR 258.14), and unstable areas (40 CFR 258.15).

2. Operating criteria for cover material (40 CFR 258.21), disease vector control (40 CFR 258.22), explosive gases control (40 CFR 258.23(a)), air criteria (40 CFR 258.24), access requirements (40 CFR 258.25), run-on/run-off control systems (40 CFR 258.26), surface water (40 CFR 258.27), and liquids restrictions (40 CFR 258.28).

3. Design Criteria requirement for composite liners (40 CFR 258.40(b)).

4. Ground-water monitoring for applicability and duration of monitoring (40 CFR 258.50(a) and (e)); ground-water monitoring systems including casing, number, depth, and spacing of wells (40 CFR 258.51(c) and (d)); and ground-water sampling and analysis including documentation procedures, frequency, and ground-water elevation measurements (40 CFR 258.53(a), (c), and (d)).

5. Closure and post-closure care requirements including final cover design (40 CFR 258.60(a) and (b)), final cover description (40 CFR 258.60(c)(1)), waste inventory and schedule (40 CFR 258.60(c)(3) and (4)), beginning and completion of closure (40 CFR 258.60(f) through (j), post-closure care period (40 CFR 258.61(a) and (b)), and post-closure plan and land use (40 CFR 258.61(c)(1) and (c)(3)).

6. Financial assurance requirements including applicability (40 CFR 258.70) and allowable mechanisms (40 CFR 258.74).

In addition, the State of North Dakota demonstrated that its MSWLF permit program contains specific provisions for public participation, compliance monitoring, and enforcement.

EPA is not approving certain portions of North Dakota's program. To ensure compliance with all the Federal Criteria, North Dakota needs to revise the following aspects of its permit program.

1. North Dakota will revise its regulation and add a "FAA notification" requirement to comply with 40 CFR 258.10(b) (airport safety).

2. North Dakota will revise its regulations to incorporate the Federal operating requirements for the exclusion of hazardous waste (40 CFR 258.20), explosive gases control including monitoring and detection/remediation (40 CFR 258.23(b) and (c)), and record keeping (40 CFR 258.29).

3. North Dakota will revise its regulations to incorporate the Federal design criteria relative to protection of ground-water (40 CFR 258.40(a), (c), and (d)).

4. North Dakota will revise its regulations to incorporate the Federal ground-water monitoring requirements, including no-migration demonstrations, scheduling, and alternative schedules (40 CFR 258.50(b) through 258.50(d)); number, depth, and location of wells, and the use of multiunit ground-water systems (40 CFR 258.51(a) and (b)); ground-water sampling analytical methods (40 CFR 258.53(b)); background and statistical procedures (40 CFR 258.53(e) through (i)); detection monitoring (40 CFR 258.54); assessment monitoring (40 CFR 258.55); assessment of corrective measures (40 CFR 258.56); selection of remedy (40 CFR 258.57); and, implementation of the corrective action program (40 CFR 258.58).

5. North Dakota will revise its regulations to incorporate the Federal closure and post-closure care requirements, specifically final cover estimate (40 CFR 258.60(c)(2)); State notifications (40 CFR 258.60(d) and (e)); post-closure contact (40 CFR 258.61(c)(2)); and State notifications (40 CFR 258.61(d) and (e)).

6. North Dakota will revise its regulations to incorporate financial assurance requirements for closure, post-closure, and corrective action (40 CFR 258.71 through 258.73).

North Dakota has developed and implemented a series of guidance documents that were submitted to the Region as part of its June 25, 1993, application for partial program adequacy determination. These documents are as follows:

1. Guidelines for Hydrogeological Investigations of Solid Waste Facilities;
2. Guidelines for Quality Assurance in Construction of Landfill and Surface Impoundment Liners, Caps, and Leachate Removal Systems;
3. Guidelines for Statistical Analysis of Ground-Water Monitoring Data for Solid Waste Facilities; and
4. Guidelines for Corrective Actions of Solid Waste Landfills.

If the criteria now existing in these guidance documents were instead contained in enforceable regulations issued by the North Dakota State Department of Health, then a significantly larger portion of North Dakota's program could have been approved by EPA at this time. However, because the criteria in these guidance documents cannot be made an enforceable condition of permits and permit modification issued by the State of North Dakota, regulatory changes appear necessary.

North Dakota has indicated that it will be able to complete the necessary revisions by mid-1994 to comply with the remaining part 258 requirements. As explained in the notice of tentative determination, EPA reviewed the schedule and concluded that it was reasonable because of the simplicity of North Dakota's rule making process.

As a State's/Tribe's regulations and statutes are amended to comply with the Federal landfill regulations, unapproved portions of a partially approved MSWLF program may be approved by the EPA. The State/Tribe may submit an amended application to EPA for review and an adequacy determination will be made using the same criteria as for the initial application. This adequacy determination will be published in the **Federal Register** summarizing the Agency's decision and the portion(s) of the State/Tribal MSWLF permit program affected and providing an opportunity to comment for a period of thirty (30) days. The adequacy determination will become effective sixty (60) days following publication if no adverse comments are received. If EPA receives adverse comments on its adequacy determination, another **Federal Register** notice will be published either affirming or reversing the initial decision while responding to the public comments.

C. Public Comment

EPA received one public comment on the tentative determination of adequacy for North Dakota's MSWLF permit program.

The commenter maintained that use of the draft STIR as guidance is a violation of the Administrative Procedure Act (APA) requirements that a rule must go through notice and opportunity for comment. EPA does not believe that it is violating requirements of the APA. The Agency is not utilizing the draft STIR as a regulation which binds either the Agency or the States/Tribes. Instead, EPA is using the draft STIR as guidance for evaluating State/Tribal permit programs and maintains its discretion to approve State/Tribal permit programs utilizing the draft STIR and/or other criteria which assure compliance with 40 CFR part 258.

In addition, members of the public have an opportunity to comment on the criteria by which EPA assures the adequacy of State/Tribal MSWLF permit programs because the Agency discusses the criteria for approval of a permit program when it publishes each tentative determination notice in the **Federal Register**. In the tentative determination notice for the State of North Dakota's permit program, the Agency set forth for public comment the requirements for an adequate permit program (58 FR 40643–40646, July 29, 1993).

D. Decision

After reviewing the public comments, I conclude that North Dakota's application for partial program adequacy determination meets all of the statutory and regulatory requirements established by RCRA. Accordingly, North Dakota is granted a partial program determination of adequacy for the following areas of its municipal solid waste permit program: 40 CFR 258.10(a), (c), and (d); 258.11 through 258.15; 258.21 through 258.22; 258.23(a); 258.24 through 258.28; 258.40(b); 258.50(a) and (e); 258.51(c) and (d); 258.53(a), (c), and (d); 258.60(a), (b), (c)(1), (c)(3), (c)(4), and (f) through (j); 258.61(a), (b), (c)(1), and (c)(3); 258.70; and 258.74.

The State of North Dakota has not asserted jurisdiction over "Indian Country," as defined in 18 U.S.C. 1151, in its application for adequacy determination. Today's decision to approve North Dakota's application does not extend to the following Indian reservations in the State of North Dakota:

1. Devils Lake Sioux;
2. Fort Berthold;
3. Standing Rock; and
4. Turtle Mountain.

Until EPA approves a State or Tribal MSWLF permit program in North Dakota for any part of "Indian Country" in North Dakota, the requirements of 40 CFR part 258 will, after the effective date of the Federal Criteria, automatically apply to that area. Thereafter, the requirements of 40 CFR part 258 will apply to all owners/operators of MSWLFs located in any part of "Indian Country" that is not covered by an approved State or Tribal MSWLF permit program.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Today's action takes effect on October 5, 1993. EPA believes it has good cause under section 553(d) of the Administrative Procedure Act, 5 U.S.C

553(d), to put this action into effect less than 30 days after publication in the **Federal Register**. All of the requirements and obligations in the State's/Tribe's program are already in effect as a matter of State/Tribal law. EPA's action today does not impose any new requirements that the regulated community must begin to comply with. Nor do these requirements become enforceable by EPA as Federal law. Consequently, EPA finds that it does not need to give notice prior to making its approval effective.

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this final approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: September 28, 1993

Robert L. Duprey,

Acting Regional Administrator.

[FR Doc. 93-24432 Filed 10-4-93, 8:45 am]

BILLING CODE 6560-50-F

[FRL-4785-2]

Clean Water Act Class II: Proposed Administrative Penalty Assessment and Opportunity to Comment Regarding: the City of Chilhowee, MO; the City of Essex, MO; the City of Hayti, MO; and the City of Crofton, NE

AGENCY: Environmental Protection Agency ("EPA").

ACTION: Notice of proposed administrative penalty assessment and opportunity to comment regarding the city of Chilhowee, Missouri; the city of Essex, Missouri; the city of Hayti, Missouri; and the city of Crofton, Nebraska.

SUMMARY: EPA is providing notice of proposed administrative penalty assessments for alleged violations of the Clean Water Act ("Act"). EPA is also providing notice of opportunity to comment on the proposed assessment.

Under 33 U.S.C. 1319(g), EPA is authorized to issue orders assessing civil penalties for various violations of the Act. EPA may issue such orders after filing a Complaint commencing either a Class I or Class II penalty proceeding. EPA provides public notice of the proposed assessment pursuant to 33 U.S.C. 1319(g)(4)(A).

Class II proceedings are conducted under EPA's Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation and Suspension of Permits, 40 CFR part 22. The procedures by which the public may submit written comment on a proposed Class II order or participate in a Class II proceeding, and the procedures by which a respondent may request a hearing, are set forth in the Consolidated Rules. The deadline for submitting public comment on a proposed Class II order is thirty (30) days after issuance of public notice.

On September 20, 1993, EPA commenced the following Class II proceedings for the assessment of penalties by filing with the Regional Hearing Clerk, U.S. Environmental Protection Agency, Region VII, 726 Minnesota Avenue, Kansas City, Kansas 66101, (913) 551-7630, the following Complaints:

In the Matter of the City of Chilhowee, Missouri, EPA Docket No. VII-93-W-0005;
In the Matter of the City of Essex, Missouri, EPA Docket No. VII-93-W-0006;
In the Matter of the City of Hayti, Missouri, EPA Docket No. VII-93-W-0007;
In the Matter of the City of Crofton, Nebraska, EPA Docket No. VII-93-W-0008.

The Complaints propose penalties of Ten Thousand Dollars ($10,000) for failing to provide information, specifically sampling results, as required by EPA under the authority of Section 308(a) of the Clean Water Act, 33 U.S.C. 1318(a).

FOR FURTHER INFORMATION CONTACT: Persons wishing to receive a copy of EPA's Consolidated Rules, review the Complaints or other documents filed in this proceeding, comment upon the proposed penalty assessments, or otherwise participate in the proceedings should contact the Regional Hearing Clerk identified above.

The administrative records for the proceedings are located in the EPA Regional Office at the address stated above, and the files will be open for public inspection during normal business hours. All information submitted by the city of Chilhowee, Missouri, the city of Essex, Missouri, the city of Hayti, Missouri and the city of Crofton, Nebraska is available as part of the administrative records, subject to provisions of law restricting public disclosure of confidential information. In order to provide opportunity for public comment, EPA will issue no final orders assessing penalties in these proceedings prior to thirty (30) days from the date of this notice.

Dated: September 15, 1993.

Martha R. Steincamp,

Acting Regional Administrator.

[FR Doc. 93-24430 Filed 10-4-93; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to Office of Management and Budget for Review

September 27, 1993.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, International Transcription Service, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, (202) 857-3800. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-0276. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

OMB Number: 3060-0113
Title: Broadcast Equal Employment Opportunity Program Report
Form Number: FCC Form 396
Action: Extension of a currently approved collection
Respondents: Businesses or other for-profit (including small businesses)
Frequency of Response: Other: once every 5 years for TV; once every 7 years for radio
Estimated Annual Burden: 235 responses; 3 hours average burden per response; 705 hours total annual burden
Needs and Uses: The Broadcast EEO Program Report (FCC Form 396) is a device that is used to evaluate a broadcaster's EEO program to ensure that they are making satisfactory efforts to comply with FCC's EEO requirements. FCC Form 396 is required to be filed at the time of renewal of license by all AM, FM, TV, Low Power TV and International stations with five or more full-time employees. This report is reviewed by FCC analysts to determine if broadcast stations are providing equal

employment opportunity to all qualified persons without regard to race, color, religion, sex or national origin.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93-24338 Filed 10-4-93; 8:45 am]

BILLING CODE 6712-01-M

[PR Docket No. 92-231; FCC 93-381]

Application and Licenses of Capitol Radiotelephone Inc. in West Virginia in the Private Land Mobile Radio Services and the Public Mobile Radio Service

AGENCY: Federal Communications Commission.

ACTION: Hearing designation order, order to show cause and notice of opportunity for hearing.

SUMMARY: The Commission adopted a Hearing Designation Order, Order to Show Cause and Notice of Opportunity for Hearing regarding an application filed by and licenses held by Capitol Radiotelephone Inc., Capitol Radio Telephone Inc. d.b.a. Capitol Paging, Capitol Radiotelephone Company Inc. and Capitol Radiotelephone Company Inc. (hereinafter collectively referred to as "Capitol") in West Virginia. The Hearing Designation Order is to determine whether Capitol's application for a private carrier paging facility on the frequency 152.480 MHz in Huntington/Charleston, West Virginia (File No. 0190207) should be granted. The Order to Show Cause is to determine whether Capitol's licenses for stations WNDA400, WNWW636, KWU373, KUS223, KQD614 and KWU204 should be revoked. The Notice of Opportunity for Hearing is to determine whether an Order of Forfeiture should be issued against Capitol in an amount not to exceed $20,000 for apparent violations referred to in its July 30, 1992 Notice of Apparent Liability to Monetary Forfeiture and/or in an additional amount not to exceed $75,000 for other alleged continuing rule violations.

FOR FURTHER INFORMATION CONTACT: John J. Borkowski, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau, (202) 632-7125.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Hearing Designation Order, Order to Show Cause and Notice of Opportunity for Hearing, PR Docket No. 93-231, FCC 93-381, adopted August 3, 1993, and released August 31, 1993. The full text of this Commission document is available for inspection and copying during normal business hours in the FCC Dockets Branch, room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, ITS, Inc., 2100 M Street, NW., Suite 140, Washington, DC 20037, telephone (202) 857-3800.

Summary of Hearing Designation Order, Order to Show Cause and Notice of Opportunity for Hearing

1. This matter involves the facts and circumstances surrounding Capitol's operation of private carrier paging (PCP) station WNSX-646 at sites in Huntington and Charleston, West Virginia. Capitol operated this station on the frequency 152.480 MHz, a shared private land mobile paging channel also authorized in the same geographic area to RAM Technologies (RAM) as license of station WNJN621. Capitol and RAM were competitors in these locations in the provision of paging services. Before Capitol obtained the license for station WNSX646, it had been providing radio common carrier paging service.

2. This document alleges that Capitol, in competing with RAM's private carrier paging service, became licensed on RAM's private carrier paging frequency primarily for the purpose of causing interference to RAM's transmissions. Capitol is alleged to have committed infractions of the Communications Act and the Commission's rules in its operation of station WNSX646, including causing interference, committing test transmission violations and transmitting improper paging retransmissions. Much of this information was obtained by Commission filed personnel dispatched to the location of station WNSX646 in West Virginia from August 12, 1991 through August 15, 1991, in response to RAM's complaints of harmful interference to station WNJN621. Additionally, Capitol is alleged to have engaged in misrepresentations and lack of candor in its written and/or oral statements to the Commission and its staff with respect to these matters. These underlying allegations from the basis of this Hearing Designation Order, Order to Show Cause and Notice of Opportunity for Hearing.

3. This consolidated proceeding will be decided upon the following issues, as set forth in paragraph 28 of the Hearing Designation Order, Order to Show Cause and Notice of Opportunity for Hearing:

a. Whether, during the month of October 1990, from November 15, 1990 through November 18, 1990, on March 4, 1991, on March 19, 1991, and/or from July 17, 1991, through July 19, 1991, in light of the evidence adduced, Capitol Radiotelephone Company Inc., Capitol Radio Telephone Inc. d.b.a. Capitol Paging, Capitol Radiotelephone Company Inc., and Capitol Radiotelephone Co., Inc. willfully, maliciously and/or repeatedly caused private land mobile radio station WNSX-646 to transmit in a manner that caused harmful interference, in violation of § 90.403(e) of the Commission's Rules, 47 CFR 90.403(e), and/or in violation of section 333 of the Communications Act of 1934, as amended, 47 U.S.C. 333.

b. Whether, on August 12, 13, 14, and 15, 1991, in light of the evidence adduced, Capitol Radiotelephone Company Inc., Capitol Radio Telephone Inc. d.b.a. Capitol Paging, Capitol Radiotelephone Company Inc., and Capitol Radiotelephone Co., Inc. willfully, maliciously and/or repeatedly caused private land mobile radio station WNSX-646 to transmit in a manner that caused harmful interference, in violation of 90.403(e) of the Commission's Rules, 47 CFR 90.403(e), and/or in violation of section 333 of the Communications Act of 1934, as amended, 47 U.S.C. 333.

c. Whether, from November 15, 1990 through November 18, 1990, on March 4, 1991, and/or from July 17, 1991 through July 19, 1991, in light of the evidence adduced, Capitol Radiotelephone Inc., Capitol Radio Telephone Inc. d.b.a. Capitol Paging, Capitol Radiotelephone Company Inc., and Capitol Radiotelephone Co., Inc. willfully and/or repeatedly caused private land mobile radio station WNSX-646 to transmit communications for testing purposes in a manner such that the tests were not kept to a minimum and every measure was not taken to avoid harmful interference, in violation of § 90.405(a)(3) of the Commission's Rules, 47 CFR 90.405(a)(3).

d. Whether, on August 12, 13, 14, and/or 15, 1991, in light of the evidence adduced, Capitol Radiotelephone Inc., Capitol Radio Telephone Inc. d.b.a. Capitol Paging, Capitol Radiotelephone Company Inc., and Capitol Radiotelephone Co., Inc. willfully and/or repeatedly caused private land mobile radio station WNSX-646 to transmit communications for testing purposes in a manner such that the tests were not kept to a minimum and every measure was not taken to avoid harmful interference, in violation of § 90.405(a)(3) of the Commission's Rules, 47 CFR 90.405(a)(3).

e. Whether, on August 12, 13, 14, and/or 15, 1991, in light of the evidence adduced, Capitol Radiotelephone Inc., Capitol Radio Telephone Inc. d.b.a. Capitol Paging, Capitol Radiotelephone

Company Inc., and Capitol Radiotelephone Co., Inc. willfully and/or repeatedly caused private land mobile radio station WNSX-646 to identify its transmissions by Morse code at a rate less than 20-25 words per minute, in violation of § 90.425(b)(2) of the Commission's Rules, 47 CFR 90.425(b)(2).

f. Whether from November 15, 1990 through November 18, 1990 Capitol Radiotelephone Inc., Capitol Radio Telephone Inc. d.b.a. Capitol Paging, Capitol Radiotelephone Company Inc., and Capitol Radiotelephone Co., Inc. caused private land mobile radio station WNSX-646 to willfully and/or repeatedly transmit on the frequency 152.480 MHz for purposes other than completing private carrier pages, in violation of §§ 90.173(b) and 90.403(c) of the Commission's Rules, 47 CFR 90.173(b) and 90.403(c). Further, whether the content of these transmissions included common carrier paging traffic in violation of § 90.415(b) of the Commission's Rules, 47 CFR 90.415(b).

g. Whether, beginning on or about August 27, 1992 and continuing to the present, Capitol Radiotelephone Inc., Capitol Radio Telephone Inc. d.b.a. Capitol Paging, Capitol Radiotelephone Company Inc., and Capitol Radiotelephone Co., Inc. caused private land mobile radio station WNSX-646 to willfully and/or repeatedly transmit on the frequency 152.480 MHz for purposes other than completing private carrier pages, in violation of Sections 90.173(b) and 90.403(c) of the Commission's Rules, 47 CFR 90.173(b) and 90.403(c). Further, whether the content of these transmissions included common carrier paging traffic in violation of § 90.415(b) of the Commission's Rules, 47 CFR 90.415(b).

h. Whether in written and/or oral statements to the Commission or its staff with respect to the above matters, Capitol Radiotelephone Inc., Capitol Radio Telephone Inc., Capitol Radiotelephone Company (Co). Inc., and/or any of these entities doing business as Capitol Paging misrepresented facts to the Commission and/or was lacking in candor.

i. Whether, in light of the findings under paragraph (h), Capitol willfully or repeatedly violated Section 1.17 of the Commission's Rules, 47 CFR 1.17.

j. In light of the findings under paragraphs (a) through (i), whether Capitol Radiotelephone Inc., Capitol Radio Telephone Inc., Capitol Radiotelephone Company (Co.), Inc., and/or any of these entities doing business as Capitol Paging have the requisite basic character qualifications to continue to remain Commission licensees.

k. In light of the findings under paragraphs (a) through (j), whether Capitol Radiotelephone Inc., Capitol Radio Telephone Inc., Capitol Radiotelephone Company (Co.), Inc., and/or any of these entities doing business as Capitol Paging are qualified to retain each of their respective licenses set forth above.

l. In light of the findings under paragraphs (a) through (k), whether any or all of Capitol's radio station licenses specified above should be revoked.

m. In light of the findings under paragraphs (a) through (l), whether Capitol Radiotelephone Inc. d.b.a. Capitol Paging filed an application for a private carrier paging facility on the frequency 152.480 MHz in Huntington/Charleston, West Virginia (File No. 0190207) primarily for the purpose of obtaining a license in order to cause harmful interference to station WNJN-621 licensed to RAM Technologies Inc.

n. In light of the findings under paragraphs (a) through (m), whether the application of Capitol Radiotelephone Inc. d.b.a. Capitol Paging for a private carrier paging facility on the frequency 152.480 MHz in Huntington/Charleston, West Virginia (File No. 0190207) should be granted.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93-24336 Filed 10-4-93; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC, Office of the Federal Maritime Commission, 800 North Capitol Street, NW., 9th Floor. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 203-011371-001.

Title: DSR/Stinnes West Indies Services Gmbh Joint Service Agreement.

Parties:

Hugo Stinnes Schiffahrt GmbH
Deutsche Seereederei Rostock GmbH
DSR/Stinnes West Indies Services GmbH

Synopsis: The proposed amendment would add Venezuela to the scope of the Agreement. The parties have requested a shortened review period.

Agreement No.: 203-011430.

Title: Agreement for Settlement and Mutual Release of Claims Between AmTrans and Nacional Relating to the Brazil/U.S. Gulf Pool Agreement for Pool Years 1987-1991.

Parties:

American Transport Lines, Inc.
Companhia Maritima Nacional

Synopsis: The proposed Agreement would settle disputes between the parties over revenue pool accounting payments for the years 1987-1991 under pooling Agreements No. 212-009848 (the U.S. Gulf Ports/Brazil Agreement) and 212-010320 (Brazil/U.S. Gulf Ports Agreement).

By Order of the Federal Maritime Commission.

Dated: September 30, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93-24456 Filed 10-4-93; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Hidalgo Inc., 1427 Hudson Street, Kenner, LA 70062. Officers: Argentina Hidalgo, President/Secretary/Treasurer, Heriberto Hidalgo, Vice President

Oceanbridge Shipping International, Inc., 500 E. Carson Plaza Drive, Ste. 107, Carson, CA 90746. Officers; Yong Kyu Jun, President, Eun Sook Jun, Secretary, John Kim, Manager

Soto Forwarding Agency, 3600 E. 14th Street, Brownsville, TX 78521, Alfonso, X. Soto, Sole Proprietor

Transfair North America International Freight Services, Inc., 18900 Des Moines Way So., Seattle, WA 98148. Seattle, WA 98148. Officers: Greg Vernoy, President, Ferdinand Zigahn, Vice President, Phyllis Stieglitz, Secretary/Treasurer

Triple F Cargo Inc., 7966 N.W. 14th Street, Miami, FL 33126. Officers: Isacc F. Fonseca, President, Patricia A. Scherrer, Vice President

Quality Customs Broker, Inc., 7071 South 13th Street, Ste. 103, Oak Creek, WI 53154. Officer: Karin LaFreniere, President

By the Federal Maritime Commission.

Dated: September 29, 1993.

Joseph C. Polking,

Secretary.

[FR Doc. 93-24344 Filed 10-4-93; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Health Care Policy and Research

Assessment of Medical Technology

The Agency for Health Care Policy and Research (AHCPR), through its Office of Health Technology Assessment (OHTA), announces that it is initiating an assessment of the safety and effectiveness of peripheral stem cells used to reconstitute bone marrow in patients treated with high-dose chemotherapy. Specifically, AHCPR is interested in:

1. Indications and/or contraindications for the use of peripheral stem cells,
2. Specific patient selection criteria for the use of peripheral stem cells, and
3. Information regarding the cost of this technology.

The assessment consists of a synthesis of published literature and information obtained from appropriate organizations in the private sector and from Public Health Service (PHS) agencies and others in the Federal Government. AHCPR assessments are conducted in accordance with section 904(b) of the PHS Act (42 U.S.C. 299a-2(b)). Based on the assessment, a recommendation will be formulated to assist the Office of Civilian Health and Medical Program of the Uniformed Services (OCHAMPUS) in establishing reimbursability. The information being sought by this notice is a review and assessment of past, current, and planned research related to this technology, as well as a bibliography of published, controlled clinical trials and other well-designed clinical studies. Information related to the characteristics of the patient population most likely to benefit from the use of peripheral stem cells, as well as information on the clinical acceptability, effectiveness, and the extent of use of this technology is also being sought. Any person or group wishing to provide AHCPR with information relevant to this assessment should do so in writing no later than January 1, 1994, or within 90 days from the date of publication of this notice.

To enable the interested scientific community to evaluate the information included in the assessment, AHCPR will discuss in the assessment only those data and analyses for which a source(s) can be cited. Respondents are therefore encouraged to include with their submission a written consent permitting AHCPR to cite the source of the data and comments provided. Otherwise, in accordance with the confidentiality statute governing information collected by AHCPR, 42 U.S.C. 299a-1(c), no information received will be published or disclosed which could identify an individual described in the information or an entity supplying the information.

Written material should be submitted to: Thomas V. Holohan, M.D., Director, Office of Health Technology Assessment, AHCPR, 6000 Executive Boulevard, Suite 309, Rockville, MD 20852, (301) 594-4023.

Dated: September 28, 1993.

J. Jarrett Clinton,

Administrator.

[FR Doc. 93-24416 Filed 10-4-93; 8:45 am]

BILLING CODE 4160-90-U

Health Care Financing Administration

[BPO-116-PN]

Medicare Program; Data, Standards, and Methodology Used to Establish Fiscal Year 1994 Budgets for Fiscal Intermediaries and Carriers

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed notice.

SUMMARY: This notice describes the data, standards, and methodology that will be used to establish fiscal intermediary and carrier budgets for fiscal year 1994, which begins October 1, 1993. Fiscal intermediaries and carriers are public or private entities that participate in the administration of the Medicare program by performing claims processing and benefit payment functions. This notice is published in accordance with sections 1816(c)(1) and 1842(c)(1) of the Social Security Act which require us to publish for public comment the data, standards, and methodology we intend to use to establish budgets for Medicare fiscal intermediaries and carriers.

DATES: Comments will be considered if we receive them at the appropriate address, as provided below, no later than 5:00 p.m. on November 4, 1993.

ADDRESSES: Mail written comments (1 original and 3 copies) to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-116-PN, P.O. Box 26676, Baltimore, Maryland 21207.

If you prefer, you may deliver your comments (1 original and 3 copies) to one of the following addresses:

Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207.

Because of staffing and resource limitations, we cannot accept comments by facsimile (FAX) transmission. In commenting, please refer to file code BPO-116-PN. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202)-690-7890).

FOR FURTHER INFORMATION CONTACT: J. Thomas Hessenauer, (410) 966-7542.

SUPPLEMENTARY INFORMATION:

I. Background

Under sections 1816(a) and 1842(a) of the Social Security Act (the Act), public or private organizations and agencies may participate in the administration of the Medicare program under agreements or contracts entered into with the Secretary. These Medicare contractors are known as fiscal intermediaries (section 1816(a) of the Act) and carriers (section 1842(a) of the Act). Fiscal intermediaries perform bill processing and benefit payment functions for part A of the program (Hospital Insurance) and carriers perform claim processing and benefit payment functions for part B of the program (Supplementary Medical Insurance). When bills are submitted by providers, and claims by beneficiaries, physicians, and suppliers of services, fiscal intermediaries and carriers are responsible for:

- determining the eligibility status of a beneficiary;
- determining whether the services on the submitted claims or bills are covered under Medicare and, if so, the correct payment amounts; and
- making appropriate payments to the provider, beneficiary, physician, or supplier of services.

Fiscal intermediary and carrier performance is monitored by HCFA on both the central office and regional

office (RO) levels. In general, issues that affect policies on a national level are addressed by the central office, and issues dealing with regional and local policies, as well as those of an operational nature, are addressed by the ROs. Communication between HCFA and the fiscal intermediaries and carriers is continuous, with established consultation workgroups comprised of representatives from the central office, ROs, and Medicare contractors meeting on a regular basis.

II. Fiscal Intermediary and Carrier Budget Process

HCFA's central office is responsible for developing a national contractor budget for both part A and part B of the Medicare program. The budget is formulated over an 18-month period, beginning in March of the calendar year preceding the fiscal year (FY) to which it applies. It is formulated after receiving input from the contractor community, HCFA, the Department, and the Office of Management and Budget (OMB), before submission to the President for approval and forwarding to the Congress. Once the national contractor budget has been approved, HCFA issues Budget and Performance Requirements (BPRs), which serve as guidelines for contractors in preparing their individual budgets for submission to HCFA.

The budgets submitted by contractors are reviewed by the RO's during a budget level determination process based on current claims processing trends, legislative mandates, administrative initiatives, current year performance standards and criteria, and the availability of funds appropriated by the Congress. We subsequently allocate funding within these constraints.

As in prior years, we have had and will continue to seek extensive input from the involved parties, particularly contractors. Their input is used as part of the basis for the national contractor budget that was presented to the Congress. That budget (the FY 1994 President's budget) is the basis for the contents of this notice.

To the extent that the comments we receive during this comment period warrant revisions to the proposed data, standards, and methodology, we will make the necessary changes before publishing the final notice. Moreover, if appropriate, we will issue revised BPRs to fiscal intermediaries and carriers. We will also renegotiate any affected areas of fiscal intermediary and carrier budgets within the levels of funding made available by the Congress.

This notice contains the proposed data, standards, and methodology that we intend to use to establish a national contractor budget for fiscal intermediaries and carriers for FY 1994.

III. Overview of FY 1994 National Medicare Contractor Budget

A. Data, Standards, and Methodology

The FY 1994 national Medicare contractor budget request was submitted to the Congress in April 1993. The workload for the FY 1994 request is expressed in terms of work processed. For part A, the FY 1994 estimated workload (116.4 million bills) is 5.9 percent more than the FY 1993 workload. For part B, the estimated workload (630.0 million claims) results in a 5.6 percent increase over the FY 1993 workload.

Our estimates involved the use of a regression model that uses the last 36 months of actual contractor workload data. For the FY 1994 projections, we used January 1992 data, which were the latest available to us at the time. The resulting projections will be updated monthly to assure that the most timely data are available for budgeting purposes.

Based on the projected FY 1993 unit costs for processing bills and claims, we applied a 2.7 percent inflation factor (the economic assumption used by OMB based on changes to the Consumer Price and Wage Indexes as developed by the Department of Labor). This amount was then further adjusted for savings achieved by prior and anticipated productivity investments, and costs associated with new legislation. This calculation resulted in a new unit cost, which, when multiplied by the part A or part B workloads, determines the total amount required for bill and claim processing in FY 1994.

Feedback received from contractors and ROs during the past several years has led us to believe that contractors can make major improvements in performance if given the authority to manage their budgets. The FY 1994 BPRs give the ROs the authority to set such a budget and the contractors the authority to manage their budgets on a bottom-line basis. Once funding is issued, each contractor will have the flexibility to optimally manage the budget consistent with the scope of work contained in the BPRs. Prior to FY 1993, contractors were not allowed to "shift" more than 5 percent of funds from one line item to another in their budget, as determined by the lesser of the two line items. This restriction was intended to give contractors some latitude with regard to reporting their costs, yet still allow HCFA to maintain control over the national budget. With the exception of the Payment Safeguards, Productivity Investments and Other line items, contractors now have total flexibility in the use of funds. However, a 5 percent shift (out of) limitation on individual payment safeguards is maintained. This permits unlimited shifting into payment safeguards (a change from policies prior to FY 1993). Shifting into or out of Productivity Investments and other line funding not governed by contract modifications may not exceed 5 percent. Funding governed by contract modifications may not be shifted to other functions or lines.

B. Medicare Contractor Functional Areas

The Medicare contractor budget consists of seven functional area responsibilities performed by fiscal intermediaries for part A, and nine functional area responsibilities performed by carriers for part B. The functional area responsibilities for part A are:

- Bill Payment;
- Reconsideration and Hearing;
- Medicare Secondary Payer;
- Medical Review and Utilization Review;
- Provider Audit (Desk Review, Field Audit, and Provider Settlement);
- Provider Reimbursement; and
- Productivity Investments.
- The functional area responsibilities for part B are:
- Claim Payment;
- Review and Hearing;
- Beneficiary or Physician Inquiry;
- Medical Review and Utilization Review;
- Benefit Integrity (formerly Fraud and Abuse);
- Medicare Secondary Payer;
- Participating Physicians;
- Provider Education and Training; and
- Productivity Investments.

These functions are funded from the Hospital Insurance (HI) and Supplementary Medical Insurance (SMI) trust funds. The data, standards, and methodology used in these functional areas are discussed in section IV. of this notice. In the following national budget summary, we have combined the discussion of functional areas common to both fiscal intermediaries and carriers. However, data specific to part A or part B are provided under each heading. Workload estimates are provided for all functional areas where the development of the budget is predominantly workload driven. Workload estimates are not provided for functional areas that are predominantly workload driven or for which a

workload is uncertain until final negotiations with the Medicare contractors.

1. Bill and Claim Payment (Part A and Part B)

We currently estimate the Part A processed workload to be 116.4 million bills in FY 1994. The Part B processed workload is currently projected at 630.0 million claims based on the current funding available.

2. Reconsideration (Review under Part B) and Hearing (Part A and Part B)

This function includes all activities related to guaranteeing due process of law as a result of contractor action (for example, disallowances) on bills and claims. The estimated workload volume is expected to total approximately $11.2 million for FY 1994.

In FY 1994, we expect to continue to achieve reduced costs through expanded use of on-the-record and telephone hearings.

3. Medicare Secondary Payer (Part A and Part B)

The Medicare Secondary Payer (MSP) function is the first of four initiatives (Medicare Secondary Payer, Medical Review and Utilization Review, Benefits Integrity, and Provider Audit) we developed as "Payment Safeguards" in an attempt to safeguard the Medicare program against improper payments. The focus of the MSP initiative is to ensure that the Medicare program pays for covered care only after reimbursement from primary insurers has been made.

Medicare contractors are responsible for identifying MSP situations and aggressively pursuing the recovery of improper payments from the appropriate party. The standard for determining the amount of MSP funding a contractor will receive in FY 1994 is based on savings goals, workload volumes, required systems changes, and any special projects that may be assigned to contractors.

In conjunction with the actuary, we develop specific savings goals for each contractor. The goals are developed on estimates of savings to be achieved by contractors for the MSP categories of working aged, disabled, workers' compensation, end stage renal disease, and liability or no fault. After assigning goals to contractors, funds are allocated based on the various MSP activities a contractor must perform such as processing prepayment claims, postpayment claims, inquiries, outreach, and, for fiscal intermediaries, hospital audits.

We have also included funding to process the workloads based on the Internal Revenue Service (IRS), Social Security Administration (SSA), and HCFA data match project created by section 6202 of the Omnibus Budget Reconciliation Act of 1989 (OBRA '89), Public Law 101–239. The funds are allocated on the basis of the number of matches a contractor will process.

4. Medical Review and Utilization Review (Parts A and B)

In addition to processing and paying claims from providers of services and Medicare beneficiaries, contractors perform medical and utilization reviews of claims to determine whether services were medically necessary and constituted an appropriate level of care. The distribution of Medicare contractor funding is based on each contractor's proportion of the workload and individual contractor medical review/utilization review (MR/UR) projects.

Fiscal intermediaries are responsible for medical and utilization review of home health agencies (HHAs), skilled nursing facilities (SNFs), outpatient hospital services (excluding surgery), and other outpatient services such as those provided by rehabilitation facilities, rural health clinics, etc. This review assures that medical care received is necessary and appropriate, and that quality medical services are delivered to Medicare beneficiaries. We estimate that the review of HHAs and outpatient services will account for most of the use of Medicare fiscal intermediary medical review resources during FY 1994. Medical and utilization review of all HHA provider claims will be the responsibility of Regional Home Health Intermediaries.

Carriers are responsible for medical and utilization review of Part B providers and suppliers. Carriers are required to conduct medical and utilization reviews to assure that services furnished are medically necessary, as well as to reveal whether patterns of utilization may be inappropriate. To this end, in FY 1994 carriers are expected to provide the necessary education to shape practitioner behavior and discourage providing unnecessary care. We will continue to focus on prepayment review, including additional mandatory prepayment screens.

In addition to our continued focus on prepayment review, we also will direct much more attention to carrier postpayment medical and utilization review during FY 1994. The carrier postpayment process consists of preparing profiles of providers and beneficiaries, and identifying areas for the development and installation of future prepayment review screens.

5. Provider Audit (Part A Only)

For FY 1994, we have planned for a full complement of audit activities to help in the identification and prevention of improper payments. These will include desk reviews, field audits, special audit initiatives and final settlements. We will continue to give priority to the audits of multi-facility hospitals under the Prospective Payment System (PPS), as well as chain-affiliated providers, because of the size of PPS hospitals and the far-reaching implication of findings at chain providers which result in substantial savings. In addition, by concentrating effort on HHAs and SNFs which meet minimum utilization criteria, we will maximize the potential savings available from these providers. We will complete the audit of the remaining cost reports affected by conversion of inpatient capital to PPS. We will also focus audit efforts on costs reported and allocated by home offices.

6. Provider Reimbursement (Part A Only)

In FY 1994 Medicare contractors are required to provide reimbursement services to 31,900 health care providers. This represents an increase of approximately 7.6 percent over the number of providers requiring reimbursement services in FY 1993.

In determining the amount of reimbursement funding each contractor receives, we analyze provider profiles submitted by contractors. We review prior periods of reimbursement funding and assess the contractor's future needs based on projected provider workload and the availability of funds. We will distribute funds in proportion to workload by provider type.

7. Productivity Investments (Part A and Part B)

The costs of implementing new initiatives designed to improve the effectiveness of Medicare program administration are referred to as productivity investments (PIs). PIs generally provide start-up funds for new or revised contractor activities. Once these projects are operational, funding for these projects becomes part of the contractor's ongoing costs. The criteria for selecting PIs to be implemented are varied. For example, some PIs are required by legislative or regulatory requirements. We also fund projects that will improve administrative cost efficiency, that is, Contractor Resource Sharing.

There is no single distribution methodology for the allocation of PI funds. After we determine the national cost of a PI, funds are distributed among the contractors based on either the contractors' cost estimates or through formulas derived by HCFA based on project specifications. Other PI initiatives require equal effort by all contractors regardless of size, and are, therefore, distributed equally among contractors. Finally, some PIs, such as the Common Working File and Contractor Resource Sharing, are given only to contractors that are involved in the specific projects.

8. Beneficiary, Physician, and Supplier Inquiries (Part B Only)

The Medicare program is complex. It is based on many provisions required by law, regulations and policy dealing with entitlement, coverage of services, comprehensive payment rules, and the rights and responsibilities of beneficiaries. Because contractors are the direct link between beneficiaries, physicians, and the program, this activity includes all costs related to beneficiary, physician, and supplier inquiries generated by means of telephone calls, correspondence, and personal visits. This workload is estimated to be 36.2 million inquiries in FY 1994.

9. Participating Physicians (Part B Only)

Participating physicians are those who agree to accept assignment on all Medicare claims in return for certain incentives or benefits. All physicians must be given an opportunity to enroll or disenroll in the participation program annually.

For FY 1994, the FY 1993 funding was used as the base and was increased in proportion to the workload within the limits of the funding available to HCFA.

Section 9332 of the Omnibus Budget Reconciliation Act of 1986 (OBRA '86), Pub. L. 99–509, requires HCFA to pay carrier bonuses for increasing the rate of physician participation in the Medicare program. The methodology used to determine carrier bonuses for FY 1994 will be published in a separate notice.

10. Provider Education and Training (Part B Only)

The success of the Medicare program depends upon the continuing cooperation of individuals and institutions providing health care services. The funding provided in FY 1994 will allow carriers to perform the activities outlined in the BPRs and section 4600 of the Medicare Carriers Manual. Funding is also included for education regarding proper diagnostic coding of claims, identification of referring, ordering and furnishing physician services, and other provisions as required by OBRA '89.

11. Benefits Integrity (Part B Only)

In FY 1994, HCFA plans to expand significantly its efforts at detecting fraud and abuse. As a result, a separate functional line item has been established for this activity starting in FY 1993. Particular emphasis will be placed on using beneficiaries as resources because they are in a unique position to identify fraud, abuse, and overutilization. Carriers will be expected to increase staffing of Medicare Program Integrity Units (MPIUs) which are dedicated to investigation of allegations of Medicare fraud.

Carriers must continue to provide support to the HHS's Office of Inspector General (OIG) staff in investigating cases of suspected fraud and abuse. This is in addition to the fraud and abuse activities that currently exist in other fiscal intermediary and carrier functions.

12. Printing Claim Forms (Part A and Part B)

Although this activity is not among the seven Part A and nine Part B contractor functional areas, it is a part of the national Medicare contractor budget. In the interest of maintaining standard formats and quality of Medicare entitlement and report forms, fiscal intermediaries and carriers supply beneficiary enrollment and provider cost reporting forms. The use of these forms is essential to beneficiary notification, effective and efficient contractor operations, and other program objectives.

C. Contractor Unit Cost Calculations

A key step in the contractor budget process is the development of contractor unit costs for processing Part A bills and Part B claims. These bottom-line unit costs encompass all budget line items except Provider Audit, Productivity Investments, and Other.

As first implemented in FY 1992, the Complexity Index (CI) is designed to improve efficiency and reduce contractor-by-contractor cost inequities, and is based on the application of the Industrial Engineering (IE) Study commissioned by HCFA. The IE study provided HCFA with an actual, weighted unit cost for each claim type, that is, inpatient vs. outpatient, and method of submission (electronically submitted or hardcopy) of a bill or a claim. After adjustment for changes in program emphasis, these unit costs were applied to each contractor's individual workload mix to develop a weighted unit cost that reflects the complexity of its workload mix. We published in the **Federal Register** an explanation of the Complexity Index in our FY 1992 notice on January 2, 1992 (57 FR 57). Each contractor has a percentage goal in FY 1992 for increasing the submission of claims electronically. We adjusted the unit costs to reflect achievement of the goals. After adjusting for various savings and increases associated with initiatives, such as the Unique Physician Identifier Number and OBRA '89 (Sections 6111(b), Clinical Diagnostic Laboratory Tests—Annual Monitoring and Certification and 6204, Physician Ownership of, and Referral to, Health Care Entities—Annual Monitoring Cost), we then arrayed the contractors' unit costs and identified the contractor at the 60th Percentile. Each contractor with a unit cost higher than the 60th Percentile was held to this unit cost multiplied by the contractor's CI. Each contractor at or below the 60th Percentile retained its own unit cost multiplied by its CI.

It should be noted that limitations on the FY 1994 budget could require across-the-board cost cutting measures. In this case, each RO will determine the amount of budget reduction for its contractors.

IV. FY 1994 National Medicare Contractor Budget: Standards, Data, and Methodology

Since the submission of the President's FY 1994 Medicare contractor budget request to the Congress in April 1993, we have been developing Budget and Performance Requirements (BPRs) to be issued to the contractors. These requirements outline the scope of work that fiscal intermediaries and carriers are expected to perform during the upcoming FY in each of the functional areas for which they are responsible.

On April 19, 1993, the BPRs were released to the ROs, and the final BPRs will be issued to the ROs in June 1993. Individual requirements will be sent to each fiscal intermediary and carrier in early June 1993 to be used in preparing its FY 1994 budget requests. The ROs add information pertinent to the fiscal intermediaries and carriers within their region. Fiscal intermediaries and carriers are to submit their budget requests to HCFA no later than 6 weeks after the issuance of the BPRs.

While the fiscal intermediaries and carriers are preparing their budget requests, HCFA develops preliminary budget allocations for the functional areas based upon historical patterns,

workload growth or inflation assumptions, and any other available relevant information. Both central office and RO staff review the fiscal intermediary and carrier budget requests as they are submitted. RO staff discuss the differences between the fiscal intermediary and carrier requests and the allocations derived by HCFA, and negotiate with each fiscal intermediary and carrier a final and mutually acceptable budget within the limits of the funding available to HCFA. The central office prepares a Financial Operating Plan (FOP) for each RO that provides total regional funding authority for each functional area. The ROs, in turn, prepare a Notice of Budget Approval (NOBA) for each fiscal intermediary and carrier that provides a full year budget plan subject to quarterly cash draw limitations.

A. Standards

The basic scope of work, along with new and special activities that fiscal intermediaries and carriers are expected to perform, are described in the Budget and Performance Requirements (BPRs) package, which was distributed to the ROs on June 19, 1993. Fiscal intermediaries and carriers are expected to perform the work as described in the BPRs package and in accordance with the standards included in the Contractor Performance Evaluation Program (CPEP) for FY 1994. For consideration in developing their initial budget requests, a draft copy of the CPEP standards was sent to contractors in May 1993. Final FY 1994 CPEP standards were published in the **Federal Register** of September 30, 1993 (58 FR 51085). Final FY 1993 CPEP standards were published September 18, 1992 (57 FR 43230).

B. Data

The following sources of data that contain various workload volumes, functional costs, and manpower information are used in developing the individual fiscal intermediary and carrier budgets for FY 1994:

- Forms HCFA–1523/1524 (a multipurpose form which serves as the Budget Request, Notice of Budget Approval and Interim Expenditure Report);
- Forms HCFA–1523/1524A (Schedule of Productivity Investments and Other);
- Forms HCFA–1523/1524B (Schedule of Credits, EDP and Overhead);
- Forms HCFA–1523/1524C (Schedule of Appeals);
- Forms HCFA–1523/1524D (Schedule of MSP Costs);
- Forms HCFA–1523/1524E (Schedule of MR Costs);
- Forms HCFA–1523/1524G (Schedule of Fraud and Abuse);
- Forms HCFA–1525/1525A (Contractor Audit Settlement Report (CASR));
- Schedules A, B, & C;
- Provider Reimbursement Profile;
- Schedule of Providers Serviced;
- MSP Savings Report;
- MR/UR Savings Report;
- Form HCFA–2580 (Cost Classification Report);
- Form HCFA–3529 (Facilities and Occupancy Schedule);
- Forms HCFA–1565/1566 (Carrier Performance Report/Intermediary Monthly Workload Report);
- HCFA Actuary's Workload Estimates;
- OMB's Economic Assumptions of 2.7 Percent;
- Industrial Engineering Study;
- Savings from Prior Productivity Investments;
- New Legislation Costs;
- Regional Office Recommendations; and
- Contract Provisions.

C. Methodology

The Medicare contractor budget is organized around the previously listed seven functions performed by the fiscal intermediaries for Part A and nine functions performed by the carriers for Part B. FY 1992 was the first year in which we developed a bottom-line unit cost for each individual contractor. However, each contractor's bottom-line unit cost associated with the Complexity Index, described in section III. B. of this notice, takes precedence over these various line-item unit costs. The following narrative describes the methodology used to calculate individual line-item costs. This methodology will be considered as general reference for contractors as they develop their FY 1994 budgets, and also to provide additional explanation in determining how certain costs and savings were determined.

1. Bill and Claim Payment

The individual fiscal intermediary and carrier workload levels for FY 1994 are determined by using a statistical forecasting model. We are also projecting the number of bills or claims a fiscal intermediary and carrier may expect to have pending at the end of the FY 1993 using the same data. We then combine the FY 1994 receipt estimate with the anticipated end of FY 1993 pending level, and subtract the estimated FY 1994 pending for each fiscal intermediary and carrier to establish a processed workload (that is, Estimated FY 1994 receipts + Estimated end of FY 1993 pending − Estimated end of FY 1994 pending = Estimated FY 1994 Processed Workload).

In order to price individual contractor bill and claim workload, we develop a unit cost that is the cost of processing a single bill or claim. The individual fiscal intermediary and carrier unit costs for FY 1994 are calculated based upon unit costs in the FY 1993 Notices of Budget Approval. The calculations include increases to recognize the cost of new legislation, and 2.7 percent for price inflation. Reductions associated with the application of the IE study and savings achieved from the Common Working File and other prior PIs will also be part of the formula employed in computing FY 1994 target unit costs. The ROs will negotiate with the fiscal intermediaries and carriers to resolve any differences within the limits of the funding available to HCFA.

2. Reconsideration (Reviews Under Part B) and Hearing

We will allocate funding based on the amount of dollars spent (line 2 of Forms HCFA–1523/1524) in the prior years, adjusted for inflation and changes in volume. Specifically, we will adjust the previous year's costs for reconsiderations and hearings by 2.7 percent for price inflation, and for the estimated percentage change in workload.

The individual fiscal intermediary and carrier budget allocations for reconsiderations, reviews, and hearings are estimated by multiplying forecast workloads by the adjusted unit costs.

The ROs will negotiate with the fiscal intermediaries and carriers to resolve any differences between HCFA's allocations and the contractors' requests within the limits of the funding available to HCFA.

3. Beneficiary and Provider Inquiries (Part B Only)

In order to establish a budgeted amount for beneficiary and provider inquiries, the prior year's cost is increased by 2.7 percent inflation and the projected workload change. We also consider special conditions unique to specific carriers in negotiating the budget. We will use the data to develop a budgeted cost for beneficiary and provider inquiries by multiplying forecasted processed volume times unit cost. The ROs will negotiate with the carriers to resolve any differences between HCFA's allocations and the carrier's requests within the limits of the funding available to HCFA.

4. Provider Reimbursement (Part A Only)

In determining individual fiscal intermediary budgets for reimbursement activities, we first calculated a FY 1993 unit cost using the funding included on the latest FY 1993 NOBA (Form HCFA 1523) and divided that amount by the workload reported on the Schedule of Providers Serviced (SPS) for the same period. The SPS is a listing of all the facilities serviced by the fiscal intermediary. The SPS is submitted with each initial budget request so that a part of the analysis is the comparison of the composition of the provider community serviced by the fiscal intermediary and any change reported between FYs.

This unit cost is increased by 2.7 percent for inflation and is then multiplied by the FY 1994 workload as reported on the SPS. The result is then adjusted for special initiatives.

The ROs will negotiate with the fiscal intermediaries to resolve any differences between HCFA's allocations and the fiscal intermediaries' requests within the limits of the funding available to HCFA.

5. Provider Audit (Part A Only)

For FY 1994, the provider audit function is divided into three major activities: Field audits, desk reviews, and settlements. The Contractor Auditing and Settlement Report (CASR) (Forms HCFA–1525/1525A) provides a breakout of audit activities and costs by type of provider, and documents the savings incurred as a result of audit activity. Using this as a base, the desk review costs are developed by projecting the number of providers serviced by the unit cost per desk review (developed for the latest CASR for FY 1993) to determine the cost of handling the FY 1994 workload at the FY 1993 unit cost.

Settlement costs are based on the workload projected in the fiscal intermediary's budget request multiplied by the unit cost for settlements found in the most recent CASR for FY 1993.

The overriding priority of all audit efforts is the completion of any special activities required by legislation. The second priority is that all cost reports be desk reviewed and, to the extent possible, settled. All of the above costs are adjusted for inflation, which for FY 1994 will be a 2.7 percent increase.

The ROs will negotiate with the fiscal intermediaries to resolve any differences between HCFA's allocations and the fiscal intermediaries' requests within the limits of the funding available to HCFA.

6. Medicare Secondary Payer (MSP)

We will extract data, including processed volumes, costs and program savings, from the Schedule of MSP Costs (Forms HCFA–1523/1524D) and the MSP Savings Report (Forms HCFA–1563/1564) to determine MSP funding allocations. These reports will include IRS, SSA, and HCFA data match costs, volumes, and savings. In allocating the FY 1994 MSP budget to individual fiscal intermediaries and carriers, we consider:

- The estimated potential savings goals by category and by State (that is, working aged and spousal working aged insurance, automobile, medical liability and no-fault insurance, end stage renal disease, disability, and workers compensation);
- The relationship of available funds to expected savings among contractors; and
- The staffing mix differences, levels of systems sophistication, and special tasks.

The ROs will consider the above categories when negotiating with fiscal intermediaries and carriers within the limits of the funding available to HCFA.

7. Medical Review/Utilization Review (MR/UR)

The individual fiscal intermediary and carrier MR/UR budgets for FY 1994 will be calculated in three segments: (1) Prepayment medical review, (2) postpayment activities, and (3) medical review policy development (carriers only). As part of the BPRs, we ask the fiscal intermediaries and carriers to estimate the number of bills or claims to be processed by types, and the required funding. We will allocate prepayment and postpayment medical review funding to contractors based upon the workload that a fiscal intermediary or carrier projects will be processed under the FY 1994 budget guidelines for medical review and the funds requested by the fiscal intermediary or carrier to perform the reviews in accordance with established review levels. Carrier budgets for medical review policy development are based on levels of sophistication of carrier policy development and dissemination and the need for medical direction. The funding calculations for all MR/UR activities will include a 2.7 percent factor for price inflation where applicable.

The ROs will negotiate with the fiscal intermediaries and carriers to resolve any differences between HCFA's allocations and the contractors' requests within the limits of the funding available to HCFA.

8. Participating Physicians (Part B Only)

In determining the individual carrier funding levels for the participating physician program for FY 1994, we considered the following factors:

- The number of physicians in the carrier's service area;
- The carrier's current participation rate;
- The carrier's recent performance in increasing its participation rate;
- The scope of work to be performed as outlined in the budget guidelines; and
- Last year's cost experience.

Since participating physicians are eligible for toll free telephone lines for electronic billing, allowance has been made for these expenses. Carriers with lower participation rates will receive greater funding for the limiting charge violation monitoring and monitoring of nonparticipating physicians for compliance with elective surgery disclosure requirements.

Carrier monitoring funds are allocated based on the national percentage of nonparticipating physicians. All carriers will receive the same funding amount for reporting participation statistics. Our computations of the carriers' budgets for these activities will include a 2.7 percent factor for inflation.

The ROs will negotiate with the carriers to resolve any differences between HCFA's allocations and the carriers' requests within the limits of the funding available to HCFA.

9. Productivity Investments

The costs of implementing legislation and new initiatives designed to improve the effectiveness and efficiency of Medicare program administration are referred to as productivity investments (PI). Several allocation methodologies will be employed in calculating the PI budgets for individual fiscal intermediaries and carriers. For those projects involving only single contractors or small groups of contractors, we will allocate funds based upon the specifications of the particular project. For those projects involving all fiscal intermediaries or carriers, where the costs are driven by bill or claim volume, we will distribute the funding based upon our workload projections for each contractor. Finally, for those projects involving all fiscal intermediaries or carriers that require equal effort, regardless of the contractor's size, we derived a standard allocation to be given to all contractors.

The ROs will negotiate with the fiscal intermediaries and carriers to resolve any differences between HCFA's allocations and the contractors' requests

within the limits of the funding available to HCFA.

10. Provider Education and Training (Part B Only)

Distribution of funds made available to HCFA for provider education and training is based upon the ratio of physicians and suppliers in each carrier's service area to the national total of physicians and suppliers.

V. Response to Comments

Because of the large number of items of correspondence we normally receive on FR documents published for comment, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date specified in the "DATES" section of this preamble, and, if we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Authority: Sections 1816(c)(1) and 1842(c)(1) of the Social Security Act (42 U.S.C. 1395h(c)(1) and 1395u(c)(1)).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance; and Program No. 93.774, Medicare—Supplementary Medical Insurance Program)

Dated: June 18, 1993,

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 93-24343 Filed 10-4-93; 8:45 am]

BILLING CODE 4120-01-P

[OPHC-029-N]

Health Maintenance Organizations; Qualification Determinations and Compliance Actions During the Period April 1, 1993, Through June 30, 1993

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice.

SUMMARY: This notice sets forth the names, addresses, service areas or modified service areas, and dates of qualification or expansion of entities determined to be Federally qualified health maintenance organizations (FQHMOs) during the period April 1, 1993, through June 30, 1993. Additionally, this notice sets forth compliance actions taken by the Office of Prepaid Health Care Operations and Oversight for the period April 1, 1993, through June 30, 1993. This notice is being published in accordance with our regulations set forth at 42 CFR 417.144 and 417.163, which require publication in the **Federal Register** of certain determinations relating to FQHMOs.

FOR FURTHER INFORMATION CONTACT: Christine Boesz, (202) 619-0840.

SUPPLEMENTARY INFORMATION:

A. Qualification Determinations

As part of our evaluation and determination of whether an entity qualifies as a Federally qualified health maintenance organization (FQHMO), our regulations set forth at 42 CFR 417.144(e), promulgated under title XIII of the Public Health Service Act (the Act) (42 U.S.C. 300e), require publication in the **Federal Register** of the names, addresses, and description of the service areas of new FQHMOs. We interpret this requirement as applying to revisions of service areas of currently approved FQHMOs as well. Our last notice containing this information was published on July 26, 1993 (58 FR 39820).

There are three categories of FQHMOs: Operational, transitionally qualified, and preoperational. Definitions of these terms are set forth at 42 CFR 417.141.

The Office of Prepaid Health Care Operations and Oversight has determined that the following entities have expanded their previously qualified service areas.

Expansions and Additions of Service Area Regional Components by Existing FQHMOs

a. *HealthAmerica PA, Inc.* (Group Model, requirements are set forth at section 1310(b)(1) of the Act), 2601 Market Place St., Harrisburg, Pennsylvania, 17110. HealthAmerica PA's Federally qualified service area has been expanded to include the Centre County Regional Component consisting of the following counties:

Blair	Huntington
Centre	Juniata
Clearfield	Mifflin
Clinton	

Date of qualification for service area expansion: April 7, 1993.

b. *CaliforniaCare Health Plans* (Group Model, requirements are set forth at section 1310(b)(1) of the Act), 21555 Oxnard Street, Woodland Hills, California, 91367. CaliforniaCare Health Plans' Federally qualified service area has been expanded to include the following zip codes in portions of Los Angeles and Orange Counties:

Los Angeles

90001	90241	90277	90604	90716	90805
90002	90242	90278	90605	90717	90806
90003	90247	90280	90638	90723	90807
90040	90248	90501	90650	90731	90808
90059	90254	90502	90670	90732	90810
90061	90255	90503	90701	90744	90813
90201	90260	90504	90706	90745	90814
90220	90262	90506	90710	90746	90815
90221	90266	90601	90712	90802	90822
90222	90270	90602	90713	90803	91748
90240	90274	90603	90715	90804	

Orange

90620	92626	92646	92665	92683	92710
90621	92627	92647	92666	92686	92714
90623	92629	92648	92667	92688	92715
90630	92630	92649	92668	92691	92718
90631	92631	92651	92669	92692	92720
90680	92632	92653	92670	92701	92801
90720	92633	92655	92672	92703	92802
90740	92635	92656	92675	92704	92804
90742	92640	92660	92676	92705	92805
90743	92641	92661	92677	92706	92806
92621	92643	92662	92678	92707	92807
92624	92644	92663	92679	92708	92808
92625	92645	92664	92680	92709	

Date of qualification for service area expansion: June 11, 1993.

c. *Qual-Med Plan for Health, Inc. (QMPFH)* (Group Model, requirements are set forth at section 1310(b)(1) of the Act), 6100 Uptown Boulevard, suite 400, Albuquerque, New Mexico, 87110. QMPFH's previously Federally qualified service area has been expanded to include the following counties:

Los Alamos
Sandoval
Santa Fe

Date of qualification for service area expansion: June 25, 1993.

d. *Family Health Plan, Inc. (FHP) (Florida)* (Group Model, requirements are set forth at section 1310(b)(1) of the Act), 7975 Miami Lakes Drive, suite 300, Miami Lakes, Florida, 33016. FHP's Federally qualified service area has been expanded to include the following county:

Palm Beach

Date of qualification for service area expansion: June 30, 1993.

B. Compliance Actions

The Office of Prepaid Health Care Operations and Oversight gives notice of the following compliance actions affecting FQHMOs for the period April 1, 1993, through June 30, 1993:

1. Notice of Revocation

The Office of Prepaid Health Care Operations and Oversight considers voluntary relinquishment of participation to be a compliance action and sends a notice of revocation to the FQHMO. Notice was sent during the second quarter of calendar year 1993 to the following organization:

Organization	Date issued	Reason
Independent Health of Pennsylvania, Inc., Erie, PA.	4/23/93	Voluntary Relinquishment.

2. Notice of Reestablished Compliance

Organization	Date reestablished
HealthAmerica, PA., Inc., Harrisburg, PA	4/6/93

C. Availability of Additional Information

A cumulative list of FQHMOs and additional information may be obtained by writing to the following address:

Office of Prepaid Health Care Operations and Oversight, Health Care Financing Administration, room 4406 Cohen Building, 330 Independence Avenue, SW., Washington, DC 20201.

The list also may be obtained by visiting that office between the hours of 8:30 a.m. and 4:30 p.m., Monday through Friday, except for Federal holidays. Interested persons should contact Margie Sharif for an appointment, by telephoning (202) 619-0845.

Authority: Title XIII of the Public Health Service Act (42 U.S.C. 300e).

Dated: September 17, 1993.

Bruce C. Vladeck,

Administrator, Health Care Financing Administration.

[FR Doc. 93-24408 Filed 10-4-93; 8:45 am]

BILLING CODE 4120-01-P

Health Resources and Services Administration

[PN-2115]

Program Announcement and Proposed Minimum Percentages for "High Rate" and "Significant Increase in the Rate" for Implementation of the General Statutory Funding Preference for Grants for Graduate Training in Family Medicine for Fiscal Year 1994

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1994 Grants for Graduate Training in Family Medicine are being accepted under the authority of section 747(a), (previously section 786(a)), title VII of the Public Health Service (PHS) Act, as amended by the Health Professions Education Extension Amendments of 1992, title I of Public Law 102-408, dated October 13, 1992. Comments are invited on the proposed minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference.

The Administration's budget request for FY 1994 includes $14.5 million for the Graduate Training in Family Medicine program. Total continuation support recommended is $9.4 million. It is anticipated that $5.1 million will be available to support approximately 46 competing awards averaging $110,000.

This program announcement is subject to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as provide for an even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program.

In FY 1993, HRSA reviewed 127 applications for Grants for Graduate Training in Family Medicine. Of those applications, 66 percent were approved and 34 percent were disapproved. Thirty-six projects, or 28 percent of applications received, were funded. In FY 1992, HRSA reviewed 123 applications. Of those applications, 68 percent were approved and 32 percent were disapproved. Fifty-five projects, or 65 percent of applications received, were funded.

Purpose

Section 747(a) of the Public Health Service Act authorizes the Secretary to award grants to assist in meeting the costs of planning, developing and operating or participating in approved graduate training programs in the field of family medicine. In addition, section 747(a) authorizes assistance in meeting the cost of supporting trainees in such programs who plan to specialize or work in the practice of family medicine.

To receive support, programs must meet the requirements of regulations as set forth in 42 CFR part 57, subpart Q and section 791(b) of the PHS Act. The period of Federal support should not exceed 5 years.

Eligible applicants are accredited schools of medicine or osteopathic medicine, public or nonprofit private hospitals, and other public or private nonprofit entities.

National Health Objectives for the Year 2000

The PHS is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Graduate Training in Family Medicine Program is related to the priority areas of Educational and Community-Based Programs and Clinical Preventive Services.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402–9325 (Telephone 202–783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between its U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The degree to which the proposed project provides for the project requirements;
2. The administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner; and
3. The potential of the project to continue on a self-sustaining basis.

Other Considerations

In addition, the following funding factors may be applied in determining the funding of approved applications:

1. Funding preferences are defined as the funding of specific categories or groups of applications.
2. Funding priorities are defined as the favorable adjustment of aggregate review scores when applications meet specified objective criteria.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

General Statutory Funding Preference

As provided in section 791(a) of the PHS Act, preference will be given to any qualified applicant that—

(A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(B) During the 2-year period preceding the fiscal year for which an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of applications that have been recommended for approval by the peer review group.

Proposed Minimum Percentages for "High Rate" and "Significant Increase in the Rate"

"High rate" is defined as a minimum of 25 percent of combined graduates of the residency training program in academic years 1990–91 through 1992–93.

"Significant increase in the rate" means that, between academic years 1991–92 through 1992–93, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and not less that 15 percent of graduates from the most recent year are working in these areas.

Additional information concerning the implementation of this preference has been published in the **Federal Register** at 58 FR 40659, dated July 29, 1993.

Established Funding Priorities for FY 1994

The following priority was established in FY 1992 after public comment dated March 3, 1992, at 58 FR 7594 and is being continued in FY 1994.

Community-Oriented Primary Care Educational Activities

A funding priority will be given to applications that demonstrate that curricular time and educational offerings will be devoted to demonstrating and achieving better preventive/primary care services for underserved communities, areas or populations.

The following funding priority was established in FY 1993 after public comment dated April 28, 1993, at 58 FR 25842 and is being continued in FY 1994.

Minorities/Low Income Populations

A funding priority will be given to programs which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating residents from those minority or low-income populations identified as at-risk of poor health outcomes.

Information Requirements Provision in Statute

Under section 791(b) of the Act, the Secretary may make an award under the Grants for Graduate Training in Family Medicine program only if the applicant for the award submits to the Secretary the following information: 1. A description of rotations of preceptorships for students, or clinical training programs for residents, that have the principal focus of providing health care to medically underserved communities.

2. The number of faculty on admissions committees who have a clinical practice in community-based ambulatory settings in medically underserved communities.

3. With respect to individuals who are from disadvantaged backgrounds or from medically underserved communities, the number of such individuals who are recruited for academic programs of the applicant, the number of such individuals who are admitted to such programs, and the number of such individuals who graduate from such programs.

4. If applicable, the number of recent graduates who have chosen careers in primary health care.

5. The number of recent graduates who practices are serving medically underserved communities.

6. A description of whether and to what extent the applicant is able to operate without Federal assistance under this title.

Additional details concerning the implementation of this information requirement have been published in the **Federal Register** at 58 FR 43642, dated August 17, 1993, and will be provided in the application materials.

Paperwork Reduction Act

The information supporting the statutory general preference and the section 791 provision is included in the application materials approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (OMB #0915–0060, expiration date 7/31/95).

Additional Information

Interested persons are invited to comment on the proposed minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference. The comment period is 30-days. All comments received on or before November 4, 1993 will be considered before the final minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference are established.

Written comments should be addressed to: Marc L. Rivo, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 4C–25, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address, weekdays (Federal

holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Mrs. Mary Allen, Grants Management Specialist (D-15), Residency and Advanced Grants Section, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 8C-26, Rockville, Maryland 20857, Telephone: (301) 443-6002, FAX: (301) 443-6343.

Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: Ms. Elsie Quinones, Program Specialist, Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 4C-04, Rockville, Maryland 20857, Telephone: (301) 443-6820, FAX: (301) 443-8890.

The deadline date for receipt of applications is November 17, 1993. Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the established deadline date, or

(2) Sent on or before the established deadline and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or 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.)

Late applications not accepted for processing will be returned to the applicant.

This program is listed at 93.379 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: August 2, 1993.

William A. Robinson,

Acting Administrator.

[FR Doc. 93-24409 Filed 10-4-93; 8:45 am]

BILLING CODE 4160-15-P

[PN-2122]

Program Announcement, Proposed Minimum Percentages for "High Rate" and "Significant Increase in the Rate" for Implementation of the General Statutory Funding Preference, Funding Priority and Special Consideration for Grants for Predoctoral Training in Family Medicine

The Health Resources and Services Administration (HRSA) announces that applications for fiscal year (FY) 1994 for Grants for Predoctoral Training in Family Medicine are being accepted under the authority of section 747(a), (previously section 786(a)), title VII, of the Public Health Service (PHS) Act, as amended by the Health Professions Education Extension Amendments of 1992, Public Law 102-408, dated October 13, 1992. Comments are invited on the proposed minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference, funding priority and special consideration stated below.

The Administration's budget request for FY 1994 includes $13.0 million for the Grants for Predoctoral Training in Family Medicine program. Total continuation support recommended is $6.8 million. It is anticipated that $6.2 million will be available to support approximately 40 competing awards averaging $154,700.

This program announcement is subject to the appropriation of funds. Applicants are advised that this program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program.

In FY 1993, HRSA reviewed 48 applications for Grants for Predoctoral Training in Family Medicine. Of those applications, 85 percent were approved and 31 percent were disapproved. Thirty-four projects, or 71 percent of the applications, were funded.

In FY 1992, HRSA reviewed 49 applications. Of those applications, 78 percent were approved and 22 percent were disapproved. Thirty-eight projects, or 78 percent of the applications, were funded.

Purpose

Section 747(a) of the Public Health Service Act authorizes the award of grants to assist in meeting the cost of planning, developing and operating or participating in approved predoctoral training programs in the field of family medicine. Grants may include support for the program only or support for both the program and the trainees.

Eligible applicants are accredited public or nonprofit private schools of medicine or osteopathic medicine.

To receive support, programs must meet the requirements of regulations as set forth in 42 CFR part 57, subpart Q and section 791(b) of the PHS Act. The period of Federal support will not exceed 5 years.

National Health Objectives for the Year 2000

The Public Health Service (PHS) urges applicants to submit work plans that address specific objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The Grants for Predoctoral Training in Family Medicine Program is related to the priority area of Educational and Community-Based Programs.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402-9325 (Telephone (202) 783-3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Review Criteria

The review of applications will take into consideration the following criteria:

1. The potential effectiveness of the proposed project in carrying out the training purposes of section 747(a) of the Act;

2. The degree to which the proposed project adequately provides for the project requirements;

3. The administrative and management ability of the applicant to carry out the proposed project in a cost-effective manner; and

4. The potential of the project to continue on a self-sustaining basis after the period of grant support.

Other Considerations

In addition, the following funding factors may be applied in determining the funding of approved applications:

1. Funding Preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of applications, such as competing continuation projects ahead of new projects.

2. Funding priority is defined as the favorable adjustment of aggregate review scores when applications meet specified objective criteria.

3. Special consideration is defined as the enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for a funding factor will be reviewed and given full consideration for funding.

General Statutory Funding Preference

As provided in section 791(a) of the PHS Act, preference will be given to any qualified applicant that—

(A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(B) During the 2-year period preceding the fiscal year for which an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of applications that have been recommended for approval by the peer review group.

Proposed Minimum Percentages for "High Rate" and "Significant Increase in the Rate"

"High rate" is defined as a minimum of 20 percent of graduates of the medical school in academic year 1988–89 or 1989–90.

"Significant increase in the rate" means that the rate of placing academic year 1989–90 graduates in the specified settings is at least 50 percent higher than the rate of placing academic year 1988–89 graduates in such settings and that not less than 15 percent of academic year 1989–90 graduates are working in these areas. Academic years 1988–89 and 1989–90 are used because they are the two most recent years that medical school graduates would have entered practice following the completion of residency training.

Additional information concerning the implementation of this preference has been published in the **Federal Register** at 58 FR 40659, dated July 29, 1993.

Established Funding Priority for FY 1994

The following funding priority was established in FY 1993, after public comment dated January 22, 1993 at 58 5739 and is being continued in FY 1994.

A funding priority will be given to applicants that can demonstrate either substantial progress over the last 3 years or significant experience of 10 or more years in enrolling and influencing graduates from those minority or low-income populations identified as at-risk of poor health outcomes to enter family medicine residency training.

Proposed Funding Priority and Special Consideration

It is proposed that a funding priority be given to applicants based on their level of accomplishment in relation to the outcome or process measures cited below:

Outcome measures	Points	Process measures
—25% of students who graduated in 1991, 1992 and 1993 entered family practice residencies.	100	
—20% of students who graduated in 1991, 1992 and 1993 entered family practice residencies.	75	
—15% of students who graduated in 1991, 1992 and 1993 entered family practice residencies.	50	—Required 3rd year Family Medicine clerkship[1] (of at least 4 weeks duration).
—12% of students who graduated in 1991, 1992 and 1993 entered family practice residencies.	35	—Required primary care preceptorship/mentorship program[1] in preclinical years.
	20	—Full departmental status at time of application.

[1] Curricular elements must be in place at the time of application or the applicant must provide satisfactory evidence (including commitments from institutional officials) that the clerkship or preceptorship will be operational by the beginning of the third year of the grant.

Applicants may only receive priority points in one of the above seven categories.

Special Consideration

It is proposed that special consideration be given to the degree to which applicants demonstrate that prior year funding has increased the percentage of graduates who select Graduate Training in Family Practice.

Information Requirements Provision in Statute

Under section 791(b) of the Act, the Secretary may make an award under the Grants for Predoctoral Training in Family Medicine program only if the applicant for the award submits to the Secretary the following information:

1. A description of rotations of preceptorships for students, or clinical training programs for residents, that have the principal focus of providing health care to medically underserved communities.

2. The number of faculty on admissions committees who have a clinical practice in community-based ambulatory settings in medically underserved communities.

3. With respect to individuals who are from disadvantaged backgrounds or from medically underserved communities, the number of such individuals who are recruited for academic programs of the applicant, the number of such individuals who are admitted to such programs, and the number of such individuals who graduate from such programs.

4. If applicable, the number of recent graduates who have chosen careers in primary health care.

5. The number of recent graduates whose practices are serving medically underserved communities

6. A description of whether and to what extent the applicant is able to operate without Federal assistance under this title.

Additional details concerning the implementation of this information requirement have been published in the **Federal Register** at 58 FR 43642, dated August 17, 1993, and will be provided in the application materials.

Paperwork Reduction Act

The information supporting the statutory general preference and the section 791 provision is included in the application materials approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (OMB #0915–0060, expiration date 7/31/95).

Additional Information

Interested persons are invited to comment on the proposed minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference, funding priority and special consideration. All comments received on or before November 4, 1993 will be considered before the final minimum percentages for "high rate" and "significant increase in the rate" for implementation of the general statutory funding preference, funding priority and special consideration are established.

Written comments should be addressed to: Marc L. Rivo, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 4C–25, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5:00 p.m.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Mrs. Donna Nash, Grants Management Specialist (D–15), Residency and Advanced Grants Section, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 8C–26, Rockville, Maryland 20857. Telephone: (301) 443–6960. FAX: (301) 443–6343.

Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: Mrs. Betty Ball, Resources Development Section, Primary Care Medical Education Branch, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, room 4C–04 Parklawn Building, Rockville, Maryland 20857. Telephone: (301) 443–3614. FAX: (301) 443–8890.

The deadline date for receipt of applications is November 22, 1993. Applications shall be considered as meeting the deadline date if they are either:

1. Received on or before the established deadline date, or

2. Sent on or before the established deadline date and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or 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.)

Late applications not accepted for processing will be returned to the applicant.

This program is listed at 93.896 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs, (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: August 16, 1993.

William A. Robinson,

Acting Administrator.

[FR Doc. 93–24410 Filed 10–4–93; 8:45 am]

BILLING CODE 4160–15–M

[PN 2124]

Program Announcement, Proposed Minimum Percentages for "High Rate" and "Significant Increase in the Rate" and Proposed Addition to Funding Preference for Grants for Residency Training in General Internal Medicine and General Pediatrics

The Health Resources and Services Administration (HRSA) announces that applications for Fiscal Year (FY) 1994 Grants for Residency Training in General Internal Medicine and General Pediatrics are being accepted under the authority of section 748, (previously section 784), title VII of the Public Health Service (PHS) Act, as amended by the Health Professions Education Extension Amendments of 1992, title I of Public Law 102–408, dated October 13, 1992. Comments are invited on the proposed minimum percentages for "high rate" and "significant increase in the rate" and proposed addition to the established funding preference.

The Administration's budget request for FY 1994 includes $12.0 million for the Grants for Residency Training in General Internal and General Pediatrics program. Total continuation support recommended is $8.6 million. It is anticipated that $3.4 million will be available to support 20 competing awards averaging $174,000. Applicants are advised that this program announcement is a contingency action being taken to assure that should funds become available for this purpose, they can be awarded in a timely fashion consistent with the needs of the program as well as to provide for even distribution of funds throughout the fiscal year. This notice regarding applications does not reflect any change in this policy.

Previous Funding Experience

Previous funding experience information is provided to assist potential applicants to make better informed decisions regarding submission of an application for this program. In FY 1993, HRSA reviewed 66 applications for Grants for Residency Training in General Internal Medicine and General Pediatrics. Of those applications, 80 percent were approved and 20 percent were disapproved. Thirty projects or 45 percent of the applications received, were funded. In FY 1992, HRSA reviewed 43 applications. Of those applications, 60 percent were approved and 40 percent were disapproved. Eighteen projects, or 42 percent of the applications received, were funded.

Purpose

Section 748 authorizes the award of grants for planning, developing, operating or participating in approved residency training programs which emphasize the training for the practice of general internal medicine or general pediatrics. In addition, section 748 authorizes assistance in meeting the cost of supporting residents who are in need thereof, who are participants in any such program, and who plan to specialize or work in the practice of general internal medicine or general pediatrics. A separate grant program is in effect for the faculty development component of this provision. In addition, section 748 now authorizes grants or contracts to support predoctoral training in general internal medicine and general pediatrics.

To receive support, programs must meet the requirements of the final regulations as specified in 42 CFR part 57, subpart FF.

The period of Federal support will not exceed 5 years.

National Health Objectives for the Year 2000

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity for setting priority areas. The grant program for Residency Training in General Internal Medicine and General Pediatrics is related to the priority area of "Clinical Preventive Services."

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017–001–00474–0) or Healthy People 2000 (Summary Report; Stock No. 017–001–00473–1) through the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402–9325 (Telephone (202) 783–3238).

Education and Service Linkage

As part of its long-range planning, HRSA will be targeting its efforts to strengthening linkages between U.S. Public Health Service education programs and programs which provide comprehensive primary care services to the underserved.

Review Criteria

The review of applications will take into consideration the following criteria:

(1) The degree to which the proposed project adequately provides for the project requirements set forth in the regulations;

(2) The administrative and management capability of the applicant to carry out the proposed project in a cost-effective manner;

(3) The qualifications of the proposed staff and faculty; and

(4) The potential of the project to continue on a self-sustaining basis.

Other Considerations

In addition, the following funding factors may be applied in determining the funding of approved applications:

1. Funding preferences are defined as the funding of a specific category or group of approved applications ahead of other categories or groups of applications.

2. Funding priorities are defined as the favorable adjustment of aggregate review scores when applications meet specified objective criteria.

3. Special considerations are defined as the enhancement of priority scores by merit reviewers based on the extent to which applicants address special areas of concern.

It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory General Funding Preference

As provided in section 791(a) of the PHS Act, preference will be given to any qualified applicant that—

(A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(B) During the 2-year period preceding the fiscal year for which an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of applications that have been recommended for approval by the peer review group.

Proposed Minimum Percentages for "High Rate" and "Significant Increase in the Rate"

"High rate" is defined as a minimum of 25 percent of combined graduates of the residency training program in academic years 1990–91 through 1992–93.

"Significant increase in the rate" means that, between academic years 1991–92 through 1992–93, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and not less than 15 percent of graduates from the most recent year are working in these areas.

Additional information concerning the implementation of this preference has been published in the **Federal Register** at 58 FR 40659, dated July 29, 1993.

Established Funding Preference

Generalism Outcomes/Continuity of Care Training Experiences

Part I of the following funding preference was established in FY 1990 after public comment dated January 30, 1990, 55 FR 3108 and is being continued with proposed revisions in FY 1994. Parts 2 and 3 are being replaced by these revisions.

It is proposed that funding preference be awarded to any approved application that meets the following criteria: (A) Applicants that had a separate match number for an identified primary care track or program in 1993 OR that received support from this grant program in the last 3 years must:

1. Have 80 percent or more of their 1991 to 1993 primary care program graduates in primary care practice, OR demonstrate an increase of 50 percent or more in the number of graduates trained in the primary care program or track from academic years 1990–91 to 1992–93; AND

2. Provide evidence of institutional commitment, resources and a workable plan demonstrating that by the beginning of the second (02) year of the grant *ALL* entering residents in the internal medicine or pediatric residency training program will receive training that meets the following continuity of care standards: Each resident must serve a panel of patients and/or families who recognize him or her as their provider of longitudinal and comprehensive (including preventive and psychosocial) health care. This continuity experience must be scheduled principally in ambulatory care settings described in Project Requirement #9 of the Program Guide. A resident's time in these settings must (a) comprise at least 10 percent of his or her total training time (excluding vacation time) for the entire training (excluding vacation time) during each year of the program (ie., at least one-half day per week); (b) comprise at least 20 percent of his or her total training time (excluding vacation time for the entire training period; and (c) be scheduled in at least 9 months of each year of training.

B. Applicants that did not have a separate match number for an identified primary care track or program in 1993 AND that did not receive support from this grant program in the last 3 years can qualify for this preference by:

1. Demonstrating institutional commitment to training all residents for primary care careers;

2. Providing continuity of care experience for ALL internal medicine and/or pediatrics residents in accordance with the provisions cited in A.2 above by the beginning of the second year of grant support (July 1, 1995).

Established Funding Priorities

The following funding priorities were established in FY 1992 after public comment dated April 30, 1992, at 57 FR 18520 and are being continued in FY 1994.

Community-Oriented Primary Care Educational Activities

A funding priority will be given to applications that demonstrate that curricular time and educational offerings will be devoted to demonstrating and achieving better preventive/primary care services for

underserved communities, areas or populations.

The following funding priority was established in FY 1993, after public comment dated April 28, 1993, at 58 FR 25841 and is being continued in FY 1994.

Minorities/Low Income Populations

A funding priority will be given to applicants which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating residents from those minority or low-income populations identified as at-risk of poor health outcomes.

Information Requirements Provision in Statute

Under section 791(b) of the Act, the Secretary may make an award under the Grants for Residency Training in General Internal Medicine and General Pediatrics program only if the applicant for the award submits to the Secretary the following information:

1. A description of rotations of preceptorships for students, or clinical training programs for residents, that have the principal focus of providing health care to medically underserved communities.
2. The number of faculty on admissions committees who have a clinical practice in community-based ambulatory settings in medically underserved communities.
3. With respect to individuals who are from disadvantaged backgrounds or from medically underserved communities, the number of such individuals who are recruited for academic programs of the applicant, the number of such individuals who are admitted to such programs, and the number of such individuals who graduate from such programs.
4. If applicable, the number of recent graduates who have chosen careers in primary health care.
5. The number of recent graduates whose practices are serving medically underserved communities.
6. A description of whether and to what extent the applicant is able to operate without Federal assistance under this title.

Additional details concerning the implementation of this information requirement have been published in the **Federal Register** at 58 FR 43642, dated August 17, 1993, and will be provided in the application materials.

Paperwork Reduction Act

The information supporting the statutory general preference and the section 791 provision is included in the application materials approved by the Office of Management and Budget in accordance with the Paperwork Reduction Act (OMB #0915–0060, expiration date 7/31/95).

Additional Information

Interested persons are invited to comment on the proposed minimum percentages for "high rate" and "significant increase in the rate" and revisions to the funding preference. All comments received on or before November 4, 1993 will be considered before the final percentages for "high rate" "significant increase in rate" and revision to the funding preference will be applied.

Written comments should be addressed to: Marc L. Rivo, M.D., M.P.H., Director, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 4C–25, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying at the Division of Medicine, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Application Requests

Requests for application materials and questions regarding grants policy and business management issues should be directed to: Mrs. Donna Nash, Grants Management Specialist (D–28), Residency and Advanced Grants Section, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Parklawn Building, room 8C–26, Rockville, Maryland 20857. Telephone: (301) 443–6960. FAX: (301) 443–6343.

Completed applications should be returned to the Grants Management Branch at the above address.

If additional programmatic information is needed, please contact: Ms. Sara Kearney, Residency Training Section, Division of Medicine, Bureau of Health Professions, Health Resources and Services Administration, 5600 Fishers Lane, Telephone: (301) 443–6820. FAX: (301) 443–8890.

The deadline date for receipt of applications is December 6, 1993. Applications shall be considered as meeting the deadline if they are either:

(1) Received on or before the established deadline date, or

(2) Sent on or before the established deadline and received in time for orderly processing. (Applicants should request a legibly dated U.S. Postal Service postmark or 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.)

Late applications not accepted for processing will be returned to the applicant.

This program is listed at 93.884 in the Catalog of Federal Domestic Assistance. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100).

This program is not subject to the Public Health System Reporting Requirements.

Dated: August 20, 1993.

William A. Robinson,

Acting Administrator.

[FR Doc. 93–24411 Filed 10–4–93; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

DEPARTMENT OF AGRICULTURE

Human Nutrition Information Service

National Nutrition Monitoring Advisory Council; Meeting

SUMMARY: The National Nutrition Monitoring Advisory Council will hold its fifth meeting on October 19, 1993, 9 a.m. to 5 p.m. and October 20, 1993, 9 a.m. to 12:30 p.m. at the Quality Hotel located at 1400 North Courthouse Road, Arlington, Virginia 22201. The meeting is open to the public.

FOR FURTHER INFORMATION CONTACT: Linda Meyers, Co-Executive Secretary to the Council from HHS, U.S. Department of Health and Human Services, Public Health Service, Office of the Assistant Secretary for Health, Office of Disease Prevention and Health Promotion, room 2132, Switzer Building, 330 C Street, SW., Washington, DC 20202, (202) 205–9007; or Debbie Reed, Co-Executive Secretary to the Council from USDA, U.S. Department of Agriculture, Human Nutrition Information Service, 6505 Belcrest Road, room 366, Hyattsville, MD 20782, (301) 436–8457.

SUPPLEMENTARY INFORMATION: The responsibilities of the National Nutrition Monitoring Advisory Council are to evaluate the scientific and technical quality of the Ten-Year Comprehensive Plan and the effectiveness of the coordinated National Nutrition Monitoring and Related Research Program and to provide guidance to the Secretaries of USDA and HHS. This Council is also required by Public Law 101–445 to prepare annual reports to the Secretaries

of both USDA and HHS that include recommendations for improvement of the Program.

The Council meeting agenda will include nutrition monitoring presentations and discussion of the Federal budget process from the perspective of nutrition monitoring. The Council will also discuss its report to the Secretaries. The public may file statements with the Council before or after the meeting by addressing them to either of the contact persons listed above.

Done at Washington, DC this 28th day of September, 1993.

J. Michael McGinnis,

Deputy Assistant Secretary for Health (Disease Prevention and Health Promotion), U.S. Department of Health and Human Services.

Janice Lilja,

Acting Administrator, Human Nutrition Information Service, U.S. Department of Agriculture.

[FR Doc. 93-24407 Filed 10-4-93; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of Administration

[Docket No. N-93-3670]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Angela Antonelli, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708-0050. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the description of the need for the information and its proposed use; (4) the agency form number, if applicable; (5) what members of the public will be affected by the proposal; (6) how frequently information submissions will be required; (7) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (8) whether the proposal is new or an extension, reinstatement, or revision of an information collection requirement; and (9) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Section 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; section 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: September 28, 1993.

John T. Murphy,

Director, IRM Policy and Management Division.

Proposal: Housing Finance Agency Risk Sharing Pilot Program (FR-3383): Category A—Agency-Level Collections. Category B—Project-Level Collections.

Office: Housing.

Description of the need for the information and its proposed use: Section 542(c) of the Housing and Community Development Act of 1992 directs HUD to implement a pilot program of risk-sharing with State and local housing finance agencies (HFAs). Under this program, HUD will provide full mortgage insurance on multifamily housing projects whose loans are underwritten, processed, and serviced by HFAs.

Form number: None.

Respondents: State or Local Governments, Businesses or Other For-Profit, and Non-Profit Institutions.

Frequency of Submission: Annually and Recordkeeping.

Reporting burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Category A	20		1		34.50		690
Category B	250		1		54.75		13,688

Total estimated burden hours: 14,378.

Status: New.

Contact; Susan K. Salley, HUD, (202) 708-1113; Angela Antonelli, OMB, (202) 395-6880.

Dated: September 28, 1993.

[FR Doc. 93-24440 Filed 10-4-93; 8:45 am]

BILLING CODE 4210-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV-930-4333-02]

Recreation Management Restrictions: Occupancy Stay Limitation

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of occupancy stay limits on public lands in Nevada and portions of California administered by the Bureau of Land Management, Nevada State Office.

SUMMARY: This notice establishes occupancy stay limits on public lands administered by the Bureau of Land Management (BLM), Nevada State Office in Nevada and Portions of California. Notice is given that a person or persons may not occupy undeveloped public lands or designated sites or areas for more than fourteen (14) days within a Twenty-eight (28) consecutive day interval. A 28-day interval begins when an occupant initially occupies a specific site on public land within a BLM, Nevada administered District. Following the 14 days, the persons and personal property must relocate to a site outside of at least a 25 mile radius, from the

occupied site or non BLM administered land for a period of fourteen (14) days.

Upon request by the site occupant, an authorized officer may give written permission for an extension of the 14-day limit.

In order to protect resources, or for administrative purposes, an authorized officer may, by posting notification, close a given site to occupancy, even if the same person or persons have not occupied the site for 14 consecutive days.

All site specific camping limitations established prior to this notice shall remain in effect.

DATES: This occupancy limitations rule will take effect thirty (30) days following publication; interested parties may submit comments to the Nevada State Director.

FOR FURTHER INFORMATION CONTACT: Margaret Phillips, Bureau of Land Management, Nevada State Office, 850 Harvard Way, Reno, Nevada 89502.

SUPPLEMENTARY INFORMATION: This public land occupancy limitation rule is being established to reduce user conflicts caused by long-term occupancy done under a recreational pretense which, nevertheless, hampers reasonable opportunities for other members of the general public to camp in or use the same area. In addition, long-term occupancy precipitates vegetation trampling, erosion, wildlife disruption, and improper waste disposal among other problems, all of which were considered significant factors in the institution of this rule.

Authority for this public land occupancy limitation rule is contained in CFR title 43, chapter II, part 8360, subparts 8364.1, 8365, 8365.1–2, 8365.1–6, and 8365.2–3.

Definitions

(a) *Occupation:* Taking or holding possession of a camp or residence on public land.

(b) *Camp or camping:* Erecting a tent or shelter of natural and/or synthetic material, preparing a sleeping bag or other bedding material for use, or parking of a motor vehicle, motor home, or trailer for the presumable purpose of overnight occupancy.

(c) *Public lands:* Any lands or interest in lands owned by the United States and administered by the Bureau of Land Management without regard to how the United States acquired ownership.

(d) *Authorized officer:* Any employee of the Bureau of Land Management who has been assigned the authority to perform under Title 43 of the Code of Federal Regulations..

(e) *Penalties:* Violations of this rule by a member of the public are punishable by a fine not to exceed $1000 and/or imprisonment not to exceed 12 months.

Dated: September 22, 1993.

Billy R. Templeton,

State Director, Nevada.

[FR Doc. 93–24399 Filed 10–4–93; 8:45 am]

BILLING CODE 4310–HC–M

Bureau of Mines

Committee on Mining and Mineral Resources Research; Meeting

The Committee on Mining and Mineral Resources Research will meet from 8 a.m. to 5 p.m. (or completion of business) on Wednesday, October 27, 1993, in room 106 (Dean's Conference Room), Civil Engineering Building, University of Arizona, Tucson, Arizona.

The proposed agenda is:

1. Welcome and introductions
2. Approval of the minutes of the meeting of June 10, 1993
3. Review of congressional actions affecting the Mineral Institute Program
4. Preparation of the 1994 Update to the National Plan
5. Review of the activities of the State of Arizona Mining and Mineral Resources Research Institute
6. New business

This meeting is open to the public. Written statements concerning agenda subjects are welcome and should be sent to the Office of Mineral Institutes, U.S. Bureau of Mines, Mail Stop 1020, 810 Seventh Street, NW., Washington, DC 20241, telephone 202–501–9295, Internet minists@gwuvm.gwu.edu, no later than 4 p.m., Monday, October 25, 1993.

Dated September 28, 1993.

Hermann Enzer,

Acting Director.

[FR Doc. 93–24385 Filed 10–4–93; 8:45 am]

BILLING CODE 4310–53–M

Fish and Wildlife Service

Availability of Draft Recovery Plan for Barber's Point Plants (Chamaesyce skottsbergii var. skottsbergii and Achyranthes splendens var. rotundata) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for *Chamaesyce skottsbergii* var. *skottsbergii* and *Achyranthes splendens* var. *rotundata*. These endangered plant taxa both occur in the Barber's Point area on the island of O'ahu. *Chamaesyce skottsbergii* var. *skottsbergii* also occurs in several areas on the island of Moloka'i, and *Achyranthes splendens* var. *rotundata* also occurs in the Ka'ena area on the island of O'ahu.

DATES: Comments on the draft recovery plan must be received on or before December 6, 1993 to receive consideration by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following location: U.S. Fish and Wildlife Service, Pacific Islands Office, P.O. Box 50167, Honolulu, Hawaii 96850 (Building address: 300 Ala Moana Boulevard, room 6307, Honolulu, Hawaii 96813) (Telephone: 808/541–2749). Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to Robert P. Smith, Field Supervisor of the Pacific Islands Office, at the Honolulu address given above. Comments and materials received are available upon request for public inspection, and by appointment during normal business hours at the above Honolulu address.

FOR FURTHER INFORMATION CONTACT: Karen W. Rosa, Fish and Wildlife Biologist, at the above Honolulu address.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented

during the public comment period prior to approval of each new or revised Recovery Plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The taxa being considered in this recovery plan are *Chamaesyce skottsbergii* var. *skottsbergii* and *Achyranthes splendens* var. *rotundata*. There are currently two metapopulations of each species. *Chamaesyce skottsbergii* var. *skottsbergii* occurs on the 'Ewa plain of the island of O'ahu and on the island of Moloka'i. The 'Ewa plain population numbers approximately 5,000 plants (with the vast majority occurring in one subpopulation), and the Moloka'i population numbers over 30,000 plants. *Achyranthes splendens* var. *rotundata* occurs also on the 'Ewa plain as well as on Ka'ena Point, both on the island of O'ahu. The 'Ewa plain population numbers approximately 2,000 plants. The Ka'ena population numbers approximately 70 plants. Current threats are habitat degradation (including nearly complete loss of native habitat in the 'Ewa plain), invasion of habitat by alien and parasitic native plant species, threats of fire, infestation by damaging insects, natural disaster, over-utilization for commercial use (in the case of *Achyranthes*) and the possibilities of trampling and soil contamination.

Recovery efforts will focus on protection of all the populations from current threats, propagation of plants to augment existing populations, and expansion of existing populations, where necessary.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of these plans.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 28, 1993.

Marvin L. Plenert,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 93-24388 Filed 10-4-93; 8:45 am]

BILLING CODE 4310-55-M

Availability of Draft Recovery Plan for the Lana'i Plant Cluster, Abutilon Eremitopetalum, Abutilon Menziesii, Cyanea Macrostegia ssp. Gibsonii, Cyrtandra Munroi, Gahnia Lanaiensis, Phyllostegia Glabra var. Lanaiensis, Santalum Freycinetianum var. Lanaiense, Tetramolopium Remyi and Viola Lanaiensis; for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Lana'i Plant Cluster, *Abutilon eremitopetalum, Abutilon menziesii, Cyanea macrostegia* ssp. *gibsonii, Cyrtandra munroi, Gahnia lanaiensis, Phyllostegia glabra* var. *lanaiensis, Santalum freycinetianum* var. *lanaiense, Tetramolopium remyi* and *Viola lanaiensis. Cyanea macrostegia* ssp. *gibsonii, Cyrtandra munroi, Gahnia lanaiensis, Phyllostegia glabra* var. *lanaiensis* and *Viola lanaiensis* have their main distributions in the Lana'ihale area of Lana'i. *Abutilon eremitopetalum, Abutilon menziesii,* and *Tetramolopium remyi* have their main distributions in the lowland dry forests of Lana'i. *Santalum freycinetianum* var. *lanaiense* is found in a wide range of habitats on Lana'i and Maui. *Cyrtandra munroi* is also found on Maui, and *Abutilon menziesii* is also found on Maui, Hawai'i and possibly Oahu.

DATES: Comments on the draft recovery plan must be received on or before December 6, 1993 to receive consideration by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations. U.S. Fish and Wildlife Service, Pacific Islands Office, P.O. Box 50167, Honolulu, Hawaii 96850 (Building address: 300 Ala Moana Boulevard, room 6307, Honolulu, Hawaii 96813) (Telephone: 808/541-2749), the Lanai Public and School Library, P.O. Box A-149, Lanai City, HI, 96763, the Kailua-Kona Public Library, 75-138 Hualalai Rd, Kailua-Kona, HI, 96740 and the Wailuku Public Library, 251 High St., Wailuku, Maui, HI, 96793. Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to Robert P. Smith, Field Supervisor of the Pacific Islands Office, at the Honolulu address given above. Comments and materials received are available upon request for public inspection, and by appointment during normal business hours at the above Honolulu address.

FOR FURTHER INFORMATION CONTACT: Ms. Karen W. Rosa, Fish and Wildlife Biologist, at the Honolulu address given above.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing the recovery levels for downlisting or delisting them, and initial estimates of times and costs to implement the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The species being considered in this recovery plan are *Abutilon eremitopetalum, Abutilon menziesii, Cyanea macrostegia* ssp. *gibsonii, Cyrtandra munroi, Gahnia lanaiensis, Phyllostegia glabra* var. *lanaiensis, Santalum freycinetianum* var. *lanaiense, Tetramolopium remyi* and *Viola lanaiensis*. The areas of emphasis for recovery actions for these species are: The Lana'ihale, Kahea gulch, "Twin Peaks", Kaumalapau road, Kanepu'u and Aualua ridge areas of Lana'i; Kalialinui gulch, Pu'u Kali, Honolua valley and scattered sites below 1,530

meters elevation on Maui; Puako on Hawai'i; and possibly Ewa, Oahu. Recovery efforts will focus on securing habitat and managing it to remove threats from feral mammals, alien plants, fire, loss of pollinators, insect predators and disease. Current populations will be augmented and new populations will be established.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 28, 1993.

Marvin L. Plenert,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 93-24393 Filed 10-4-93; 8:45 am]

BILLING CODE 4310-55-M

Availability of a Draft Recovery Plan for the Moapa Dace for Review and Comment

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft revised recovery plan for the endangered Moapa dace, *Moapa coriacea*. This species historically occupied approximately 25 springs and 16 kilometers (km) of headwater tributary and main stem Muddy (Moapa) River habitat in the Warm Springs area, Clark County, Nevada. The Service solicits review and comment from the public on this draft plan.

DATES: Comments on the draft recovery plan must be received on or before December 6, 1993, to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the State Supervisor, Nevada Ecological Services State Office, U.S. Fish and Wildlife Service, 4600 Kietzke Lane, Building C-125, Reno, Nevada 89502-5093 (Telephone: (702) 784-5227). Written comments and materials regarding the plan should be addressed to Mr. David L. Harlow, State Supervisor, at the above Reno, Nevada, address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above Reno, Nevada, address.

FOR FURTHER INFORMATION CONTACT: Ms. Selena Werdon at the above Reno, Nevada, address (Telephone: (702) 784-5227).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for reclassification or delisting, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. The Service and other Federal agencies will also take these comments into account in the course of implementing approved recovery plans.

Moapa dace are endemic to the Warm Springs area of the Muddy River system, Clark County, Nevada. Their historic range includes approximately 25 springs and 16 km of headwater tributary and main stem Muddy River habitat. Currently, Moapa dace are restricted to the upper 3 km of the Muddy River and five tributary spring systems. In 1987, the population was estimated at 2,800 individuals. The principal causes of decline for this species are habitat modification and nonnative-fish introductions. Recovery efforts will focus on maintaining and enhancing the existing population, rehabilitating historic habitats, and eliminating threats from nonnative species. Historic habitat is currently public land administered by the Service and private lands.

Public Comments Solicited

The Service solicits written comments on the Moapa dace recovery plan. All comments received by the date specified will be considered prior to approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 28, 1993.

William E. Martin,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 93-24392 Filed 10-4-93; 8:45 am]

BILLING CODE 4310-55-M

National Park Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 25, 1993. Pursuant to § 60.13 of 36 CFR part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, P.O. Box 37127, Washington, DC 20013-7127. Written comments should be submitted by October 20, 1993.

Patrick Andrus,

Acting Chief of Registration, National Register.

ARIZONA

Maricopa County

Spangler—Wilbur House, 128 N. MacDonald St., Mesa, 93001141

GEORGIA

Coffee County

Gaskin Avenue Historic District, Roughly bounded by Madison Ave., Wilson St., Pearl Ave., Gordon St., McDonald Ave., Atlantic Coastline RR and Coffee Ave., Douglas, 93001138

MARYLAND

Harford County

Lower Deer Creek Valley Historic District, Roughly bounded by the Susquehanna R., MD 543 and Harmony Church and Trappe Rds., Darlington vicinity, 93001143

MISSISSIPPI

Adams County

Brumfield High School, 100 St. Catherine St., Natchez, 93001139

Jackson County

Hughes, William, House (Pascagoula MPS), 2425 Pascagoula St., Pascagoula, 93001137

Wilkinson County

Woodville Historic District (Boundary Increase), 546 Depot St. and 559 Third St., Woodville, 93001131

MONTANA

Sheridan County

Comertown Historic District (Sheridan County MPS), Roughly, entire town of Comertown, W of Westby, Westby vicinity, 93001149

Larsen, Aage and Kristine, Homestead (Sheridan County MPS), Co. Hwy. 516 N of Dagmar, Dagmar vicinity, 93001146

Outlook Depot (Sheridan County MPS), S of western edge of Marr St., S of Block 10, Outlook, 93001144

Raymond Grain Elevators Historic District (Sheridan County MPS), Unnamed Co. Rd. E of Mt 16, NE of Raymond, Raymond vicinity, 93001148

Rocky Valley Lutheran Church (Sheridan County MPS), Jct. of Ueland St. and unnamed Co. Rd., Dooley, 93001145

Thornwood School (Sheridan County MPS), Unnamed Co. Rd. approximately 17 mi. W of Reserve, Reserve vicinity, 93001147

NEW YORK

Essex County

Camp Dudley Road Historic District, Roughly bounded by NY 22, Stacy Br., Lake Champlain and the Westport village line, Westport, 93001136

Sullivan County

Callicoon Methodist Church and Parsonage (Upper Delaware Valley, New York and Pennsylvania, MPS), Church St. (NY 97) S of jct. with Seminary Rd., Town of Delaware, Callicoon, 93001134

St. James Church and Rectory (Upper Delaware Valley, New York and Pennsylvania, MPS), NY 17B N side, E of jct. with NY 97, Town of Delaware, Callicoon, 93001135

NORTH CAROLINA

Chatham County

Alston—DeGraffernied Plantation (Boundary Increase), US 64 N side, 0.4 mi. W of jct. with NC 1564, Pittsboro, 93001132

Gaston County

Hoyle House, NC 275 S side, 1400 ft. SW of S. Fork of Catawba R., Dallas vicinity, 93001140

Guilford County

Union Cemetery, 900 block S. Elm St., Greensboro, 93001142

TEXAS

Travis County

Administration Building (East Austin MRA), 1820 E. Eighth St., Austin, 86003845

VIRGINIA

Clarke County

Greenway Historic District, Roughly bounded by the Shenandoah R., the Warren Co. line, VA 340 and VA 618, Boyce vicinity, 93001133

[FR Doc. 93-24450 Filed 10-4-93; 8:45 am]

BILLING CODE 4310-70-M

Completion of Inventory of Native American Human Remains and Associated Funerary Objects in the Possession of the Peabody Museum of Archaeology and Ethnology, Cambridge, MA

AGENCY: National Park Service, Interior.

ACTION: Notice.

Notice is hereby given in accordance with provisions of the Native American Graves Protection and Repatriation Act, 25 U.S.C. 3003(d), of the completion of an inventory of human remains and associated funerary objects in the possession of the Peabody Museum from one site near Fort Robinson, NE.

The detailed inventory and assessment of these human remains and associated funerary objects has been made by the Collections Managers and Curatorial Associates of the Peabody Museum in consultation with representatives of the Northern Cheyenne Tribe, Lame Deer, MT.

Museum records indicate that the collection was retrieved from a sinkhole in the vicinity of Fort Robinson, Nebraska, in 1879, about one year after Dull Knife's Band was attacked while leaving the fort. The collections was deposited in the Museum of Comparative Zoology, at Harvard University and transferred to the Peabody Museum in 1880 or 1881. The human remains consist of five skulls and one femur (80-25/23076, 23077, 23078, 23079, 23080, and 24855). Associated funerary objects consist of a small leather knife sheath, a fragment of textile, and several buttons (80-25/23082, 23083, and 23084). The location and date of collection, as reported in the Museum catalogue, and the evidence of violent death exhibited by the human remains support the identification of these human remains and associated funerary objects as being culturally affiliated with the Northern Cheyenne tribe.

Individual or representatives of any other Indian tribe that believe they may be affiliated with these human remains and associated funerary objects are advised that they are being transferred to representatives of the Northern Cheyenne, Lame Deer, MT, who have agreed to delay reinterment until November 4, 1993. The human remains and associated funerary objects may be reinterred at that time if no other claims of cultural affiliation are received. This notice has also been sent to representatives of the Cheyenne and Arapaho tribes, Concho, OK.

Representatives of any other Indian tribe which believes itself to be descended from the individuals described above should contact David Pilbeam, Peabody Museum, 11 Divinity Avenue, Cambridge, MA 02138, telephone: (617) 495-2248, and Steven C. Brady, Sr., Box 542, Lame Deer, MT 59043, telephone: (406) 477-6210.

Dated: September 29, 1993.

Veletta Canouts,

Acting Departmental Consulting Archeologist, Chief, Archeological Assistance Division.

[FR Doc. 93-24449 Filed 10-4-93; 8:45 am]

BILLING CODE 4310-70-F

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32353]

California Northern Railroad Company Limited Partnership—Lease and Operation Exemption—Certain Lines of Southern Pacific Transportation Co.

California Northern Railroad Company Limited Partnership (CFNR), a noncarrier, has filed a notice of exemption to lease and operate approximately 354 miles of rail line owned by Southern Pacific Transportation Company (SPT) in the State of California. CFNR will become a class III rail carrier. The lines involved consist of: (1) SPT's Northwestern Pacific (NWP) Line: from NWP milepost 142.50, near Outlet, CA to NWP milepost 40.60, near Schellville, CA, to SPT milepost 63.40, near Lombard, CA; and (2) SPT's Northern California Lines: (i) The Schellville Branch, from milepost 48.97 (east leg of wye) and milepost 48.93 (west leg of wye), at Suisun, CA, to milepost 63.40, near Lombard, CA; (ii) the Napa Branch, from milepost 62.00, at Lombard, CA, to the bumper near Rocktram, CA, at milepost 67.50; (iii) the Vallejo Branch, from milepost 61.80, at Napa Jct., CA, to milepost 68.90, at Vallejo, CA; (iv) the West Valley Line, from milepost 75.66 (east leg of wye) and milepost 75.58 (west leg of wye), at Davis, CA, to milepost 186.37 (east leg of wye toward Portland, CA) and milepost 186.33 (west leg of wye toward Roseville), at Tehema, CA; (v) the Hamilton Branch, from milepost 180.40, at Wyo, CA, to milepost 169.00, at Hamilton, CA; and (vi) the Los Banos Branch, from milepost 83.00, at Tracy, CA, to milepost 141.17, at Los Banos, CA. The proposed transaction was expected to be consummated on or after September 26, 1993.

This proceeding is related to Finance Docket No. 32351, David Parkinson, William Frederick, and Parksierra

Corporation—Continuance in Control Exemption—California Northern Railroad Company Limited Partnership, wherein David Parkinson, William Frederick, and Parksierra Corporation have concurrently filed a notice of exemption to continue in control of CFNR and Arizona & California Railroad Company Limited Partnership when CFNR becomes a carrier upon consummation of the transaction described in this notice.

Any comments must be filed with the Commission and served on: Adam M. Mycyk, 1350 New York Avenue, NW., suite 800, Washington, DC 20005–4797.

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: September 28, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–24419 Filed 10–4–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32326]

CSX Transportation, Inc.—Operation Exemption—The Three Rivers Railway Co.

CSX Corporation (CSX), CSX Transportation, Inc. (CSXT) and The Three Rivers Railway Company (TRRY)[1] have jointly filed a notice of exemption for CSXT to operate the railroad properties of TRRY, which consist of the following: 7 miles owned in Ohio; 122 miles owned or leased in Pennsylvania; and 223 miles of trackage rights over other carriers' lines in Ohio, Pennsylvania, and western New York.[2] CSXT will operate the properties of TRRY in the name and for the account of CSXT and will assume all of the rights and obligations of TRRY under the latter's existing licenses, leases, easements, agreements and contracts. The operating agreement was to become effective September 17, 1993.

By operating TRRY's properties as part of the CSXT system, many inefficiencies will be eliminated. Improved utilization of personnel and facilities will result from eliminating duplications at common service points. The unification of the carriers' operations will improve their equipment utilization and permit the elimination of excess facilities. In addition, the proposed transaction will eliminate: (1) The production and maintenance of separate accounting records for separate inter-line transactions between TRRY and CSXT and other railroads; (2) the filing of separate tariffs and reports with governmental bodies; and (3) the use of intercompany billing for various services and equipment usage.

This is a transaction within a corporate family of the type specifically exempted from the necessity of prior review and approval under 49 CFR 1180.2(d)(3). It will not result in adverse changes in service levels, significant operational changes, or a change in the competitive balance with carriers outside the corporate family.

As a condition to use of this exemption, any employees adversely affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on: Nicholas S. Yovanovic, 500 Water St., Jacksonville, FL 32202 and Peter J. Shudtz, One James Center, Richmond, VA 23219.

Decided: September 28, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–24420 Filed 10–4–93; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 32351]

David Parkinson, William Frederick, and Parksierra Corporation—Continuance in Control Exemption—California Northern Railroad Company Limited Partnership

David Parkinson, William Frederick, and Parksierra Corporation have filed a notice of exemption to continue in control of California Northern Railroad Company Limited Partnership (CFNR), upon the latter's becoming a carrier. CFNR, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 32353, California Northern Railroad Company Limited Partnership—Lease and Operation Exemption—Southern Pacific Transportation Company, to lease and operate approximately 354 miles of rail line (the Northwestern Pacific Line and the Northern California Lines), both owned by Southern Pacific Transportation Company, in the State of California. CFNR expected the transaction to be consummated on or about September 26, 1993.

Applicants also control Arizona & California Railroad Company Limited Partnership. A carrier which operates 240 route miles of rail lines in California and Arizona. Applicants indicate that: (1) These two railroads do not connect with each other; (2) the continuance in control is not a part of a series of anticipated transactions that would connect the railroads with each other; and (3) the transaction does not involve a class I carrier. The transaction therefore is exempt from the prior approval requirements of 49 U.S.C. 11343. See 49 CFR 1180.2(d)(2).

As a condition to use of this exemption, any employees affected by the transaction will be protected by the conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction. Pleadings must be filed with the Commission and served on: Adam M. Mycyk, 1350 New York Avenue, NW., suite 800, Washington, DC 20005–4797.

Decided: September 28, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–24421 Filed 10–4–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

[AAG/A Order No. 79–93]

Privacy Act of 1974; Systems of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a) and Office of Management and Budget Circular No. A–130, Department components have reviewed their Privacy Act systems of records to identify any minor changes that will clarify and/or more accurately describe their systems of records. As a result, the

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[1] CSX is a non-carrier holding company that owns 100 percent of the common stock of CSXT, a Class I rail carrier. CSXT controls TRRY through ownership of all TRRY's outstanding capital stock.

[2] TRRY has recently entered into an agreement to purchase substantially all of the rail lines of The Pittsburgh and Ohio Valley Railroad Company (POV). That transaction is pending before the Commission in Finance Docket No. 32325. Although neither the instant operating agreement nor the purchase transaction are conditioned upon the other transaction occurring, in the event that both transactions are consummated, TRRY will acquire POV's rail lines and CSXT, rather than TRRY, will operate the same.

Immigration and Naturalization Service (INS), the Federal Bureau of Investigation (FBI), the Office of Justice Programs, and the Justice Management Division are republishing a total of 18 systems of records. In addition, both the INS and the FBI are publishing a current appendix of system locations.

For public convenience, all changes have been italicized and a table of contents precedes the republication below.

Dated: September 20, 1993.

Stephen R. Colgate,

Assistant Attorney General for Administration.

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JUSTICE/INS–001

SYSTEM NAME:

The Immigration and Naturalization Service Index System, which consists of the following subsystems:

A. Agency information control record index.

B. Alien enemy index and records.

C. Automobile decal parking identification system for employees.

D. Congressional Mail Unit Correspondence control index.

E. Document vendors and alters index.

F. Enforcement indexes.

1. Group one. (a) Contact index. (b) Information index. (c) Antismuggling index (general). (d) Criminal, *immoral*, narcotic, and subversive index. (e) Suspect third party index.

2. Group two. (a) Air detail office index. (b) Anti-smuggling information centers, Canadian and Mexican borders. (c) Border Patrol Academy index. (d) Border Patrol sectors general index. (e) Fraudulent Document Center index.

3. Enforcement correspondence control index.

G. Examinations indexes.

1. Application and petition system.

2. Correspondence control index.

3. Service lookout system.

H. Extension training program enrollees.

I. Finance Section indexes.

1. Accounts with creditors.

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J. Intelligence indexes.

K. Microfilmed manifest records.

L. Naturalization and citizenship indexes.

1. Naturalization and citizenship docket cards.

2. Examiners docket lists of petitioners for naturalization.

3. Master docket list of petitions for naturalization pending one year or more.

M. Office of Internal Audit investigations index and records.

N. Property issued to employees.

O. Security access clearance index.

P. White House and Attorney General correspondence control index.

Q. Health record system.

R. Personal data card system.

S. Compassionate cases system.

T. Emergency reassignment index.

U. Alien documentation, identification and telecommunications (ADIT) system.

SYSTEM LOCATIONS:

Headquarters, Regional, District and other file control offices of the Immigration Naturalization Service in the United States as detailed in JUSTICE/INS–999

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Agency information control record index. Individuals named or referenced in documents classified for national security reasons.

B. Alien enemy index and records.

1. Alien enemies who were interned during World War II.

2. Americans of Japanese ancestry (Niser) who returned to Japan and during World War II, either accepted employment by the Japanese Government or became naturalized in Japan.

C. Automobile decal parking identification for employees. Current INS employees who have the privilege of parking their cars on government premises.

D. Congressional Mail Unit correspondence control index.

1. Individuals named in correspondence received, including INS employees and past employees; Federal, State, and local officials; and members of the general public.

2. Individuals named in reports or correspondence received, as individuals investigated in the past or under active investigation, or suspected of violations of the criminal or civil provisions of statutes enforced by INS, including Presidential proclamations and Executive orders relating thereto, and witnesses and informants having knowledge of violations.

E. Document vendors and alterers index (duplicates in several INS offices in the Western and Southern regions). Individuals who are alleged immigration law violators involved in the supply of fraudulent documents.

F. Enforcement indexes.

1. Group one (a) Contact index; (b) Informant index; (c) Anti-smuggling index (general); (d) Criminal, immoral, narcotic, racketeer and subversive indexes; (e) Suspect third party index (1) Individuals who are in a position to know, learn of, and assist in locating aliens illegally in the United States; (2) individuals who have significant knowledge of foreign or domestic organizations subversive in nature and are willing to appear as Government witnesses or cooperate with INS on a continuing basis; (3) individuals who are known or suspected of being professional arrangers, transporters, harborers, and smugglers of aliens; who operate or conspire to operate with others to facilitate the surreptitious entry of an alien over a coastal or land border of the United States; and witnesses having knowledge of such matters; (4) individuals who are known or suspected of being habitual or notorious criminals, immorals, narcotic violators or racketeers, or subversive functionaries or leaders; (5) individuals who are known or believed to be engaged in fraud operations involving the preparation and submission of visa petitions and other applications for

benefits administered by INS; or the preparation and submission of applications for immigrant visas and/or Department of Labor certifications, or the filing of false United States birth registrations of alien children to enable them to pose as citizens or to enable parents who are immigrant visa applicants to evade the labor certification requirement.

2. Group two. (a) Air detail office index. Individuals who are pilots and/or owners of private aircraft flying between the United States and foreign countries; individuals who engage in or are suspected of being engaged in illegal activity such as alien smuggling or entry without inspection.

(b) Anti-smuggling information centers, Canadian and Mexican borders. Individuals who are known or suspected of being smugglers or transporters of illegal aliens.

(c) Border Patrol Academy index. Students or former students at the Border Patrol Academy; INS officers attending advanced training classes at the Academy or the Federal Law Enforcement Training Center (FLETC).

(d) Border Patrol sectors general index. Past or present INS employees; individuals who are law violators, witnesses, contacts, informants, members of the general public, Federal, state, county, and local officials.

(e) Fraudulent Documents Center index. Individuals who are members of the general public, notaries, public, state and local birth registration officials and employees, immigration law violators, vendors of documents, donors of documents, midwives, and witnesses. Also included in the system are names and information about fictitious persons used by counterfeiters or alterers of citizenship documents.

3. Enforcement correspondence control index. (a) Individuals named in correspondence received, including employees, past employees, and others; (b) individuals named in documents, reports, or correspondence as individuals under current or past investigation, suspended of violation of the criminal or civil provisions of the statutes enforced by INS, including Executive orders and Presidential proclamations, and witnesses and informants having knowledge of violations.

G. Examinations indexes duplicates in some local offices:

1. Application and petition index: individuals who have filed or assisted in filing petitions to classify aliens for the issuance of immigrant visas.

2. Correspondence control index: members of the general public.

3. Service lookout system: violators or suspected violators of the criminal or civil provisions of statutes enforced by INS.

H. Extension training program enrollees (Location A, supra). INS employees and other Federal agency employees enrolled in extension training program courses administered by INS.

I. Finance Section indexes: (1) Accounts with creditors; (2) Accounts with debtors.

(a) Individuals who are indebted to the United States Government for goods, services, or benefits or for administrative fines and assessments.

(b) Employees who have received travel advances or overpayments from the United States Government, who are in arrears in their accounts, or who are liable for damage to Government property.

(c) Vendors who have furnished supplies, material, equipment, and services to the Government.

(d) Employees, witnesses and special deportation attendants who have performed official travel.

(e) Employees and other individuals who have a valid claim against the Government.

J. Intelligence indexes. Individuals who have or are suspected of having violated the criminal or civil provisions of the statutes enforced by INS.

K. Microfilmed manifest records. Individuals who have arrived or departed by aircraft or vessel at a United States port.

L. Naturalization and citizenship indexes.

1. Naturalization and citizenship docket cards. Individuals seeking benefits under Title III of the Immigration and Nationality Act of 1958, as amended.

2. Examiners docket lists of petitioners for naturalization. Petitioners for naturalization and their beneficiaries.

3. Master docket list of petitioners for naturalization pending one year or more. Petitioners for naturalization and their beneficiaries.

M. Office of Internal Audit investigations index and records. (1) INS employees who are the subjects of complainants directed to, or inquiries or investigations conducted by, the Office of *Internal Audit*; (2) individuals (complainants) who write to the Office of *Internal Audit;* (3) individuals (complainants) who write to the Commissioner or Regional *Administrators* or other officials of INS and whose correspondence is referred to the Office of *Internal Audit*; (4) employees of agencies of the Federal Government other than INS, about whom information indicating possible criminal or administrative misconduct has been developed during the course of routine investigation by components of the Department of Justice, when such information is furnished to the Office of *Internal Audit* for referral, if warranted, to an appropriate investigative component of the Department of Justice, or to another government agency.

N. Property issued to employees. INS employees who have been issued property for use in performance of official duties.

O. Security access clearance index. Current INS employees who have been cleared for access to documents and materials classified in the interest of national security.

P. White House and Attorney General correspondence control index. Individuals named in or originating correspondence referred to INS by staff of the White House or Attorney General.

Q. Health record system. Persons who have requested health services or required emergency treatment.

R. Personal data card system. Employees and former employees of INS.

S. Compassionate cases system. INS employees who have requested transfers for personal reasons.

T. Emergency reassignment index. INS employees who would be reassigned to other duty stations in case of emergency.

U. Alien documentation, identification, and telecommunications (ADIT) system. Aliens lawfully admitted for permanent residence, commuters and other authorized frequent border crossings, and nonimmigrant persons other than transients.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. Agency information control record index. The system contains reference and locater data on the following kinds of documents:

1. Top secret and secret materials classified as national security information, including all copies prepared from controlled documents originated, received, or transmitted by INS officers.

2. Confidential material originated by other agencies and referred to INS, including all copies prepared from controlled documents.

3. All investigative reports, responses to security checks, and intelligence material received from sources within the Department of Justice and other Federal intelligence sources.

B. Alien enemy index and records. This system contains a microfilm index and files containing various forms, reports, and other information.

C. Automobile decal parking identification system for employees. This system contains a list by number of each Department of Justice decal car sticker issued to local INS employees.

D. Congressional Mail Unit correspondence control index. This system contains a locator record for each report of piece of correspondence received, reflecting the name of the individual and the number of the subject filed in which specified information concerning the individual is maintained.

E. Document vendors and alterers index. This system consists of "mug book" photos of alleged immigration law violators involved in the supply of fraudulent documents, and data relating to the pictured violators including name, aliases, vital statistics, method of operation, list of convictions, present location, and source of material.

F. Enforcement indexes. 1. Group one, (a) Contact index: (b) Informant index: (c) Antismuggling index (general); (d) Criminal, immoral, narcotic, racketeer and subversive indexes; (e) Suspect third party index. These systems of records are maintained on Form G–598, Contract Record: Form G–169, Informant Record: Form G–170, Smuggler Information Index Card: and other index cards containing reference and file locator data on the individuals, including in some cased biographic data, address, and a brief description of activities.

2. Group two, (a) Air detail office index. The primary record in the system is Form I–92A, Report of Private Aircraft Arrival, which is executed by the inspecting official upon arrival of a private aircraft from foreign territory. There are also index cards, forms, investigative reports, records, and correspondence on aircraft arrivals, failures to report for inspection, and known or suspected alien smuggling operations using aircraft and microfiche indexes containing names of owners of aircraft of United States registery.

(b) Anti-smuggling information centers. Canadian and Mexican borders. This system contains Form G–170. Smuggler Information Index Card, other index cards, and correspondence relating to anti-smuggling activities. These indexes are in loose leaf form and are distributed to Border Patrol offices in the border areas.

(c) Border Patrol Academy index. This system contains general information and correspondence regarding each students academic progress in training. The information is maintained on the following forms: SW–91, Probationary Achievement Report: SW–91A. Scholastic Grade Worksheet: SW–91B. IOBTC Achievement Report-Immigration Inspector: SW–91C IOBTC Achievement Report-Investigator: SW–96, Class Rating Form: SW–123, Training Data: SW–282, Registration Information Form: SW–446, Conduct and Efficiency Report of Probationary Employee-5½ and 10 Months Exam Grades.

(d) Border Patrol sectors general index. This system contains indexes, forms, reports, and records relating to activities of the Border Patrol including Form I–14, Record or Apprehension of Seizure Form I–326, Prosecution Reports: Form I–263A and I–263B. Record of Sworn Statement: Form I–195, Criminal Prosecution Control Card; Form I–263W, Record of Sworn Statement-Witness; Form I–236, Prosecution Reports; Form G–170. Smuggler Information Index Card; Form C–296, Report of Violation of Section 239, Immigration and Nationality Act; Form C–330, Notice of Action Information; Form C–445. Conduct and Efficiency Evaluation of Probationary Appointees; Form C–598, Contact Record. This system also contains copies of correspondence and memorandums between INS offices and outside agencies and individuals, as well as photographs of some violators of the immigration laws of individuals suspected of being involved in immigration law violations.

(e) Fraudulent Document Center index. This system contains birth certificates, baptismal certificates, and other identification documents used by aliens to support their fraudulent claims to United States citizenship. Most of the documents are genuine; however, there are also counterfeit and altered documents in the system. Also contained in the system are cross indexes, investigative reports, and records of individuals involved in fraud schemes or whose documents have been put to fraudulent usage.

3. Enforcement correspondence control index. This system contains reference and locator information on documents, reports, and correspondence received in the offices of the Associate Commissioner, Enforcement. Records are maintained on Form C–617, Correspondence Control Card, and Form CO–147, Call-up-Index—Domestic Control.

G. Examinations indexes. 1. Application and petition systems. This system contains petitioners' names, date and place of birth, names of prior spouses, immigration "A" number if an alien, and date of marriage if married; beneficiarys' names, date and place of birth, immigration "A" number if any, names of spouses, and nationality code, and the names, dates, and places of birth of any children: Name of the person administering the oath or preparing the form, if other than a Government employee.

2. Correspondence control index. This system contains reference and locator information on documents, reports and correspondence received in the office of the Associate Commissioner, Examinations. Records are maintained on Form C–617, Correspondence Control Card.

3. Service lookout system. This system contains names and reference data on violators, alleged violators, and suspected violators of the criminal or civil provisions of the statutes enforced by *INS.*

H. Extension training program enrollees. This system contains correspondence and records of each enrollee's test scores; dates of actions such as mailing of lesson materials, test results, and certificates of completion; and dates of receipt of tests.

I. Finance Section indexes. 1. Accounts with creditors. Records are vendors' invoices, purchase orders, travel vouchers, and claims filed by appropriation for the fiscal year from which payment is chargeable.

2. Accounts with debtors. Records consist of bill for inspection services performed under the Act of March 2, 1931; fees, fines, penalties, and deportation expenses assessed pursuant to the Immigration and Nationality Act; and employee indebtedness for travel advances, for the unofficial use of Government facilities and services, for damage to or loss of Government property, and for erroneous or overpayment of compensation for travel expenses.

J. Intelligence indexes. Records include reference and locator information on documents, reports, bulletins, and correspondence: Records are categorized by name, violation, and activity.

K. Microfilmed manifest records. The system contains microfilmed indexes and arrival and departure manifests with brief biographical data and facts of arrival and departure. Arrival records for certain ports date from 1891, and departure records date from 1900. Records are not complete, as some records were destroyed and not microfilmed.

L. Naturalization and citizenship indexes. 1. Naturalization and citizenship docket cards. Docket cards are 3x5 or 5x8 index cards for each applicant, beneficiary, or petitioner, recording type of application, date of receipt, file and/or petition number, court number where petition for

naturalization was filed, and reference number of the individual's case file.

2. Examiners' docket lists of petitioners for naturalization. Records are maintained on Form N–476, Examiner's Docket List, and record court of naturalization jurisdiction, petition number, petition filing date, court number, name of petitioner, name of beneficiary, proposed recommendation by the naturalization examiner, reasons of continuance, and reference number of the individual's case file.

3. Master docket lists of petitions for naturalization pending one year or more. Records are maintained on Form N–476, Examiner's Docket List, and contain reference and locator information on petitions pending for one year or longer.

M. Office of *Internal Audit* investigations index and records. This system of records consists of complaints filed against INS employees, the results of investigations into those complaints, and actions taken after completion of the investigations. This system also includes all records developed pursuant to special assignments given to the Office of *Internal Audit* by the Commissioner as well as records containing information indicating possible misconduct by employees of the Federal Government, other than the INS, which have been furnished to the Office of *Internal Audit* for referral, if warranted, to the appropriate investigative authority.

N. Property issued to employees. Records are maintained on Form G–570, Record-Receipt—Property Issued to Employees, which lists name, description of property, serial number, dates issued and returned, employee's initials, and supervisor's initials.

O. Security access clearance index. Records are kept on 3x5 index cards listing employee's name, dated when clearances were granted, and levels of clearance. Related records and reports are maintained by the Office of Management and Finance, Department of Justice.

P. White House and Attorney General correspondence control index. Records are maintained on Form G–617, Correspondence Control Card, and contain reference and locator information on correspondence addressed to the President and the Attorney General which has been referred to INS for appropriate attention.

Q. Health record system. Records are kept on 5x7 index cards listing name, date, and treatment given.

R. Personal data card system. Records are kept on Form G–74, Personal Data Card, for each employee or former employee. Information includes name, date of birth, height, weight, sex, blood type, photograph, and color of hair and eyes.

S. Compassionate cases system. Records are kept on 3x5 index cards containing employees' name, position, grade, present location, date of request, date circulated to committee, disposition, and (when applicable) new location of employee. Relating records include the employee's request: Form G–410, Employee Qualification-Skills Inventory; local and regional recommendations, medical statements (where applicable), records of committee actions, and response to employee.

T. Emergency reassignment index. Records are kept on Form G–560, Emergency Activity Project Assignment. Information includes name, age, grade, title, official station, residence, telephone number, and emergency assignment activity.

U. Alien documentation, identification and telecommunications (ADIT) system. Records consist of formatted data base records of personal and biographical information such as name, date of birth, picture and fingerprint coordinates, height, mother's first name, father's first name, city/town/village of birth.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

A. General, applicable to all Service index system, includes but is not limited to: Sections 103, 265 and 290 and Title III of the Immigrations and Nationality Act, hereinafter referred to as the Act (66 Stat. 163), as amended (8 U.S.C. 1103; 8 U.S.C. 135; 8 U.S.C. 1360), and the regulations pursuant thereto.

B. Specific, applicable to some of the indexes, including but not limited to:

1. Executive Order *12356* and 28 CFR 17.79—Agency control information record index, and Access clearance information system.

2. 31 U.S.C. 66a—Finance Section indexes.

3. Title III of the Act, as amended (8 U.S.C. section 1401 through 1503), and the regulations promulgated thereunder—Naturalizations and citizenship indexes.

4. Sections 235 and 287 of the Act, as amended (8 U.S.C. 1225; and 8 U.S.C. 1357), and the regulations promulgated pursuant thereto—Personnel investigations.

5. Section 231 of the Act, as amended (8 U.S.C. 1221)—Micro-filmed manifest records.

6. 40 U.S.C. 483—Property management system.

7. 5 U.S.C. 4113—Extension training program.

8. 5 U.S.C. 552. The Freedom of Information Act requires certain record keeping; this system was established and is maintained in order to enable INS to comply with this requirement.

9. 5 U.S.C. 301—Health Record System. Personal Data Card System, and Compassionate Cases System.

10. Executive Order 11490—Emergency Reassignment Index.

11. Section 204, 214, and 290 of the Act, as amended (8 U.S.C. 1254, 1184, 1360)—Application and petition system.

PURPOSE(S):

This system of records is used to serve the public by providing data for responses, when authorized, to written inquiries, complaints and so forth. It is also used to administer the management, operational, and enforcement activities of the Service. The records are used by officers and employees of the Service and the Department of Justice in the administration and enforcement of the immigration and nationality laws, and related statutes, including the processing of applications for benefits under these laws, detecting violations of these laws, and for referrals for prosecution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

A. To clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

B. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Laws, Act, and all other immigration and nationality laws, including treaties and reciprocal agreements.

C. To other federal, state, and local government law enforcement and regulatory agencies, foreign governments, the Department of Defense, including all components thereof, the Department of State, the Department of the Treasury; the Central Intelligence Agency, the Selective Service System, the United States Coast Guard, the United Nations, INTERPOL and individuals and organizations during the course of investigation in the processing of a matter or a proceeding within the purview of the immigration

and nationality laws, to elicit information required by the Service to carry out its functions and statutory mandates.

D. Where there is an indication of a violation or potential violation of law (whether civil, criminal or regulatory in nature) to the appropriate agency, (whether federal, state, local or foreign) charged with the responsibility of investigating or prosecuting such violations or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

E. Where there is an indication of a violation or potential violation of the immigration and nationality laws, or of a general status within Service jurisdiction, or by regulation, rule, or order issued pursuant thereto, to a court, magistrate, or administrative tribunal and to opposing counsel in the course of discovery.

F. To a federal, state, local or foreign government agency in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, loan, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. To a federal, state or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses. If necessary to obtain information relevant to a decision of this Service concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license grant or other benefit.

H. *Where there is an indication of a violation or potential* violation of the laws of another nation, (whether civil or criminal) to the appropriate foreign government agency charged with enforcement or implementing such laws: to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

I. To the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in that Circular.

J. To other Federal agencies for the purpose of conducting national intelligence and security investigations.

K. To an applicant, petitioner or respondent or to his or her attorney or representative (as defined in 8 CFR 1.1(j) in connection with any proceeding before the Service.

L. To a federal, state, local or foreign government agency on a discretionary and/or reciprocal basis in response to its request, to assist in the collection or repayment of loans and fraudulently-secured benefits or grants.

M. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

N. To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

O. To General Services Administration and National Achieves and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Generally, index records and cards are stored in manually operated index machines, file drawers, and boxes; other information is stored manually as paper records in file folders. Inactive files are stored at Federal Records Center, Exceptions are as follows:

A. *Subsystems of records are maintained in file folder, on lists and forms, microfilm, microfiche and computer processable storage media.*

B. Alien documentation, identification, and telecommunications (ADIT) system information is stored on magnetic tape and disks. Original forms completed by the individuals are filed with other records.

C. Alien enemy index: Index records are maintained on microfilm. Actual files are stored in Federal Records Centers.

D. Enforcement indexes: Original index cards and records are stored in manually operated file drawers and machines. Some records are also maintained in the automated system published in a notice entitled "JUSTICE/DEA–INS–111, Automated Intelligence Records Systems (Pathfinder),"

E. Examinations indexes: (1) Application and petitioner system records are stored on magnetic media at the Department of Justice Data Management Service. Original paper forms completed by the individuals are filed with other records, (2) Service lookout system records are maintained on magnetic tape and in printed looseleaf reference books at ports of entry.

RETRIEVABILITY:

Generally, records are indexed and retrievable by name and/or "A" or "C" file number Exceptions are as follows:

A. Air detail office index system: Aircraft data is filed in numerical sequence, within each calendar year.

B. Intelligence indexes: Records are retrieved by name within organization, activity, or type of violation.

C. Examiners' docket lists of petitioners for naturalization, and Master Docket lists of petitions for naturalization pending one year or more, are filed chronologically for each court exercising naturalization jurisdiction. Relating records are filed by petition number.

SAFEGUARDS:

Access controls: Records are safeguarded in accordance with Department of Justice rules and procedures. INS officers are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces which are locked outside of normal office hours. Many records are stored in cabinets or machines which are locked outside of normal office hours. Access to automated system is controlled by restricted password for use of remote terminals in secured areas.

RETENTION AND DISPOSAL:

Several general rules apply to many subsystems of records:

A. Alien registration records are retained for *75* years from the closing data or date of last actions.

B. Correspondence control cards (forms G–617) are normally retained for one year following the year in which created.

C. Correspondence portions of subject files are normally retained no longer than two years. Records are then either microfilmed or destroyed by burning.

D. Records in policy portions of subject files are retained indefinitely.

E. Indexes and records not specifically mentioned are retained only so long as they serve a useful purpose.

F. Records are destroyed by shredding, burning, or as provided in disposal schedules.

Exceptions to the general practices are as follows:

A. Alien documentation, identification, and telecommunications (ADIT) system records are maintained

until naturalization, death, or other material change in status of the individual, or until the registration card is relinquished.

B. Air detail office index: Forms I-92A are retained for five years.

C. Border Patrol trainee examination papers are destroyed six months after the trainee officer completes his probationary year.

D. Compassionate cases system records are retained for three years after completion of action.

E. Congressional Mail Unit correspondence control index records are retained for three years.

F. Emergency reassignment index records are destroyed upon the transfer, separation, retirement, or death of the employee.

G. Enforcement indexes relating to law violators and witnesses are retained for three years. Routine investigations records are destroyed when the investigation is closed. Correspondence control records are destroyed after final action on the subject matter.

H. Examinations indexes: (1) Application and petition system records are deleted from the automated data base five years after the date of the last activity. Inactive records will be stored on magnetic tape for an additional five years. (2) Service lookout system records are deleted five years after insertion, unless removed at an earlier date or reinserted by the listing agency.

I. Finance Section indexes; accounts with creditors and debtors are retained for two years, from the close of the fiscal year to which they relate and then are transferred to Federal Records Centers for storage and disposition.

J. Health records are retained for six years after the date of the last entry.

K. Intelligence indexes: records are maintained indefinitely.

L. Naturalization examiners, docket lists and master docket lists are retained for two years. Naturalization and citizenship docket cards are purged after applications are rejected, closed, granted, or denied, or petitions for naturalization are granted, denied, or nonfiled.

M. Microfilmed manifest records are retained permanently.

N. Personal data cards are retained for three years after the employee is separated (Location A. supra). In regional offices (Location B. supra), records are destroyed after the employee is separated.

O. Personnel investigations records are destroyed at the close of the fiscal year following the year of investigation. However, Operation Clean Sweep records are being retained until the program is terminated. Records of criminal investigation are retained as long as the information serves a useful purpose.

P. Security access clearance index records are destroyed upon the separation, death, or retirement of the employee.

Q. White House and Attorney General correspondence control index cards are retained for one year beyond the expiration of the term of the President.

SYSTEM MANAGER(S) AND ADDRESS:

A. The system manager, Servicewide, is the Associate Commissioner, *Immigration Resources Management.*

B. The Associate Commissioner, *Immigration Resources Management* is the sole manager of the following subsystems:

1. Agency information control record index.
2. Alien documentation, identification and telecommunications ('ADIT') system.
3. Alien enemy index.
4. Congressional Mail Unit correspondence control index.
5. Document vendors and alterers index.
6. Enforcement correspondence control index.
7. Examinations indexes: (1) Application and petition system; (2) Correspondence control index; (3) Service lookout system.
8. Finance Section indexes.
9. Health record system.
10. Intelligence indexes.
11. Microfilmed manifest records.
12. Property issued to employees.
13. Security access clearance index.
14. White House and Attorney General correspondence control index.

C. The following officials are system managers for special subsystems:

1. Automobile decal parking identification for employees: Deputy Regional *Administrators.*
2. Enforcement indexes, group one (Contact index; information index; Antismuggling index (general); Criminal, immoral, narcotic, racketeer and subversive indexes; Suspect third party index); the ranking Service officer of the offices in which the indexes are maintained.
3. Enforcement indexes, group two: (a) Air detail office index: Deputy Director (Location J, supra). (b) Antismuggling information centers; (1) Canadian border, Chief Patrol Agent; (2) Mexican Border, Deputy Director, (c) Border Patrol Academy index: Chief Patrol Agent, (d) Border Patrol sectors general index; Chief Patrol Agent, (e) Fraudulent Document Center index.
4. Compassionate cases system: Associate Commissioner, *Human Resources and Administration (HQHRA) and Regional Administrators.*
5. Emergency reassignment index: Regional *Administrators;* District Directors, Officers in charge and Chief Patrol Agents.
6. Extension training program enrollees: Chief, Employee Development Branch, Office of Assistant Commissioner, Personnel *and Career Development.*
7. Naturalization and citizenship indexes: (a) Naturalization and citizenship docket cards, and Examiners' docket lists of petitioners for naturalization: District Directors and Officers in Charge, (b) Master docket lists of petitions for naturalization pending one year or more: The Associate Commissioner, *Examinations;* Regional *Administrators;* District Directors; and Officers in Charge.
8. Personnel data card system: *Director of Personnel (HQPER) and Regional Personnel Officers.*

NOTIFICATION PROCEDURE:

A. Inquiries should be addressed to the FOIA/PA Officer at the INS office where the record is maintained or (if unknown) to the FOIA/PA Officer, INS, 425 I Street NW, Washington, DC, 20536.

B. Systems totally exempt from disclosure pursuant to 5 U.S.C. 532a (j) and (k) listed below:

1. Agency information and control record index.
2. Document vendors and alterers index.
3. Emergency reassignment index.
4. Enforcement indexes, group one: (a) Contact index, (b) Informant index, (c) Anti-smuggling index (general), (d) Criminal, immoral, narcotic, racketeer, and subversive indexes, (e) Suspect third party index.
5. Enforcement indexes, group two: Anti-smuggling information centers, Canadian and Mexican borders.
6. Examinations indexes; Service lookout system.
7. Intelligence indexes.

RECORD ACCESS PROCEDURE:

In all cases, requests for access to a record from any record subsystem shall be in writing by mail or in person. If a request for access is made in writing, the envelope and letter shall be clearly marked "Privacy Access Request." The requester shall include a description of the general subject matter and if known, the relating file number. To identify a record relating to an individual, the requester should provide the individual's full name; date and place of birth; alien, citizen, and, if appropriate, the date and place of entry into or departure from the United States. The requester shall also provide a return address for transmitting the information.

Most of the subsystems of records contain information which the Attorney General has exempted from disclosure pursuant to 5 U.S.C. 552a (j) and (k), and records which are classified pursuant to Executive order. Each requester will be accorded access to the records relating to himself only to the extent that such records are not within the scope of exemptions and are not classified.

CONTESTING RECORD PROCEDURES:

Any individual desiring to contest or amend information maintained in the system should direct his request to the INS office that maintains his record or if not known to the FOIA/PA Officer, INS 425 I Street, NW, Washington, DC 20536 or to the office in which he believes a record concerning him may exist. The request should state clearly what information is being contested, the reasons for contesting it, and the proposed amendment to the information.

Record source categories: Basic information contained in INS records is supplied by individuals on Department of State and INS applications and reports. Other information comes from inquiries and/or complaints from members of the general public and members of the Congress; referrals of inquiries and/or complaints directed to the White House or Attorney General; INS reports of investigation, sworn statements, correspondence and memorandums; official reports, memorandums, and written referrals from other government agencies, including Federal, state, and local, and from various courts and regulatory agencies; information from foreign government agencies and international organizations; and personnel and administrative applications and forms.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4); (d); (e) (1), (2), and (3); (e)(4) (G), (H); (e) (5) and (8); and (g); of the Privacy Act. These exemptions apply to the extent that information in the subsystems is subject to exemption pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c); and (e) and have been published in the Federal Register as additions to Title 28, Code of Federal Regulations (28 CFR 16.99).

JUSTICE/INS-001A

SYSTEM NAME:

The Immigration and Naturalization Service (INS) Alien File (A-File) and Central Index System (CIS).

SYSTEM LOCATION:

Central, Regional, District, and other INS file control offices in the United States as detailed in JUSTICE/INS-999. Remote access terminals will also be located in other components of the Department of Justice and in the Department of State on a limited basis.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individuals covered by provisions of the Immigration and Nationality Act of the United States.

B. Individuals who are under investigation, were investigated in the past, or who are suspected of violating the criminal or civil provisions of treaties, statutes, Executive Orders, and Presidential proclamations administered by INS, and witnesses and informats having knowledge of such violations.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. The computerized indexing system contains personal identification data such as A-File number, name, date and place of birth, date and port of entry, as well as the location of each official hardcopy paper file known as the "A-file." Microfilm records contain naturalization certificates and any supporting documentation prior to April 1, 1956; however, after that date, this type of information is maintained in the "A-File" which is described in B below.

B. The hard copy A-file *(prior to 1940 were called Citizenship File (C-File))* contains all the individual's official record material such as naturalization certificates; various forms, applications and petitions for benefits under the immigration and nationality laws; reports of investigations; statements; reports; correspondence; and memorandums on each individual for whom INS has created a record under the Immigration and Nationality Act.

AUTHORITY FOR MAINTENANCE OF RECORDS:

Sections 103 and 290 of the Immigration and Nationality Act, as amended (8 U.S.C. 1103, and 8 U.S.C. 1360), and the regulations pursuant thereto.

PURPOSE:

The system is used primarily by INS and other Department of Justice employees to administer and enforce the immigration and nationality laws, and related statutes, including the processing of applications for benefits under these laws, detecting violations of these laws, and the referral of such violations for prosecution.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

A. To clerks and judges of courts exercising naturalization jurisdiction for the purpose of filing petitions for naturalization and to enable such courts to determine eligibility for naturalization or grounds for revocation of naturalization.

B. To the Department of State in the processing of petitions or applications for benefits under the Immigration and Nationality Act, and all other immigration and nationality laws, including treaties and reciprocal agreements.

C. To other Federal, State, and local government law enforcement and regulatory agencies and foreign governments, including the Department of Defense and all components thereof, the Department of State, the Department of the Treasury, the Central Intelligence Agency, the Selective Service System, the United States Coast Guard, the United Nations, and INTERPOL, and individuals and organizations during the course of investigation in the processing of a matter or during a proceeding within the purview of the immigration and nationality laws to elicit information required by INS to carry out its functions and statutory mandates.

D. Where there is an indication of a violation or potential violation of law (whether civil, criminal or regulatory in nature), to the appropriate agency (whether Federal, State, local or foreign), charged with the responsibility of investigating or prosecuting such violations, or charged with enforcing or implementing the statute, rule, regulation or other issued pursuant thereto.

E. Where there is an indication of a violation or potential violation of the immigration and nationality laws, or of a general statute within INS jurisdiction, or of a regulation, rule, or order issued pursuant thereto, to a court, magistrate, or administrative tribunal in the course of presenting evidence, and to opposing counsel during discovery.

F. To a Federal, State, local or foreign government agency in response to its request, in connection with the hiring or retention by such agency of an employee, the issuance of a security clearance, the reporting of an investigation of such an employee, the

letting of a contract, or the issuance of a license, grant, loan, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

G. To a Federal, State or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary to obtain information relevant to a decision of INS concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant or other benefit.

H. Where there is an indication of a violation or potential violation of the law of another nation (whether civil or criminal), to the appropriate foreign government agency charged with enforcing or implementing such laws and to international organizations engaged in the collection and dissemination of intelligence concerning criminal activity.

I. To the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A–19 at any stage of the legislative coordination and clearance process as set forth in the Circular.

J. To other Federal agencies for the purpose of conducting national intelligence and security investigations.

K. To an applicant, petitioner or respondent or to his or her attorney or representative as defined in 8 CFR 1.1(j) in connection with any proceeding before INS.

L. To a Federal, State or local or foreign government agency in response to its request for assistance in the collection or repayment of loans and fraudulently or erroneously secured benefits or grants or other debts owed to the United States.

M. To student volunteers whose services are accepted pursuant to 5 U.S.C. 3111 or to students enrolled in a college work study program pursuant to 42 U.S.C. 2751 *et seq.*

N. To the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of a personal privacy.

O. To a Member of Congress or staff acting on the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

P. To the General Services Administration and the National Archives and Records Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Most A-file *and C-file* records are paper documents and are stored in file folders. Some microfilm and other records are stored in manually operated machines, file drawers, and filing cabinets. Those index records which can be accessed electronically are stored in a data base on magnetic disk and tape.

RETRIEVABILITY:

These records are indexed and retrieved by A-file *or C-file* number, name, and/or date of birth.

SAFEGUARDS:

INS offices are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces which are locked during non-duty office hours. Many records are stored in cabinets or machines which are also locked during non-duty office hours. Access to automated records is controlled by passwords and name identifications.

RETENTION AND DISPOSAL:

A-file records are retained for 75 years from the closing date or date of last action and then destroyed. *C-file records are to be destroyed 100 years from March 31, 1956.* Automated index records are retained only as long as they serve a useful purpose and then they are deleted from the system disk and/or tape.

SYSTEM MANAGER(S) AND ADDRESS:

The Servicewide system manager is the Director, Records Management Branch, Records Systems Division, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536.

NOTIFICATION PROCEDURE:

Address inquiries to the system manager identified above, the nearest INS office, or the INS office maintaining desired records, if known, by using the list of principal offices of the Immigration and Naturalization Service Appendix: JUSTICE/INS–999, published in the **Federal Register**.

RECORD ACCESS PROCEDURE:

Make all requests for access in writing to the Freedom of Information Act/ Privacy Act (FOIA/PA) officer at one of the addresses identified above. Clearly mark the envelope and letter "Privacy Act Request." Provide the A-file number and/or the full name, date and place of birth, and notarized signature of the individual who is the subject of the record, and any other information which may assist in identifying and locating the record, and a return address. For convenience, INS Form G–639, FOIA/PA Request, may be obtained from the nearest INS office and used to submit a request for access.

CONTESTING RECORDS PROCEDURES:

Direct all requests to contest or amend information to the FOIA/PA Officer at one of the addresses identified above. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope "Privacy Act Request." The record must be identified in the same manner as described for making a request for access.

RECORD SOURCE CATEGORIES:

Basic information contained in INS records is supplied by individuals on Department of State and INS applications and forms. Other information comes from inquiries and/ or complaints from members of the general public and members of Congress; referrals of inquiries and/or complaints directed to the White House or Attorney General; INS reports to investigations, sworn statements, correspondence and memorandums; official reports, memorandums, and written referrals from other entities, including Federal, State, and local governments, various courts and regulatory agencies, foreign government agencies and international organizations.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c) (3) and (4); (d); (e)(1), (2), and (3); (e)(4) (G) and (H); (e) (5) and (8); and (g) of the Privacy Act. These exemptions apply to the extent that information in the system is subject to exemption pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c), and (e) and have been published in the **Federal Register** and codified as additions to Title 28, Code of Federal Regulations (28 CFR 16.99).

JUSTICE/INS–0088

SYSTEM NAME:

Bond Accounting and Control System [BACS].

SYSTEM LOCATION:

Immigration and Naturalization Service regional offices: (1) Burlington, Vermont; (2) Fort Snelling, Twin Cities, Minnesota. Addresses of offices are listed in JUSTICE/INS–999 as published in the Federal Register, or in the telephone directories of the respective cities listed above under the heading "United States Government, Immigration and Naturalization Service."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have posted a bond with INS and the beneficiaries of posted bonds.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information which allows identification of active bonds posted with INS such as: Bond number, obligor's name and address, alien beneficiary's name and alien file number, type of bond, location and date bond was posted, and other data related to bonds.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 103 (8 U.S.C. 1103) in implementing the authorities set forth in section 213 (8 U.S.C. 1183) and section 293 (8 U.S.C. 1353) of the Immigration and Nationality Act.

PURPOSE(S):

Information in this system will be used by employees of INS to control and account for collateral received to support an immigration bond. The system will allow prompt location of related files and other records and will enable INS to make timely responses to inquiries about these records.

The information in the system can be used to generate various documents (such as voucher disbursements) required for normal accounting procedures and to generate statistical and historical reports pertaining to immigration bonds posted, cancelled or breached.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Relevant information contained in this system of records may be disclosed as follows:

A. To other Federal, state, or local law enforcement agencies for investigative purposes or collection of breached bonds.

B. To a member of Congress or staff upon the member's behalf when the member or staff acting requests the information on behalf of and at the request of the individual who is the subject of the record.

C. To the National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on magnetic disks.

RETRIEVABILITY:

Records may be retrieved by any of the following: Alien's name, alien's file number, obligor's name, bond-receipt control number, breach control number, or location and date bond was posted.

SAFEGUARDS:

Records are safeguarded in accordance with Department of Justice rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. All records are stored in spaces which are locked outside of normal office hours. Access to this automated system is obtained through remote terminals which are located in secured areas and require the use of restricted passwords.

RETENTION AND DISPOSAL:

Records are deleted from magnetic disks one year (or earlier) after the bond is disbursed and the file closed.

SYSTEM MANAGER(S) AND ADDRESS:

The *Deputy Regional Administrators*, at the regional office having jurisdiction over the area in which the beneficiary alien resides. See the caption "System locations."

NOTIFICATION PROCEDURES:

Inquiries should be addressed to the system manager.

RECORD ACCESS PROCEDURE:

In all cases, requests for access to a record shall be in writing. Written requests may be submitted by mail or in person at an INS office. If a request for access is made by mail, the envelope and letter shall be clearly marked "Privacy Access Request." To identify a record relating to an individual, a requester should provide: The individual's full name, alien file number, and location and date bond was posted. The requester shall provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Any individual desiring to contest or amend information maintained in the system should direct his request to the regional INS office in which he believes the record concerning him may exist. The request should state clearly what information is being contested, the reason for contesting it, and the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

Information contained in this system or records is supplied on INS forms by individuals who have posted a bond with the INS and by the beneficiaries of posted bonds.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/INS–010

SYSTEM NAME:

Freedom of Information Act/Privacy Act (FOIA/PA) Case Tracking and Reporting System.

SYSTEM LOCATION:

Central, Regional, District, and other Files Control Offices of the Immigration and Naturalization Service (INS) in the United States as detailed in JUSTICE/INS–999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals making requests, individuals designated to receive responses, and individuals whose records are requested by others under the provisions of the Freedom of Information Act and/or Privacy Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information extracted from FOIA/PA requests and the documentation provided by INS personnel of actions taken on the requests. The data base consists of data such as the names of requesters, record subjects, or persons designated to receive responses to requests, mailing addresses to send responses; date of receipt of requests; assigned request control numbers; date responses are due; interim and final action(s) taken on requests and the date(s) of final and/or interim actions; the persons or offices assigned action on requests; the types of requests; fee data; alien file numbers; specific exemptions applied to denial actions; offices where requests are transferred for referral or consultations; and the names/titles of officials responsible for denials.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system is maintained pursuant to 44 U.S.C. 3101 and 8 U.S.C. 1103 to implement the provisions of 5 U.S.C. 552 and U.S.C. 552a.

ROUTINE USES OF THE RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

This system of records is used to record, control, and determine the status of FOIA/PA requests, and produce statistical reports required by both Acts. Information from the system may be provided to the record subject, the requester or other persons designated by the requester, and to other Federal agencies and Department of Justice components receiving INS referrals or with whom consultations are required in order to complete the processing of requests. All other uses are internal within INS.

Release of information to Members of Congress: Information in this system may be disclosed as is necessary to appropriately respond to congressional inquiries on behalf of constituents.

Release of information to the National Archives and Records Administration (NARA) and the General Services Administration (GSA): A record from this system of records may be disclosed as a routine use to the NARA and GSA in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE

Records may be stored on magnetic disks and tapes.

RETRIEVABILITY:

Records are indexed and retrieved by control number or by name of requester or subject.

SAFEGUARDS:

Records are safeguarded in accordance with Department of Justice Security regulations governing Privacy Act systems of records. Access to the automated system is controlled by restricted password from remote terminals in secured areas.

RETENTION AND DISPOSAL:

Records are maintained *and disposed in accordance with NARA General Records Schedule 14 Items 11 through 15 for FOIA and 22 through 26 for PA.*

SYSTEM MANAGER(S) AND ADDRESS:

The Associated Commissioner, Immigration Resources Management, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC is the sole manager of the system.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager listed above.

RECORDS ACCESS PROCEDURE:

In all cases, requests for access to a record from this system shall be in writing. If a request for access is made by mail, the envelope and letter shall be clearly marked "FOIA/PA Request." Requests should be submitted to the INS office where the request which is the subject of the inquiry was sent, or to the Immigration and Naturalization Service, Attention: FOIA/PA Section, 425 I Street, NW., Washington, DC 20536. The requester shall include the control number or name of the requester and/or name of the record subject, and the date and place of submission of the request. The requester shall also provide a return address for response to the inquiry.

CONTESTING RECORD PROCEDURE:

Any individual desiring to contest or amend information maintained in the system should direct his request to the system manager or to the INS office where the request which is the subject of the inquiry was submitted. The request should state clearly what information is being contested, the reason(s) for contesting it, and the proposed amendment to the information.

RECORDS SOURCE CATEGORIES:

Individuals requesting information under FOIA/PA and INS officials and employees engaged in processing or making determinations on FOIA/PA requests.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/INS–013

SYSTEM NAME:

Fees and Application Receipt and Entry System (FARES).

SYSTEM LOCATION:

Immigration and Naturalization Service (INS) *Headquarters,* Regional Service Centers, District Offices and sub-offices as detailed in Justice/INS–999.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have filed applications or petitions for benefits under the Immigration and Nationality Act, as amended, and/or who have submitted fee payments with such applications or petitions; individuals who have paid fees for access to records under the Freedom of Information/Privacy Acts (FOIA/PA); individuals who have posted a bond and related fees with INS; and individuals who have refunded money to INS.

CATEGORIES OF RECORDS IN THE SYSTEM:

Information which identifies individuals named above, e.g., name and address, date of birth, and alien registration number. Records in the system may also include such information as date documents were filed or received in INS, status, location of record, FOIA/PA or other control number where applicable, fee receipt data, and posted bond data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

8 U.S.C. 1103; 8 U.S.C. 1363; and 31 U.S.C. 3512.

PURPOSE:

This system will enable INS to determine the status of pending applications and petitions for benefits; to account for and control the receipt and disposition of any fees or refunds collected, including those which accompany applications, petitions, posted bonds, and FOIA/PA requests; and to locate related files and respond to inquiries about these records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

No external disclosure will be made from this system. The system will be used by employees as indicated under "Purpose of the System."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information is stored on magnetic disks and tape.

RETRIEVABILITY:

Records may be retrieved by name of the individuals covered by the system; and by fee receipt number.

SAFEGUARDS:

Records are safeguarded in accordance with Department of Justice rules and procedures. INS offices are located in buildings under security guard, and access to premises is by official identification. Offices are locked during non-duty hours. Access to this system is obtained through remote terminals which require the use of restricted passwords and a user ID.

RETENTION AND DISPOSAL:

Records are archived off-line for an indefinite period one year after the final action. A disposition schedule for archived records is pending.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Service Center Operation, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the system manager.

RECORD ACCESS PROCEDURE:

Make all requests for access in writing to the FOIA/PA Officer at any INS office. Clearly mark the envelope and letter "Privacy Act Request." Depending on the type of record, provide the name and date of birth of the applicant, name of petitioner or FOIA/PA requester, alien registration number of beneficiary and receipt number to assist in locating and/or verifying the identify of the record. For your convenience, INS Form G-639, Freedom of Information Act Privacy Act Request, may be obtained from the nearest INS office and used to submit a request.

CONTESTING RECORDS PROCEDURE:

Direct all requests to contest or amend information to the FOIA/PA Officer at any INS office. State clearly and concisely the information being contested, the reason for contesting it, and the proposed amendment thereof. Clearly mark the envelope "Privacy Act Amendment Request." The record must be identified in the same manner as described for making a request for access.

RECORD SOURCE CATEGORIES:

Information contained in this system of records is obtained from the individuals covered by the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/INS-999

SYSTEM NAME:

INS Appendix: List of principal offices of the Immigration and Naturalization Service.

Headquarters: Immigration and Naturalization Service; 425 "I" Street NW., Washington, DC 20536.

Regional Offices: Eastern Regional Office, 70 Kimball Avenue South, Burlington, VT 05403-6813.

Northern Regional Office, Bishop Henry Whipple Federal Building, One Federal Drive, Fort Snelling, NM 55111-4007.

Southern Regional Office, 7701 North Stemmons Freeway, Dallas TX 75247-9998.

Western Regional Office, Post Office Box 30040, Laguna Niguel, CA 92607-0080.

Regional Service Centers: Eastern Service Center, 75 Lower Welden Street, St. Albans, VT 05479-0001.

Northern Service Center, Federal Building & U.S. Courthouse, 100 Centennial Mall North, Lincoln, NE 68508-1619.

Southern Service Center, P.O. Box 152122, Irving, TX 75015-0212.

Western Service Center, Post Office Box 30040, Laguna Niguel, CA 92607-0040.

District Offices in the United States:

Anchorage District Office, Michaelis Building, 1st Floor, 620 East 10th Avenue, Anchorage, AK 99501-7581.

Atlanta District Office, 77 Forsyth Street, SW, Room G-85, Atlanta, GA 30303.

Baltimore District Office, Equitable Bank Center, 12th Floor, Tower One, 100 South Charles Street, Baltimore, MD 21210.

Boston District Office, JFK Federal Building, Government Center, Boston, MA 02203.

Buffalo District Office, 68 Court Street, Buffalo, NY 14202.

Chicago District Office, 10 West Jackson Boulevard, Second Floor, Chicago IL 60604.

Cleveland District Office, Anthony J. Celebreze, Federal Office Building, 1240 East 9th Street, Room 1917, Cleveland, OH 44199.

Dallas District Office, 8101 North Stemmons Freeway, Dallas, TX 75247.

Denver District Office, 4730 Paris Street, Albrook Center, Denver, CO 80239-2804.

Detroit District Office Federal Building, 333 Mt. Elliott St., Detroit, MI 48207.

El Paso District Office, 700 E. San Antonio, EL Paso, TX 79901.

Harlingen District Office, 2102 Teege Road, Harlingen, TX 78550.

Helene District Office Federal Building, Room 512, 301 South Park, Drawer 10036, Helene, MT 59626.

Honolulu District Office, 595 Ala Moana Boulevard, Honolulu, HI 96813.

Houston District Office, 509 North Belt, Houston, TX 77060.

Kansas District Office, 9747 N. Connant Avenue, Kansas City, MO.

Los Angeles District Office, 300 North Los Angeles Street, Los Angeles, CA 90012.

Miami District Office, 7880 Biscayne Boulevard, Miami, FL 33138.

Newark District Office Federal Building, 970 Broad Street, Newark, NJ 07102.

New Orleans District Office Postal Services Bldg., Room T-8005, 701 Loyola Ave., New Orleans, LA 70113.

New York District Office, 26 Federal Plaza, New York, NY 10278.

Omaha District Office, 3736 South 132nd Street, Omaha, NE 68144.

Philadelphia District Office, 1600 Callowhill Street, Philadelphia, PA 19130.

Phoenix District Office, 2035 North Central Avenue, Phoenix, AZ 85004.

Portland Maine District Office, 739 Warren Avenue, Portland, ME 04103.

Portland Oregon District Office, Federal Office Building, 511 NW., Broadway, Portland, OR 97209.

San Antonio District Office, U.S. Federal Building, 727 E. Durango, Suite A301, San Antonio, TX 78206.

San Diego District Office, 880 Front Street, San Ysidro, CA 92188.

San Francisco District Office, 630 Sansome Street, Appraisers Building, San Francisco, CA 94111.

San Juan District Office, P.O. Box 365068, San Juan, PR 00936-5068.

Seattle District Office, 815 Airport Way South, Seattle, WA 98134.

St. Paul District Office, 2901 Metro Drive, Suite 100, Bloomington, MN 55425.

Washington, DC District Office, 4420 North Fairfax Drive, Arlington, VA 22203.

Suboffices (files Control Offices) in the United States:

Agana Office, 801 Pacific News Building, 238 O'Hara Street, Agana, GU 96910.

Albany Office, James T. Foley Federal Courthouse, 445 Broadway, Room 220, Albany, NY 12207.

Charlotte Office, 6 Woodlawn Green, Suite 138, Charlotte, NC 28217.

Charlotte Amalie Office, Federal District Court Bldg., P.O. Box 610, Charlotte Amalie, St. Thomas, VI 00801.

Cincinnati Office, J.W. Peck Federal Building, 550 Main Street, Room 8525, Cincinnati, OH 45202.

El Paso Intelligence Center, SSG Sims Street, Building 11339, El Paso, TX 79918-5100.

Hartford Office, Ribcoff Building, 450 Main Street, Hartford, CT 06103-3060.

Indianapolis Office, Gateway Plaza, 950 North Meridian, Suite 400, Indianapolis, IN 46204.

Las Vegas Office, Federal Building, U.S. Courthouse, 300 South Las Vegas Boulevard, Room 1430, Las Vegas, NV 89101.

Memphis Office, 245 Wagner Place, Suite 250, Memphis, TN 38103-3800.

Milwaukee Office, Federal Building, Room 186, 517 East Wisconsin Avenue, Milwaukee, WI 53202.

Norfolk Office, Norfolk Federal Building, 200 Granby Mall, Room 439, Norfolk, VA 23510.

Pittsburgh Office, 314 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

Providence Office, Federal Building U.S. Post Office, Exchange Terrace, Providence, RI 02903.

Reno Office, 350 South Center Street, Suite 150, Reno, NV 89502.

St. Albans Office, P.O. Box 328, St. Albans, VT 05478.

St. Louis Office, R.A. Young Federal Building, 1222 Spruce Street, Room 1.100, St. Louis, MO 63101-2815.

Salt Lake City Office, 230 West 400 South Street, Salt Lake City, UT 84101.

Spokane Office, U.S. Courthouse Building, Room 691, Spokane, WA 99201.

Border Patrol Sector Headquarters:

Blaine Sector Headquarters, 1590 "H" Street, P.O. Drawer V, Blaine, WA 98230.

Buffalo Sector Headquarters, 231 Grand Island Boulevard, Tonawanda, NY 14150.

Del Rio Sector Headquarters, Qualia Drive, P.O. Box 2020, Del Rio, TX 78840.

Detroit Sector Headquarters, P.O. Box 32639, Detroit, MI 48232.

El Centro Sector Headquarters, 1111 North Imperial Avenue, El Centro, CA 92243.

El Paso Sector Headquarters, P.O. Box 9578, El Paso, TX 79986.

Grand Forks Sector Headquarters, 2320 South Washington Street, Grand Forks, ND 58201.

Harve Sector Headquarters, 2605 5th Avenue, SE, Harve, MT 59501.

Houlton Sector Headquarters, Rt. 1 Calais Rd., P.O. Box 706, Houlton, ME 04730.

Laredo Sector Headquarters, 207 W. Del Mar Boulevard, Laredo, TX 78041.

Livermore Sector Headquarters, 6102 9th St., Dublin, CA 94268.

Marfa Sector Headquarters, 300 Madrid Street, Marfa, TX 79843.

Mayaguez Sector Headquarters, Box 467-Ramey, FR 00604.

McAllen Sector Headquarters, 2301 South Main Street, McAllen, TX 78503.

Miami Sector Headquarters, 7201 Pembroke Rd., Pembroke Pines, FL 33023.

New Orleans Sector Headquarters, 3819 Patterson Drive, New Orleans, LA 70114.

San Diego Sector Headquarters, P.O. Box 439022, San Ysidro, CA 92143–0022.

Spokane Sector Headquarters, North 10710 Newport Highway, Spokane, WA 99218.

Swanton Sector Headquarters, Grand Avenue, Swanton, VT 05488.

Tucson Sector Headquarters, 1970 West Ajo Way, Tucson, AZ 85713.

Yuma Sector Headquarters, 350 First Street, Yuma, AZ 85364.

Border Patrol Academy:

DOJ/INS (FLETC) Artesia, 1300 West Richey Avenue, Artesia, NM 88210.

Officer Development and Training Facility, Building 64 FLETC Glynco, GA 31524.

District Offices in Foreign Countries:

Bangkok District Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Box 12, APO San Francisco, CA 96346.

Mexico District Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Room 118, P.O. Box 3087, Laredo, TX 78044.

Rome District Office, U.S. Immigration and Naturalization Service, c/o American Embassy, APO New York, NY 09794.

Suboffices (Files Control Offices) in Foreign Countries:

Athens Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Athens, Greece, PSC 108 Box 25 APO AE 09842.

Frankfurt Office, U.S. Immigration and Naturalization Service, American Consulate General, Frankfurt, Unit 25401 APO AE 09213.

Guadalajara Office, U.S. Immigration and Naturalization Service, Box 3088, Guadalajara Laredo, TX 70844–3088.

Hong Kong Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Hong Kong, PSC 464, Box 30, FPO AP 96522–0002.

London Office, U.S. Immigration and Naturalization Service, c/o American Embassy, London, England, PSC 801, Box 06, FPO AE 09498–4006.

Mexico Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Mexico City, Mexico, P.O. Box 3087, Room 118, Laredo, TX 78044.

Monterrey Office, U.S. Immigration and Naturalization Service, c/o American Consulate, P.O. Box 3098, Laredo, TX 78044–3098.

Moscow Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Moscow, USSR, PSC 77, APO AE 09721.

Nairobi Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Nairobi, Kenya Unit 64100, Box 21, APO AE 09831–4100.

New Delhi Office, U.S. Immigration and Naturalization Service, c/o American Embassy, New Delhi, India, Department of State, Washington, DC 20521–9000.

Rome Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Rome Italy, PSC 59, APO AE 09624.

Seoul, Korea Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Seoul, Korea Unit 15550, APO AP 96205–0001.

Shannon Office, U.S. Immigration and Naturalization Service, c/o AER–RIANTA, Attn: Port Director, Shannon Airport, Shannon, Co., Clare, Ireland.

Singapore Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Singapore, FPO AP 96534.

Tijuana Office, U.S. Immigration and Naturalization Service, c/o American Consulate General, Tijuana, P.O. Box 439039, San Diego, CA 92143–9039.

Vienna Office, U.S. Immigration and Naturalization Service, c/o American Embassy, Vienna, Austria Unit 27937, Box 21, APO AE 09222.

JUSTICE/FBI–002

SYSTEM NAME:

The FBI Central Records System.

SYSTEM LOCATION:

a. Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue, NW., Washington DC 20535; b. 56 field divisions (see Appendix); c. 16 Legal Attaché (see Appendix).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

a. Individuals who relate in any manner to official FBI investigations including, but not limited to subjects, suspects, victims, witnesses, and close relatives and associates who are relevant to an investigation.

b. Applicants for and current and former personnel of the FBI and persons related thereto who are considered relevant to an applicant investigation, personnel inquiry, or other personnel matters.

c. Applicants for and appointees to sensitive positions in the United States Government and persons related thereto who are considered relevant to the investigation.

d. Individuals who are the subject of unsolicited information, who offer unsolicited information, request assistance, and make inquiries concerning record material, including general correspondence, and contacts with other agencies, businesses, institutions, clubs; the public and the news media.

e. Individuals associated with administrative operations or services including pertinent functions, contractors and pertinent persons related thereto.

(All manner of information concerning individuals may be acquired in connection with and relating to the varied investigative responsibilities of the FBI which are further described in "CATEGORIES OF RECORDS IN THE SYSTEM." Depending on the nature and scope of the investigation this information may include, among other things, personal habits and conduct, financial information, travel and organizational affiliation of individuals. The information collected is made a matter of record and placed in FBI files.)

CATEGORIES OF RECORDS IN THE SYSTEM:

The FBI Central Records Systems—The FBI utilizes a central records system of maintaining its investigative, personnel, applicant, administrative, and general files. This system consists of one numerical sequence of subject matter files, an alphabetical index to the files, and a supporting abstract system to facilitate processing and accountability of all important mail placed in files. This abstract system is both a textual and an automated capability for locating mail. Files kept in FBI field offices are also structured in the same manner, except they do not utilize an abstract system.

The 281 classifications used by the FBI in its basic filing system pertain primarily to Federal violations over which the FBI has investigative jurisdiction. However, included in the *281 classifications are* personnel, applicant, and administrative matters to facilitate the overall filing scheme. These classifications are as follows (the word "obsolete" following the name of the classification indicates the FBI is no longer initiating investigative cases in these matters, although the material is retained for reference purposes):

1. Training Schools; National Academy Matters: FBI National Academy Applicants. Covers general information concerning the FBI National Academy, including background investigations of individual candidates.

2. Neutrality Matters. Title 18, United States Code, Sections 956 and 958 962; Title 22, United States Code, Sections 1934 and 401.

3. Overthrow or Destruction of the Government. Title 18, United States Code, Section 2385.

4. National Firearms Act, Federal Firearms Act; State Firearms Control Assistance Act; Unlawful Possession or Receipt of Firearms. Title 26, United States Code, Sections 5801–5812; Title 18, United States Code, Sections 921–928; Title 18, United States Code, Sections 1201–1203.

5. Income Tax. Covers violations of Federal income tax laws reported to the FBI. Complaints are forwarded to the

Commissioner of the Internal Revenue Service.

6. Interstate Transportation of Strikebreakers. Title 18, United States Code, Section 1231.

7. Kidnapping. Title 28, United States Code, Sections 1201 and 1202.

8. Migratory Bird Act. Title 18, United States Code, Section 43; Title 16, United States Code, Section 703 through 718.

9. Extortion. Title 18, United States Code, Sections 876, 877, 875, and 873.

10. Red Cross Act. Title 18, United States Code, Sections 706 and 917.

11. Tax (Other than Income). This classification covers complaints concerning violations of Internal Revenue law as they apply to other than alcohol, social security and income and profits taxes, which are forwarded to the Internal Revenue Service.

12. Narcotics. This classification covers complaints received by the FBI concerning alleged violations of Federal drug laws. Complaints are forwarded to the headquarters of the Drug Enforcement Administration (DEA), or the nearest district office of DEA.

13. Miscellaneous. Section 125, National Defense Act, Prostitution; Selling Whiskey Within Five Miles of An Army Camp, 1920 only. Subjects were alleged violators of abuse of U.S. flag, fraudulent enlistment, selling liquor and operating houses of prostitution within restricted bounds of military reservations. Violations of Section 13 of the Selective Service Act (Conscription Act) were enforced by the Department of Justice as a war emergency measure with the Bureau exercising jurisdiction in the detection and prosecution of cases within the purview of that Section.

14. Sedition. Title 18, United States Code, Sections 2387, 2388, and 2391.

15. Theft from Interest Shipment. Title 18, United States Code, Section 859; Title 18, United States Code, Section 660; Title 18 United States Code, Section 2117.

16. Violations of Federal Injunction (obsolete). Consolidated into Classification 69, "Contempt of Court".

17. Fraud Against the Government, Department of Veterans Affairs, Department of Veterans Affairs Matters. Title 18, United States Code, Section 287, 289, 290, 371, or 1001, and Title 38, United States Code, Sections 787(a), 787(b), 3405, 3501, and 3502.

18. May Act. Title 18, United States Code, Section 1384.

19. Censorship Matter (obsolete). Pub. L. 77th Congress.

20. Federal Grain Standards Act (obsolete) 1920 only. Subjects were alleged violators of contracts for sale. Shipment of Interstate Commerce, Section 5, U.S. Grain Standards Act.

21. Food and Drugs. This classification covers complaints received concerning alleged violations of the Food, Drug and Cosmetic Act; Tea Act; Import Milk Act; Caustic Poison Act; and Filled Milk Act. These complaints are referred to the Commissioner of the Food and Drug Administration of the field component of that Agency.

22. National Motor Vehicle Traffic Act, 1922–27 (obsolete). Subjects were possible violators of the National Motor Vehicle Theft Act, Automobiles seized by Prohibitions Agents.

23. Prohibition. This classification covers complaints received concerning bootlegging activities and other violations of the alcohol tax laws. Such complaints are referred to the Bureau of Alcohol, Tobacco and Firearms, Department of the Treasury, or field representatives of the Agency.

24. Profiteering 1920–42 (obsolete). Subjects are possible violators of the Lever Act—Profiteering in food and clothing or accused company was subject of file. Bureau conducted investigations to ascertain profits.

25. Selective Service Act; Selective Training and Service Act. Title 50, United States Code, Section 462; Title 50, United States Code, Section 459.

26. Interstate Transportation of Stolen Motor Vehicle; Interstate Transportation of Stolen Aircraft. Title 18, United States Code, Sections 2311 (in part), 2312, and 2313.

27. Patent Matter. Title 35, United States Code, Sections 104 and 105.

28. Copyright Matter. Title 17, United States Code, Sections 104 and 105.

29. Bank Fraud and Embezzlement. Title 18, United States Code, Sections 212, 213, 215, 334, 655–657, 1004–1006, 1008, 1009, 1014, and 1306; Title 12, United States Code, Section 1725(g).

30. Interstate Quarantine Law, 1922–25 (obsolete). Subjects alleged violators of Act of February 15, 1893, as amended, regarding interstate travel of persons afflicted with infectious diseases. Cases also involved unlawful transportation of animals, Act of February 2, 1903. Referrals were made to Public Health Service and the Department of Agriculture.

31. White Slave Traffic Act. Title 18, United States Code, Section 2421–2424.

32. Identification (Fingerprint) Matters. This classification covers general information concerning Identification (fingerprint) matters.

33. Uniform Crime Reporting. This classification covers general information concerning the Uniform Crime Reports, a periodic compilation of statistics of criminal violations throughout the United States.

34. Violation of Lacy Act. 1922–43. (obsolete) Unlawful Transportation and shipment of black bass and fur seal skins.

35. Civil Service. This classification covers complaints received by the FBI concerning Civil Service matters which are referred to the Office of Personnel Management in Washington or regional offices of that Agency.

36. Mail Fraud. Title 18, United States Code, Section 13341.

37. False Claims Against the Government. 1921–22. (obsolete) Subjects submitted claims for allotment, vocational training, compensation as veterans under the Sweet Bill. Letters were generally referred elsewhere (Veterans Bureau). Violators apprehended for violation of Article No. 1, War Risk Insurance Act.

38. Application for Pardon to Restore Civil Rights. 1921–35. (obsolete) Subjects allegedly obtained their naturalization papers by fraudulent means. Cases later referred to Immigration and Naturalization Service.

39. Falsely Claiming Citizenship. (obsolete) Title 18, United States Code, Sections 911 and 1015(a)(b).

40. Passport and Visa Matter. Title 18, United States Code, Sections 1451–1546.

41. Explosives (obsolete). Title 50, United States Code, Sections 121 through 144.

42. Deserter; Deserter, Harboring. Title 10, United States Code, Sections 808 and 885.

43. Illegal Wearing of Uniforms; False Advertising or Misuse of Names, Words, Emblems or Insignia; Illegal Manufacturer, Use, Possession, or Sale of Emblems and Insignia; Illegal Manufacture, Possession, or Wearing of Civil Defense Insignia; Miscellaneous, Forging or Using Forged Certificate of Discharge from Military or Naval Service; Miscellaneous, Falsely Making or Forging Naval, Military, or Official Pass; Miscellaneous, Forging or Counterfeiting Seal of Department or Agency of the United States, Misuse of the Great Seal of the United States or of the Seals of the President or the Vice President of the United States; Unauthorized Use of "Johnny Horizon" Symbol; Unauthorized Use of Smokey Bear Symbol. Title 18, United States Code, Sections 702, 703, and 704; Title 18, United States Code, Sections 701, 705, 707, and 710; Title 36, United States Code, Section 182; Title 50, Appendix, United States Code, Section 2284; Title 46, United States Code, Section 249; Title 18, United States Code, Sections 498, 499, 506, 709, 711,

711a, 712, 713, and 714; Title 12, United States Code, Sections 1457 and 1723a; Title 22, United States Code, Section 2518.

44. Civil Rights; Civil Rights, Election Laws, Voting Rights Act, 1965, Title 18, United States Code, Sections 241, 242, and 245; Title 42, United States Code, Section 1973; Title 18, United States Code. Section 243; Title 18, United States Code, Section 244, Civil Rights Act—Federally Protected Activities; Civil Rights Act—Overseas Citizens Voting Rights Act of 1975.

45. Crime on the High Seas (Includes stowaways on boats and aircraft). Title 18, United States Code, Sections 7, 13, 1243, and 2199.

46. Fraud Against the Government: (Includes Department of Health, Education and Welfare; Department of Labor (CETA), and Miscellaneous Government Agencies) Anti-Kickback Statute; Department Assistance Act of 1950; False Claims, Civil; Federal-Aid Road Act; Lead and Zinc Act; Public Works and Economic Development Act of 1965; Renegotiation Act, Criminal; Renegotiation Act, Civil; Trade Expansion Act of 1962; Unemployment Compensation Statutes; Economic Opportunity Act. Title 50, United States Code, Section 1211 et seq.; Title 31, United States Code, Section 231; Title 41, United States Code, Section 119; Title 40, United States Code, Section 489.

47. Impersonation. Title 18, United States Code, Section 912, 913, 915, and 916.

48. Postal. Violation (Except Mail Fraud). This classification covers inquiries concerning the Postal Service and complaints pertaining to the theft of mail. Such complaints are either forwarded to the Postmaster General or the nearest Postal Inspector.

49. Bankruptcy Fraud. Title 18, United States Code, Sections 151–155.

50. Involuntary Servitude and Slavery. U.S. Constitution, 13th Amendment; Title 18, United States Code, sections 1581–1588, 241, and 242.

51. Jury Panel Investigations. This classification covers jury panel investigations which are requested by the appropriate Assistant Attorney General as authorized by 28 U.S.C. 533 and AG memorandum 781, dated 11/9/72. These investigations can be conducted only upon such a request and consist of an indices and arrest check, and only in limited important trials where defendant could have influence over a juror.

52. Theft, Robbery, Embezzlement, Illegal Possession or Destruction of Government Property. Title 18, United States Code, Sections 641, 1024, 1660, 2112, and 2114. Interference With Government Communications, Title 18, U.S.C., Section 1632.

53. Excess Profits On Wool. 1918 (obsolete). Subjects possible violator of Government Control of Wool Clip of 1918.

54. Customs Laws and Smuggling. This classification covers complaints received concerning smuggling and other matters involving importation and entry of merchandise into and the exportation of merchandise from the United States. Complaints are referred to the nearest district office of the U.S. Customs Service or the Commissioner of Customs, Washington, DC.

55. Counterfeiting. This classification covers complaints received concerning alleged violations of counterfeiting of U.S. coins, notes, and other obligations and securities of the Government. These complaints are referred to either the Director, U.S. Secret Service, or the nearest office of that Agency.

56. Election Laws. Title 18, United States Code, Sections 241, 242, 245, and 591–607; Title 42, United States Code, Section 1973; Title 26, United States Code, Sections 9012 and 9042; Title 2, United States Code, Sections 431–437, 439, and 441.

57. War Labor Dispute Act (obsolete). Pub. L. 89–77th Congress.

58. Corruption of Federal Public Officials. Title 18, United States Code, Sections 201–203, 205–211; Pub. L. 89–4 and 89–136.

59. World War Adjusted Compensation Act of 1924–44. (obsolete) Bureau of Investigation was charged with the duty of investigating alleged violations of all sections of the World War Adjusted Compensation Act (Pub. L. 472, 69th Congress (H.R. 10277)) with the exception of Section 704.

60. Anti-Trust, Title 15, United States Code, Sections 1–7, 12–27, and 13.

61. Treason or Misprision of Treason. Title 18, United Stats Code, Sections 2381, 2382, 2389, 2390, 756, and 757.

62. Administrative Inquiries. Misconduct Investigations of Officers and Employees of the Department of Justice and Federal Judiciary; Census Matters (Title 13, United States Code, Sections 211–214, 221–224, 304, and 305) Domestic Police Cooperation; Eight-Hour-Day Law (Title 40, United States, Code, Sections 321, 332, 325a, 326); Fair Credit Reporting Act (Title 15, United States Code, Sections 1681q and 1681r); Federal Cigarette Labeling and Advertising Act (Title 15, United States Code, Section 1333); Federal Judiciary Investigations; Kickback Racket Act (Title 18, United States Code, Section 874); Lands Division Matter, other Violations and/or Matters; Civil Suits—Miscellaneous; Soldiers' and Sailors' Civil Relief Act of 1940 (Title 50, Appendix, United States Code, Sections 510–590); Tariff Act of 1930 (Title 19, United States Code, Section 1304); Unreported Interstate Shipment of Cigarettes (Title 15, United States Code, Sections 375 and 376); Fair Labor Standards Act of 1938 (Wages and Hours Law) (Title 29, United States Code, Sections 201–219); Conspiracy (Title 18, United States Code, Section 371 (formerly Section 88, Title 18, United States Code); effective September 1, 1948).

63. Miscellaneous—Nonsubversive. This classification concerns correspondence from the public which does not relate to matters within FBI jurisdiction.

64. Foreign Miscellaneous. This classification is a control file utilized as a repository for intelligence information of value identified by country. More specific categories are placed in classification 108–113.

65. Espionage. Attorney General Guidelines on Foreign Counterintelligence; Internal Security Act of 1950; Executive Order 11905.

66. Administrative Matters. This classification covers such items as supplies, automobiles, salary matters and vouchers.

67. Personnel Matters. This classification concerns background investigations of applicants for employment with the FBI and folders for current and former employees.

68. Alaskan matters (obsolete). This classification concerns FBI investigations in the Territory of Alaska prior to its becoming a State.

69. Contempt of Court. Title 18, United States Code, Sections 401, 402, 3285, 3691, 3692; Title 10, United States Code. Section 847; and Rule 42, Federal Rules of Criminal Procedure.

70. Crime on Government Reservation. Title 18, United States Code, Sections 7 and 13.

71. Bills of Lading Act, Title 49, United States Code, Section 121.

72. Obstruction of Criminal Investigations: Obstruction of Justice, Obstruction of Court Orders. Title 18, United States Code. Sections 1503 through 1510.

73. Application for Pardon After Completion of Sentence and Application for Executive Clemency. This classification concerns the FBI's background investigation in connection with pardon applications and request for executive clemency.

74. Perjury. Title 18, United States Code, Sections 1621, 1622, and 1623.

75. Bondsmen and Sureties. Title 18, United States Code, Section 1506.

76. Escaped Federal Prisoner. Escape and Rescue; Probation Violator, Parole Violator, Mandatory, Release Violator. Title 18, United States Code, Sections 751–757, 1072; Title 18, United States Code. Sections 3651–3656; and Title 18, United States Code. Sections 4202–4207, 5037, and 4161–4166.

77. Applicants (Special Inquiry, Departmental and Other Government Agencies, except those having special classifications). This classification covers the background investigations conducted by the FBI in connection with the aforementioned positions.

78. Illegal Use of Government Transportation Requests. Title 18, United States Code, Section 287, 495, 508, 641, 1001 and 1002.

79. Missing Persons. This classification covers the FBI's Identification Division's assistance in the locating of missing persons.

80. Laboratory Research Matters. At FBI Headquarters this classification is used for Laboratory research matters. In field office files this classification covers the FBI's public affairs matters and involves contact by the FBI with the general public, Federal and State agencies, the Armed Forces, Corporations, the news media and other outside organizations.

81. Gold Hoarding. 1933–45. (obsolete) Gold Hoarding investigations conducted in accordance with an Act of March 9, 1933 and Executive Order issued August 28, 1933. Bureau instructed by Department to conduct no further investigations in 1935 under the Gold Reserve Act of 1934. Thereafter, all correspondence referred to Secret Service.

82. War Risk Insurance (National Life Insurance (obsolete)). This classification covers investigations conducted by the FBI in connection with civil suits filed under this statue.

83. Court of Claims. This classification covers requests for investigations of cases pending in the Court of Claims from the Assistant Attorney General in charge of the Civil Division of the Department of Justice.

84. Reconstruction Finance Corporation Act (obsolete). Title 15, United States Code, Chapter 14.

85. Home Owner Loan Corporation (obsolete). This classification concerned complaints received by the FBI about alleged violations of the Home Owners Loan Act, which were referred to the Home Owners Loan Corporation. Title 12, United States Code, Section 1464.

86. Fraud Against the Government—Small Business Administration. Title 15, United States Code, Section 645; Title 18, United States Code, Sections 212, 213, 215, 216, 217, 657, 658, 1006, 1011, 1013, 1014, 1906, 1907, and 1909.

87. Interstate Transportation of Stolen Property (Heavy Equipment—Commercialized Theft). Title 18, United States Code, Sections 2311, 2314, 2315 and 2318.

88. Unlawful Flight to Avoid Prosecution, Custody, or Confinement; Unlawful Flight to Avoid Giving Testimony. Title 18, United States Code, Sections 1073 and 1074.

89. Assaulting or Killing a Federal Officer, Crimes Against Family Members, Congressional Assassination Statute, Title 18, United States Code, Sections 1111, 1114, 2232.

90. Irregularities in Federal Penal Institutions. Title 18, United States Code, Sections 1791 and 1792.

91. Bank Burglary, Bank Larcency; Bank Robbery. Title 18, United States Code, Section 2113.

92. Racketeer Enterprise Investigations. Title 18, United States Code. Section 3237.

93. Ascertaining Financial Ability. This classification concerns requests by the Department of Justice for the FBI to ascertain a person's ability to pay a claim, fine or judgment obtained against him by the United States Government.

94. Research matters. This classification concerns all general correspondence of the FBI with private individuals which does not involve any substantive violation of Federal law.

95. Laboratory Cases (Examination of Evidence in Other Than Bureau's Cases). The classification concerns non-FBI cases where a duly constituted State, county or a municipal law enforcement agency in a criminal matter has requested an examination of evidence by the FBI Laboratory.

96. Alien Applicant (obsolete). Title 10, United States Code, Section 310.

97. Foreign Agents Registration Act. Title 18, United States Code, Section 951; Title 22, United States Code, Sections 611–621; Title 50, United States Code, Sections 851–857.

98. Sabotage. Title 18, United States Code, Sections 2151–2156; Title 50, United States Code, Section 797.

99. Plant Survey (obsolete). This classification covers a program wherein the FBI inspected industrial plants for the purpose of making suggestions to the operations of those plants to prevent espionage and sabotage.

100. Domestic Security. This classification covers investigations by the FBI in the domestic security field, e.g., Smith Act violations

101. Hatch Act (obsolete). Pub. L. 252, 76th Congress.

102. Voorhis Act, Title 18, United States Code, Section 1386

103. Interstate Transportation of Stolen Livestock, Title 18, United States Code, Sections 667, 2311, 2316 and 2317.

104. Servicemen's Dependents Allowance Act of 1942 (obsolete). Pub. L. 625, 77th Congress, Sections 115–119.

105. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

106. Alien Enemy Control; Escaped Prisoners of War and Internees, 1944–55 (obsolete). Suspects were generally suspected escaped prisoners of war, members of foreign organizations, failed to register under the Alien Registration Act. Cases ordered closed by Attorney General after alien enemies returned to their respective countries upon termination of hostilities.

107. Denaturalization Proceedings (obsolete). This classification covers investigation concerning allegations that an individual fraudulently swore allegiance to the United States or in some other manner illegally obtained citizenship to the U.S. Title 8, United States Code, Section 738.

108. Foreign Travel Control (obsolete). This classification concerns security-type investigations wherein the subject is involved in foreign travel.

109. Foreign Political Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign political matters broken down by country.

110. Foreign Economic Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign economic matters broken down by country.

111. Foreign Social Conditions. This classification is a control file utilized as a repository for intelligence information concerning foreign social conditions broken down by county.

112. Foreign Funds. This classification is a control file utilized as a repository for intelligence information concerning foreign funds broken down by country.

113. Foreign Military and Naval Matters. This classification is a control file utilized as a repository for intelligence information concerning foreign military and naval matters broken down by country.

114. Alien Property Custodian Matter (obsolete). Title 50, United States Code, Sections 1 through 38. This classification covers investigations concerning ownership and control of property subject to claims and litigation under this statute.

115. Bond Default; Bail Jumper. Title 18, United States Code, Sections 3146–3152.

116. Department of Energy Applicant; Department of Energy, Employee. This classification concerns background investigations conducted in connection with employment with the Department of Energy.

117. Department of Energy, Criminal. Title 42, United States Code, Sections 2011–2281; Pub. L. 93–438.

118. Applicant, Intelligence Agency (obsolete). This classification covers applicant background investigations conducted of persons under consideration for employment by the Central Intelligence Group.

119. Federal Regulation of Lobbying Act. Title 2, United States Code, Sections 261–270.

120. Federal Tort Claims Act, Title 28, United States Code, Sections 2671 to 2680. Investigations are conducted pursuant to specific request from the Department of Justice in connection with cases in which the Department of Justice represents agencies sued under the Act.

121. Loyalty of Government Employees (obsolete). Executive Order 9835.

122. Labor Management Relations Act, 1947. Title 29, United States Code, Sections 161, 162, 176–178 and 186.

123. Section inquiry, State Department, Voice of America (U.S. Information Center) (Pub. L. 402, 80th Congress) (obsolete). This classification covers loyalty and security investigations on personnel employed by or under consideration for employment for Voice of America.

124. European Recovery Program Administration), formerly Foreign Operations Administration, Economic Cooperation Administration or E.R.P., European Recovery Programs; A.I.D. Agency for International Development (obsolete). This classification covers security and loyalty investigation of personnel employed by or under consideration for employment with the European Recovery Program, Pub. L. 472, 80th Congress.

125. Railway Labor Act; Railway Labor Act—Employer's Liability Act Title 45, United States Code, Sections 151–163 and 181–188.

126. National Security Resources Board, Special Inquiry (obsolete). This classification covers loyalty investigations on employees and applicants of the National Security Resources Board.

127. Sensitive Positions in the United States Government, Pub. L. 266 (obsolete). Pub. L. 81st Congress.

128. International Development Program (Foreign Operations Administration) (obsolete). This classification covers background investigations conducted on individuals who are to be assigned to duties under the International Development Program.

129. Evacuation Claims (obsolete). Pub. L. 886, 80th Congress.

130. Special Inquiry. Armed Forces Security Act (obsolete). This classification covers applicant-type investigations conducted for the Armed Forces security agencies.

131. Admiralty Matter. Title 46, United States Code, Sections 741–752 and 781–799.

132. Special Inquiry, Office of Defense Mobilization (obsolete). This classification covers applicant-type investigations of individuals associated with the Office of Defense Mobilization.

133. National Science Foundation Act, Applicant (obsolete). Pub. L. 507, 81st Congress.

134. Foreign Counterintelligence Assets. This classification concerns individuals who provide information to the FBI concerning Foreign Counterintelligence matters.

135. PROSAB (Protection of Strategic Air Command Bases of the U.S. Air Force (obsolete). This classification covered contacts with individuals with the aim to develop information useful to protect bases of the Strategic Air Command.

136. American Legion Contact (obsolete). This classification covered liaison contracts with American Legion offices.

137. Informants. Other than Foreign Counterintelligence Assets. This classification concerns individuals who furnish information to the FBI concerning criminal violations on a continuing and confidential basis.

138. Loyalty of Employees of the United Nations and Other Public International Organizations. This classification concerns FBI investigations based on referrals from the Office of Personnel Management wherein a question or allegation has been received regarding the applicant's loyalty to the U.S. Government as described in Executive Order 10422.

139. Interception of Communications (Formerly, Unauthorized Publication or Use of Communications). Title 47, United States Code, Section 605; Title 47, United States Code, Section 501; Title 18, United States Code, Sections 2510–2513.

140. Security of Government Employees; Fraud Against the Government, Executive Order 10450.

141. False Entries in Records of Interstate Carriers. Title 47, United States Code, Section 220; Title 49, United States Code, Section 20.

142. Illegal Use of Railroad Pass. Title 49, United States Code, Section 1.

143. Interstate Transport of Gambling Devices. Title 15, United States Code, Sections 1171 through 1180.

144. Interstate Transportation of Lottery Tickets. Title 18, United States Code, Section 1301.

145. Interstate Transportation of Obscene Materials. Title 18, United States Code, Sections 1462, 1464, and 1465.

146. Interstate Transportation of Prison-Made Goods. Title 18, United States Code, Sections 1761 and 1762.

147. Fraud Against the Government—Department of Housing and Urban Development, Matters. Title 18, United States Code, Sections 657, 709, 1006, and 1010; Title 12, United States Code, Sections 1709 and 1715.

148. Interstate Transportation of Fireworks. Title 18, United States Code, Section 836.

149. Destruction of Aircraft or Motor Vehicles. Title 18, United States Code, Section 31–35.

150. Harboring of Federal Fugitives, Statistics (obsolete).

151. (Referral cases received from the Office of Personnel Management under Pub. L. 298). Agency for International Development; Department of Energy; National Aeronautics and Space Administration; National Science Foundation; Peace Corps; Action; U.S. Arms Control and Disarmament Agency; World Health Organization; International Labor Organization; International Communications Agency. This classification covers referrals from the Office of Personnel Management where an allegation has been received regarding an applicant's loyalty to the U.S. Government. These referrals refer to applicants from Peace Corps; Department of Energy, National Aeronautics and Space Administration, Nuclear Regulatory Commission, United States Arms Control and Disarmament Agency and the International Communications Agency.

152. Switchblade Knife Act. Title 15, United States Code, Sections 1241–1244.

153. Automobile Information Disclosure Act. Title 15, United States Code. Sections 1231–1233.

154. Interstate Transportation of Unsafe Refrigerators. Title 15, United States Code, Sections 1211–1214.

155. National Aeronautics and Space Act of 1958. Title 18, United States Code, Section 799.

156. Employee Retirement Income Security Act. Title 29, United States Code, Sections 1021–1029, 1111, 1131,

and 1141; Title 18, United States Code, Sections 644, 1027, and 1954.

157. Civil Unrest. This classification concerns FBI responsibility for reporting information on civil disturbances or demonstrations. The FBI's investigative responsibility is based on the Attorney General's Guidelines for Reporting on Civil Disorders and Demonstrations Involving a Federal Interest which became effective April 5, 1976.

158. Labor-Management Reporting and Disclosure Act of 1959 (Security Matter) (obsolete). Pub. L. 86–257, Section 504.

159. Labor-Management Reporting and Disclosure Act of 1959 (Investigative Matter). Title 29, United States Code, Sections 501, 504, 522, and 530.

160. Federal Train Wreck Statute. Title 18, United States Code, Section 1992.

161. Special Inquiries for White House, Congressional Committee and Other Government Agencies. This classification covers investigations requested by the White House. Congressional committees or other Government agencies.

162. Interstate Gambling Activities. This classification covers information acquired concerning the nature and scope of illegal gambling activities in each field office.

163. Foreign Police Cooperation. This classification covers requests by foreign police for the FBI to render investigative assistance to such agencies.

164. Crime Aboard Aircraft. Title 49, United States Code, Sections 1472 and 1473.

165. Interstate Transmission of Wagering Information. Title 18, United States Code, Section 1065.

166. Interstate Transportation in Aid of Racketeering. Title 18, United States Code, Section 1952.

167. Destruction of Interstate Property. Title 15, United States Code, Sections 1281 and 1282.

168. Interstate Transportation of Wagering Paraphernalia. Title 18, United States Code, Section 1953.

169. Hydraulic Brake Fluid Act (obsolete); 76 Stat. 437, Pub. L. 87–637.

170. Extremist Informants (obsolete). This classification concerns individuals who provided information on a continuing basis on various extremist elements.

171. Motor Vehicle Seat Belt Act (obsolete). Pub. L. 88–201, 80th Congress.

172. Sports Bribery. Title 18, United States Code, Section 244.

173. Public Accommodations. Civil Rights Act of 1964 Public Facilities; Civil Rights Act of 1964 Public Education; Civil Rights Act of 1964 Employment; Civil Rights Act of 1964. Title 42, United States Code, Section 2000; Title 18, United States Code, Section 245.

174. Explosives and Incendiary Devices; Bomb Threats (Formerly Bombing Matters; Bombing Matters, Threats). Title 18, United States Code, Section 844.

175. Assaulting, Kidnapping or Killing the President (or Vice President) of the United States. Title 18, United States Code, Section 1751.

176. Anti-riot Laws. Title 18, United States Code, Section 245.

177. Discrimination in Housing. Title 42, United States Code, Sections 3601–3619 and 3631.

178. Interstate Obscene or Harassing Telephone Calls. Title 47, United States Code, Section 223.

179. Extortionate Credit Transactions. Title 18, United States Code, Sections 891–896.

180. Desecration of the Flag. Title 18, United States Code, Section 700.

181. Consumer Credit Protection Act. Title 15, United States Code, Section 1611.

182. Illegal Gambling Business: Illegal Gambling Business, Obstruction; Illegal Gambling Business Forfeiture. Title 18, United States Code, Section 1955; Title 18, United States Code, Section 1511.

183. Racketeer, Influence and Corrupt Organizations. Title 18, United States Code, Sections 1961–1968.

184. Police Killings. This classification concerns investigations conducted by the FBI upon written request from local Chief of Police or duty constituted head of the local agency to actively participate in the investigation of the killing of a police officer. These investigations are based on a Presidential Directive dated June 3, 1971.

185. Protection of Foreign Officials and Officials Guests of the United States. Title 18, United States Code, Sections 112, 970, 1116, 1117, and 1201.

186. Real Estate Settlement Procedures Act of 1974. Title 12, United States Code, Section 2602; Title 12, United States Code, Section 2606, and Title 12, United States Code, Section 2607.

187. Privacy Act of 1974, Criminal. Title 5, United States Code, Section 552a.

188. Crime Resistance. This classification covers FBI efforts to develop new or improved approaches, techniques, systems, equipment and devices to improve and strengthen law enforcement as mandated by the Omnibus Crime Control and Safe Streets Action of 1968.

189. Equal Credit Opportunity Act. Title 15, United States Code, Section 1691.

190. Freedom of Information/Privacy Acts. This classification covers the creation of a correspondence file to preserve and maintain accurate records concerning the handling of requests for records submitted pursuant to the Freedom of Information—Privacy Acts.

191. False Identity Matters. (obsolete) This classification covers the FBI's study and examination of criminal elements' efforts to create false identities.

192. Hobbs Act—Financial Institutions; Commercial Institutions Armored Carrier. Title 18, United States Code, Section 1951.

193. Hobbs Act—Commercial Institutions (obsolete). Title 18, United States Code, Section 1951; Title 47, United States Code, Section 506.

194. Hobbs Act—Corruption of Public Officials. Title 18, United States Code, Section 1951.

195. Hobbs Act—Labor Related. Title 18, United States Code, Section 1951.

196. Fraud by Wire. Title 18, United States Code, Section 1343.

197. Civil Actions or Claims Against the Government. This classification covers all civil suits involving FBI matters and most administrative claims filed under the Federal Tort Claims Act arising from FBI activities.

198. Crime on Indian Reservations. Title 18, United States Code, Sections 1151, 1152, and 1153.

199. Foreign Counterintelligence—Terrorism. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

200. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

201. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

202. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

203. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

204. Federal Revenue Sharing. This classification covers FBI investigations conducted where the Attorney General has been authorized to bring civil action whenever he has reason to believe that a pattern or practice of discrimination in disbursement of funds under the Federal Revenue Sharing status exists.

205. Foreign Corrupt Practices Act of 1977. Title 15, United States Code, Section 78.

206. Fraud Against the Government—Department of Defense, Department of Agriculture, Department of Commerce, Community Services Organization, Department of Transportation. (See classification 46 (supra) for a statutory authority for this and the four following classifications.)

207. Fraud Against the Government—Environmental Protection Agency, National Aeronautics and Space Administration, Department of Energy, Department of Transportation.

208. Fraud Against the Government—General Services Administration.

209. Fraud Against the Government—Department of Health and Human Services (Formerly Department of Health, Education, and Welfare).

210. Fraud Against the Government—Department of Labor.

211. Ethics in Government Act of 1978, Title VI (Title 28, Sections 591–596).

212. Foreign Counterintelligence—Intelligence Community Support. This is an administrative classification for the FBI's operational and technical support to other Intelligence Community agencies.

213. Fraud Against the Government—Department of Education.

214. Civil Rights of Institutionalized Persons Act (Title 42, United States Code, Section 1997).

215. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

216. thru 229. Foreign Counterintelligence Matters. (Same authority as 215)

230. thru 240. FBI Training Matters.

241. DEA Applicant Investigations.

242. Automation Matters.

243. Intelligence Identities Protection Act of 1982.

244. Hostage Rescue Team.

245. Drug Investigative Task Force.

246 thru 248. Foreign Counterintelligence Matters. (Same authority as 215.)

249. Environmental Crimes—Investigations involving toxic or hazardous waste violations.

250. Tampering With Consumer Products (Title 18, U.S. Code, Section 1395)

251. Controlled Substance—Robbery;—Burglary (Title 18, U.S. Code, Section 2118).

252. Violent Crime Apprehension Program (VICAP). Case folders containing records relevant to the VICAP Program, in conjunction with the National Center for the Analysis of Violent Crime Record System at the FBI Academy; Quantico, Virginia.

253. False Identification Crime Control Act of 1982 (Title 18, U.S. Code, Section 1028—Fraud and Related Activity in Connection With Identification Documents, and Section 1738—Mailing Private Identification Documents Without a Disclaimer).

254. Destruction of Energy Facilities (Title 18, U.S. Code, Section 1365) relates to the destruction of property of nonnuclear energy facilities.

255. Counterfeiting of State and Corporate Securities (Title 18, U.S. Code, Section 511) covers counterfeiting and forgery of all forms of what is loosely interpreted as securities.

256. Hostage Taking—Terrorism (Title 18, U.S. Code, Section 1203) prohibits taking of hostage(s) to compel third party to do or refrain from doing any act.

257. Trademark Counterfeiting Act (Title 18, United States Code, Section 2320) covers the international trafficking in goods which bear a counterfeited trademark.

258. Credit Card Fraud Act of 1984 (Title 18, United States Code, Section 1029) covers fraud and related activities in connection with access devices (credit and debit cards).

259. Security Clearance Investigations Program. (Same authority as 215).

260. Industrial Security Program. (Same authority as 215.)

261. Security Officer Matters. (Same authority as 215.)

262. Overseas Homicide (Attempted Homicide—International Terrorism). Title 18, United States Code, Section 2331.

263. Office of Professional Responsibility Matters.

264. Computer Fraud and Abuse Act of 1986. Electronic Communications Privacy Act of 1986. Title 18, United States Code, Section 1030; Title 18, United States Code, Section 2701.

265. Acts of Terrorism in the United States—International Terrorist. (Followed by predicate offense from other classification.)

266. Acts of Terrorism in the United States—Domestic Terrorist. (Followed by predicate offense from other classification.)

267. Drug-Related Homicide. Title 21, U.S. Code, Section 848(e).

268. Engineering Technical Matters—FCI.

269. Engineering Technical Matters—Non-FCI.

270. Cooperative Witnesses.

271. Foreign Counterintelligence Matters. Attorney General Guidelines on Foreign Counterintelligence. Executive Order 11905.

272. Money Laundering. Title 18, U.S. Code, Sections 1956 and 1957.

273. Adoptive Forfeiture Matter—Drug. Forfeiture based on seizure of property by state, local or other Federal authority.

274. Adoptive Forfeiture Matter—Organized Crime. (Same explanation as 273.)

275. Adoptive Forfeiture Matter—White Collar Crime. (Same explanation as 273.)

276. Adoptive Forfeiture Matter—Violent Crime/Major Offenders Program. (Same explanation as 273.)

277. Adoptive Forfeiture Matter—Counterterrorism Program. (Same explanation as 273.)

278. Presidents Intelligence Oversight Board. Executive Order 12334.

279. Biological Weapons Anti-Terrorism Act of 1989. (Title 18, U.S. Code, Sections 175–179).

280. Equal Employment Opportunity Investigations.

281. Organized Crime Drug Investigations.

Records Maintained in FBI Field Divisions—FBI field divisions maintain for limited periods of time investigative, administrative and correspondence records, including files, index cards and related material, some of which are duplicated copies of reports and similar documents forwarded to FBI Headquarters. Most investigative activities conducted by FBI field divisions are reported to FBI Headquarters at one or more stages of the investigation. There are, however, investigative activities wherein no reporting was made to FBI Headquarters, e.g., pending cases not as yet reported and cases which were closed in the field division for any of a number of reasons without reporting to FBI Headquarters.

Duplicate records and records which extract information reported in the main files are also kept in the various divisions of the FBI to assist them in their day-to-day operation. These records are lists of individuals which contain certain biographic data, including physical description and photograph. They may also contain information concerning activities of the individual as reported to FBIHQ by the various field offices. The establishment of these lists is necessitated by the needs of the Division to have immediate access to pertinent information duplicative of data found in the central records without the delay caused by a time-consuming manual search of central indices. The manner of segregating these individuals varies depending on the particular needs of the FBI Division. The information pertaining to individuals who are a part of the list is derivative of information contained in the Central Records

System. These duplicative records fall into the following categories:

(1) Listings of individuals used to assist in the location and apprehension of individuals for whom legal process is outstanding (fugitives):

(2) Listings of individuals used in the identification of particular offenders in cases where the FBI has jurisdiction. These listings include various photograph albums and background data concerning persons who have been formerly charged with a particular crime and who may be suspect in similar criminal activities; and photographs of individuals who are unknown but suspected of involvement in a particular criminal activity, for example, bank surveillance photographs:

(3) Listings of individuals as part of an overall criminal intelligence effort by the FBI. This would include photograph albums, lists of individuals known to be involved in criminal activity, including theft from interstate shipment, interstate transportation of stolen property, and individuals in the upper echelon of organized crime:

(4) Listings of individuals in connection with the FBI's mandate to carry out Presidential directives on January 8, 1943, July 24, 1950, December 15, 1953, and February 18, 1976, which designated the FBI to carry out investigative work in matters relating to espionage, sabotage, and foreign counterintelligence. These listings may include photograph albums and other listings containing biographic data regarding individuals. This would include lists of identified and suspected foreign intelligence agents and informants:

(5) Special indices duplicative of the central indices used to access the Central Records System have been created from time to time in conjunction with the administration and investigation of major cases. This duplication and segregation facilitates access to documents prepared in connection with major cases.

In recent years, as the emphasis on the investigation of white collar crime, organized crime, and hostile foreign intelligence operations has increased, the FBI has been confronted with increasingly complicated cases, which require more intricate information processing capabilities. Since these complicated investigations frequently involve massive volumes of evidence and other investigative information, the FBI uses its computers, when necessary to collate, analyze, and retrieve investigative information in the most accurate and expeditious manner possible. It should be noted that this computerized investigative information, which is extracted from the main files or other commercial or governmental sources, is only maintained as necessary to support the FBI's investigative activities. Information from these internal computerized subsystems of the "Central Records System" is not accessed by any other agency. All disclosures of computerized information are made in printed form *or other appropriate format, in accordance with the routine uses which are set forth below and in compliance with applicable security requirements.*

Records also are maintained on a temporary basis relevant to the FBI's domestic police cooperating program, where assistance in obtaining information is provided to state and local police agencies.

Also, personnel type information, dealing with such matters as attendance and production and accuracy requirements is maintained by some divisions.

(The following chart identifies various listings or indexes maintained by the FBI which have been or are being used by various divisions of the FBI in their day-to-day operations. The chart identifies the list by name, description and use, and where maintained, i.e. FBI Headquarters and/or Field Office. The number in parentheses in the field office column indicates the number of field offices which maintain these indices. The chart indicates, under "status of index," those indexes which are in current use (designated by the word "active") and those which are no longer being used, although maintained (designated by the word "inactive"). There are 27 separate indices which are classified in accordance with existing regulations and are not included in this chart. The following indices are no longer being used by the FBI and are being maintained at FBIHQ pending receipt of authority to destroy: Black Panther Party Photo Index; Black United Front Index; Security Index; and Wounded Knee Album.)

Title of index	Description and use	Status of index	Maintained at—	
			Head-quarters	Field office
Administrative Index (ADEX).	Consists of cards with descriptive data on individuals who were subject to investigation in a national emergency because they were believed to constitute a potential or active threat to the internal security of the United States. When ADEX was started in 1971, it was made up of people who were formerly on the Security Index, Reserve Index, and Agitator Index. This index is maintained in two separate locations in FBI Headquarters. ADEX was discontinued in January 1978.	Inactive	Yes	Yes (29).
Anonymous Letter File	Consists of photographs of anonymous communications and extortionate credit transactions, kidnapping, extortion and threatening letters.	Active	Yes	No.
Associates of DEA Class I Narcotics Violators Listing.	Consists of a computer listing of individuals whom DEA has identified as associates of Class I Narcotics Violators.	Active	Yes	Yes (56).
Background Investigation Index—Department of Justice.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration of employment in sensitive positions with Department of Justice, such as U.S. Attorney, Federal judges, or a high level Department position.	Active	Yes	No.
Background Investigation Index—White House, Other Executive Agencies, and Congress.	Consists of cards on persons who have been the subject of a full field investigation in connection with their consideration for employment in sensitive positions with the White House, Executive agencies (other than the Department of Justice) and the Congress.	Active	Yes	No.
Bank Fraud and Embezzlement Index.	Consists of individuals who have been the subject of "Bank Fraud and Embezzlement" investigation. This file is used as an investigative aid.	Active	No	Yes (1).

Title of Index	Description and use	Status of index	Maintained at—	
			Head-quarters	Field office
Bank Robbery Album	Consists of photos of bank robbers, burglars, and larceny subjects. In some field offices at will also contain pictures obtained from local police departments of known armed robbers and thus potential bank robbers. The index is used to develop investigative leads in bank robbery cases and may also be used to show to witnesses of bank robberies. It is usually filed by race, height, and age. This index is also maintained in one resident agency (a suboffice of a field office).	Active	No	Yes (47).
Bank Robbery Nickname Index.	Consists of nicknames used by known bank robbers. The index card on each would contain the real name and method of operation and are filed in alphabetical order.	Active	No	Yes (1).
Bank Robbery Note File	Consists of photographs of notes used in bank robberies in which the suspect has been identified. This index is used to help solve robberies in which the subject has not been identified but a note was left. The role is compared with the index to try to match the sentence structure and handwriting for the purpose of identifying possible suspects.	Active	Yes	No.
Bank Robbery Suspect Index.	Consists of a control file or index cards with photos, if available, of bank robbers or burglars. In some field offices these people may be part of a bank robbery album. This index is generally maintained and used in the same manner as the bank robbery album.	Active	No	Yes (33).
Car Ring Case Photo Album.	Consists of photos of subjects and suspects involved in a large car theft ring investigation. It is used as an investigative aid.	Active	No	Yes (3).
Car Ring Case Photo Album and Index.	Consists of photos of subjects and suspects involved in a large car theft ring investigation. The card index maintained in addition to the photo album contains the names and addresses appearing on fraudulent title histories for stolen vehicles. Most of these names appearing on these titles are fictitious. But the photo album and card indexes are used as an investigative aid.	Active	No	Yes (1).
Car Ring Case Toll Call Index.	Consists of cards with information on persons who subscribe to telephone numbers to which toll calls have been placed by the major subjects of a large car theft ring investigation. It is maintained numerically by telephone number. It is used to facilitate the development of probably cause for a court-approved wiretap.	Active	No	Yes (2).
Car Ring Theft Working Index.	Contains cards on individuals involved in car ring theft cases on which the FBI Laboratory is doing examination work.	Active	Yes	No.
Cartage Album	Consists of photos with descriptive data of individuals who have been convicted of theft from interstate shipment or interstate transportation of stolen property where there is a reason to believe they may request the offense. It is used in investigating the above violations.	Active	No	Yes (3).
Channelizing Index	Consists of cards with the names and case file numbers of people who are frequently mentioned in information reports. The index is used to facilitate the distributing or channeling of information reports to appropriate files.	Active	No	Yes (9).
Check Circular File	Consists of fliers numerically in a control file on fugitives who are notorious fraudulent check passers and who are engaged in a continuing operation of passing checks. The fliers which include the subject's name, photo, a summary of the subject's method of operation and other identifying data is used to alert other FBI field offices and business establishments which may be the victims of bad checks.	Active	Yes	Yes (43).
Computerized Telephone Number File (CTNF) Intelligence.	Consists of a computer listing of telephone numbers (and subscribers' names and addresses) utilized by subjects and/or certain individuals which come to the FBI's attention during major investigations. During subsequent investigations, telephone numbers, obtained through subpoena, are matched with the telephone numbers on file to determine connections or associations.	Active	Yes	No.
Con Man Index	Consists of computerized names of individuals, along with company affiliation, who travel nationally and internationally while participating in large-dollar-value financial swindles.	Active	Yes	No.
Confidence Game (Flim Flam) Album.	Consists of photos with descriptive information on individuals who have been arrested for confidence games and related activities. It is used as an investigative aid.	Active	No	Yes (4).
Copyright Matters Index	Consists of cards of individuals who are film collectors and film titles. It is used as a reference in the investigation of copyright matters.	Active	No	Yes (1).
Criminal Intelligence Index	Consists of cards with name and file number of individuals who have become the subject of an antiracketeering investigation. The index is used as a quick way to ascertain file numbers and the correct spelling of names. This index is also maintained in one resident agency.	Active	No	Yes (2).
Criminal Informant Index	Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area.	Active	Yes	No.

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
DEA Class 1 Narcotics Violators Listing.	Consists of a computer listing of narcotic violators—persons known to manufacture, supply, or distribute large quantities of illicit drugs—with background data. It is used by the FBI in their role of assisting DEA in disseminating intelligence data concerning illicit drug trafficking. This index is also maintained in two resident agencies.	Active	Yes	Yes (56).
Deserter Index	Contains cards with the names of individuals who are known military deserters. It is used as an investigative aid.	Active	No	Yes (4).
False Identities Index	Contains cards with the names of deceased individuals whose birth certificates have been obtained by other persons for possible false identification uses and in connection with which the FBI laboratory has been requested to perform examinations.	Inactive	Yes	No.
False Identities List	Consists of a listing of names of deceased individuals whose birth certificates have been obtained after the person's death, and thus whose names are possibly being used for false identification purposes. The listing is maintained as part of the FBI's program to find persons using false identities for illegal purposes.	Inactive	No	Yes (31).
False Identity Photo Album	Consists of names and photos of people who have been positively identified as using a false identification. This is used as an investigative aid in the FBI's investigation of false identities.	Inactive	No	Yes (2).
FBI/Inspector General (IG) Case Pointer System (FICPS).	Consists of computerized listing of individual names of organizations which are the subject of active and inactive fraud investigations, along with the name of the agency conducting the investigation. Data is available to IG offices throughout the federal government to prevent duplication of investigative activity.	Active	Yes	No.
FBI Wanted Persons Index	Consists of cards on persons being sought on the basis of Federal warrants covering violations which fall under the jurisdiction of the FBI. It is used as a ready reference to identify those fugitives.	Active	Yes	No.
Foreign Counterintelligence (FCI).	Consists of cards with identity background data on all active and inactive operational and informational assets in the foreign counterintelligence field. It is used as a reference aid on the FCI Asset program.	Active	Yes	No.
Fraud Against the Government Index.	Consists of individuals who have been the subject of a "fraud against the Government" investigation. It is used as investigative aid.	Active	No	Yes (1).
Fugitive Bank Robbers File	Consists of fliers on bank robbery fugitives filed sequentially in a control file. FBI Headquarters distributes to the field offices fliers on bank robbers in a fugitive status for 15 or more days to facilitate their location.	Active	Yes	Yes (43).
General Security Index	Contains cards on all persons that have been the subject of a security classification investigation by the FBI field office. These cards are used for general reference purposes.	Active	No	Yes (1).
Hoodlum License Plate Index.	Consists of cards with the license plates numbers and descriptive data on known hoodlums and cars observed in the vicinity of hoodlum homes. It is used for quick identification of such person in the course of investigation. The one index which is not fully retrievable in maintained by a resident agency.	Active	No	Yes (3).
Identification Order Fugitive Flier File.	Consists of fliers numerically in a control file. When immediate leads have been exhausted in fugitive investigations and a crime of considerable public interest has been committed, the fliers are given wide circulation among law enforcement agencies throughout the United States and are posted in post offices. The fliers contain the fugitive's photograph, fingerprints, and description.	Active	Yes	Yes (49).
Informant Index	Consists of cards with the name, symbol numbers, and brief background information on the following categories of active and inactive informants, top echelon criminal informants, security informants, criminal information, operational and informational assets, extremist informants (discontinued), plant informant—informants on and about certain military basis (discontinued), and potential criminal informants.	Active	No	Yes (56).
Informants in Other Field Offices, Index of.	Consist of cards with names and/or symbol numbers of informants in other FBI field offices that are in a position to furnish information that would also be included on the index card.	Active	No	Yes (15).
Interstate Transportation of Stolen Aircraft Photo Album.	Consists of photos and descriptive data on individuals who are suspects known to have been involve in interstate transportation of stolen aircraft. It is used as an investigative aid.	Active	No	Yes (1).
IRS Wanted List	Consists of one-page fliers from IRS on individuals with background information who are wanted by IRS for tax purposes. It is used in the identification of persons wanted by IRS.	Active	No	Yes (11).
Kidnapping Book	Consists of data, filed chronologically, on kidnappings that have occurred since the early fifties. The victims' names and the suspects, if known, would be listed with a brief description of the circumstances surrounding the kidnapping. The file is used as a reference aid in matching up prior methods of operation in unsolved kidnapping cases.	Active	Yes	No (4).
Known Check Passers Album.	Consists of photos with descriptive data of persons known to pass stolen, forged, or counterfeit checks. It is used as an investigative aid.	Active	No	Yes (4).

Title of index	Description and use	Status of index	Maintained at—	
			Head-quarters	Field office
Known Gambler Index	Consists of cards with names, descriptive data, and sometimes photos of individuals who are known bookmakers and gamblers. The index is used in organized crime and gambling investigations. Subsequent to GAO's review, and at the recommendation of the inspection team at one of the two field offices where the index was destroyed and thus is not included in the total.	Active	No	Yes (5).
La Cosa Nostra (LCN) Membership Index.	Contains cards on individuals having been identified as members of the LCN index. The cards contain personal data and pictures. The index is used solely by FBI agents for assistance in investigating organized crime matters.	Active	Yes	Yes (55).
Leased Line Letter Request Index.	Contains cards on individuals and organizations who are or have been the subject of a national security electronic surveillance where a leased line letter was necessary. It is used as an administrative and statistical aid.	Active	Yes	No.
Mail Cover Index	Consists of cards containing a record of all mail covers conducted on individuals and groups since about January 1973. It is used for reference in preparing mail cover requests.	Active	Yes	No.
Military Deserter Index	Consists of cards containing the names of all military deserters where the various military branches have requested FBI assistance in locating. It is used as an administrative aid.	Active	Yes	No.
National Bank Robbery Album.	Consists of fliers on bank robbery suspects held sequentially in a control file. When an identifiable bank camera photograph is available and the case has been under investigation for 30 days without identifying the subject, FBIHQ sends a flier to the field offices to help identify the subject.	Active	Yes	Yes (42).
National Fraudulent Check File.	Contains photographs of the signature on stolen and counterfeit checks. It is filed alphabetically but there is no way of knowing the names are real or fictitious. The index is used to help solve stolen check cases by matching checks obtained in such cases against the index to identify a possible suspect.	Active	Yes	No.
National Security Electronic Surveillance Card File.	Contains cards recording electronic surveillances previously authorized by the Attorney General and previously and currently authorized by the FISC; current and previous assets in the foreign counterintelligence field; and a historical, inactive section which contains cards believed to record nonconsented physical entries in national security cases, previously toll billings, mail covers and leased lines. The inactive section also contains cards reflecting previous Attorney General approvals and denials for warrantless electronic surveillance in the national security cases.	Inactive	Yes	No.
Night Depository Trap Index	Contains cards with the names of persons who have been involved in the theft of deposits made in bank night depository boxes. Since these thefts have involved various methods, the FBI uses the index to solve such cases by matching up similar methods to identify possible suspects.	Active	Yes	No.
Organized Crime Photo Album.	Consists of photos and background information on individuals involved in organized crime activities. The index is used as a ready reference in identifying organized crime figures within the field offices' jurisdiction..	Active	No	Yes (13).
Photospread Identification Elimination File.	Consists of photos of individuals who have been subjects and suspects in FBI investigations. It also includes photos received from other law enforcement agencies. These pictures can be used to show witnesses of certain crimes.	Active	No	Yes (14).
Prostitute Photo Album	Consists of photos with background data on prostitutes who have prior local or Federal arrests for prostitution. It is used to identify prostitutes in connection with investigations under the White Slave Traffic Act.	Active	No	Yes (4).
Royal Canadian Mounted Policy (RCMP) Wanted Circular File.	Consists of a control file of individuals with background information of persons wanted by the RCMP. It is used to notify the RCMP if an individual is located.	Active	No	Yes (17).
Security Informant Index	Consists of cards containing identity and brief background information on all active and inactive informants furnishing information in the criminal area.	Active	Yes	No.
Security Subjects Control Index.	Consists of cards containing the names and case file numbers of individuals who have been subject to security investigations check. It is used as a reference source.	Active	No	Yes (1).
Security Telephone Number Index.	Contains cards with telephone subscriber information subpoenaed from the telephone company in any security investigation. It is maintained numerically by the last three digits in the telephone number. It is used for general reference purposes in security investigations.	Active	No	Yes (1).
Selective Service Violators Index.	Contains cards on individuals being sought on the basis of Federal warrants for violation of the Selective Service Act.	Active	Yes	No.

Title of index	Description and use	Status of index	Maintained at—	
			Headquarters	Field office
Sources of Information Index.	Consist of cards on individuals and organizations such as banks, motels, local government that are willing to furnish information to the FBI with sufficient frequency to justify listing for the benefit of all agents. It is maintained to facilitate the use of such sources.	Active	No	Yes (10).
Special Services Index	Contains cards of prominent individuals who are in a position to furnish assistance in connection with FBI investigative responsibility.	Active	No	Yes (28).
Stolen Checks and Fraud by Wire Index.	Consists of cards on individuals involved in check and fraud by wire violations. It is used as an investigative aid.	Active	No	Yes (1).
Stop Notices Index	Consists of cards on names of subjects or property where the field office has placed a stop at another law enforcement agency or private business such as pawn shops in the event information comes to the attention of that agency concerning the subject or property. This is filed numerically by investigative classification. It is used to insure that the agency where the stop is placed is notified when the subject is apprehended or the property is located or recovered.	Active	No	Yes (43).
Surveillance Locator Index	Consists of cards with basic data on individuals and businesses which have come under physical surveillance in the city in which the field office is located. It is used for general reference purposes in antiracketeering investigations.	Active	No	Yes (2).
Telephone Number Index—Gamblers.	Contains information on persons identified usually as a result of a subpoena for the names of subscribers to particular telephone numbers or toll records for a particular phone number of area gamblers and bookmakers. The index cards are filed by the last three digits of the telephone number. The index is used in gambling investigations.	Active	No	Yes (2).
Telephone Subscriber and Toll Records Check Index.	Contains cards with information on persons identified as the result of a formal request or subpoena to the phone company for the identity of subscribers to particular telephone numbers. The index cards are filed by telephone number and would also include identity of the subscriber, billing party's identity, subscriber's address, date of request from the telephone company, and file number.	Active	No	Yes (1).
Thieves, Couriers and Fences Photo Index.	Consists of photos and background information on individuals who are or are suspected of being thieves, couriers, or fences based on their past activity in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4).
Toll Record Request Index	Contains cards on individuals and organizations on whom toll records have been obtained in national security related cases and with respect to which FBIHQ had to prepare a request letter. It is used primarily to facilitate the handling of repeat requests on individuals listed.	Active	Yes	No.
Top Burglar Album	Consists of photos and background data of known and suspect top burglars involved in the area of interstate transportation of stolen property. It is used as an investigative aid.	Active	No	Yes (4).
Top Echelon Criminal Informer Program (TECIP) Index.	Consists of cards containing identity and brief background information on individuals who are either furnishing high level information in the organized crime area or are under development to furnish such information. The index is used primarily to evaluate, corroborate, and coordinate informant information and to develop prosecutive data against racket figures under Federal, State, and local statutes.	Active	Yes	No.
Top Ten Program File	Consists of fliers, filed numerically in a control file, on fugitives considered by the FBI to be 1 of the 10 most wanted. Including a fugitive of the top 10 usually assures a greater national news coverage as well as nation-wide circulation of the flier.	Active	Yes	Yes (44).
Top Thief Program Index	Consists of cards of individuals who are professional burglars, robbers, or fences dealing in items likely to be passed in interstate commerce or who travel interstate to commit the crime. Usually photographs and background information would also be obtained on the index card. The index is used as an investigative aid.	Active	No	Yes (27).
Truck Hijack Photo Album	Contains photos and descriptive data of individuals who are suspected truck hijackers. It is used as an investigative aid and for displaying photos to witnesses and/or victims to identify unknown subjects in hijacking cases.	Active	No	Yes (4).
Truck Thief Suspect Photo Album.	Consists of photos and background data on individuals previously arrested or are currently suspects regarding vehicle theft. The index is used as an investigative aid.	Active	No	Yes (1).
Traveling Criminal Photo Album.	Consists of photos with identifying data of individuals convicted of various criminal offenses and may be suspects in other offenses. It is used as an investigative aid.	Active	No	Yes (1).
Veterans Administrative (VA)/Federal Housing Administration Matters (FHA) Index.	Consists of cards of individuals who have been subject of an investigation relative to VA and FHA matters. It is used as an investigative aid.	Active	No	Yes (1).

Title of index	Description and use	Status of index	Maintained at—	
			Head-quarters	Field office
Wanted Fliers File	Consists of fliers, filed numerically in a control file, on badly wanted fugitives whose apprehension may be facilitated by a flier. The flier contains the names, photographs, aliases, previous convictions, and a caution notice.	Active	Yes	Yes (46).
Wheeldex	Contains the nicknames and the case file numbers of organized crime members. It is used in organized crime investigations.	Active	No	Yes (1).
White House Special Index	Contains cards on all potential White House appointees, staff members, guests, and visitors that have been referred to the FBI by the White House security office for a records check to identify any adverse or derogatory information. This index is used to expedite such check in view of the tight timeframe usually required.	Active	Yes	No.
Witness Protection Program Index.	Contains cards on individuals who have been furnished a new identity by the U.S. Justice Department because of their testimony in organized crime trials. It is used primarily to notify the U.S. Marshals Service when information related to the safety of a protected witness comes to the FBI's attention.	Active	Yes	No.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Federal Records Act of 1950, Title 44, United States Code, chapter 31, section 3101; and title 36, Code of Federal Regulations, chapter XII, require Federal agencies to insure that adequate and proper records are made and preserved to document the organization, functions, policies, decisions, procedures and transactions and to protect the legal and financial rights of the Federal Government, title 28, United States Code, section 534, delegates authority to the Attorney General to acquire, collect, classify, and preserve identification, criminal identification, crime and other records.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records, both investigative and administrative, are maintained in this system in order to permit the FBI to function efficiently as an authorized, responsive component of the Department of Justice. Therefore, information in this system is disclosed to officials and employees of the Department of Justice, and/or all components thereof, who have need of the information in the performance of their official duties.

Personal information from this system may be disclosed as a routine use to any Federal agency where the purpose in making the disclosure is compatible with the law enforcement purpose for which it was collected, e.g., to assist the recipient agency in conducting a lawful criminal or intelligence investigation, to assist the recipient agency in making a determination concerning an individual's suitability for employment and/or trustworthiness for employment and/or trustworthiness for access clearance purposes, or to assist the recipient agency in the performance of any authorized function where access to records in this system is declared by the recipient agency to be relevant to that function.

In addition, personal information may be disclosed from this system to members of the Judicial Branch of the Federal Government in response to a specific request, or at the initiation of the FBI, where disclosure appears relevant to the authorized function of the recipient judicial office or court system. An example would be where an individual is being considered for employment by a Federal judge.

Information in this system may be disclosed as a routine use to any state or local government agency directly engaged in the criminal justice process, e.g., police, prosecution, penal, probation and parole, and the judiciary, where access is directly related to a law enforcement function of the recipient agency e.g. in connection with a lawful criminal or intelligence investigation, or making a determination concerning an individual's suitability for employment as a state or local law enforcement employee or concerning a victim's compensation under a state statute. Disclosure to a state or local government agency, (a) not directly engaged in the criminal justice process or (b) for a licensing or regulatory function, is considered on an individual basis only under exceptional circumstances, as determined by the FBI.

Information in this system pertaining to the use, abuse or traffic of controlled substances may be disclosed as a routine use to federal, state or local law enforcement agencies and to licensing or regulatory agencies empowered to engage in the institution and prosecution of cases before courts and licensing boards in matters relating to controlled substances, including courts and licensing boards responsible for the licensing or certification of individuals in the fields of pharmacy and medicine.

Information in this system may be disclosed as a routine use in a proceeding before a court of adjudicative body, e.g., the Equal Employment Opportunity Commission and the Merit Systems Protection Board, before which the FBI is authorized to appear, when (a) the FBI or any employee thereof in his or her official capacity, or (b) any employee in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (c) the United States, where the FBI determines it is likely to be affected by the litigation, is a party to litigation or has an interest in litigation and such records are determined by the FBI to be relevant to the litigation.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector if deemed necessary to elicit information or cooperation from the recipient for use by the FBI in the performance of an authorized activity. An example would be where the activities of an individual are disclosed to a member of the public in order to elicit his/her assistance in our apprehension or detection efforts.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy, to the extent the information is relevant to the protection of life or property.

Information in this system may be disclosed to legitimate agency of a foreign government where the FBI determines that the information is

relevant to that agency's responsibilities, and dissemination serves the best interests of the U.S. Government, and where the purpose in making the disclosure is compatible with the purpose for which the information was collected.

Relevant information may be disclosed from this system to the news media and general public where there exists a legitimate public interest, e.g., to assist in the location of Federal fugitives, to provide notification of arrests, and where necessary for protection from imminent threat of life or property. This would include releases of information in accordance with 28 CFR 50.2.

A record relating to an actual or potential civil or criminal violation of the copyright statute, Title 17, United States Code, or the trademark statutes. Titles 15 and 17, U.S. Code, may be disseminated to a person injured by such violation to assist him/her in the institution or maintenance of a suit brought under such titles.

The FBI has received inquiries from private citizens and Congressional offices on behalf of constituents seeking assistance in locating individuals such as missing children and heirs to estates. Where the need is acute, and where it appears FBI files may be the only lead in locating the individual, consideration will be given to furnishing relevant information to the requester. Information will be provided only in those instances where there are reasonable grounds to conclude from available information the individual being sought would want the information to be furnished, e.g., an heir to a large estate. Information with regard to missing children will not be provided where they have reached their majority.

Information contained in this system, may be made available to a Member of Congress or staff acting upon the member's behalf when the member of staff requests the information in behalf of and at the request of the individual who is the subject of the record.

A record from this system of records may be disclosed as a routine use to the National Archives and Records Administration and General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906, to the extent that legislation governing the records permits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The active main files are maintained in hard copy form and some inactive records are maintained on microfilm. Investigative information which is maintained in computerized form may be stored in memory, on disk storage, on computer tape, or on a computer printed listing.

RETRIEVABILITY:

The FBI General Index must be searched to determine what information, if any, the FBI may have in its files. Index records, or pointers to specific FBI files, are created on all manner of subject matters, but the predominant type record is the name index record. It should be noted the FBI does not index all individuals who furnish information or all names developed during the course of an investigation. Only that information considered pertinent, relevant, or essential for future retrieval, is indexed. In certain major cases, individuals interviewed may be indexed to facilitate the administration of the investigation. The FBI has automated that portion of its index containing the most recent information—15 years for criminal related matters and 30 years for intelligence and other type matters. Automation will not change the "Central Records System"; it will only facilitate more economic and expeditious access to the main files. Searches against the automated records are accomplished on a "batch off-line" basis for certain submitting agencies where the name search requests conform to FBI specified formats and also in an "on-line" mode with the use of video display terminals for other requests. The FBI will not permit any organization, public or private, outside the FBI to have direct access to the FBI indices system. All searches against the indices data base will be performed on site within FBI space by FBI personnel with the assistance of the automated procedures, where feasible. Automation of the various FBI field office indices was completed in 1989. This automation initiative has been on a "day-one" basis. This indices system points to specific files within a given field office. Additionally, certain complicated investigative matters may be supported by specialized computer systems or by individual microcomputers. Indices created in these environments are maintained as part of the particular computer system and accessible only through the system or through printed listings of the indices. Full text retrieval is used in a limited number of cases as an investigative technique. It is not part of the normal search process and is not used as a substitute for the General Index or computer indices mentioned above.

The FBI will transfer historical records to the National Archives consistent with 44 U.S.C. 2103. No record of individuals or subject matter will be retained for transfered files; however, a record of the file numbers will be retained to provide full accountability of FBI files and thus preserve the integrity of the filing system.

SAFEGUARDS:

Records are maintained in a restricted area and are accessed only by agency personnel. All FBI employees receives a complete background investigation prior to being hired. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a ten thousand dollar fine or 10 years imprisonment or both. Employees who resign or retire are also cautioned about divulging information acquired in the jobs. Registered mail is used to transmit routine hard copy records between field offices. Highly classified records are hand carried by Special Agents or personnel of the Armed Forces Courier Service. Highly classified or sensitive privacy information, which is electronically transmitted between field offices, is transmitted in encrypted form to prevent interception and interpretation. Information transmitted in teletype form is placed in the main files of both the receiving and transmitting field offices. Field offices involved in certain complicated investigative matters may be provided with on-line access to the duplicative computerized information which is maintained for them on disk storage in the FBI Computer Center in Washington, D.C., and this computerized data is also transmitted in encrypted form.

RETENTION AND DISPOSAL:

As the result of an extensive review of FBI records conducted by NARA, records evaluated as historical and permanent will be transferred to the National Archives after established retention periods and administrative needs of the FBI have elapsed. As deemed necessary, certain records may be subject to restricted examination and usage, as provided by 44 U.S.C. section 2104.

FBI record disposition programs relevant to this System are conducted in accordance with the FBI Records Retention Plan and Disposition

Schedule which was approved by the Archivist of the United States and the U.S. District Court, District of Columbia. Investigative, applicant and administrative records which meet the destruction criteria will be destroyed after 20 or 30 years at FBI Headquarters and after 1, 5, 10 or 20 years in FBI Field Offices. Historical records will be transferred to the National Archives after 30 or 50 years, contingent upon investigative and administrative needs. The administrative indices and listings described within this System were appraised separately and disposition authority established. (Job No. NC1–65–82–4 and amendments)

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation; Washington, DC 20535.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request". Include in the request your full name, complete address, date of birth, place of birth, notarized signature, and other identifying data you may wish to furnish to assist in making a proper search of our records. Also include the general subject matter of the document of its file number. The requester will also provide a return address for transmitting the information. Requests for access to information maintained at FBI Headquarters must be addressed to the Director, Federal Bureau of Investigation, Washington, DC 20535. Requests for information maintained at FBI field divisions or Legal Attaches must be made separately and addressed to the specific field division or Legal Attache listed in the appendix to this system notice.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, DC 20535, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

The FBI, by the very nature and requirement to investigate violations of law within its investigative jurisdiction and its responsibility for the internal security of the United States, collects information from a wide variety of sources. Basically, it is the result of investigative efforts and information furnished by other Government agencies, law enforcement agencies, and the general public, informants, witnesses, and public source material.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3), (d), (e) (1) (2) and (3), (e)(4) (G) and (H), (e)(8) (f), (g), of the Privacy Act pursuant to 5 U.S.C. 552a (j) and (k). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e).

Appendix of Field Divisions and Legal Attaches for the Federal Bureau of Investigation Field Divisions; Justice/FBI–999

5th Floor, 445 Broadway, Albany, NY 12201.
POB 25186, Albuquerque, NM 87125.
POB 100560, Anchorage, AK 99510.
POB 1683, Atlanta, GA 30370.
7142 Ambassador Road, Baltimore, MD 21207.
2122 Building, Birmingham, AL 35203.
One Center Plaza, Suite 600 Boston, MA 02108
111 West Huron Street, Buffalo, NY 14202.
6010 Kenley Lane, Charlotte, NC 28217.
219 S. Dearborn St., Chicago, IL 60604.
POB 1277, Cincinnati, OH 45201.
1240 E. 9th St., Cleveland, OH 44199.
POB 137, Columbia, SC 29202.
1801 W. Lamar, Dallas, TX 75202.
POB 1229, Denver, CO 80201.
POB 2118, Detroit, MI 48231.
700 E. San Antonio Ave., El Paso, TX 79901.
POB 50164, Honolula, HI 96850.
POB 61369, Houston, TX 77208.
POB 1186, Indianapolis, IN 45206.
100 W. Capitol St., Jackson, MS 39269.
POB 8928, Jacksonville, FL 32239.
POB 2449, Kansas City, MO 64142.
POB 10368, Knoxville, TN 37919.
POB 16032, Las Vegas, NV 89101.
POB 21470, Little Rock, AR 72221–1470.
11000 Wilshire Blvd., Los Angeles, CA 90024.
POB 2467, Louisville, KY 40201.
167 N. Main St., Memphis, TN 38103.
POB 592418, Miami, FL 33159.
POB 2058, Milwaukee, WI 53201.
111 Washington Ave. South S–1100 Minneapolis, MN 55401
POB 2128, Mobile, AL 36652.
POB 1158, Newark, NJ 07101.
POB 2058, New Haven, CT 06521.
POB 51930, New Orleans, LA 70151.
POB 1425, New York, NY 10008.
POB 3828, Norfolk, VA 23514.
POB 54511, Oklahoma City, OK 73154.
POB 548, Omaha, NE 68101.
600 Arch St., Philadelphia, PA 19106.
201 E. Indianola, Phoenix, AZ 85012.
POB 1315, Pittsburgh, PA 15230.
POB 709, Portland, OR 97207.
POB 12325, Richmond, VA 23241.
POB 13130, Sacramento, CA 95813.
POB 7251, St. Louis, MO 63177.
125 S. State St., Salt Lake City, UT 84138.
POB 1630, San Antonio, TX 78296.
880 Front St., San Diego, CA 92188.
POB 36015, San Francisco, CA 94102.
POB BT, San Juan, PR 00936.
915 2nd Ave., Seattle, WA 98174.
POB 3646, Springfield, IL 62708.
POB 172177, Tampa, FL 33602.
Washington Field Office, Washington, DC 20535.
Federal Bureau of Investigation Academy, Quantico, VA 22135.
Legal Attaches: (Send c/o the American Embassy for the Cities indicated).
Athens, Greece (PSC 108, Box 45, APO AE 09842) Bangkok, Thailand (Box 67, APO AP 96546)
Bern, Switzerland.
Bogota, Columbia (APO, Miami 34038).
Bonn, Germany (Box 310, APO, New York 09080).
Bridgetown, Barbados (Box B, FPO, Miami 34054).
Brussels, Belgium (APO, New York 09667).
Canberra, Australia (APO, San Francisco 96404–0001).
Caracas, Venezuela (Unit 4966, APO AA 34037)
Hong Kong, B.C.C. (FPO, San Francisco 96659–0002).
London, England (Box 2, FPO, New York 09509).
Madrid, Spain (PSC 61, Box 0001, APO AE 09642)
Manila, Philippines (APO, San Francisco 96528).
Mexico City, Mexico (POB 3087, Laredo, TX 78044–3087).
Montevideo, Uruguay (APO, Miami 34035).
Ottawa, Canada.
Panama City, Panama (Box E, APO, Miami 34002).
Paris, France (APO, New York 09777).
Rome, Italy (APO, New York 09794).
Tokyo, Japan (APO, San Francisco 96503).
Vienna, Austria (Unit 27937, Box 37, APO AE 09222)

JUSTICE/FBI–003

SYSTEM NAME:

Bureau Mailing Lists.

SYSTEM LOCATION:

Federal Bureau of Investigation, J. Edgar Hoover Bldg., 10th and Pennsylvania Ave., NW., Washington,

DC 20535, 56 field divisions and 16 Legal Attaches (see Appendix to 002).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who have requested receipt of Bureau material and who meet established criteria (basically law enforcement or closely related areas). With regard to lists maintained in field divisions or Legal attaches, individuals and organizations who may be in position to furnish assistance to the FBI's law enforcement efforts.

CATEGORIES OF RECORDS IN THE SYSTEM:

Name, address and business affiliation, if appropriate.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code, section 301 and title 44, U.S. Code, section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For mailing of FBI material whenever necessary. For example, various fugitive publications are furnished to local law enforcement agencies.

In addition, information may be released to the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

To a Member of Congress or staff acting upon the member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; and,

To the National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Computerized.

RETRIEVABILITY:

ID number in computer.

SAFEGUARDS:

Computer records are maintained in limited access space of the Technical Services Division.

RETENTION AND DISPOSAL:

Field offices revise the lists as necessary. The records are destroyed when administrative needs are satisfied (Job No. NC1–65–82–4, part E. 13 i.)

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI, Washington DC 20535.

NOTIFICATION PROCEDURE:

Director, FBI, Washington DC 20535.

RECORD ACCESS PROCEDURES:

Inquiry addressed to Director, FBI, Washington, DC 20535.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

The mailing list information is based either on information supplied by the individual or public source data.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–004

SYSTEM NAME:

Routine Correspondence Handled By *Predesigned* Form.

SYSTEM LOCATION:

Federal Bureau of Investigation: J. Edgar Hoover Bldg., 10th and Pennsylvania Ave., NW., Washington, DC 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Routine correspondence from citizens not requiring an original response.

CATEGORIES OF RECORDS IN THE SYSTEM:

Original correspondence, *or a copy thereof held for 60 days.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code, section 301 and title 44, U.S. Code, section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Internal reference use of record of such correspondence.

In addition, information may be released to the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

To a Member of Congress or staff acting upon the member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; and, to the National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Filing of original correspondence *or copy.*

RETRIEVABILITY:

Correspondence alphabetically and chronologically.

SAFEGUARDS:

Maintained by FBI personnel; locked file cabinets during nonduty hours.

RETENTION AND DISPOSAL:

Original correspondence retained *60 days and destroyed.* (GRS 14, Item 3)

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI, Washington, DC 20535.

NOTIFICATION PROCEDURE:

Director, FBI, Washington, DC 20535.

RECORD ACCESS PROCEDURES:

Inquiry directed to Director, FBI, Washington, DC 20535.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Incoming citizen correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–005

SYSTEM NAME:

Routine Correspondence Prepared Without File Copy.

SYSTEM LOCATION:

Federal Bureau of Investigation; J. Edgar Hoover Bldg., 10th and Pennsylvania Ave., NW., Washington, DC 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Citizens who correspond with the FBI.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copy of routine response and citizen's original letter.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Title 5, U.S. Code, section 301 and title 44, U.S. Code, section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Temporary record of routine inquiries without substantive, historical or record value for which no record is to be made in central FBI files.

In addition, information may be released to the news media and the

public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

To a Member of Congress or staff acting upon the member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; and,

To the National Archives and Records Administration and the General Services Administration in records management inspection conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records are stored in file folders. Pertinent information from correspondence is temporarily stored on magnetic tape and disks.

RETRIEVABILITY:

Paper records are retrieved by name and date of correspondence. Automated records are retrieved by name, locality, and date.

SAFEGUARDS:

Access to all records is limited to FBI personnel. Paper records are maintained in locked file cabinets. Access to automated records is restricted through the use of password.

RETENTION AND DISPOSAL:

Paper records retained *60* days and destroyed through confidential trash disposal (GRS 14, Item 3). A one-year retention period has been established for the automated records. (Job No. N1–65–87–5)

SYSTEM MANAGER(S) AND ADDRESS:

Director, FBI, Washington, DC 20535.

NOTIFICATION PROCEDURE:

Director, FBI, Washington, DC 20535.

RECORD ACCESS PROCEDURES:

Inquiry directed to Director, FBI, Washington, DC 20535.

CONTESTING RECORD PROCEDURES:

Same as the above.

RECORD SOURCE CATEGORIES:

Incoming citizen correspondence.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–007

SYSTEM NAME:

FBI Automated Payroll System.

SYSTEM LOCATION:

Federal Bureau of Investigation: J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue NW., Washington, DC 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(A) Current employees of the Federal Bureau of Investigation (FBI), (B) Resigned employees of the FBI are retained in the automated file for the current year for the purpose of clearing all pay actions and providing for any retroactive actions *and accounting* that might be legislated.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains full record for each employee reflecting all elements relative to payroll status, plus accounting records and authorization records through which payrolls are issued and by which payrolls are issued and by which payrolls are audited. For example, this system contains the employees' Social Security Number, *annual salary*, time and attendance data, and place assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

System is established and maintained in accordance with Federal pay requirements, and all legislative enactments, Office of Personnel Management regulations, General Accounting Office rulings and decisions. Treasury Department regulation, and Office of Management and Budget regulations relative thereto, Title 5, U.S. Code, section 301 and title 44, U.S. Code, section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Biweekly issuance of payroll and related matters. Quarterly issuance of State Tax Report and Federal Insurance Contributions Act Report. Resign and End-of-Year Federal Tax Records (W–2's), Biweekly, quarterly, fiscal and annual Budget and Accounting Reports. Appropriate information is made available to the Internal Revenue Service, Social Security Administration (to compute future entitlement to Social Security payments and Medicare/Medicaid benefits), Thrift Board (to report Thrift Savings Plan contributions so the Thrift Board can compute future annuities), and state and city tax bureaus.

In addition, information may be released to the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy;

To a Member of Congress or staff acting upon the member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; and,

To the National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored electronically on magnetic tapes and disks for use in a computer environment.

RETRIEVABILITY:

Information is retrieved by Social Security Number. (The authority to solicit an employee's Social Security Number is based on title 26, Code of Federal Regulations, section 31.601(b)–2(b).)

SAFEGUARDS:

Information contained in the system is relative to the individual employee's payroll status and is considered confidential to that employee and to official business conducted for that employee's pay and accounting purposes. It is safeguarded and protected in accordance with the FBI's Computer Center's regulations that permit access and use by only authorized personnel.

RETENTION AND DISPOSAL:

Master payroll and accounting records are stored electronically and retained for a period of three years. Federal tax files are retained for four years. Auxiliary files pertinent to main payroll functions are retained for periods varying from three pay periods to three years, depending on support files needed for any retroactive or audit purposes. (GRS 2; GSA Reg. 3; GSA Bulletin FPMR B–47, "Archives and Records"; and Job No. NC1–65–82–4, part E. 13c. (1))

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, Ninth and Pennsylvania Avenue, NW., Washington DC 20535.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request of access to information may be made by an employee through

his supervisor or by a former employee by writing to the Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington DC 20535, Attention Payroll Office.

CONTESTING RECORD PROCEDURES:

Contest of any information should be set out in detail and a check of all supportive records will be made to determine the factual data in existence, which is predetermined by source documents and accounting procedures governing pay matters.

RECORD SOURCE CATEGORIES:

Source of information is derived from personnel actions, employee authorizations, and time records which are issued and recorded in accordance with regulations governing Federal pay.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI-008

SYSTEM NAME:

Bureau Personnel Management System (BPMS).

SYSTEM LOCATION:

Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue, NW., Washington DC 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Federal Bureau of Investigation, employees and former employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains personnel information which includes information set forth on (1) Standard Form 50—Notification of Personnel Action, (2) SF 176-T-Federal Employee Group Life Insurance Plan, (3) FBI form 12-60 in lieu of SF 1126—Notification of Pay Change, (4) SF 2801 and CSC 1084—Application for and additional information in support of retirement, respectively, (5) SF 2809—Federal Employment Health Benefit Plan and (6) various intra-agency forms and memoranda.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained pursuant to regulations set forth in the Federal Personnel Manual. title 5, U.S. Code, section 301 and title 44; U.S. Code, section 3101.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The BPMS is used (1) to prepare the Notification of Personnel Action, copies of which are furnished to the Office of Personnel Management, (2) to prepare Standard Form 52B—Request for Personnel Action, (3) to generate lists of employees which are used internally by authorized personnel for recordkeeping, planning, and decision making purposes, and (4) as a source for the dissemination of information (A) to federal, state and local agencies and to private organizations pursuant to service record inquiries and (B) pursuant to credit inquiries. In response to proper credit inquiries from credit bureaus and financial institutions, the FBI will verify employment and furnish salary and length of service.

In addition, information may be released to the news media and the public pursuant to 28 CFR 50.2 unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy; Member of Congress or staff acting upon the member's behalf when the member or staff requests the information on behalf of and at the request of the individual who is the subject of the record; and, to the National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in BPMS is stored by disc and magnetic tape.

RETRIEVABILITY:

Information is retrieved (1) on-line through intelligent workstations and terminals by keying the name or Social Security Number of the employee and (2) off-line through data base retrievals.

(It is noted the authority to solicit an employee's Social Security Number is based on title 26, Code of Federal Regulations, section 31.6011(b)-2(b).)

SAFEGUARDS:

Areas housing the system and access terminals are located in secure buildings available to authorized FBI personnel and escorted maintenance and repair personnel only. Access terminals are operational only during normal daytime working hours at which time they are constantly attended. *Access through terminals is protected by sign-on and passwords.*

RETENTION AND DISPOSAL:

Electronically stored records for employees and former employees are maintained indefinitely in a vault under the control of a vault supervisor. Pursuant to regulations set forth in the Federal Personnel Manual a copy of the Notification of Personnel Action is made a part of the employees' personnel file.

The automated records are disposable when administrative needs have expired. (Job No. NC1-65-82-4, part E. 13c.(1)).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, John Edgar Hoover Building, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20535.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system shall be made in writing, with the envelope and the letter clearly marked "Privacy Access Request." Include in the request the name and return address of the requestor. Access requests will be directed to the Director, Federal Bureau of Investigation.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the Director, FBI stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are present and former FBI employees and employee personnel files.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI-011

SYSTEM NAME:

Employee Health Records.

SYSTEM LOCATION:

Federal Bureau of Investigation, Administrative Services Division, Health Service, J. Edgar Hoover Bldg., 10th and Pennsylvania Avenue, NW, Washington, DC 20535 and the following field offices: New York, Newark, Philadelphia, Chicago, Los Angeles, San Francisco, and FBI Academy, Quantico, Virginia. Addresses for field offices can be found in the appendix of Field Offices for the Federal Bureau of Investigation in System notice Justice/FBI 002.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former employees of the FBI.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records of visits to health facilities relating to sickness, injuries or accidents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The head of each agency is responsible, under 5 U.S.C. 7902, for keeping a record of injuries and accidents to its employees and for reducing accidents and health risks. These records are maintained under the general authority of 5 U.S.C. 301 so that the FBI can be kept aware of the health related matters of its employees and more expeditiously identify them.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USERS:

These records are maintained by the FBI to identify matters relating to the health of its present and former employees. Information is available to employees of the FBI whose job function relates to identifying and resolving health matters of former and current personnel of the FBI.

In addition, information may be released to the National Archives and Records Administration and the General Services Administration in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING RECORDS IN THE SYSTEM:

STORAGE:

Previous procedure of creation and maintenance of 3 × 5 index cards to record individual health service visits has been phased out and a clinical folder is created to maintain an employee health record and SF 510, "Nursing Notes". The information is maintained manually in a file folder.

RETRIEVABILITY:

By name.

SAFEGUARDS:

These records are maintained by FBI personnel during working hours and in locked file cabinets during non-working hours. Security guards further restrict access to the building to authorized personnel.

RETENTION AND DISPOSAL:

Remaining index cards will be destroyed 6 years after date of last entry (GRS #1, Item 19). The folder containing the health record and nursing notes will *be transferred to the employee's medical folder, an appendage of the Office Personnel Folder, when Health Unit is notified of resignations or retirements.*

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, DC 20535.

NOTIFICATION PROCEDURE:

Written inquiries, including name, address and social security number, to determine whether this system of records contains records about an individual may be addressed to Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, DC 20535, and/or individually to the field officers which maintain similar records.

RECORD ACCESS PROCEDURES:

CONTESTING RECORD PROCEDURES:

Written inquiries, including name, date of birth and social security number, requesting access or contesting the accuracy of records may be addressed to: Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, DC 20535, and the above-mentioned field offices at addresses referred to in system notice Justice/FBI 002.

RECORD SOURCE CATEGORIES:

Employees of the Federal Bureau of Investigation originate their own records. Nursing Notes appear on SF 510.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–012

SYSTEM NAME:

Time Utilization Record/Keeping (TURK) System.

SYSTEM LOCATION:

Administrative Services Division. Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue, NW, Washington, DC 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Special Agents, Accounting Technicians, Investigative Assistants, and Laboratory Technicians.

CATEGORIES OF RECORDS IN THE SYSTEM:

System contains by-weekly time utilization data of Special Agents, Accounting Technicians, Investigative Assistants and Laboratory Technicians.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

This system of records is maintained under the authority of 31 U.S.C. 66a which requires the head of the Department, or his delegate, to establish a system of accounting and internal control designed to provide full disclosure of the financial results of the FBI's activities; adequate financial information needed for the FBI's management purposes and effective control over and accountability for all funds, property and other assets for which the FBI is responsible.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

For the purpose of producing cost accounting reports reflective of personnel utilization, records may be made available to the General Accounting Office, the Office of Management and Budget and the Treasury Department.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in the system is stored electronically on magnetic tapes and discs for use in a computer environment.

RETRIEVABILITY:

Information is retrieved by name and/or social security *number and summarized by Cost Center.*

SAFEGUARDS:

Information is safeguarded and protected in accordance with the FBI's Computer Center regulations that permit access and use by authorized personnel only.

RETENTION AND DISPOSAL:

Biweekly magnetic tapes *and discs* are retained for a period of 3 years. Hard copy records are retained in accordance with instructions contained in GRS No. 8, Items 7 and 8, and GSA Bulletin FPMR–47, "Archives and Records". Hard copy records are destroyed; magnetic tapes are erased and reused. (Job No. NCI–65–82–4, part E. 13c. (1)).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 9th and Pennsylvania Avenue, NW., Washington, DC 20535.

NOTIFICATION PROCEDURE:

Same as above.

RECORD ACCESS PROCEDURES:

CONTESTING RECORD PROCEDURES:

Written requests for access to information may be made by an employee through his supervisor or by former employees by writing to: Federal Bureau of Investigation, 9th and

Pennsylvania Avenue, NW., Washington, DC 20535 (Attn: Administrative Services Division). Contesting of any information should be set out in written detail and forwarded to the above address. A check of all supportive records will be made to determine the factual data in existence.

RECORD SOURCE CATEGORIES:

Source of information is derived from daily time utilization recording made by the employees.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–013

SYSTEM NAME:

Security Access Control System (SACS).

SYSTEM LOCATION:

Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue, NW., Washington, DC 20535.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals, both FBI employees and outside visitors, who have been granted access to the J. Edgar Hoover Building.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains computerized information concerning names, badge numbers, and the dates and times of entries of those individuals, including escorted visitors, who have been issued access badges to the J. Edgar Hoover Building.

AUTHORITIES FOR MAINTENANCE OF THE SYSTEM:

The maintenance of this system is authorized by Executive Order 12065, the Privacy Act of 1974 (5 U.S.C. 552a(e)(10)) and Pub. L. No. 90–620, as amended (44 U.S.C. chapters 21 and 33). Each of these two statutes, as well as the Executive Order, is directed toward security of United States Government records maintained by Federal agencies.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Category of users: Federal Bureau of Investigation management officials and security personnel. The information is used to determine the status of individuals entering the building and maintain control of badges issued to individuals requiring access to the J. Edgar Hoover Building.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The automated portion of the records is maintained on *hard disk and/or floppy diskettes*. Documentary records are maintained in manual file folders.

RETRIEVABILITY:

Alphabetically by last name; numerically by access badge number.

SAFEGUARDS:

Maintained in a locked room, which is manned 24 hours per day, with access limited to FBI security personnel.

RETENTION AND DISPOSAL:

Computerized records are maintained for one year and hard copy computer listings are maintained for six months. Cards containing badge information are destroyed when administrative needs have expired. Duplicate badges are maintained on individuals granted permanent access to the building until access is no longer required and/or upon separation or transfer. (Job No. NC1–65–82–4, Part B. 66c. (8); part E. 13c (1)).

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, J. Edgar Hoover Building, 10th and Pennsylvania Avenue NW., Washington, DC 20535.

NOTIFICATION PROCEDURE:

Inquiry concerning this system should be in writing and made to the system manager listed above.

RECORD ACCESS PROCEDURES:

Same as above.

CONTESTING RECORD PROCEDURES:

Same as above.

RECORD SOURCE CATEGORIES:

See categories of individuals.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/FBI–015

SYSTEM NAME:

National Center for the Analysis of Violent Crime (NCAVC).

SYSTEM LOCATION:

Federal Bureau of Investigation, Training Division, FBI Academy, Behavioral Science Unit, Quantico, Virginia 22135.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

A. Individuals who relate in any manner to official FBI investigations into violent crimes including, but not limited to, subjects, suspects, victims, witnesses, close relatives, medical personnel, and associates who are relevant to an investigation.

B. Individuals who are the subject of unsolicited information or who offer unsolicited information, and law enforcement personnel who request assistance and/or make inquiries concerning records.

C. Individuals who are the subject of violent crime research studies including, but not limited to, criminal personality profiles, scholarly journals, and news media references.

CATEGORIES OF RECORDS IN THE SYSTEM'

The National Center for the Analysis of Violent Crime will maintain in both manual and automated formats case investigation reports on all forms of solved and unsolved violent crimes. These violent crimes include, but are not limited to, acts or attempted acts of murder, kidnapping, incendiary arson or bombing, rape, physical torture, sexual trauma, or evidence of violent forms of death. Less than ten percent of the records which are analyzed may not be directly related to violent activities.

A. Violent Criminal Apprehension Program (VICAP) case reports submitted to the FBI by a duly constituted Federal, State, county, *municipal, or foreign* law enforcement agency in any violent criminal matter. VICAP reports include, but are not limited to, crime scene descriptions, victim and offender descriptive data, laboratory reports, criminal history records, court records, news media references, crime scene photographs, and statements.

B. Violent crime case reports submitted by FBI headquarters or field *offices, and case reports submitted to the FBI by a duly constituted Federal, State, county, municipal, or foreign law enforcement agency in any violent criminal matter.*

C. Violent crime research studies, scholarly journal articles, textbooks, training materials, and news media references of interest to *NCAVC* personnel.

D. An index of all detected trends, patterns, profiles and methods of operation of known and unknown violent criminals whose records are maintained in the system.

E. An index of the names, addresses, and contact telephone numbers of professional individuals and organizations who are in a position to furnish assistance to the FBI's NCAVC operation.

F. An index of public record sources for historical, statistical and

demographic data collected by the U.S. Bureau of the Census.

G. An alphabetical name index pertaining to all individuals whose records are maintained in the system.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. Section 3101; 41 CFR subpart 101–11.2 and 28 U.S.C. Section 534.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Currently, the NCAVC is administered by the FBI through its Training Division, located at the FBI Academy, Quantico, Virginia. Its primary mission is to consolidate research, training, and operational support activities for the express purposes of providing expertise to any legitimate law enforcement agency confronted with unusual, bizarre, and/or particularly vicious or repetitive violent crimes.

Records described above are maintained in this system to permit the FBI to function efficiently as an authorized, responsive component of the Department of Justice. Therefore, the information in this system is disclosed to officials and employees of the Department of Justice, and/or all components thereof, who need the information to perform their official duties.

Information in this system may be disclosed as a routine use to any Federal, State, local, or foreign government agency directly engaged in the criminal justice process where access is directly related to a law enforcement function of the recipient agency in connection with the tracking identification, and apprehension of persons believed to be engaged in repeated or exceptionally violent acts of criminal behavior.

Information in this system may be disclosed as a routine use in a proceeding before a court or adjudicative body, e.g., the Equal Employment Opportunity Commission and the Merit Systems Protection Board, before which the FBI is authorized to appear, when (a) the FBI or any employee thereof in his or her official capacity, or (b) any employee in his or her individual capacity where the Department of Justice has agreed to represent the employee, or (c) the United States, where the FBI determines it is likely to be affected by the litigation, is a party to litigation or has an interest in litigation and such records are determined by the FBI to be relevant to the litigation.

Information in this system may be disclosed as a routine use to an organization or individual in both the public or private sector pursuant to an appropriate legal proceeding or, if deemed necessary, to elicit information or cooperation from the recipient for use by the FBI in the performance of an authorized activity. An example could be where the activities of an individual are disclosed to a member of the public to elicit his/her assistance in FBI apprehension or detection efforts.

Information in this system may be disclosed as a routine use to an organization or individual in the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy and to the extent the information is relevant to the protection of life or property.

Relevant information may be disclosed from this system to the news media and general public where there exists a legitimate public interest. Examples would include: To obtain public or media assistance in the tracking, identifying, and apprehending of persons believed to be engaged in repeated acts of violent criminal behavior; to notify the public and/or media of arrests; to protect the public from imminent threat to life or property where necessary; and to disseminate information to the public and/or media to obtain cooperation with violent crime research, evaluation, and statistical programs.

Information in this system may be disclosed as is necessary to appropriately respond to congressional inquiries on behalf of constituents.

A record from a system of records may be disclosed as a routine use to the National Archives and Records Administration (NARA) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906 to the extent that legislation governing the record permits.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information in the system is stored manually in locked file cabinets, either in its natural state or on microfilm, at the NCAVC in Quantico, Virginia. The active main files are maintained in hard copy form and some inactive records are maintained on microfilm.

In addition, some of the information is stored in computerized data storage devices at the NCAVC and FBI Computer Center in Washington, DC. Investigative information which is maintained in computerized form may be stored in memory on disk storage on computer tape, or on computer printed listings.

RETRIEVABILITY:

On-line computer access to NCAVC files is achieved by using the following search descriptors:

A. A data base which contains the names of individuals, their birth dates, physical descriptions, and other identification numbers such as FBI numbers, if such have been assigned.

B. Summary variables contained on VICAP reports submitted to the NCAVC as previously described.

C. Key words citations to violent crime research studies, scholarly journal articles, textbooks, training materials, and media references.

SAFEGUARDS:

Records are maintained in restricted areas and accessed only by FBI employees. All FBI employees receive a complete pre-employment background investigation. All employees are cautioned about divulging confidential information or any information contained in FBI files. Failure to abide by this provision violates Department of Justice regulations and may violate certain statutes providing maximum severe penalties of a ten thousand dollar fine or 10 years' imprisonment or both. Employees who resign or retire are also cautioned about divulging information acquired in the job.

Registered mail is used to transmit routine hard copy records between field offices. Highly classified records are hand carried by Special Agents or personnel of the Armed Forces Courier Service. Highly classified or sensitive privacy information, which is electronically transmitted between field offices and to and from FBI Headquarters, is transmitted in encrypted form to prevent interception and interpretation.

Information transmitted in teletype form between the NCAVC in Quantico, Virginia and the FBI Computer Center in Washington, DC, is encrypted prior to transmission at both places to ensure confidentiality and security of the data.

FBI field offices involved in certain complicated, investigative matters may be provided with on-line access to the computerized information which is maintained for them on disc storage in the FBI Computer Center in Washington, DC. This computerized data is also transmitted in encrypted form.

RETENTION AND DISPOSAL:

Records are proposed for destruction after 50 years or upon termination of the program, whichever is earlier. The

disposition schedule is pending with NARA as Job No. N1-65-88-13.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Federal Bureau of Investigation, 10th and Pennsylvania Avenue NW., Washington, DC 20535.

NOTIFICATION PROCEDURE:

Address inquiries to the System Manager.

RECORD ACCESS PROCEDURES:

Requests for access to records in this system shall be made in writing with the envelope and the letter clearly marked "Privacy Access Request." The request must provide the full name, complete address, date of birth, place of birth, and notarized signature of the individual who is the subject of the record requested. The request should also include the general subject matter of the document or its file number—along with any other known information which may assist in making a search of the records. The request must also provide a return addressing for transmitting the information. Access requests should be addressed to the Director, Federal Bureau of Investigation, Washington, DC 20535.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should also direct their request to the Director, Federal Bureau of Investigation, Washington, DC 20535. The request should state clearly and concisely (1) the reasons for contesting the information, and (2) the proposed amendment to the information.

RECORD SOURCE CATEGORIES:

The FBI, by the very nature of its responsibilities to investigate violations of law within its investigative jurisdiction and ensure the internal security of the United States, collects information from a wide variety of sources. Basically, information is obtained, as a result of investigative efforts, from other Government agencies, law enforcement agencies, the general public, informants, witnesses, and public source material.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

The Attorney General has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4) (G) and (H), (f) and (g) of the Privacy Act pursuant to 5 U.S.C. 552a (j)(2) and (k)(2). Rules have been promulgated in accordance with the requirements of 5 U.S.C. 553 (b), (c), and (e).

JUSTICE/OJP-001

SYSTEM NAME:

Equipment Inventory.

SYSTEM LOCATION:

Office of Justice Programs, 633 Indiana Avenue NW., Washington, DC 20531.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees who have filed the following forms in the Office of *the Comptroller:* Property Sign-out, *OJP Administrative Form 1820/1:* Equipment Control Records, *OJP Administrative Form 1820/2.*

CATEGORIES OF RECORDS IN THE SYSTEM:

Property Sign-out, *OJP Administrative Form 1820/1:* Equipment Control Records, *OJP form 1820/2.*

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is established and maintained in accordance with 5 U.S.C. 301, 1302.

PURPOSE:

The property data is used for inventory control.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Information not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

A record may be disclosed as a routine use to *the National Archives and Records Administration and the General Services Administration* in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Information maintained in system is stored *on* index cards.

RETRIEVABILITY:

Information is retrieved by name of employee and type of equipment.

SAFEGUARDS:

Data is maintained in a locked room.

RETENTION AND DISPOSAL:

Documents relating to equipment control are closed when employee leaves agency. Records are destroyed three years thereafter. Operating files are destroyed when an individual resigns, transfers, or is separated from Federal service.

SYSTEM MANAGER(S) AND ADDRESS:

Comptroller: Office of the Comptroller: Office of Justice Programs: 633 Indiana Avenue NW., Washington, DC 20531.

NOTIFICATION PROCEDURE:

Same as the above.

RECORD ACCESS PROCEDURE:

A request for access to a record from the system shall be in writing, with the envelope and letter clearly marked "Privacy Access Request." Access requests will be directed to the System Manager listed above.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their request to the System Manager listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Individual to whom record pertains, employee's supervisors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/OJP-011

SYSTEM NAME:

Register Users File—National Criminal Justice Reference Service (NCJRS).

SYSTEM LOCATION:

National Criminal Justice Reference Service: 1600 Research Blvd., Rockville, MD 20850

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system contains information on those individuals engaged in criminal justice activities, citizen groups and academicians.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system provides a record of registrants who request reference services and products from NCJRS.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained and established in accordance with 42 U.S.C. 3721.

PURPOSE(S):

Information in this system is used as a mailing list to supply registrants requesting services from NCJRS with information or products.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Information permitted to be released to the news media and the public pursuant to 29 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

Information, not otherwise required to be released pursuant to 5 U.S.C. 552, may be made available to a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of and at the request of the individual who is the subject of the record.

A record may be disclosed as a routine use to the National Archives and Records Administration and the General Services Administration in records management inspection conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Information is stored on magnetic disc pack for use in a computer environment.

RETRIEVABILITY:

Information is retrieved by the name and user identity number of the individual or organization requesting information.

SAFEGUARDS:

Information is maintained in the *NCJRS* Data Services Center which is a secured area. Special identity cards are required for admittance to the area.

RETENTION AND DISPOSAL:

Information is retained until the individual no longer wishes to utilize the service. Upon notification by an individual that he no longer wishes to use the service, or by lack of response of user to Annual Renewals, his record is electronically purged from the film.

SYSTEM MANAGER(S) AND ADDRESS:

User Services Coordinator, National Criminal Justice Reference Service; P.O. Box 6000, Rockville, MD 20850.

NOTIFICATION PROCEDURE:

Address inquires to the system manager(s) at the above address.

RECORD ACCESS PROCEDURE:

A request for access to a record contained in this system shall be made in writing with the envelope and letter clearly marked: 'PRIVACY ACCESS REQUEST.' Access requests will be directed to the system manager(s) at the above address.

CONTESTING RECORD PROCEDURES:

Individuals desiring to contest or amend information maintained in the system should direct their requests to the system manager(s) listed above, stating clearly and concisely what information is being contested, the reasons for contesting it, and the proposed amendment to the information sought.

RECORD SOURCE CATEGORIES:

Sources for the information contained in this system are those individuals covered by the system.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

JUSTICE/JMD–018

SYSTEM NAME:

Delegations of Procurement Authority, Justice/JMD–018.

SYSTEM LOCATION:

Office of the Procurement Executive, Department of Justice, *Ariel Rios* Building, Room *1228, 13th & Pennsylvania Avenue*, NW., Washington, DC 20530.

CATEGORIES OF INDIVIDUALS COVERED:

All Department of Justice procurement personnel in the GS/GM 1102 and other series who are actively engaged in the acquisition process and who are or will be designated as contracting officers, or are authorized to obligate the Government contractually.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual delegations of procurement authority files will contain information on the employees grade/series, job title, employing bureau location, education, procurement experience and procurement-training, type of delegation, level of signatory authority, effective date of entry into the program and experience code.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

28 U.S.C. 507, 509 and 510; 41 U.S.C. 257; 5 U.S.C. 301; 28 CFR 0.75(d) and 0.75(j); and Executive Order 12352.

PURPOSES:

Individual delegations of procurement authority files will be used to support a newly established Contracting Officer Standards Program which will serve as a basis to establish Department-wide training and experience standards for issuing contracting officer delegations and to ensure the standards are met. In addition, the files will be used by the Procurement Executive to manage and enhance career development of the Department's procurement work force.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

(1) Records or information may be disclosed as a routine use in a proceeding before a court or adjudicative body before which the Department is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the Department to be arguably relevant to the litigation: The Department, or any of the Department's components or its subdivisions; any Department employee in his or her official capacity, or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the Department determines that the litigation is likely to affect it or any of the Department's components or its subdivisions.

(2) Records or information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

(3) Records or information may be disclosed as is necessary to respond to congressional inquiries on behalf of constituents.

(4) Records may be disclosed to the National Archives and Records Administration and to the General Services Administration in records management inspections conducted under the authority of title 44 U.S.C. 2904 and 2906.

POLICIES AND PROCEDURES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Originals of paper records are kept in standard file cabinets. Duplicates of original paper records will be stored electronically in the Department's main frame computer.

RETRIEVABILITY:

Records are retrieved by name of employee.

SAFEGUARDS:

Paper records are stored in metal filing cabinets and electronic records are stored on the Department's main frame computer. Access to the *Ariel Rios* Building is protected by 24-hour guard service and is restricted to employees with official identification. Access to records is restricted to authorized personnel with official and electronic identification.

RETENTION AND DISPOSAL:

Files are maintained until the employee leaves the Department at which time paper records are destroyed and electronic records erased.

SYSTEM MANAGERS AND ADDRESS:

The system manager is the Procurement Executive, Justice Management Division, Department of Justice, *Ariel Rios* Building. Room *1228, 13th & Pennsylvania Avenue*, NW., Washington, D.C. 20530.

NOTIFICATION PROCEDURES:

Direct inquires to the system manager identified above, Attention: FOI/PA Officer. Clearly mark the letter and envelope "Freedom of Information/ Privacy Act Request."

RECORD ACCESS PROCEDURES:

Make all requests for access in writing and clearly mark the letter and envelope "Freedom of Information/Privacy Act Request." Clearly indicate the name of the requester, nature of the record sought, approximate date(s) of the record(s); and, provide the required verification of identity (28 CFR 16.41(d)). Direct all requests to the system manager identified above, attention FOI/PA Officer, and, provide a return address for transmitting the information.

CONTESTING RECORDS PROCEDURES:

Direct all requests to contest or amend information to the system manager listed above. State clearly and concisely the information being contested, the reasons for contesting it, and the proposed amendment to the information sought. Clearly mark the letter and envelope "Freedom of Information/ Privacy Act Request."

RECORD SOURCE CATEGORIES:

Information contained in the system is collected from the individual training personnel, and general personnel records.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 93-24286 Filed 10-4-93; 8:45 am]

BILLING CODE 4410-01-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/recordkeeping requirements that will affect the public.

RECORDKEEPING/REPORTING REQUIREMENTS UNDER REVIEW: As necessary, the Department of Labor will publish Agency recordkeeping/ reporting requirements under review by the Office of Management and Budget (OMB) since the last publication. These entries may include new collections, revisions, extensions, or reinstatements, if applicable. 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/or Agency identification numbers, if applicable.

How often the recordkeeping/ reporting requirement is needed.

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 included in each notice may be obtained by calling the Departmental Clearance Officer, Kenneth A. Mills (202) 219-5095. Comments and questions about the items included in each notice should be directed to Mr. Mills, Office of Information Resources Management Policy, 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 3001, Washington, DC 20503 (202) 395-6880.

Any member of the public who wants to comment on recordkeeping/reporting requirements which have been submitted to OMB should advise Mr. Mills of this intent at the earliest possible date.

Revision

Assistant Secretary for Veterans' Employment and Training
Veterans' Post-Separation Employment Survey 1293-0008
One-time survey
Individuals; State Employment Security Agencies
3,918 individual respondents; 15 minutes per response; 982 burden hours
23 State Employment Security Agencies; 16 hours per response; 368 burden hours
1,350 total burden hours
The data will support an evaluation of the Office of the Assistant Secretary for Veterans' Employment and Training Transition Assistance Program (TAP). Two data collection methods are proposed: (1) Telephone survey of individuals; and (2) collection of computerized unemployment and earnings data from States Employment Security Agencies (SESAs).

Extension

Employment and Training Administration
Interstate Arrangement for Combining Employment and Wages
1205-0029, ETA 586
Quarterly
States or local governments
53 respondents; 3 hours per response; 636 burden hours; 1 form
The Internal Revenue Code 3304(a)(9)(B) of 1986 requires States to participate in an arrangement, as prescribed by the Secretary of Labor, which provides for the payment of unemployment insurance benefits on the basis of combining employment and wages earned in two or more States. This report is needed to measure the scope and monitor the operation of this program.

Extension

Mine Safety and Health Administration
Application for Use of Explosive Materials and Blasting Units (30 CFR 57.22606)
1219-0095
On occasion
Businesses or other for-profit; small businesses or organizations
7 respondents; 1 hour per response; 7 burden hours
In the absence of permissible explosives or blasting units having adequate

blasting capacity for metal and nonmetal gassy mines, this standard provides procedures by which mine operators shall notify MSHA of all nonapproved explosive materials and blasting units to be used in underground gassy metal and nonmetal mines. MSHA uses this information to determine that the explosives and procedures to be used are safe for blasting in a gassy underground mine.

Signed at Washington, DC this 30th day of September, 1993.

Kenneth A. Mills,

Departmental Clearance Officer.

[FR Doc. 93-24422 Filed 10-4-93; 8:45 am]

BILLING CODE 4510-76-P

Employment and Training Administration

[TA-W-28,367]

Alphabet, Inc., FMA Division, Farmington, Missouri; Revised Determination on Reconsideration

Upon consideration of the Department's motion for a voluntary remand, the United States Court of International Trade (USCIT) in *Former Employees of Alphabet/FMA Division,* v. *Secretary of Labor* (USCIT 93-06-00361) granted the Department's consent motion and remanded the investigation for further investigation.

The Department's denial was based on the fact that the "contributed importantly" test was not met. The Department's survey showed that Alphabet's sole customer did not import automotive wire harnesses during the relevant period to the petition.

Findings on reconsideration, however, show that the wiring harness produced at Farmington is made up of several subassemblies. These sub-assemblies, formerly produced at Farmington, are now being imported to Farmington where they are checked and made into automotive wiring harnesses. Some of the several sub-assemblies formerly produced at Farmington and now produced in Mexico are the sub-assembly for the instrument panel or base dash; power sub-assembly; fuel tank sub-assembly; airbag sub-assembly; door lock and power window sub-assembly; front seat sub-assembly; etc. This lost labor constitutes a substantial portion of the labor that goes into a wiring harness.

Production and employment at Farmington declined in 1992 compared to 1991 and the plant is scheduled to close by the end of 1993. The Farmington workers worked on all products and were not separately identifiable by product.

Conclusion

After careful consideration of the new facts obtained on reconsideration, it is concluded that increased imports of sub-assemblies for automotive wiring harnesses contributed importantly to the decline in sales or production and to the total or partial separation of the workers at the subject plant. In accordance with the provisions of the trade Act of 1974, I make the following revised determination:

All workers and former workers of Alphabet, Inc. FMA Division, Farmington, Missouri who become totally or partially separated from employment on or after February 11, 1992 are eligible to apply for adjustment assistance under section 223 of the Trade Act of 1974.

Signed at Washington, DC, this 23rd day of September 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service Unemployment Insurance Service.

[FR Doc. 93-24349 Filed 10-4-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,475]

Airfoil Forging Textron, Inc., Euclid, OH; Negative Determination on Reconsideration

On September 14, 1993, the Department issued an Affirmative Determination Regarding Application for Reconsideration for workers and former workers of the subject firm. The notice will soon be published in the **Federal Register.**

The union stated that, in addition to the company's corporate customers for jet engine blades forgings, the company had outside customers which were not surveyed.

The Department's denial was based on the fact that the subject plant shipped all its output of jet engine blades to two other Airfoil Forging Textron plants, neither of which is currently certified for TAA nor imports jet engine blades

A review of the investigation files shows that the workers were under a certification through April 7, 1993 (TA-W-25,379). The subject workers' certification was based on reduced shipments to company plants whose certifications expired in December, 1991 and December, 1992.

Findings on reconsideration show that approximately half of subject firm's production went to corporate customers who do not import and the remainder went mostly to one major customer which did not increase its imports of jet engine blades in the first half of 1993 compared to the same period in 1992.

Officials of the major customer commented that the entire aircraft industry is down because of fewer orders and the stretching out and canceling of existing orders because of defense cuts and a weak global economy.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers and former workers of Airfoil Forging Textron, Inc., in Euclid, Ohio.

Signed at Washington, DC, this 21st day of September 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93-24369 Filed 10-4-93; 8:45 am]

BILLING CODE 4510-30-M

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 show below, not later than October 15, 1993.

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 October 15, 1993.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment

Assistance, Employment and Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC this 20th day of September, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

APPENDIX

Petitioner: Union/workers/firm	Location	Date received	Date of petition	Petition No.	Article produced
Gainco, Inc (Co)	Corpus Christi, TX	09/20/93	09/09/93	29,035	Oil and gas.
General Felt Industries (URW)	Trenton, NJ	09/20/93	09/09/93	29,036	Rubber carpet cushion.
Simonds Industries, Inc (USWA)	Newcomerstown, OH.	09/20/93	09/08/93	29,037	Industrial files.
Venus Thread, Inc. (Wkrs)	Tallapoosa, GA	09/20/93	09/08/93	29,038	Sewing thread for apparel.
Develco Div. Baker-Hughes (Wkrs)	Houston, TX	09/20/93	09/05/93	29,039	Oil tools and services.
Sundown Manufacturing (ILGWU)	Larksville, PA	09/20/93	09/03/93	29,040	Ladies' dresses.
Seagate Technology (Wkrs)	Oklahoma City, OK	09/20/93	08/30/93	29,041	Disc drives for computers.
Reynolds Metals Company (ABGWU)	Massena, NY	09/20/93	09/10/93	29,042	Aluminum ingots.
Litton Guidance & Control System (Wkrs).	Grants Pass, OR	09/20/93	09/07/93	29,043	Circuit cards.
Kardex Systems, Inc (USWA)	Reno, OH	09/20/93	08/24/93	29,044	Electric retrieval systems, paper file products.
Ithaca Colquitt (Co)	Colquitt, GA	09/20/93	09/09/93	29,045	Ladies' panties.
George Newman Co (Wkrs)	Biddeford, ME	09/20/93	09/01/93	29,046	Bonded leather.
E.I. DuPont—Indust. Film Business (DU).	Rochester, NY	09/20/93	09/09/93	29,047	Photographic films.
Dee Howard Co (Wkrs)	San Antonio, TX	09/20/93	09/07/93	29,048	Aircraft components.
Dahlstrom Manufacturing Co., Inc (IAMAW).	Jamestown, NY	09/20/93	09/08/93	29,049	Custom sheet metal parts.
Cedar Contract Cutters, Inc (Co)	Lake Stevens, WA	09/20/93	09/10/93	29,050	Cedar shakes and shingles.
C.T. Scanner (Wkrs)	Concord, MA	09/20/93	09/04/93	29,051	Cat scanners.
Kiddie Products, Inc (Wkrs)	Avon, MA	09/20/93	09/07/93	29,052	Packaging services.
Plaza Plastics (Wkrs)	South Plainfield, NJ	09/20/93	09/07/93	29,053	Plastic hangers.
Oryx Energy Company (Co)	Dallas, TX	09/20/93	09/09/93	29,054	Oil and gas.
GRL Production Services, Inc (Co)	Denver, CO	09/20/93	09/08/93	29,055	Drilling of oil and gas.
Neles-Jamesbury, Inc (Co)	Worcester, MA	09/20/93	09/02/93	29,056	Industrial control valves.
Neles-Jamesbury, Inc (Co)	Glens Falls, NY	09/20/93	09/02/93	29,057	Industrial control valves.

[FR Doc. 93-24370 Filed 10-4-93; 8:45 am]
BILLING CODE 4510-30-M

[TA-W-28,553]

Nerco Coal Corp., Portland, OR; Negative Determination Regarding Application for Reconsideration

By an application dated September 10, 1993, after having been granted a filing extension, the company requested administrative reconsideration of the subject petition for trade adjustment assistance. The denial notice was signed on May 10, 1993 and published in the **Federal Register** on May 25, 1993 (58 FR 30072).

Pursuant to 29 CFR 90.18(c) reconsideration may be granted under the following circumstances:

(1) If it appears on the basis of facts not previously considered that the determination complained of was erroneous;

(2) If it appears that the determination complained of was based on a mistake in the determination of facts not previously considered; or

(3) If in the opinion of the Certifying Officer, a misinterpretation of facts or of the law justified reconsideration of the decision.

The Department's denial was based on the fact that the Portland, Oregon workers of Nerco Coal Corporation were engaged in administrative support functions. The Department has consistently determined that the performance of services does not constitute the production of an article as required by section 222 of the Trade Act, and this determination has been upheld in the U.S. Court of Appeals.

The Department's investigation focused on the petitioning workers of Nerco Coal in Portland, Oregon who provide administrative support service for two western mines—the Antelope Coal Corporation and Spring Creek Coal Company and one small eastern non producing mine site. Generally, workers providing a service are only certifiable in limited circumstances—i.e., if they had a reduced demand for their services from a production unit whose workers are already certified for TAA and who are affiliated with the production unit by ownership or control. None of these conditions were met for the administrative support workers of Nerco Coal in Portland.

The company states that Nerco Coal owned Sequatchie Valley Coal; Vandalia Mining Company; P.V. Mining; Spring Creek Coal and Antelope Coal Company during the relevant period. However, investigation files show that no workers at these coal companies were certified for TAA.

Further, the loss of export markets is not a factor that can be considered as a basis for certification and imports of

electrical energy and imports of natural gas from Canada might indirectly affect the demand for coal, but as noted, in the absence of certification of production units of Nerco would not provide a basis for a worker group certification for service workers.

Conclusion

After review of the application and investigative findings, I conclude that there has been no error or misinterpretation of the law or of the facts which would justify reconsideration of the Department of Labor's prior decision. Accordingly, the application is denied.

Signed at Washington, DC, this 22nd day of September 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service

[FR Doc. 93-24350 Filed 10-4-93, 8:45 am]

BILLING CODE 4510-30-M

Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period of September 1993.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,860; Wilson Hydrocarbon, Inc., Corpus Christi, TX

TA-W-28,936; Aeroquip Corp., Hose Products Div., Jackson, MI

TA-W-28,787; Owens-Brockway, Minneapolis, MN

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-28,869; Gould, Inc., Newburyport, MA

The investigation revealed that criterion (2) has not been met. Sales or production did not decline during the relevant period as required for certification.

TA-W-28,874; Hecla Mining Co., Coeur D'Alene, ID

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,893; LaBelle Industries, Inc., Electronic Signs Division & Contract Stamping Division, Oconomowoc, WI

LaBelle Industries, Inc. made a business decision to sell its Electronic Sign Division and its Contract Stamping Division to other domestic firms resulting in the layoff of workers in May and in February, 1993.

TA-W-28,805; Bull HN Information Systems, Phoenix, AZ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,862, TA-W-28,862A, & TA-W-28,862B; Ohio Edison, Akron, OH, Toronto, OH & Shadyside, OH

U.S. imports of electricity were negligible in the relevant time period.

TA-W-28,988; Weeks Exploration Co., Houston, TX

Increased imports did not contribute importantly to worker separations at the firm.

TA-W-28,838; Ranno Electro Plating Corp., Saddle Brook, NJ

The workers' firm does not produce an article as required for certification under section 222 of the Trade Act of 1974.

TA-W-28,855; Churchill Division/ Lufkin Industries, Inc., Chanute, KS

Aggregate U.S. imports of oil well and oilfield pumps are negligible during the relevant period.

TA-W-28,668; Beech Aircraft Corp., Salina, KS

U.S. imports of aircraft parts, both civilian and military declined in the March through February 1992-1993 period compared with the same period one year earlier, the subject firm has not imported aircraft parts or subassemblies in the relevant time period.

Affirmative Determinations

TA-W-29,019; Abex/NWL Aerospace, Santa Maria, CA

A certification was issued covering all workers separated on or after July 16, 1992.

TA-W-28,924; Stephanie Fashions, Inc., Roanoke, AL

A certification was issued covering all workers separated on or after July 26, 1992.

TA-W-29,002; Aluminum Co of America, Alcoa, TN

A certification was issued covering all workers separated on or after July 30, 1992.

TA-W-28,923; Overton Apparel, Inc., Livingston, TN

A certification was issued covering all workers separated on or after June 28, 1992.

TA-W-28,985; Julie Fashion I, Minersville, PA

A certification was issued covering all workers separated on or after August 14, 1992.

TA-W-28,873; Ivory International, Inc., Miami, FL

A certification was issued covering all workers separated on or after July 2, 1992.

TA-W-28,806; Brown Shoe Co., Trucking Dept., Trenton, TN

A certification was issued covering all workers separated on or after January 1, 1993.

TA-W-28,884; General Motors Corp., Cadillac/Luxury Car Division, Wentzville, MO

A certification was issued covering all workers separated on or after July 9, 1992.

TA-W-28,752; C & K Unimax Wallingford, CT

A certification was issued covering all workers separated on or after May 26, 1992.

TA-W-28,728; Dayton Walther Corp., Muncie, IN

A certification was issued covering all workers separated on or after May 17, 1992.

TA-W-28,751; CNG Producing Co., New Orleans, LA

A certification was issued covering all workers separated on or after May 24, 1992.

TA-W-28,902, TA-W-28,903; S & H Fabricating & Engineering, Inc., Walled Lake, MI & Brighton, MI

A certification was issued covering all workers separated on or after June 21, 1992.

TA-W-29,032; Almor Corp., Warsaw, NY

A certification was issued covering all workers separated on or after August 31, 1992.

TA-W-28,808; ABB Power T&D Co., Inc., Capacitor Div., Bloomington, IN

A certification was issued covering all workers separated on or after June 17, 1992.

TA-W-28,953; GCA Tropel, Fairport, NY

A certification was issued covering all workers separated on or after July 16, 1992.

I hereby certify that the aforementioned determinations were issued during the month of September 1993. Copies of these determinations are available for inspection in room C-4318, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 during normal business hours or will be mailed to persons to write to the above address.

Dated: September 27, 1993.

Marvin M. Fooks,

Director, Office of Trade and Adjustment Assistance.

[FR Doc. 93-24371 Filed 10-4-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,917]

Lake Shore, Inc., Ontonagon, Michigan; Termination of Investigation

Pursuant to section 221 of the Trade Act of 1974, an investigation was initiated on August 2, 1993, in response to a worker petition which was filed on August 2, 1993, by a company official on behalf of workers at Lake Shore, Inc., Ontonagon, Michigan.

The petitioner has requested that the petition be withdrawn. Consequently, further investigation in this case would serve no purpose, and the investigation has been terminated.

Signed at Washington, DC this 27th day of September, 1993.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 93-24348 Filed 10-4-93; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-28,605A]

Alcoa Electronic Packaging, Alcoa Center, PA; Negative Determination on Reconsideration

On September 14, 1993, the Department issued an Affirmative Determination Regarding Application for Reconsideration for former workers of the subject firm. The notice will soon be published in the **Federal Register**.

One of the petitioners claims that the Department's investigation concerned itself with the research and development facility at Alcoa Center and not the Alcoa Electronic Packaging, an affiliate.

The Department's denial was based on the fact that the workers at the Alcoa Technical Center do not produce an article within the meaning of the Trade Act. The workers perform research and development operations.

Workers providing services can only be certified in very limited circumstances. Their worker separations must have been caused by a reduced demand for their services from a parent or controlling firm or subdivision whose workers produce an article and who are currently under a certification for TAA.

Findings on reconsideration show that the workers at the Alcoa Electronic Packaging produce prototype articles. This production was transferred to its San Diego, California plant where production increased in the period relevant to the petition. A domestic transfer of production would not provide a basis for a worker group certification.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance for former workers of the Alcoa Electronic Packaging in Alcoa Center, Pennsylvania.

Signed at Washington, DC, this 21st day of September 1993.

Stephen A. Wandner,

Deputy Director, Office of Legislation & Actuarial Service, Unemployment Insurance Service.

[FR Doc. 93-24368 Filed 10-4-93; 8:45 am]

BILLING CODE 4510-30-M

Occupational Safety and Health Administration

Iowa State Standards; Approval

1. Background

Part 1953 of title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667; hereinafter called the Act) by which the Regional Administrators for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR part 1902. On July 20, 1973, notice was published in the **Federal Register** (38 FR 19368) of the approval of the Iowa Plan and the adoption of subpart J of part 1952 containing the decision. Iowa was granted final approval under section 18(e) of the Act on July 2, 1985.

The Iowa Plan provides for the adoption of Federal standards (by reference after comments and public hearing). By letter dated April 20, 1993, from Walter H. Johnson, Deputy Labor Commissioner, to Alonzo L. Griffin, Area Director and incorporated as part of the Plan, the State submitted State standards comparable to: Permit-required Confined Spaces for General Industry, Final Rule; 29 CFR 1910.146; as published in the **Federal Register** (58 FR 4549, dated January 14, 1993). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comment requested February 17, 1993; hearing scheduled for March 11, 1993; (no comments were received); and resolution adopted by the Division of Labor Services on April 14, 1993, pursuant to Chapter 17a, Iowa Code. The standard was effective April 14, 1993; and notice of its adoption was published by the State on April 14, 1993.

By letter dated January 6, 1993, from the Walter H. Johnson, Deputy Labor Commissioner, to Alonzo L. Griffin, Area Director and incorporated as part of the Plan, the State submitted State standards comparable to: Occupational Exposure to Cadmium, Final Rule; 29 CFR 1910.19, 29 CFR 1910.1000, 29 CFR 1910.1027, and 29 CFR 1926.63; as published in the **Federal Register** (57 FR 42388, dated September 14, 1992). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comment requested October 28, 1992; hearing scheduled for November 19, 1992; (no comments were received); and resolution adopted by the Division of Labor Services on December 23, 1992, pursuant to Chapter 17a, Iowa Code. The standard was effective December 23, 1992, and notice of its adoption was published by the State on December 23, 1992.

Additionally, by letter dated November 23, 1992, from Walter H. Johnson, Deputy Labor Commissioner, to Alonzo L. Griffin, Area Director and incorporated as part of the Plan, the State submitted State standards comparable to: Occupational Exposure

to 4,4' Methylenedianiline(MDA) Final Rule: 29 CFR 1910.19, 29 CFR 1910.1000, 29 CFR 1910.1050, and 29 CFR 1926.60; as published in the **Federal Register** (57 FR 35666, dated August 10, 1992). This Standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comment requested September 2, 1992; hearing scheduled for September 24, 1992; (no comments were received); and resolution adopted by the Division of Labor Services on October 28, 1992, pursuant to Chapter 17a, Iowa Code. The standard was effective October 28, 1992; and notice of its adoption was published by the State on October 28, 1992.

Additionally, by letter dated October 5, 1992, from Walter H. Johnson, Deputy Labor Commissioner, to Alonzo L. Griffin, Area Director and incorporated as part of the Plan, the State submitted State standards comparable to: Occupational Exposure to Formaldehyde, Correction, 29 CFR 1910.1048; as published in the **Federal Register** (57 FR 27160, dated June 18, 1992). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comment requested August 5, 1992; hearing scheduled for August 27, 1992; (no comments were received); and resolution adopted by the Division of Labor Services on September 30, 1992, pursuant to Chapter 17a, Iowa Code. The standard was effective September 30, 1992; and notice of its adoption was published by the State on September 30, 1992.

In the October 5, 1992 letter, the State also submitted State standards comparable to: Update of Addresses for Obtaining Technical Manuals Corrections; 29 CFR 1910.1450 and 29 CFR 1910.1500; as published in the **Federal Register** (57 FR 29204, dated July 1, 1992). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comment requested August 5, 1992; hearing scheduled for August 27, 1992; (no comments were received); and resolution adopted by the Division of Labor Services on September 30, 1992, pursuant to Chapter 17a, Iowa Code. The standard was effective September 30, 1992; and notice of its adoption was published by the State on September 30, 1992.

In the October 5, 1992 letter, the State also submitted State standards comparable to: Air Contaminants Corrections, 29 CFR 1910.1000; as published in the **Federal Register** (57 FR 29204, dated July 1, 1992). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comment requested August 5, 1992; hearing scheduled for August 27, 1992; (no comments were received); and resolution adopted by the Division of Labor Services on September 30, 1992, pursuant to Chapter 17a, Iowa Code. The standard was effective September 30, 1992; and notice of its adoption was published by the State on September 30, 1992.

In the October 5, 1992 letter, the State also submitted State standards comparable to: Occupational Exposure to Bloodborne Pathogens Corrections, 29 CFR 1910.1030; as published in the **Federal Register** (57 FR 29206, dated July 1, 1992). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comment requested August 5, 1992; hearing scheduled for August 27, 1992 (no comments were received); and resolution adopted by the Division of Labor Services on September 30, 1992, pursuant to Chapter 17a, Iowa Code. The standard was effective September 30, 1992; and notice of its adoption was published by the State on September 30, 1992.

In the October 5, 1992 letter, the State also submitted State standards comparable to: Occupational Exposure to Asbestos, Tremolite, Anthophyllite, Actinolite, correction, 29 CFR 1926.58; as published in the **Federal Register** (57 FR 29119, dated June 30, 1992). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comment requested August 5, 1992, hearing scheduled for August 27, 1992 (no comments were received); and resolution adopted by the Division of Labor Services on September 30, 1992, pursuant to Chapter 17a, Iowa Code. The standard was effective September 30, 1992; and notice of its adoption was published by the State on September 30, 1992.

Additionally, by letter dated September 25, 1992, from Walter H. Johnson, Deputy Labor Commissioner, to Alonzo L. Griffin, Area Director and incorporated as part of the Plan, the State submitted State standards comparable to: Occupation Exposure to Formaldehyde, 29 CFR 1910.1048; as published in the **Federal Register** (57 FR 22307, dated May 27, 1992). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comment requested June 24, 1992; hearing scheduled for July 16, 1992 (no comments were received); and resolution adopted by the Division of Labor Services on August 19, 1992, pursuant to Chapter 17a, Iowa Code. The standard was effective August 19, 1992; and notice of its adoption was published by the State on August 19, 1992.

In the September 25, 1992 letter, the State also submitted State standards comparable to: Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite, amendment; 29 CFR 1910.1001 and 29 CFR 1926.58; as published in the **Federal Register** (57 FR 24330, dated June 8, 1992). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comment requested July 8, 1992; hearing scheduled for July 30, 1992 (no comments were received); and resolution adopted by the Division of Labor Services on September 2, 1992, pursuant to Chapter 17a, Iowa Code. The standard was effective September 2, 1992; and notice of its adoption was published by the State on September 2, 1992.

In the September 25, 1992 letter, the State also submitted State standards comparable to: Occupational Exposure to Formaldehyde, Correction; 29 CFR 1910.1048; as published in the **Federal Register** (57 FR 24701, dated June 10, 1992). This standard, which is contained in Chapter 88 of the Code of Iowa (1983), was promulgated after public comment requested July 8, 1992; hearing scheduled for July 30, 1992 (no comments were received); and resolution adopted by the Division of Labor Services on September 2, 1992, pursuant to Chapter 17a, Iowa Code. The standard was effective September 2, 1992; and notice of its adoption was published by the State on September 2, 1992.

2. Division

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the comparable Federal standards and should therefore be approved.

3. Location of Supplement for Inspection and Copying

A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Directorate of Federal/State Operations, Office of State Programs, room N3700, 200 Constitution Avenue, NW., Washington, DC 20210; Office of the Regional Administrator, Occupational Safety and Health Administration, 406 Federal Office Building, 911 Walnut Street, Kansas City, Missouri 64106; and Division of

Labor Services, 1000 East Grand Avenue, Des Moines, Iowa 50319.

4. Public Participation

Under 29 CFR 1953.2(c) of this Chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Iowa State Plan as a proposed change and for making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are identical to the comparable Federal standards and are therefore deemed to be at least as effective.

2. The standards were adopted in accordance with the procedural requirements of State law and further public participation and notice would be unnecessary.

This decision is effective October 5, 1993.

(Section 18, Public Law 91-596, 84 Stat. 1608 [29 U.S.C. 667])

Signed at Kansas City, Missouri, this 9th day of August 1993.

John T. Phillips,

Regional Administrator.

[FR Doc. 93-24347 Filed 10-4-93; 8:45 am]

BILLING CODE 4510-26-M

Pension and Welfare Benefits Administration

Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Defined Contribution Plans 401(k) of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9:30 a.m./12:30 p.m., Tuesday, October 19, 1993, in suite S-4215 ABC, U.S. Department of Labor Building, Third and Constitution Avenue NW., Washington, DC 20210

This Working Group was formed by the Advisory Council to study issues relating to Defined Contribution Plans—401(k) for employee benefit plans covered by ERISA.

The purpose of the October 19 meeting is to discuss the Work Groups' findings and preliminary conclusions concerning the implications of the growth in Defined Contribution Plans, especially with respect to coverage, eligibility and participation issues. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit a written request on or before October 14, 1993 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677, 200 Constitution Avenue NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 14, 1993.

Signed at Washington, DC, this 29th day of September, 1993.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 93-24386 Filed 10-4-93; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Prohibited Transactions of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 9 a.m./Noon, Wednesday, October 20, 1993, in suite S-4215 ABC, U.S. Department of Labor Building, Third and Constitution Avenue NW., Washington, DC 20210.

This Working Group was formed by the Advisory Council to study issues relating to Prohibited Transactions for employee benefit plans covered by ERISA.

The purpose of the October 20 meeting is to take testimony, review a draft report, and discuss preliminary conclusions and recommendations. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit a written request on or before October 14, 1993 to William E. Morrow, Executive Secretary, ERISA Advisory Council. U.S. Department of Labor, suite N-5677, 200 Constitution Avenue NW., Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statements should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 14, 1993.

Signed at Washington, DC this 29th day of September, 1993.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 93-24389 Filed 10-4-93; 8:45 am]

BILLING CODE 4510-29-M

Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Working Group on Economically Targeted Investments (ETI) of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held at 1:30 p.m./4 p.m., Tuesday, October 19, 1993, in suite S-4215 ABC, U.S. Department of Labor Building, Third and Constitution Avenue NW., Washington, DC 20210.

This Working Group was formed by the Advisory Council to study issues relating to ETI for employee benefit plans covered by ERISA.

The purpose of the October 19 meeting is to discuss the Work Groups findings and preliminary conclusions concerning the establishment of an Economically Targeted Clearinghouse. The Working Group will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding the subject matter.

Individuals, or representatives of organizations wishing to address the Working Group should submit a written request on or before October 14, 1993 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N-5677, 200 Constitution Avenue, NW. Washington, DC 20210. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record

without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 14, 1993.

Signed at Washington, DC this 29th day of September, 1993.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 93–24390 Filed 10–4–93; 8:45 am]

BILLING CODE 4510–29–M

Advisory Council on Employee Welfare and Pension Benefits Plans; Meeting

Pursuant to the authority contained in section 512 of the Employee Retirement Security Act of 1974 (ERISA), 29 U.S.C. 1142, a public meeting of the Advisory Council on Employee Welfare and Pension Benefit Plans will be held on Wednesday, October 20, 1993, in suite S–4215 ABC, U.S. Department of Labor Building, Third and Constitution Avenue NW., Washington, DC 20210.

The purpose of the Eighty-First meeting of the Secretary's ERISA Advisory Council which will begin at 1:30 p.m./4 p.m., is to hear reports on the status of the three work group efforts and conduct any other business that may come before the Council. The Council has established three work groups i.e., Economically Targeted Investments, Prohibited Transactions and Defined Contribution Plans—401(k). The Council will also take testimony and or submissions from employee representatives, employer representatives and other interested individuals and groups regarding any aspect of the administration of ERISA.

Members of the public are encouraged to file a written statement pertaining to any topic concerning ERISA by submitting 20 copies on or before October 14, 1993 to William E. Morrow, Executive Secretary, ERISA Advisory Council, U.S. Department of Labor, suite N–5677, 200 Constitution Avenue NW., Washington, DC 20210. Individuals or representatives of organizations wishing to address the Advisory Council should forward their request to the Executive Secretary or telephone (202) 219–8753. Oral presentations will be limited to ten minutes, but witnesses may submit an extended statement for the record.

Organizations or individuals may also submit statements for the record without testifying. Twenty (20) copies of such statement should be sent to the Executive Secretary of the Advisory Council at the above address. Papers will be accepted and included in the record of the meeting if received on or before October 14, 1993.

Signed at Washington, DC this 29th day of September 1993.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 93–24391 Filed 10–4–93; 8:45 am]

BILLING CODE 4510–29–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 93–079]

Agency Report Forms Under OMB Review

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of agency report forms under OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), agencies are required to submit proposed information collection requests to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made the submission.

Copies of the proposed forms, the requests for clearance (S.F. 83's), supporting statements, instructions, transmittal letters and other documents submitted to OMB for review, may be obtained from the Agency Clearance Officer. Comments on the items listed should be submitted to the Agency Clearance Officer and the OMB Paperwork Reduction Project.

DATES: Comments are requested by November 4, 1993. If you anticipate commenting on a form but find that time to prepare will prevent you from submitting comments promptly, you should advise the OMB Paperwork Reduction Project and the Agency Clearance Officer of your intent as early as possible.

ADDRESSES: Ms. Eva L. Layne, Acting NASA Agency Clearance Officer, Code JTD, NASA Headquarters, Washington, DC 20546; Office of Management and Budget, Paperwork Reduction Project (2700–0003), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Shirley C. Peigare, NASA Reports Officer, (202) 358–1374.

Reports

Title: NASA Contractor Financial Management Reports.
OMB Number: 2700–0003.
Type of request: Extension.
Frequency of report: MO, QU.
Type of respondent: Businesses or other for-profit.
Number of respondents: 1,100.
Responses per respondent: 14.
Annual responses: 15,400.
Hours per response: 12.
Annual burden hours: 184,800.
Abstract-need/uses: The NASA Form 533 series is the basic financial management medium for reporting data needed by project management for evaluation of contractor cost as it relates to schedule and technical performance; and reporting actual and projected data assuring that contractor performance is realistically planned and supported by dollar resources.

Dated: September 28, 1993.

Eva L. Layne,

Acting Chief, IRM Policy, and Acquisition Management Office.

[FR Doc. 93–24396 Filed 10–4–93; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL SCIENCE FOUNDATION

Forms Submitted for OMB Review

In accordance with the Paperwork Reduction Act and OMB Guidelines, the National Science Foundation is posting this notice of information collection that will affect the public. Interested persons are invited to submit comments by November 5, 1993. Comments may be submitted to:

1. *Agency Clearance Officer:* Herman G. Fleming, (202) 357–7335. Written comments to: Reports Clearance Officer, Division of Personnel and Management, National Science Foundation, 1800 G Street NW., Washington, DC 20550. Copies of materials may be obtained at the above address or telephone.

2. *OMB Desk Officer:* Written comments to: Office of Information and Regulatory Affairs, ATTN: Dan Chenok, Desk Officer, OMB, 722 Jackson Place, room 3208, NEOB, Washington, DC 20503.

Title: National Science Foundation Reviewer Background and Proposal Evaluation Process.
Affected Public: Individuals.
Responses/Burden Hours: 15,000 responses to the background data sheets at 5 minutes per response; 150,000 proposal evaluations at 5 hours per evaluation.
Abstract: The National Science Foundation's scientists, engineers and other officials evaluate all proposals submitted to the agency. To assist them in the evaluation process, the Foundation obtains the advice of scientists, engineers and others who are specialists in the fields covered in the proposals. Assistance is obtained

through mail review and assembled panels.

Dated: September 30, 1993.

Herman G. Fleming,

NSF Clearance Officer.

[FR Doc. 93-24451 Filed 10-4-93; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-364]

Southern Nuclear Operating Company, Inc.; Consideration of Issuance of Amendment to Facility Operating License, Proposed No Significant Hazards Consideration Determination, and Opportunity for a Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-8 issued to Southern Nuclear Operating Company, Inc. (the licensee), for operation of the Joseph M. Farley Nuclear Plant, Unit 2 (Farley 2), located in Houston County, Alabama.

The proposed amendment would modify the Technical Specifications (TS), on an interim basis, to replace the percent tube wall degradation criteria currently employed with a more appropriate method for determining serviceability of tubes with flaw indications at the tube support plate intersections.

The staff finds that exigent circumstances exist in that a failure to act promptly would result in a delay in startup from the current Farley Unit 2 refueling outage. The requested TS amendments are required to support performance of the surveillances necessary to declare the Farley Unit 2 steam generators operable prior to proceeding to mode 4.

Before 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.

Pursuant to 10 CFR 50.91(a)(6) for amendments to be granted under exigent circumstances, the NRC staff must determine that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

(1) Operation of Farley Unit 2 in accordance with the proposed license amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

Testing of model boiler specimens for free standing tubes at room temperature conditions show burst pressures as high as approximately 5000 psi for indications of outer diameter stress corrosion cracking with voltage measurements as high as 26.5 volts. Burst testing performed on pulled tubes with up to 10 volt indications show burst pressures in excess of 5900 psi at room temperature. Correcting for the effects of temperature on material properties and minimum strength levels (as the burst testing was done at room temperature), tube burst capability significantly exceeds the [Regulatory Guide] R.G. 1.21 criterion requiring the maintenance of a margin of three times normal operating pressure differential on tube burst if through-wall cracks are present. Based on the existing data base, this criterion is satisfied with bobbin coil indications with signal amplitudes several times the 1.0 volt interim plugging criteria, regardless of the indicated depth measurement. This structural limit is based on a lower 95% confidence level limit of the data. The 1.0 threshold volt criteria provides an extremely conservative margin of safety to the structural limit considering expected growth rates of ODSCC [outside diameter stress corrosion cracking] at Farley. Alternate crack morphologies can correspond to a voltage so that a unique crack length is not defined by a burst pressure to voltage correlation. However, relative to expected leakage during normal operating conditions, no field leakage has been reported from tubes with indications with a voltage level of under 7.7 volts for a ¾ inch tube with a 1.0 volt correlation to ⅞ inch tubing (as compared to the 1.0 volt proposed interim tube plugging limit).

Relative to the expected leakage during accident condition loadings, the accidents that are affected by primary-to-secondary leakage and steam release to the environment are Loss of External Electrical Loan and/or Turbine Trip, Loss of All AC Power to Station Auxiliaries, Major Secondary System Pipe Failure, Steam Generator Tube Rupture, Reactor Coolant Pump Locked Rotor, and Rupture of a Control Rod Drive Mechanism Housing. Of these, the Major Secondary System Pipe Failure is the most limiting for Farley in considering the potential for off-site doses. The offsite dose analyses for the other events which model primary-to-secondary leakage and steam release from the secondary side to the environment assume that the secondary side remains intact. The steam generator tubes are not subjected to a sustained increase in differential pressure, as is the case following a steam line break event. This increase in differential pressure is responsible for the postulated increase in leakage and associated offsite doses following a steam like break event. Upon implementation of the interim plugging criteria, it must be verified that the expected distribution of cracking indications at the tube support plate intersections are such that primary-to-secondary leakage would result in site boundary dose within the current licensing basis. Data indicate that a threshold voltage of 2.8 volts would result in through-wall cracks long enough to leak at SLB [steam line break] conditions. Application of the proposed plugging criteria requires that the current distribution of a number of indications versus voltage be obtained during the refueling outages. The current voltage is then combined with the rate of change in voltage measurement to establish an end of cycle voltage distribution and, thus, leak rate during SLB pressure differential. If it is found that the potential SLB leakage for degraded intersections planned to be left in service is greater than the current licensing basis limit, then additional tubes will be plugged or repaired to reduce SLB leakage potential to within the acceptance limit.

(2) The proposed license amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Implementation of the proposed interim tube support plate elevation steam generator tube plugging criteria does not introduce any significant changes to the plant design basis. Use of the criteria does not provide mechanism which could result in an accident outside of the region of the tube support plate elevations. Neither a single or multiple tube rupture event would be expected in a steam generator in which the plugging criteria has been applied (during all plant conditions). The bobbin probe signal amplitude plugging criteria is established such that operational leakage or excessive leakage during a postulated steam line break condition is not anticipated. SNC [Southern Nuclear Operating Company] will implement a maximum leakage rate limit of 150 gpd per steam generator on Unit 2 to help preclude the potential for excessive leakage during all plant conditions upon application of the plugging criteria. The R.G. 1.121 criterion for establishing operational leakage rate limits that require plant shutdown are based upon leak-before-break considerations to detect a free span crack before potential tube rupture. The 150 gpd limit provides for leakage detection and plant shutdown in the event of the occurrence of an unexpected single crack resulting in leakage that is associated with the longest permissible crack length. R.G. 1.121 acceptance criteria for establishing operating leakage limits are based on leak-before-break considerations such that plant shutdown is initiated if the leakage associated with the longest permissible crack is exceeded. The longest permissible crack is the length that provides a factor of safety of three against bursting at normal operating pressure differential. A voltage amplitude of approximately 4 volts for typical ODSCC corresponds to meeting this tube burst requirement at the 95% prediction interval on the burst correlation. Alternate crack morphologies can correspond to a voltage so

that a unique crack length is not defined by the burst pressure versus voltage correlation.

Consequently, typical burst pressure versus through-wall crack length correlations are used below to define the "longest permissible crack" for evaluating operating leakage limits.

The single through-wall crack lengths that result in tube burst at three times normal operating pressure differential and SLB conditions are about 0.42 inch and 0.84 inch, respectively. Normal leakage for these crack lengths would range from 0.11 gallons per minute to 4.5 gallons per minute, respectively, while lower 95% confidence level leak rates would range from about 0.02 gallons per minute to 0.6 gallons per minute, respectively.

An operating leak rate of 150 gpd will be implemented in application of the tube plugging limit. This leakage limit provides for detection of 0.4 inch long cracks at nominal leak rates and 0.6 inch long cracks at the lower 95% confidence level leak rates. Thus, the 150 gpd limit provides for plant shutdown prior to reaching critical crack lengths for SLB conditions at leak rates less than a lower 95% confidence level and for three times normal operating pressure differential at less than nominal leak rates.

(3) The proposed license amendment does not involve a significant reduction in margin of safety.

The use of the interim tube support plate elevation plugging criteria is demonstrated to maintain steam generator tube integrity commensurate with the requirements of R.G. 1.121. R.G. 1.21 describes a method acceptable to the NRC staff for meeting GDCs [General Design Criteria] 2, 14, 15, 31, and 32 by reducing the probability of the consequences of steam generator tube rupture. This is accomplished by determining the limiting conditions of degradation of steam generator tubing, as established by inservice inspection, for which tubes with unacceptable cracking should be removed from service. Upon implementation of the criteria, even under the worst case conditions, the occurrence of ODSCC at the tube support plate elevations is not expected to lead to a steam generator tube rupture event during normal or faulted plant conditions. The most limiting effect would be a possible increase in leakage during a steam line break event. Excessive leakage during a steam line break event, however, is precluded by verifying that, once the criteria are applied, the expected end of cycle distribution of crack indications at the tube support plate elevations would result in minimal, and acceptable primary to secondary leakage during the event, and hence, to help to demonstrate radiological conditions are less than a small fraction of the 10 CFR 100 guideline.

In addressing the combined effects of LOCA+SSE [loss-of-coolant accident plus safe shutdown earthquake] on the steam generator component (as required by GDC 2), it has been determined that tube collapse may occur in the steam generators at some plants. This is the case as the tube support plates may become deformed as a result of lateral loads at the wedge supports at the periphery of the plate due to either the LOCA rarefaction wave and/or SSE loadings. Then, the resulting pressure differential on the deformed tubes may cause some of the tubes to collapse.

Additionally, the margin to burst for the tubes using the interim plugging criteria is comparable to that currently providing by existing technical specifications.

There are two issues associated with steam generator tube collapse. First, the collapse of steam generator tubing reduces the RCS flow area through the tubes. The reduction in flow area increases the resistance to flow of steam from the core during a LOCA which, in turn, may potentially increase Peak Clad Temperature (PCT). Second, there is a potential the partial through-wall cracks in tubes could progress to through-wall cracks during tube deformation or collapse.

Consequently, a detailed leak-before-break analysis was performed and it was concluded that the leak-before-break methodology (as permitted by GDC4) is applicable to the Farley Unit 1 and 2 reactor coolant system primary loops and, thus, the probability of breaks in the primary loop piping is sufficiently low that they need not be considered in the structural design basis of the plant. Excluding breaks in the RCS primary loops, the LOCA loads from the large branch line breaks were analyzed at Farley Unit 1 and 2 and were found to be of insufficient magnitude to result in steam generator tube collapse or significant deformation.

Regardless of whether or not leak-before-break is applied to the primary loop piping at Farley, any flow area reduction is expected to be minimal (much less than 1%) and PCT margin is available to account for this potential effect. Based on analyses results, no tubes near wedge locations are expected to collapse or deform to the degree that secondary to primary in-leakage would be increased over current expected levels. For all other steam generator tubes, the possibility of secondary-to-primary leakage in the event of a LOCA + SSE event is not significant. In actuality, the amount of secondary-to-primary leakage in the event of a LOCA + SSE is expected to be less than that currently allowed, i.e., 500 gpd per steam generator. Furthermore, secondary-to-primary in-leakage would be less than primary-to-secondary leakage for the same pressure differential since the cracks would tend to tighten under a secondary-to-primary pressure differential. Also, the presence of the tube support plate is expected to reduce the amount of in-leakage.

Addressing the R.G. 1.83 considerations, implementation of the tube plugging criteria is supplemented by 100% inspection requirements at the tube support plate elevations having ODSCC indications, reduced operating leak rate limits, eddy current inspection guidelines to provide consistency in voltage normalization, and rotating pancake coil inspection requirements for the larger indications left in service to characterize the principal degradation mechanism as ODSCC.

As noted previously, implementation of the tube support plate elevation plugging criteria will decrease the number of tubes which must be taken out of service with tube plugs or repaired. The installation of steam generator tube plugs or tube sleeves would reduce the RCS flow margin, thus implementation of the interim plugging criteria will maintain the margin of flow that would otherwise be reduced through increased tube plugging or sleeving.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 15 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of the 15-day notice period. However, should circumstances change during the notice period, such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 15-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish in the **Federal Register** a notice of issuance. The Commission expects that the need to take this action will occur very infrequently.

Written comments may be submitted by mail to the Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice. Written comments may also be delivered to room P–223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland, from 7:30 a.m. to 4:15 p.m. Federal workdays. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555.

The filing of requests for hearing and petitions for leave to intervene is discussed below.

By October 20, 1993, 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 a hearing and a petition for leave to intervene. Requests for a hearing and a petition for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the local public document room located at Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Alabama 36302. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, 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 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 15 days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendment under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If the amendment is issued before the expiration of the 30-day hearing period, the Commission will make a final determination on the issue of no significant hazards consideration. If a hearing is requested, the final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment request involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Services Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555, by the above date. Where petitions are filed during the last 10 days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 248-5100 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number N1023 and the following message addressed to [APPROPRIATE PD]: 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 [ADDRESS OF ATTORNEY], attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the 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).

For further details with respect to this action, see the application for amendment dated May 28, 1993, as supplemented July 29, 1993, September 14, 1993 and September 22, 1993, which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street NW., Washington, DC 20555 and at the local public document room located at Houston-Love Memorial Library, 212 W. Burdeshaw Street, P.O. Box 1369, Dothan, Alabama 36302.

Dated at Rockville, Maryland, this 30th day of September 1993.

For the Nuclear Regulatory Commission.

Timothy A. Reed,

Project Manager, Project Directorate II-1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93-24501 Filed 10-4-93; 8:45 am]

BILLING CODE 7590-01-M

Workshop on Environmental Qualification of Electric Equipment

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of public workshop.

SUMMARY: The Commission's regulations in 10 CFR 50.49 set forth the requirements for the environmental qualification (EQ) of electric equipment for nuclear power plants. As a result of the NRC staff's activities in license renewal, EQ was identified as an area that required further review. Subsequently, the NRC staff concluded in SECY-93-049 (Implementation of 10 CFR part 54, "Requirements for Renewal

of Operating Licenses for Nuclear Power Plants"), that differences in the licensing bases in EQ requirements between older and newer plants constituted a potential generic issue for operating nuclear power plants which should be evaluated for independent of license renewal activities. As part of the NRC staff's evaluation of this potential generic issue, a preliminary risk scoping analysis, performed by the NRC staff, concluded that failures of equipment within the scope of 10 CFR 50.49 could have a significant risk impact. Further, Sandia National Laboratories' (SNL) recent test results (NUREG/CR-5772, "Aging, Condition Monitoring, and Loss-of-Coolant Accident (LOCA) Tests of Class 1E Electrical Cables" Volumes 1, 2, and 3) raise questions with respect to the environmental qualification and accident performance capability of certain electrical cables.

The NRC staff is currently developing programs to answer technical questions related to environmental qualification of electric equipment. One part of these activities is the development of a research program plan which will focus on the most significant technical issues related to environmental qualification of electric equipment.

As part of the effort to develop this research program plan, the staff will conduct a public workshop to solicit comments on several issues related to environmental qualification of electric equipment within the scope of 10 CFR 50.49. Emphasis will be placed on the technical aspects of (1) artificially accelerated aging practices, (2) condition monitoring methods of naturally aged cables, (3) operating experience, and (4) current qualification testing methods. Subsequent to the workshop, the NRC staff will publish a summary of workshop results. Written comments on the issues to be covered in the workshop, as described in the questions presented later in this notice, will be accepted before, during, and after the workshop. Advance comments, which could serve to enhance the effectiveness of the workshop, are particularly solicited. Advance notification of the desire to make statements during the workshop is requested.

DATES: October 29, 1993—Notification of intent to attend the workshop, desire to comment or make a presentation during the workshop, or both, should be received by Mr. Robert Lafaro, Brookhaven National Laboratory, Upton, New York 11973, Telephone (516) 282-7191, FAX (516) 282-3957.

November 15-16, 1993—The workshop will be held at the Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, MD 20852, Telephone (800) 638-5963, FAX (301) 468-0163, from 8 a.m. to 5 p.m.

December 17, 1993—All written comments on matters covered by the workshop received by this date will be considered by the staff. Written comments received after December 17, 1993, will be considered to the extent practical.

ADDRESSES: The workshop will be held at the Holiday Inn Crowne Plaza, 1750 Rockville Pike, Rockville, Maryland 20852, Telephone (301) 468-1100, FAX (301) 468-0308.

Written comments may be sent to the Chief, Rules Review and Directives Branch, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

Hand-delivered comments will be accepted at 7920 Norfolk Ave., Bethesda, Maryland 20814, between 7:30 a.m. and 4:15 p.m. on Federal workdays.

Copies of comments received and relevant reference documents may be examined at the NRC Public Document Room at 2120 L Street NW (lower level), Washington, DC, between the hours of 7:45 a.m. and 4:15 p.m. on Federal workdays.

ADMISSION: Prior registration is required. Due to space limitations, only the first 200 registrants are assured participation.

FOR FURTHER INFORMATION CONTACT:

1. Administrative Contact: Aleck W. Serkiz, Office of Nuclear Regulatory Research, Mail Stop NLS314, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone (301) 492-3942, FAX (301) 492-3892.

2. Technical Contacts: (1) Paul C. Shemanski, Office of Nuclear Reactor Regulation, Mail Stop OWFN 11F23, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone (301) 504-1377, FAX (301) 504-2260, or (2) Satish K. Aggarwal, Office of Nuclear Regulatory Research, Mail Stop NLS-217B, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Telephone (301) 492-3823, FAX (301) 492-3696.

SUPPLEMENTARY INFORMATION:

Introduction

The purpose of this workshop is to solicit information and views on various EQ issues related to electric equipment within the scope of 10 CFR 50.49, "Environmental Qualification of Electric Equipment Important to Safety for Nuclear Power Plants."

The following discussion includes a tentative workshop agenda and a partial set of questions that identify selected EQ issues related to near-term and long-term research activities.

TENTATIVE AGENDA:

November 14, 1993,

5:00 p.m.-7:00 p.m.—Registration

November 15, 1993

7:30 a.m.—Registration
8:00 a.m.—Introduction
8:30 a.m.—NRR Task Action Plan
9:00 a.m.—Preaging/Preconditioning
10:30 a.m.—Break
10:45 a.m.—EQ Operating Experience
12:15 p.m.—Lunch
1:30 p.m.—Condition Monitoring Methods
3:00 p.m.—Break
3:15 p.m.—EQ Testing
4:30 p.m.—Summary
5:00 p.m.—Adjourn

November 16, 1993

8:30 a.m.-12:15 p.m.—Breakout Sessions
1. Preaging/Preconditioning
2. EQ Operating Experience
3. Condition Monitoring Methods
4. EQ Testing
12:15 p.m.—Lunch
1:30 p.m.-4:30 p.m.—Session Chairman Reports
4:30 p.m.—Summary and Conclusions

WORKSHOP CONTENT AND STRUCTURE: The workshop is structured to include sessions during the first day in which presentations will be made on preaging, EQ operating experience, condition monitoring, and EQ testing. An opportunity for questions and comments following each presentation is planned. During the second day, there will be four breakout sessions on the topics noted above in the morning, followed by an afternoon plenary session that will include reports from the breakout session chairmen.

To foster meaningful discussions during the workshop and to aid participants in preparing their presentations and comments on various technical EQ issues, participants should consider the following set of questions. These questions are not inclusive, but are provided to help discussions in each session.

Preaging/Preconditioning

- What are the limitations associated with preaging/preconditioning electric equipment prior to LOCA testing in terms of simulating an end-of-life condition?
- Are the state-of-the-art preconditioning techniques capable of simulating age-related degradation? What are the uncertainties when preconditioning test samples employing the Arrhenius methodology?

• What are the uncertainties in using the Arrhenius methodology for determining the qualified life of components?

EQ Operating Experience

• How many and what types of failures of cables are occurring at operating nuclear power plants?

• Is environmentally qualified electric equipment experiencing age-related degradation that requires repair or replacement prior to reaching the end of its qualified life?

• What are the root causes of premature failures of qualified equipment (e.g., cables, connections)?

Condition Monitoring Methods

• Which is situ inspections and condition monitoring methods for cables are available?

• What are the respective limitations of these methods?

• How effective are these methods?

EQ Testing

• What are the limitations associated with sequential vs. simultaneous testing, synergistic effects, and dose rate considerations?

• What are the limitations resulting from testing only one prototype (IEEE 323–1974)?

• How are weak links in cables (such as thermal/radiation hot spots, interfaces between cables and connections, and long cable overhangs) both (1) identified and (2) accounted for in qualification testing?

Dated in Rockville, Maryland, this 30th day of September 1993.

For the Nuclear Regulatory Commission.

John W. Craig,

Deputy Director, Division of Engineering, Office of Nuclear Regulatory Research.

[FR Doc. 93–24452 Filed 10–4–93; 8:45 am]

BILLING CODE 7590–01–M

POSTAL RATE COMMISSION

[Docket No. A93–19]

Notice and Order Accepting Appeal and Establishing Procedural Schedule Under 39 U.S.C. 404(b)(5)

Issued September 29, 1993.

Before Commissioners: George W. Haley, Chairman; John W. Crutcher; W. H. "Trey" LeBlanc III; H. Edward Quick, Jr.; Wayne A. Schley

In the matter of: Cataract, Wisconsin 54620 (Helen F. Swansboro, et al., Petitioners).

Docket Number: A93–19

Name of Affected Post Office: Cataract, Wisconsin 54620

Name(s) of Petitioner(s): Helen F. Swansboro and others

Type of Determination: Consolidation

Date of Filing of Appeal Papers: September 24, 1993

Categories of Issues Apparently Raised:

1. Effect on the community (39 U.S.C. 404(b)(2)(A));
2. Effect on postal services (39 U.S.C. 404(b)(2)(C)).
3. Economic savings (39 U.S.C. 404(b)(2)(D)).

Other legal issues may be disclosed by the record when it is filed; or, conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition, in light of the 120-day decision schedule (39 U.S.C. 404(b)(5)), the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memoranda previously filed.

The Commission orders:

(A) The record in this appeal shall be filed on or before October 12, 1993.

(B) The Secretary shall publish this Notice and Order and Procedural Schedule in the **Federal Register**.

By the Commission.

Charles L. Clapp,

Secretary.

APPENDIX

September 24, 1993—Filing of Petition

September 29, 1993—Notice and Order of Filing of Appeal

October 19, 1993—Last day of filing of petitions to intervene (see 39 CFR 3001.111(b))

October 29, 1993—Petitioner's Participant Statement or Initial Brief (see 39 CFR 3001.115(a) and (b))

November 19, 1993—Postal Service Answering Brief (see 39 CFR 3001.115(c))

December 6, 1993—Petitioner's Reply Brief should Petitioner choose to file one (see 39 CFR 3001.115(d))

December 13, 1993—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings (see 39 CFR 3001.116)

January 21, 1994—Expiration of 120-day decisional schedule (see 39 U.S.C. 404(b)(5))

[FR Doc. 93–24423 Filed 10–4–93; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32956; File No. SR–CBOE–92–40]

Self-Regulatory Organizations; Order Approving Proposed Rule Change, and Notice of Filing and Order Granting Accelerated Approval to Amendments Nos. 1 and 2 to the Proposed Rule Change, by the Chicago Board Options Exchange, Inc., Relating to the Size of Orders Eligible for Entry in Retail Automated Execution System

September 24, 1993.

The Chicago Board Options Exchange, Inc. ("CBOE" or "Exchange"), filed with the Securities and Exchange Commission ("Commission"), on December 16, 1992, as amended on May 11, 1993, and July 23, 1993, pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b–4 thereunder,[2] a proposed rule change to permit the CBOE to increase, in one or more classes of multiply-traded equity options, the size of orders eligible for entry into the CBOE's Retail Automated Execution System ("RAES") to the extent necessary to match the size of orders eligible for entry into any other exchange's automated execution system.[3]

The proposed rule change was published for comment in Securities Exchange Act Release No. 31827 (February 5, 1993), 58 FR 9002 (February 18, 1993). No comments were received on the proposed rule change.[4]

[1] 15 U.S.C. 78s(b) (1988).

[2] 17 CFR 240.19b–4 (1993).

[3] Under RAES, eligible small public customer market or marketable limit orders are routed through the system and automatically executed at the prevailing market quote. Currently, RAES applies to orders of 20 contracts or less.

[4] The proposal was amended on May 11, 1993, and July 23, 1993. Amendment No. 1 deleted provisions of the proposal that related to RAES system upgrades designed to prevent orders for multiply-traded equity options from being executed at prices inferior to those available in other markets (i.e., "trade-troughs"). These provisions of the rule filing were re-filed as SR–CBOE–93–22 and approved by the Commission on September 14, 1993. See Securities Exchange Act Release No. 32879, 58 FR 49342 (September 22, 1993). Amendment No. 2 modifies proposed Interpretation .01 to CBOE Rule 6.8 to require that the CBOE file with the Commission, pursuant to section 19(b)(3)(A) of the Act, a notification of its intention to increase the RAES order size eligibility. The amendment requires that this notification include representations that the RAES system has the capacity to accommodate such an increase. See letters from Michael L. Meyer, Schiff Hardin & Waite, to Richard L. Zack, Branch Chief, Division of Market Regulation ("Division"), Commission, dated May 4, 1993 ("Amendment No. 1"), and from Michael L. Meyer, Schiff Hardin & Waite, to Sharon M. Lawson, Assistant Director, Division, Commission, dated July 19, 1993 ("Amendment No. 2").

The CBOE proposal adds Interpretation .01 to CBOE Rule 6.8 relating to the operation of RAES in equity options. Interpretation .01 will permit the CBOE to increase, in one or more classes of multiply-traded equity options, the size of orders eligible for entry into RAES to the extent necessary to match the size of orders eligible for entry into any other exchange's automated execution system.[5] The proposal further provides that any such increase in the order eligibility size will be conditioned on the CBOE's filing the specific terms of the increase for immediate effectiveness under section 19(b)(3)(A) of the Act. The proposal requires that the CBOE include, in the filing, representations that RAES has the capacity to accommodate the increase in the order eligibility size. Such representations will cover systems capacity as well as the market-making capacity of market-makers participating in RAES.[6]

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of sections 6 and 11A.[7] Specifically, the Commission continues to believe that the development and implementation of the RAES system provides for more efficient handling and reporting of orders in CBOE equity options through the use of new data processing and communications techniques, thereby improving order processing and turnaround time. The Commission also believes that permitting the CBOE to increase the RAES eligible order size is generally beneficial for the marketplace because it should increase overall the number of orders eligible for automatic execution and thus will extend the system's benefits, such as increased order routing efficiencies, to more customer orders.

Further, the Commission believes that providing the CBOE with an efficient method in which to increase RAES order size eligibility is consistent with sections 6(b)(5) and 11A(a)(1)(C) of the Act in that it facilitates transactions in securities and promotes fair competition among options markets by enhancing the benefits available to investors from a multiple trading environment. The Commission also believes that the proposal adequately protects investors and the public interest by conditioning the increase in order size eligibility on the CBOE's filing with the Commission, under section 19(b)(3)(A) of the Act, the specific terms of the increase. The Commission believes that requiring the CBOE to provide it with adequate notification will provide sufficient opportunity for the Commission to ensure that there is adequate system and market maker capacity to accommodate the proposed increase and request appropriate modification of the increase if necessary. Finally, the Commission notes that the CBOE has represented that RAES currently has adequate system and market maker capacity to accommodate any reasonably anticipated increase in order size eligibility.[8]

The Commission finds good cause for approving Amendment Nos. 1 and 2 to the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register**. The Commission finds that Amendment No. 1 only removes from the proposal a separate provision of the proposed rule change and does not raise any substantive issues. The Commission finds that the modifications to the proposal effected by Amendment No. 2 are designed to ensure that the RAES system has sufficient capacity to accommodate any increase in order size effected pursuant to the rule change. The Commission, thus, believes that this Amendment strengthens the proposal and does not raise any new issues. Accordingly, the Commission believes it is consistent with section 6(b)(5) of the Act to approve Amendment Nos. 1 and 2 to the CBOE's proposal on an accelerated basis.

Interested persons are invited to submit written data, views, and arguments concerning Amendment Nos. 1 and 2. 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 File No. SR–CBOE–92–40 and should be submitted by October 26, 1993.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–CBOE 92–40) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[10]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–24359 Filed 10–4–93; 8:45 am]

BILLING CODE 8010–01–M

[5] Any proposed increase that is initiated by the CBOE and not made in response to matching an increase effectuated by another market would have to be filed pursuant to sections 19(b)(1) and 19(b)(2) of the Act. See Amendment No. 2, *supra* note 4.

[6] See Amendment No. 2, *supra* note 4. In this letter, the CBOE represents that most orders fall within the 20 contract and below range, so that the CBOE estimates that any anticipated increase in the order eligibility size would be within the current capacity of RAES. Further, the CBOE represents that it has more than adequate market-making capacity to handle any reasonably expected increase in orders.

[7] 15 U.S.C. 78f and 78k–1 (1988).

[8] See Amendment No. 2, *supra* note 4.

[9] 15 U.S.C. 78s(b)(2) (1988).

[10] 17 CFR 200.30–3(a)(12) (1990).

[Investment Company Act Rel. No. 19737; 812–7798]

A.T. Ohio Tax-Free Money Fund, et al.; Application for Exemption

September 28, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: A.T. Ohio Tax-Free Money Fund, American Leaders Fund, Inc., Annuity Management Series, Automated Cash Management Trust, Automated Government Money Trust, BayFunds, The Biltmore Funds, The Biltmore Municipal Funds, The Boulevard Funds, California Municipal Cash Trust, Cambridge Series Trust, Cash Trust Series, Inc., Cash Trust Series II, DG Investor Series, Edward D. Jones & Co. Daily Passport Cash Trust, FT Series, Inc., Federated ARMS Fund, Federated Bond Fund, Federated Exchange Fund, Ltd., Federated GNMA Trust, Federated Government Trust, Federated Growth Trust, Federated High Yield Trust, Federated Income Securities Trust, Federated Income Trust, Federated Index Trust, Federated Intermediate Government Trust, Federated Master Trust, Federated Municipal Trust, Federated Short-Intermediate Government Trust, Federated Short-Intermediate Municipal Trust, Federated Short-Term U.S. Government Trust, Federated Stock

Trust, Federated Tax-Free Trust, Financial Reserves Fund, First Priority Funds, First Union Funds, Fixed Income Securities, Inc., Fortress Adjustable Rate U.S. Government Fund, Inc., Fortress Municipal Income Fund, Inc., Fortress Utility Fund, Inc., Fountain Square Funds, Fund for U.S. Government Securities, Inc., Government Income Securities, Inc., High Yield Cash Trust, Independence One Mutual Funds, Intermediate Municipal Trust, Investment Series Funds, Inc., Investment Series Trust, Liberty Equity Income Fund, Inc., Liberty High Income Bond Fund, Inc., Liberty Municipal Securities Fund, Inc., Liberty Term Trust, Inc.—1999, Liberty U.S. Government Money Market Trust, Liberty Utility Fund, Inc., Liquid Cash Trust, Mark Twain Funds, Marshall Funds, Inc., Money Market Management, Inc., Money Market Obligations Trust, Money Market Trust, The Monitor Funds, Municipal Securities Income Trust, New York Municipal Cash Trust, 111 Corcoran Funds, The Planters Funds, Portage Funds, RIMCO Monument Funds, The Shawmut Funds, Signet Select Funds, SouthTrust Vulcan Funds, Star Funds, The Starburst Funds, The Starburst Funds II, Stock and Bond Fund, Inc., Targeted Duration Trust, Tax-Free Instruments Trust, Tower Mutual Funds, Trademark Funds, Trust for Government Cash Reserves, Trust for Short-Term U.S. Government Securities, Trust for U.S. Treasury Obligations, Vision Fiduciary Funds, Inc., Vision Group of Funds, Inc., on behalf of themselves and all future investment companies for which persons controlling controlled by, or under common control with Federated Investors ("Federated") serve as investment adviser, or administrator (the "Funds"); Federated Research, Federated Advisers, Federated Management, Federated Investment Counseling, Federated Reserved Corp., and Passport Research Ltd. (the "Advisers"); and Federated Administrative Services, Inc. and Federated Administrative Services (the "Administrators").

RELEVANT ACT SECTIONS: Order requested under section 6(c) and 17(b) to amend a prior order that granted exemptions from sections 17(a) and 17(e)(2) of the Act.

SUMMARY OF APPLICATION: Applicants seek to amend a prior order that granted exemptions from sections 17(a) and 17(e)(2) of the Act to permit the Funds to engage in certain principal transactions with banks that are affiliated persons of the Funds. The amendment order would permit the Funds to engage in certain sales and purchase transactions in repurchase agreements, tax-exempt obligations, and taxable obligations with banks (and their affiliated persons) that are remote affiliates of the Funds.

FILING DATE: The application was filed on May 28, 1991, and amended on May 14, 1993 and August 19, 1993. Counsel, on behalf of the applicants, has agreed to file a further amendment during the notice period to make certain technical changes. The notice reflects the changes to be made to the application by such further amendment.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on October 25, 1993, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary SEC, 450 Fifth Street NW., Washington, DC 20549. Applicants, Federated Investors Tower, Pittsburgh, Pennsylvania 15222.

FOR FURTHER INFORMATION CONTACT: James E. Anderson, Staff Attorney, at (202) 272–7027, or C. David Messman, Branch Chief, at (202) 272–3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicants' Representations

1. Pursuant to a conditional order (the "Prior Order") issued by the SEC, the Funds were exempted from sections 17(a) and 17(e)(2) to permit them to engage in certain principal transactions with a defined group of affiliated banks.[1] Affiliated banks were defined in the application for the Prior Order as "banks, bank holding companies, and affiliates thereof which directly or indirectly own, control, or hold 5% or more of the outstanding voting securities of any of the Funds, or act as investment adviser to any one of the Funds."

2. The Prior Order permits the Funds to engage in principal transactions involving the following instruments: (a) Money market instruments of an affiliated bank which is one of the 50 largest United States banks (measured by deposits), their bank holding companies or affiliates thereof; (b) repurchase agreements with no more than 20 affiliated banks that participate in the "wholesale" repurchase agreement market and that are among the 50 largest United States banks (measured by deposits); and (c) tax-exempt obligations. The Prior Order also permits an affiliated bank to accept compensation from a Fund if the bank acts as an agent for the Fund in a transaction conducted pursuant to the Prior Order.

3. The Prior Order was predicated on a number of conditions. Among other things, the conditions prohibit a Fund from engaging in permitted transactions with an affiliated bank that serves as investment adviser to that Fund. The conditions also prohibit a Fund from investing more than 5% of its assets in money market instruments or repurchase agreements issued by any one affiliated bank.

4. Since issuance of the Prior Order, a substantial number of large banks have experienced a deterioration in their credit quality. In addition, banks have become increasingly active participants in the markets for a wide variety of investment securities (including U.S. Government securities, mortgage and asset-backed securities, tax-exempt instruments, and money market instruments). A large number of banks have also become investment advisers to investment companies administered or distributed by persons controlling, controlled by, or under common control with Federated. As a result of these developments, applicants reviewed the Prior Order and determined that certain aspects of it are obsolete.

5. Applicants propose to amend the Prior Order by redefining the term affiliated bank. For purposes of the amended order, Affiliated Banks are "banks, bank holding companies, and affiliated persons thereof that are affiliated persons of the Funds solely because they: (a) Directly or indirectly own, control, or hold with the power to vote 5% of the outstanding voting securities of any of the Funds; and/or (b) act as investment adviser to any of the Funds." Applicants also propose to modify a condition to the Prior Order that prohibited a Fund from engaging in

[1] AARP U.S. Government Money Market Trust, Investment Company Act Release Nos. 13306 (June 7, 1983) (notice) and 13378 (July 8, 1983) (order).

purchases or sales with an Affiliated Bank that acted as investment adviser to that Fund by also prohibiting a Fund from engaging in transactions with an Affiliated Bank that acts as sponsor to that Fund, an Affiliated Bank controlling, controlled by, or under common control with the Fund's investment adviser or sponsor, or an Affiliated Bank that otherwise controls the Fund within the meaning of section 2(a)(9).

6. Applicants propose to amend the Prior Order by replacing the size criterion limiting transactions in money market instruments and repurchase agreements to Affiliated Banks which are among the fifty largest U.S. banks in terms of deposits with a standard focusing on the credit quality of the securities proposed to be purchased or sold. The amended order would permit transactions between the Funds and Affiliated Banks in repurchase agreements, tax-exempt obligations purchased from or sold to an Affiliated Bank, and taxable obligations issued by an Affiliated Bank or purchased from or sold to an Affiliated Bank provided that all such obligations meet the credit standards set forth in condition 1 below ("Qualified Securities").

7. Applicants also propose to amend the conditions applicable to transactions in repurchase agreements. Under the Prior Order, a Fund may effect repurchase agreement transactions with only twenty Affiliated Banks, and may not invest more than 5% of its assets in repurchase agreements of any one Affiliated Bank. The amended order would delete both of these limits.

8. The amended order also would modify the Prior Order by extending relief to all Funds for whom the Administrators or other persons controlling, controlled by or under common control with Federated provide administrative services. The Administrators, among other things, provide the following services to the Funds that they administer: preparation and maintenance of a Fund's governing documents; preparation and filing of registration statements, reports to shareholders and regulatory authorities, prospectuses, and proxy statements; preparation, negotiation, and administration of contracts on behalf of a Fund with the Fund's investment adviser, distributor, custodian, and transfer agent; supervision of a Fund's custodian in the maintenance of the Fund's general ledger and in the preparation of the Fund's financial statements, including oversight of expense accruals and payments; preparation and filing of a Fund's tax returns; examination and review of a Fund's custodian and transfer agent; performance of internal audit examinations; and assistance with the design, development, and operation of a Fund. An order issued pursuant to this application will supersede the Prior Order to the extent that it afforded relief to future investment companies based on the provision of distribution services to such companies.

9. Applicants propose to delete that portion of the Prior Order that granted relief from section 17(e). The relief from section 17(e) purported to permit an Affiliated Bank to accept compensation from the Funds if such bank acted as an agent on behalf of one of the Funds in a transaction permitted by the Prior Order. For the reasons discussed below, applicants now believe such relief is unnecessary.

10. The Funds' board of directors, trustees, or managing general partners will be responsible for adopting and monitoring appropriate methods to ensure that the price and terms of transactions in Qualified Securities will be reasonable and fair to participating Funds. In evaluating the fairness and reasonableness of transactions in Qualified Securities, applicants will analyze the price and or terms of the transaction relative to comparable transactions involving similar securities being purchased or sold during a comparable period of time. For transactions in securities for which there are a number of dealers that are not affiliated persons of the Funds, the Funds will compare the Affiliated Bank's price to the price offered by one or more other dealers to assess the fairness and reasonableness of the transaction. For transactions in securities for which the Affiliated Banks is the exclusive dealer, which is the case for some tax-exempt and asset-backed securities and commercial paper, the Funds will use a matrix pricing system to assess the price offered by the Affiliated Bank relative to market transactions involving comparable securities.[2]

11. There is no express or implied understanding between Federated and any bank, bank holding company, or affiliated person thereof which is (or may become) an Affiliated Bank that Federated will cause any of the Funds to enter into purchase or sale transactions with such entity. Moreover, applicants will give no preference to any Affiliated Bank in effecting purchase or sale transactions between the Funds and an Affiliated Bank because the bank is (or may become) an Affiliated Bank or because the customers of such bank purchase shares of any of the Funds.

Applicants' Analysis

1. Section 2(a)(3) defines an "affiliated person" of another person as, among other persons: (a) Any person directly or indirectly owning, controlling, or holding with the power to vote, 5% or more of the outstanding voting securities of such other person; (b) any person 5% or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; (c) any person directly or indirectly controlling, controlled by, or under common control with, such other person; (d) any officer, director, partner, copartner, or employee of such other person; and (e) if such other person is an investment company, any investment adviser thereof or any member of an advisory board thereof.

2. By virtue of section 2(a)(3), if a bank owns, controls, or holds with the power to vote more than 5% of the outstanding shares of a Fund, that bank is an affiliated person of the Fund. Any person who is an affiliated person of a registered investment company also may be deemed to be an affiliated person of an affiliated person of each other registered investment company which has a common investment adviser, or investment advisers which are affiliated persons of each other, or common directors or common officers, or a combination of the foregoing because such investment companies may be deemed to be under common control. Accordingly, a bank, bank holding company, or affiliated person thereof, deemed to be an affiliated person of one Fund may be deemed to be an affiliated person of an affiliated person of all the other Funds.[3]

3. Section 17(a) provides, in relevant part, that it is unlawful for any affiliated person of a registered investment company, or any affiliated person of such person, acting as principal, knowingly to sell any security or other property to such registered investment company or to purchase from such registered investment company any

[2] A matrix pricing system uses market data from transactions involving securities having comparable ratings, credit quality, maturity, collateral, amortization and other relevant terms to evaluate the price of a security. In some cases an independent pricing service provides the matrix price. In other cases a proprietary software program calculates the matrix price.

[3] Certain of the Funds have no affiliation with the other Funds other than the commonality of certain of the officers of the Funds. Applicants do not concede that these relationships alone necessarily are sufficient to establish that the Funds are under common control and are therefore affiliated persons of each other.

security or other property. The result of the operation of these provisions is to prohibit all of the Funds from engaging in a variety of transactions with a wide range of banks, bank holding companies, and affiliated persons thereof.

4. Applicants believe that a bank, bank holding company, or affiliated person thereof that is affiliated with a Fund solely because it owns, holds, or controls 5% or more of the Fund's outstanding voting securities and/or acts as investment adviser to a different Fund, although an "affiliated person" or an "affiliated person of an affiliated person" within the meaning of section 2(a)(3) of the Act, is unlikely to possess the power to improperly influence the Fund with respect to purchases or sales by the Fund of securities from or to an Affiliated Bank. As a condition to the order, no Fund will engage in transactions in Qualified Securities with any Affiliated Bank which serves as investment adviser or sponsor to that Fund, controls or is under common control with the investment adviser or sponsor, or otherwise controls such Fund within the meaning of section 2(a)(9). Applicants believe that permitting transactions only with remote affiliates precludes the possibility of any overreaching by an Affiliated Bank and thus eliminates the concerns that section 17(a) was designed to address.

5. For a variety of reasons, the credit quality of U.S. banks, bank holding companies, and affiliated persons thereof has steadily decreased in the last decade. Status as one of the fifty largest U.S. banks (measured by deposits) is no longer necessarily indicative of credit worthiness. By placing the emphasis on the credit quality of a particular investment, the Funds and their advisers are subjected to a disciplined determination that a particular purchase or sale is appropriate for a given Fund. Among the policy rationales underlying section 17(a) is concern that an affiliated person of a fund, by virtue of such relationship, could cause a fund to purchase securities of poor quality from the affiliated person. By limiting transactions to Qualified Securities, applicants address this concern.

6. The Prior Order limits to 20 the number of Affiliated Banks with which the Funds may engage in repurchase agreements. At the time the prior application was made, applicants anticipated that only about 20 U.S. banks had the size, expertise, and willingness to engage in cost effective repurchase agreement transactions. Developments in the money markets since 1983 have rendered obsolete this artificial segmentation of the market for repurchase agreements. To the extent that any Affiliated Bank satisfies the applicable credit quality limitations, there appears to be no justification for limiting the number of Affiliated Banks which may engage in repurchase agreement transactions with the Funds.

7. Applicants believe that the condition in the Prior Order that restricts repurchase agreements with an Affiliated Bank to 5% of the Fund's assets limits investment opportunities while adding little or no attendant benefits. The concern that a Fund is financing an Affiliated Bank is alleviated by the fact that repurchase agreements are fully collateralized. The diversification requirements of the Funds' investment objective and policies, as well as the requirements of section 5(b) of the Act (for those Funds which are diversified investment companies) and section 851 of the Internal Revenue Code of 1986, as amended, provide satisfactory protections for a Fund which engages in repurchase agreements with an Affiliated Bank.

8. Applicants propose to extend relief to Funds administered by the Administrators and all other registered investment companies for which the Administrators or other persons controlling, controlled by, or under common control with Federated serve as administrator. The Administrators provide the Funds with services necessary for the operation of their business and affairs and are in a position to monitor a Fund's compliance with the provisions of the Act and the conditions of the order.

9. In the application for the Prior Order, applicants sought relief from section 17(e) because they believed that Affiliated Banks would not be eligible to rely on the provisions of section 17(e) because the statutory definition of "broker" excludes banks. Applicants now recognize, however, that all of the transactions in Qualified Securities are transactions with an Affiliated Bank as principal and not as agent or broker and that section 17(e) accordingly is inapplicable.

Applicants' Conditions

1. The Funds will engage in transactions with Affiliated Banks only in Qualified Securities, For purposes hereof, the term Qualified Securities is defined to mean:

(a) For obligations which are "short-term" securities within the meaning of rule 2a–7 under the Act, each such security shall constitute an "Eligible Security" within the meaning of rule 2a–7; provided, that in the case of Unrated Securities (as defined in rule 2a–7(a)(20)), in addition to the requirements of rule 2a–7 applicable to such Unrated Securities, all determinations with respect to comparability of such securities to rated securities are also reviewed and approved at least quarterly by a majority of the Funds' directors who are not interested persons of the Fund.

(b) For obligations which are "long-term" securities within the meaning of rule 2a–7, each such security (or another long-term security of the same issuer having comparable priority and security to such obligation) shall have been rated by a nationally-recognized statistical rating organization ("NRSRO") in one of the four highest rating categories for long-term obligations; or, if the security and issuer have not been rated by any NRSRO, are determined by a Fund's investment adviser to be comparable in credit quality to a security carrying a long-term rating in one of such four highest rating categories of a NRSRO, and such determination is reviewed and approved at least quarterly by a majority of such Fund's directors who are not interested persons of the Fund. In addition, if a Fund proposes to invest in a security that at the time of issuance was a long-term security but that has a remaining maturity of 397 calendar days or less, then the issuer of such security shall have received a rating from a NRSRO, with respect to a class of short-term securities that is comparable in priority and security to the long-term security, in one of the two highest rating categories. If the issuer has not received such a rating with regard to comparable short-term securities, then a long-term security with a remaining maturity of less than 397 calendar days is not eligible unless it has a long-term rating from a NRSRO within the two highest rating categories.

(c) Any repurchase agreements will be collateralized fully within the meaning of rule 2a–7.

(d) For obligations subject to unconditional, irrevocable credit enhancement (including, without limitation, a guarantee, letter of credit, or put), the Funds may rely upon the NRSRO ratings of the provider of such credit enhancement to determine whether the obligation satisfies the requirements of subparagraphs (a) and (b) above. Such obligations shall be treated as rated securities to the extent that the credit enhancement is of comparable priority and security to the rated obligations of the provider of such credit enhancement.

2. No Fund will engage in a transaction in Qualified Securities with an Affiliated Bank that is an investment

adviser or sponsor to that Fund, or an Affiliated Bank controlling, controlled by, or under common control with such investment adviser or sponsor. No Fund will purchase obligations of any Affiliated Bank (other than repurchase agreements) if, as a result, more than 5% of that Fund's total assets would be invested in obligations of that Affiliated Bank. No Fund will engage in transactions with an Affiliated Bank that exercises a controlling influence over that Fund (and "controlling influence" shall be deemed to include, but is not limited to, directly or indirectly, owning, controlling or holding more than 25% of the outstanding voting securities of the Fund).

3. The Funds: (a) Will maintain and preserve permanently in an easily accessible place a written copy of the procedures (and any modifications thereto) described in paragraph 6 of this section and (b) will maintain and preserve for a period of not less than six years from the end of the fiscal year in which transactions in Qualified Securities occurred, the first two years in an easily accessible place, a written record of each such transaction setting forth a description of the security purchased or sold, the identity of the person on the other side of the transaction, the terms of the purchase or sale transaction, and the information or material upon which the determinations described below were made.

4. The Qualified Security to be purchased or sold by a Fund will be consistent with the investment objectives and policies of that Fund as recited in the Fund's registration statement, and will be consistent with the interests of that Fund and its shareholders. Further, the security to be purchased or sold by that Fund will be comparable in terms of quality, yield, and maturity to other similar securities that are appropriate for that Fund and that are being purchased or sold during a comparable period of time.

5. The terms of the transaction will be reasonable and fair to the shareholders of that Fund and will not involve overreaching of that Fund or its shareholders or the part of any person concerned. In considering whether the price to be paid or received for the security is reasonable and fair, the price of the security will be analyzed with respect to comparable transactions involving similar securities being purchased or sold during a comparable period of time. In making this analysis, the Board of Trustees, Directors, or Managing General Partners may rely on a matrix pricing system which they believe properly assists them in determining the value of the securities pursuant to section 2(a)(41) of the Act.

6. The Board of Trustees, Directors, or General Partners of each of the Funds: (a) Will adopt procedures, pursuant to which transactions in Qualified Securities may be effected for the Funds, which are reasonably designed to provide that all the conditions in the foregoing paragraphs have been complied with; (b) will make and approve such changes as deemed necessary; and (c) will determine no less frequently than quarterly that transactions in Qualified Securities made during the preceding quarter were effected in compliance with those procedures. Those procedures will also be approved by a majority of the disinterested Trustees, Directors, or Managing General Partners of the Funds. The investment adviser of each Fund will implement those procedures and make decisions necessary to meet these conditions, subject to the direction and control of the Board of Trustees, Directors, or Managing General Partners of each Fund.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-24360 Filed 10-4-93; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Intent To Rule on Application To Use the Revenue From a Passenger Facility Charge (PFC) at Tallahassee Regional Airport, Tallahassee, FL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Tallahassee Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101-508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before November 4, 1993.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32826.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Robert F. Wilson of the Tallahassee Regional Airport at the following address: Mr. Robert F. Wilson, Airport Superintendent, Tallahassee Regional Airport, 3300 Capital Circle, SW., Tallahassee, Florida 32304.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Tallahassee Regional Airport under § 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Carlos E. Maeda, Plans and Programs Manager, Orlando Airports District Office, 9677 Tradeport Drive, suite 130, Orlando, Florida 32827, (407) 648-6583. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to use the revenue from a PFC at Tallahassee Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (title IX of the Omnibus Budget Reconciliation Act of 1990) Public Law 101-508) and part 158 of the Federal Aviation regulations (14 CFR part 158).

On September 27, 1993, the FAA determined that the application to use the revenue from a PFC submitted by City of Tallahassee was substantially complete within the requirements of § 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 30, 1993.

The following is a brief overview of the application.

Level of the approved PFC: $3.00

Actual charge effective date: February 1, 1993

Estimated charge expiration date: December 1, 1998

Total approved net PFC revenue: $8,617,154

Estimated PFC revenue to be used on projects in this application: $6,859,398

Brief description of proposed project(s):

1. Overlay Runway 9-27 and Taxiways and Upgrade Runway and Taxiway Lighting.
2. Construct Perimeter Security Fence and Install Security Access System.
3. Construct Covered Walkway, Handicapped Ramp and Various Terminal Public Area ADA Related Projects.
4. Purchase Quick Response Vehicle.
5. Overlay Runway 18-36 and Taxiways and Associated Projects.
6. Construct New ARFF Building.

7. Update Airport Master Plan, Airport Layout Plan and Noise Compatibility Study.

8. Construct Service Road West of Runway 9–27 and Perimeter Road East and South of Runway 9–27.

9. Purchase 3,000 Gallon ARFF Vehicle.

10. Overlay General Aviation Apron.

Class or classes of air carriers for which the FAA has approved exemption from the requirement to collect PFCs: Part 135 air taxi/commercial operators filing FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Tallahassee Regional Airport.

Issued in Atlanta, Georgia on September 29, 1993.

Troy R. Butler,

Manager, PFC Program, Southern Region.

[FR Doc. 93–24442 Filed 10–4–93; 8:45 am]

BILLING CODE 4910–13–M

National Highway Traffic Safety Administration

[Docket No. 93–32; Notice 2]

Freightliner Corp.; Grant of Petition for Determination of Inconsequential Noncompliance

Freightliner Corporation (Freightliner) of Portland, Oregon, determined that some of its trucks fail to comply with the headlamp aimability requirements of 49 CFR 571.108, "Lamps, Reflective Devices and Associated Equipment," Federal Motor Vehicle Safety Standard (FMVSS) No. 108, and filed an appropriate report pursuant to 49 CFR part 573, Defect and Noncompliance Reports. Freightliner also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on May 14, 1993, and an opportunity afforded for comment (58 FR 28653). This notice grants the petition.

During the period of May 1991 through September 1992, Freightliner produced 2,550 trucks with headlamps that may not comply with the aimability requirements of FMVSS No. 108. The noncompliances were found during testing of the right and left headlamps on two of the subject vehicles. The two trucks together represented two different headlamp designs. As noted below, Freightliner changed its headlamp design on February 21, 1992. Freightliner stated that the noncompliances were due to incidental contact between the headlamp assembly and the headlamp housing.

Cross-axis Deviation

Paragraph S7.8.2.1(a) of FMVSS No. 108 requires that "* * * adjustment of one aim axis [vertical or horizontal] through its full on-vehicle range shall not cause the aim of the other axis to deviate more than +/−0.76 degree." A deviation of 0.76 degree corresponds with the headlamp beam moving four inches, at a distance of 25 feet from the lamp.

When the truck with the old headlamp design (pre-February 21, 1992) was tested in the vertical direction, a deviation of 0.86 degree was found in the horizontal direction on the right headlamp. When this truck was tested in the horizontal direction, a deviation of 1.16 degrees was found in the vertical direction on the left headlamp. All other deviations were less than the 0.76 degree maximum.

When the truck with the new headlamp design (post-February 21, 1992) was tested in the vertical direction, a deviation of 1.25 degrees was found in the horizontal direction on the right headlamp. When this truck was tested in the horizontal direction, deviations in the vertical direction of 0.78 degree and 0.97 degree were found in the right and left headlamp, respectively. All other deviations were less than the 0.76 degree maximum.

Range Requirements

Paragraphs S7.8.3 and S7.8.4 require that headlamps be capable of an adjustment range from the nominal correct position of +/−4 degrees vertically and +/−2.5 degrees horizontally, respectively. When the truck with the old headlamp design was tested, a maximum of 2.1 degrees in the upward vertical direction was obtained. This is 1.9 degrees below the minimum requirement of 4.0 degrees. All other minimum vertical and horizontal ranges were met. There is no noncompliance with respect to this portion of the standard on the trucks with the new headlamps design.

Freightliner supported its petition for inconsequential noncompliance with the following:

> When [the] noncompliance occurred it was typically at the extremes of the vertical or horizontal range, not at the nominal adjustment. However, nominal adjustment was always obtainable. The headlamps on all of the subject vehicles were properly adjusted prior to shipment from their manufacturing site.
>
> A typical headlamp aiming device indicates the adjustment of both [axes] simultaneously. This allows the operator to easily determine if any deviation of the first adjustment has occurred. This final check of the first adjustment is normal procedure for adjusting headlamps and should eliminate any misadjustment due to cross axis deviation.
>
> A review of the warranty claim history and field reports does not indicate a problem with aimability on these vehicles due to the noncompliance. There have been a total of 14 warranty claims and no field reports for misadjusted headlamps. In all cases the headlamps were able to be properly adjusted.
>
> In conclusion, Freightliner Corporation believes that the subject noncompliance is inconsequential as it relates to motor vehicle safety because it does not affect the ability to provide proper headlamp aim which is the fundamental goal of the extant provision of the standard.

No comments were received on the petition.

The maximum cross-axis deviation found by Freightliner was 1.16 degrees (6.55 inches), or 0.40 degree (2.55 inches) more than the maximum of 0.76 degree (4.00 inches) specified by the standard. The relevant safety question is the effect that this could have on headlamps aimability.

The headlamps on Freightliner's trucks are mechanically aimable. The mechanical aimer is equipped with two incremented dials which are used to calibrate the aimer. As Freightliner pointed out, the vertical and horizontal levels are set simultaneously on this type of aimer. This allows the tester easily to correct for any cross-angle deviation which has occurred. A deviation of up to 2.55 inches will be easily noticeable and an individual mechanically aiming the headlamps can manually correct for the deviation during the aiming process. Thus, the noncompliance will produce a negligible effect, if any, on the ability to aim accurately the Freightliner headlamps. Since the likelihood of misaim is minimal, it is unlikely that a misaim will occur which would increase glare in the eyes of oncoming drivers.

With respects to the range requirements, the noncompliance reported is an inability to adjust a headlamp in the vertical range beyond the 2.1 degrees achieved to the 4.0 degrees specified. The purpose of this requirement is to compensate for changes in the frontal structure of the vehicle which can occur as the result of a collision or a settling of its structure, or a permanent change in its attitude

such as would be caused by installation of a camper. If the change is drastic enough, the range beyond 2.1 degrees vertically could be needed to properly aim the headlamp. However, NHTSA believes that the likelihood is small that any one of the affected Freightliner trucks will ever require up to 4.0 degrees for vertical range correction for collision and other factors, and that the 2.1 degrees vertical range experienced here is adequate for motor vehicle safety. The likelihood is small because the remaining number of noncomplying vehicles is likewise small. According to the petitioner, the problem on many of the trucks produced after February 1992 was remedied by drilling a portion of the area behind the aiming screw to allow more space for it to be turned.

Accordingly, petitioner has met its burden of persuasion that the noncompliance herein described is inconsequential as it relates to motor vehicle safety, and its petition is granted.

Authority: 15 U.S.C. 1471; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on September 29, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93-24364 Filed 10-4-93; 8:45 am]

BILLING CODE 4910-59-M

Research and Development Programs Meeting Agenda

AGENCY: National Highway Traffic Safety Administration, DOT.

ACTION: Notice.

SUMMARY: This notice provides the agenda for a public meeting at which NHTSA will describe and discuss specific research and development projects.

DATES AND TIMES: As previously announced, the National Highway Traffic Safety Administration will hold a public meeting devoted primarily to presentations of specific research and development projects on October 12, 1993, beginning at 1:30 p.m. and ending at approximately 5 p.m.

ADDRESSES: The meeting will be held at the Ramada Inn, near Detroit Metro, 8270 Wickham Rd., Romulus, MI 48174.

SUPPLEMENTARY INFORMATION: This notice provides the agenda for the third of a series of quarterly public meetings to provide detailed information about its research and development programs. This meeting will be held on October 12, 1993. The meeting was announced on September 21, 1993. (58 FR 49089) For additional information about the meeting consult the September 21, 1993, announcement.

Starting at 1:30 p.m. and concluding by 5 p.m., NHTSA's Office of Research and Development will discuss the following topics:

Hybrid III chest deflection
Head and neck injury research
Thorax injury research
Crash causal analysis
Driver workload assessment.

NHTSA has based its decisions about the agenda, in part, on the suggestions it received by September 27, 1993 in response to the announcement published September 21, 1993, and also on the suggestions already received in response to the previous request of May 17, 1993 (93 FR 28909).

As announced on September 21, 1993, in the time remaining at the conclusion of the presentations, NHTSA will provide answers to questions on its research and development programs, where those questions have been submitted in writing by 4:15 p.m. on October 6, 1993, to George L. Parker, Associate Administrator for Research and Development, NRD-01, National Highway Traffic Safety Administration, Washington, DC 20590, FAX number: 202/366-5930. This meeting is followed on the next day by the regular quarterly NHTSA Technical Industry Meeting, which was announced on August 19, 1993 (58 FR 44206).

FOR FURTHER INFORMATION CONTACT: Dr. Richard L. Strombotne, Special Assistant for Technology Transfer Policy and Programs, Office of Research and Development, 400 Seventh Street, SW., Washington, DC 20590. Telephone: 202-366-4730. Fax number: 202-366-5930.

Issued: September 30, 1993.

Ralph J. Hitchcock,

Director, Office of Crashworthiness Research.

[FR Doc. 93-24455 Filed 10-4-93; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. 93-33; Notice 2]

Toyota Motor Corporate Services; Grant of Petition for Inconsequential Noncompliance

Toyota Motor Corporate Services of North America, Inc. (Toyota) on behalf of the Toyota Motor Corporation of Japan, determined that some of its replacement seat belt assemblies fail to comply with 49 CFR 571.209, Federal Motor Vehicle Safety Standard (FMVSS) No. 209, "Seat Belt Assemblies," and filed an appropriate report pursuant to 49 CFR part 573, Defect and Noncompliance Reports. Toyota also petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 *et seq.*) on the basis that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of receipt of the petition was published on May 17, 1993, and an opportunity afforded for comment (58 FR 28910). This notice grants that petition.

Between July 1988 and April 1993 Toyota manufactured and sold approximately 7,900 replacement seat belts which did not include the installation and maintenance instructions required by Standard No. 209. The seat belt assemblies are for 1989 through 1993 model year Corolla and Camry passenger cars, and 1993 model year trucks.

Paragraph S4.1(k) of Standard No. 209, requires that:

> A seat belt assembly or retractor shall be accompanied by an instruction sheet providing sufficient information for installing the assembly in a motor vehicle except for a seat belt assembly installed in a motor vehicle by an automobile manufacturer. The installation instructions shall state whether the assembly is for universal installation or for installation only in specifically stated motor vehicles * * *.

In addition, Section S4.1(l) requires that:

> A seat belt assembly or retractor shall be accompanied by written instructions for the proper use of the assembly, stressing particularly the importance of wearing the assembly snugly and properly located on the body, and on the maintenance of the assembly and periodic inspection of all components. The instructions shall show the proper manner of threading webbing in the hardware of seat belt assemblies in which the webbing is not permanently fastened.

The instructions pertaining to threading and nonlocking retractors do not apply to Toyota's seat belt designs.

Toyota argued that improper installation or installation of an improper part is highly unlikely because the process for installing a new belt is the reverse of the removal of the old one. Installation instructions are contained in the vehicle repair manual available at Toyota dealers and many independent repair facilities. The variety of seat belt assemblies makes it unlikely that an incorrect assembly would be installed. Replacement assemblies have their individual parts numbers and are ordered in this manner from Toyota's parts catalog.

Similarly, according to Toyota, lack of usage and maintenance instructions is inconsequential because they are included in the vehicle operator's

manual. Further, the assemblies are basically maintenance-free. Toyota also referred to other similar petitions that the agency has granted.

No comments were received on the petition.

With respect to the failure to provide installation instruction, the petitioner has argued that its parts ordering and shipping procedures ensure that the correct replacement parts are received by the dealer. Installation of the belts involves steps that are the reverse of those the installer followed in removing the belt. After reviewing these arguments, NHTSA concurs with them.

With respect to the failure to provide usage and maintenance instructions, the petitioner has argued that this information has been provided in operator's manuals.

NHTSA notes that it has recently granted the petitions by Nissan Motor Company Ltd. and Subaru of America, Inc., covering the same types of noncompliances with Standard No. 209 (58 FR 8651 and 16736, respectively), as cited by Toyota.

For the foregoing reasons, the petitioner has met its burden of persuasion that the noncompliances herein described are inconsequential as they relate to motor vehicle safety, and its petition is granted.

Authority: 15 U.S.C. 1417; delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.

Issued on: September 29, 1993.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 93–24366 Filed 10–4–93; 8:45 am]

BILLING CODE 4910–59–M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 191
Tuesday, October 5, 1993

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).

COPYRIGHT ROYALTY TRIBUNAL

[Docket No. 92-3-DART]

Open Meeting in the Digital Audio Recording Technology Act Implementation Proceeding

ACTION: Notice scheduling an open meeting.

SUMMARY: The Copyright Royalty Tribunal announces that it will hold an open meeting to adopt the final regulations implementing the Audio Home Recording Act.

DATES: An open meeting is scheduled for October 13, 1993, at 9:00 a.m.

FOR FURTHER INFORMATION CONTACT: Linda R. Bocchi, General Counsel, Copyright Royalty Tribunal, 1825 Connecticut Avenue, NW., Suite 918, Washington, DC 20009.

SUPPLEMENTARY INFORMATION: This notice is issued to advise the public that the Copyright Royalty Tribunal will hold an open meeting to adopt final regulations, to implement the Audio Home Recording Act of 1992 (AHRA). These final regulations prescribe the manner for filing claims, with the Tribunal, to royalties based on the sale of digital recording devices, and media. The final regulations prescribe the content and time restrictions for filing such claims. The Tribunal is also adopting regulations establishing the procedure for distribution of the royalties.

The Tribunal is meeting to adopt final regulations after providing the public with opportunities to comment on Interim Regulations issued January 29, 1993, and on an Advance Notice of Rule Making issued November 19, 1992.

Accordingly, the Tribunal will hold an open meeting on October 13, 1993, at 9:00 a.m., to adopt the final regulations implementing AHRA.

Dated: October 1, 1993.

Cindy Daub,

Chairman.

[FR Doc. 93-24552 Filed 10-1-93; 3:15 pm]

BILLING CODE 1410-09-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-93-30]

TIME AND DATE: October 12, 1993 at 3:30 p.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Inv. No. 731-TA-622 (Preliminary) (Photographic Paper and Certain Components from Japan and the Netherlands)—briefing and vote.
5. Outstanding action jackets
   1. GC-93-106, Initial determination in Inv. No. 337-TA-342 (Certain Circuit Board Testers).

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary, (202) 205-2000.

Issued: September 30, 1993.

Donna R. Koehnke,

Secretary.

[FR Doc. 93-24491 Filed 10-1-93; 8:45 am]

BILLING CODE 7020-02-P

NATIONAL TRANSPORTATION SAFETY BOARD

TIME AND DATE: 9:30 a.m., Wednesday, October 13, 1993.

PLACE: The Board Room, 5th Floor, 490 L'Enfant Plaza, SW., Washington, DC 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

6081A Aircraft Accident Report: Engine Pylon Separation During Takeoff, Japan Air Lines Flight 46E, Boeing 747-100 (Evergreen), Anchorage, Alaska, March 31, 1993.

NEWS MEDIA CONTACT: Telephone (202) 382-0660.

FOR MORE INFORMATION CONTACT: Bea Hardesty, (202) 382-6525.

Dated: October 1, 1993.

Ray Smith,

Alternate Federal Register Liaison Officer.

[FR Doc. 93-24545 Filed 10-1-93; 3:14 pm]

BILLING CODE 7533-01-M

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of October 4, 11, 18, and 25, 1993.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

MATTERS TO BE CONSIDERED:

Week of October 4

There are no meetings scheduled for the Week of October 4.

Week of October 11—Tentative

There are no meetings scheduled for the Week of October 11.

Week of October 18—Tentative

Thursday, October 21

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Week of October 25—Tentative

Monday, October 25

10:00 a.m.
Briefing on final report of Regulatory Review Task Force (Public Meeting)
(Contact: Frank Gillespie, 301-504-1275)

2:00 p.m.
Briefing on Investigative Matters (Closed—Ex. 5 and 7)

Tuesday, October 26

10:00 a.m.
Briefing on Severe Accident Research Program (Public Meeting)
(Contact: Brian Sheron, 301-492-3500)

2:00 p.m.
Briefing on Proposed Standards for Gaseous Diffusion Facilities (Public Meeting)
(Contact: Charles Nilsen, 301-492-3834)

Wednesday, October 27

10:00 a.m.
Briefing on NRC Research Programs on Waste (Public Meeting)
(Contact: Nick Costanzi, 301-492-3760)

11:30 a.m.
Affirmation/Discussion and Vote (Public Meeting) (if needed)

Thursday, October 28

2:00 p.m.
Periodic Meeting with Advisory Committee on Nuclear Waste (ACNW) (Public Meeting)
(Contact: John Larkins, 301-492-4516)

Friday, October 29

10:00 a.m.
Briefing on Status of Thermo-Lag (Public Meeting)
(Contact: Ashok Thadani, 301-504-2884)

Note: Affirmation sessions are initially scheduled and announced to the public on a time-reserved basis. Supplementary notice is provided in accordance with the Sunshine Act as specific items are identified and added to the meeting agenda. If there is no specific subject listed for affirmation, this means that no item has as yet been identified as requiring any Commission vote on this date.

The schedule for Commission meetings is subject to change on short notice. To Verify The Status of Meetings Call (Recording)—(301) 504–1292.

CONTACT PERSON FOR MORE INFORMATION: William Hill (301) 504–1661.

Dated: September 30, 1993.

William M. Hill, Jr.,

SECY Tracking Officer, Office of the Secretary.

[FR Doc. 93–24576 Filed 10–1–93; 3:16 pm]

BILLING CODE 7590–01–M

federal register

Tuesday
October 5, 1993

Part II

Department of Transportation

Coast Guard

33 CFR Parts 126 and 127
Waterfront Facilities Handling Liquefied Hazardous Gas; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 126 and 127

[CGD 88-049]

RIN 2115-AD06

Waterfront Facilities Handling Liquefied Hazardous Gas

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend its regulations for waterfront facilities capable of transferring liquefied hazardous gas, or "LHG", in bulk, to or from vessels. The transfer of LHG presents hazards similar to those from the transfer of liquefied natural gas, or "LNG", yet facilities capable of transferring LNG in bulk are subject to much more stringent requirements. These amendments would strengthen the requirements for the transfer of LHG and move those requirements from part 126 to part 127.

DATES: Comments must be received on or before January 3, 1994.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA, 3406) [CGD 88-049], U.S Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-1477. Comments on collection of information requirements must be mailed also to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

A copy of the material listed in "Incorporation by Reference" of this preamble is available for inspection at Room 1108, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Gary W. Chappell, Office of Marine Safety, Security, and Environmental Protection (G-MPS-3), (202) 267-0491.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. The Coast Guard is particularly interested in compliance-cost estimates for this rulemaking. Persons submitting comments should include their name and address, identify this rulemaking (CGD 88-049) and the specific section of this proposal to which each comment applies, and give the reason for each comment. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed post card or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the first address under **ADDRESSES**. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are Mr. Gary W. Chappell, Project Manager, and Mr. Patrick J. Murray, Project Counsel, Office of Chief Counsel.

Background and Purpose

The Coast Guard has determined that it needs to regulate transfers of LHG, in bulk, to and from vessels at waterfront facilities. Data collected over the last 10 years on deaths, injuries, and property damage resulting from accidents during these transfers indicates that restrictions on equipment and on operating procedures will prevent and mitigate damage and personal injuries. Although the transfer of LHG falls under current requirements of 33 CFR part 126, the available data have shown that these requirements are not adequate. LHG presents hazards similar to those of LNG, when transferred in bulk, yet facilities that transfer LNG fall under much stricter regulatory requirements than those that transfer LHG. The Coast Guard proposes new regulations for facilities handling LHG in 33 CFR part 127 that expand upon the regulations in part 126 and include requirements similar to those for LNG facilities in part 127.

This proposed rule would implement the Ports and Waterways Safety Act (PWSA), as amended (33 U.S.C. 1221 et. seq.). There, Congress declared that the safety of vessels and protection of the marine environment are matters of major national concern and that increased supervision of activities in ports is necessary. The PWSA authorized the Secretary of the department in which the Coast Guard operates to take whatever measures are necessary to protect structures of land in or adjacent to the navigable waters of the U.S., including measures establishing standards for the loading, movement, unloading, storage, and other handling of hazardous materials on waterfront facilities. The Coast Guard maintains that the hazards presented by the products covered under these measures justify additional standards for the handling of LHG.

Discussion of the Comments on the ANPRM

On September 28, 1988, an advance notice of proposed rulemaking (ANPRM) entitled "Liquefied Hazardous Gas Facilities" was published in the **Federal Register** (53 FR 37792). The Coast Guard received 28 letters containing comments on the proposed rulemaking. It considered those comments in the development of this proposed rule.

The list of specific gases covered under this proposed rule has changed since the ANPRM was published. The following gases, which are neither flammable nor toxic, no longer appear on the list: Argon, carbon dioxide, dichlorodifluoromethane, monochlorodifluoromethane, and nitrogen. Propylene oxide and monoethylamine are generally classified as liquids rather than liquefied gases and, therefore, are regulated on waterfront facilities under 33 CFR part 154 (Facilities Transferring Oil or Hazardous Material in Bulk). For clarification, mixtures of butane and propane now appear on the list. Table 1 to part 127 of this proposed rule shows the 19 products covered by this proposed rule. The term "liquefied hazardous gas", or "LHG", as used in this proposed rule refers only to those 19 products.

1. Six comments to the ANPRM expressed concerns over combining the regulations for LNG and LHG in part 127. Although LNG and LHG would be covered generally in a single part, they would be covered specifically in separate subparts. Subpart A would contain the general requirements for both LNG and LHG facilities. Subpart B would contain the specific requirements for LNG facilities; subpart C, for LHG facilities.

2. Five comments to the ANPRM stated that the definition of "marine transfer area" in part 127 was too broad and would not be suitable for LHG facilities. The term "marine transfer area" would be split in two. It would become "marine transfer area for LHG"

and "marine transfer area for LNG". The definitions for these areas would be different from each other.

3. Five comments to the ANPRM recommended that the Coast Guard not use standards of the National Fire Protection Association (NFPA) for the design and construction of waterfront facilities. The primary concern was that the Coast Guard would apply these standards, for flammable products, to waterfront facilities handling nonflammable LHG. NFPA has set standards that address fire prevention at waterfront facilities in general and others that address fire prevention at waterfront facilities handling flammable products in particular. The Coast Guard agrees that NFPA 59A (Production, Storage, and Handling of Liquefied Natural Gas) should not apply to LHG facilities, but it believes that other standards of NFPA (such as NFPA 58) might apply to them, depending upon the products being handled. The requirements would vary; those for each waterfront facility handling LHG would depend upon the flammability and toxicity of each product handled, as indicated in Table 1 to part 127 of this proposed rule.

4. Five comments to the ANPRM suggested allowing an excess-flow valve instead of a sensor shutdown for the transfer system. A sensor shutdown would not be required by this proposed rule, though an emergency shutdown would. An excess-flow valve is a valuable safety device, but is no substitute for a remotely operated emergency shutdown. An excess-flow valve will activate only under limited circumstances, not under all that would call for an emergency shutdown. Therefore, while excess-flow valves may be installed at the option of the facility operator, an emergency shutdown must be installed in all transfer systems for LHG.

5. Four comments recommended that a transfer shutdown not be required for small releases of product. None of these comments defined a "small" release or indicated how to distinguish a small release from a nonallowable release. Because LHG is by definition hazardous, the Coast Guard doubts whether allowing small releases of it would be practicable or safe. Continual small releases will amount to a big release over time. If the Coast Guard allowed a "small" release, it would be hard-pressed ever to prove that a release was more than "small". Comments are welcome on practicable ways to allow verifiably small releases without permitting a hazardous situation to exist.

6. Three comments recommended eliminating the preliminary transfer-inspection. The primary concern appeared to be the workload imposed by the inspection, particularly for barges. The Coast Guard does not agree. Most items on the inspection are done for each transfer under standard industry practices. However, some items, such as equipment tests on barges, are not, although they should be. The preliminary transfer-inspection and Declaration of Inspection help to reduce personnel error by providing a checkoff list for the persons in charge of transfers. This inspection takes less time on barges than on ships since barges generally have smaller and less complex transfer systems.

Discussion of Proposed Amendments

1. Proposed rewording of § 126.05(a), and proposed deletion of §§ 126.10(d) and 126.15(o), would eliminate the regulation under part 126 of waterfront facilities handling LHG. Regulation under part 126 would no longer be necessary or desirable since most of the requirements in § 126.15(o) would return in part 127.

2. Section 127.001 would be amended to specify the applicability of part 127 to waterfront facilities handling LNG and LHG. Subpart A would apply to both LNG and LHG facilities, subpart B would apply only to LNG facilities, and subpart C would apply only to LHG facilities. Grandfathering provisions for existing LHG facilities, where appropriate, appear in specific sections.

3. Proposed changes to § 127.003 would incorporate two standards of ANSI (ANSI B31.3 and ANSI S12.13) and one practice recommended by API (API RP 2003). The changes would also incorporate the standards of NFPA listed, but only some of these would apply to waterfront facilities handling LHG.

4. Proposed changes to § 127.005 would modify existing definitions and add new definitions, to distinguish between waterfront facilities handling LHG and those handling LNG. Most confusion stems from the existing definitions of the terms "facility" and "marine transfer area." (Changes to many of the existing sections would further implement these proposed changes by substituting new terms for old terms in the existing text.)

5. Proposed changes to the organization of part 127 would reduce the number of subparts from eight to three. Subpart A would include general requirements that apply to both waterfront facilities handling LHG and those handling LNG. Subpart B would include the current §§ 127.101 through 127.711, which would apply only to LNG facilities. The current headings for subparts B through H would remain as undesignated text-headings. Subpart C would contain new §§ 127.1101 through 127.1605, which would apply only to LHG facilities; some of it would be new in substance as well as form, while some would derive from current part 126.

6. Proposed §§ 127.1101 and 127.1102 would set requirements for transfer piping, transfer hoses, and loading arms in the marine transfer area for LHG. These requirements are similar to the existing ones for preventing pollution in 33 CFR part 154 and to some of those for transfer of liquids in bulk in 33 CFR part 126. Proposed § 127.1101 incorporates ANSI B31.3 and API RP 2003 by reference, to ensure appropriate standards of construction and design. Current § 127.101 incorporates NFPA 59A by reference, and so already sets corresponding requirements for the marine transfer area for LNG.

7. Proposed § 127.1103(a) would impose a requirement that piers and wharves constructed after the effective date of these regulations be designed to resist seismic forces. Proposed § 127.1103(b) would impose a requirement for fire endurance that would apply only to structures in a marine transfer area for LHG where any of the LHG is flammable.

8. Proposed § 127.1105 would prevent the buildup of dangerous concentrations of LHG in buildings, prevent pool fires in impounding spaces that could threaten vessels, and prevent operations too near public roadways and railways. Its distances from roadways and railways agree with those of NFPA 30.

9. Proposed § 127.1107 would promote safety in electrical installations through incorporating NFPA 70 by reference.

10. Proposed § 127.1109 would promote safety of transfers at night by requiring specific levels of lighting in work areas. It would not apply to facilities conducting transfers only during daylight.

11. Proposed § 127.1111 would ensure adequate communications between the waterfront facility and the vessel, to ensure coordination during transfers.

12. Proposed § 127.1113 would prescribe the same warning signs prescribed by current § 126.15(o)(2)(i), which among other things this proposal would remove.

13. Proposed § 127.1203 would prescribe portable gas-detectors, to detect concentrations of LHG in the marine transfer area. Current 46 CFR 154.1345 already prescribes the equivalent for vessels.

14. Proposed § 127.1205 would prescribe a shutdown system to quickly stop the flow of liquid and vapor in an emergency. The system would involve a remote actuator, which personnel could use to activate the system even if the emergency prevented local activation. Fusible elements would provide backup when flammable products were handled in case a fire destroyed the linkage to the remote actuator.

15. Proposed § 127.1207 would prescribe both visible and audible alarms to warn the public of a release of LHG at the facility. Current regulations prescribe only one alarm, either audible or visible. Experience has shown that a warning light is difficult to see, particularly during daylight, unless it is accompanied by an audible alarm and that an audible alarm is difficult to locate, even during daylight, unless it is accompanied by a warning light.

16. Proposed § 127.1209 would prescribe portable respiratory devices for all personnel in the marine transfer area for LHG that would allow them to escape in an emergency. The devices would have to be self-contained breathing apparatus, since gas masks will not protect personnel against suffocation. A similar requirement for personnel on vessels appears in 46 CFR 154.1405.

17. Proposed § 127.1301 would incorporate the requirements in current § 126.15(o)(1), which this proposal would remove, for qualifying persons in charge and would add some specific criteria for training. While each person in charge would be certified in writing, the facility would retain all documents. No copy would need go to the Captain of the Port (COTP), as one does in current § 126.15(o)(1).

18. Proposed § 127.1302 would specify training for each person involved in the transfer. This training is necessary to ensure that each knows the procedures for transfers and for responding to emergencies, can operate the required safety equipment, can provide basic first aid, and can enforce restrictions on access to facilities. Refresher training every five years is necessary to make sure that personnel do not forget these procedures since emergency procedures are seldom used but are extremely important when an emergency occurs. Refresher training also allows the introduction of new procedures or technologies to improve emergency response.

19. Proposed § 127.1303 would mandate compliance with the order of a COTP to suspend transfers. These orders are necessary to prevent transfers under hazardous or potentially hazardous circumstances created by spills of LHG or by other emergencies.

20. Proposed §§ 127.1305 and 127.1307 would specify the contents of the Operations Manual and Emergency Manual prescribed by § 127.019. The Operations Manual is necessary to ensure that the transfers conducted by the facility are safe. The Emergency Manual is necessary to ensure that the facility has planned responses to cope with various emergencies at the facility.

21. Proposed § 127.1309 would mandate that transfers be conducted in accordance with the Operations Manual and that responses be conducted in accordance with the Emergency Manual.

22. Proposed § 127.1311 would restrict the parking, refueling, and operation of motor vehicles at waterfront facilities handling LHG. Restrictions are necessary because parked motor vehicles could keep firefighters from entering the facilities, trap LHG vapors, or ignite flammable LHG vapors. Similar restrictions already apply to such facilities through current part 126.

23. Proposed § 127.1313 would set requirements for the storage of hazardous materials because they pose a threat to waterfront facilities handling LHG.

24. Proposed §§ 127.1315 and 127.1317 would prescribe a preliminary transfer-inspection, a conference with the person in charge aboard the vessel, and completion of a Declaration of Inspection. The inspection would ensure that the facility was prepared for transfer. The conference would ensure coordination between the persons in charge of the vessel and facility. The Declaration would establish that the inspection and the conference had occurred.

25. Proposed § 127.1319 would specify requirements for LHG transfers. It would require notification of the COTP before transfer, ensure the use of a qualified person in charge, prohibit the person in charge from supervising more than one transfer at a time, limit the mooring of vessels to the LHG vessel during transfer, mandate an inspection during transfer, set out conditions under which the transfer must be suspended, and mandate the use of lighting between sunset and sunrise. Similar requirements already exist in current §§ 126.15(o) and 126.27, which this proposal would remove.

26. Proposed § 127.1321 would prohibit intentional releases of LHG, to discourage practices that could result in liquid discharges. It would also specify procedures to follow that would mitigate damage after any liquid or gas release, intentional or not.

27. Proposed § 127.1325 would restrict access to waterfront facilities handling LHG, to reduce the risk of fires, explosions, or other emergencies resulting from vandalism or sabotage. A requirement for guards at these facilities already exists in current § 126.15(a).

28. Proposed § 127.1401 would mandate proper maintenance of cargo-handling equipment, to reduce the risk of discharges of LHG caused by worn or improperly maintained equipment.

29. Proposed §§ 127.1403 through 127.1407 would prescribe tests and inspections, to ensure that all parts of the cargo-handling system are safe and that repairs are complete and conducted safely. A similar requirement already exists in current § 126.15(o), which this proposal would remove.

30. Proposed § 127.1409 would prescribe that records be kept for each inspection, test, alteration, and major repair. Those records are necessary to verify compliance. A similar requirement already exists in current § 126.15(o), which this proposal would remove.

31. Proposed § 127.1501 would mandate that each waterfront facility handling LHG conduct an evaluation to determine the equipment needed for firefighting and fire protection. An evaluation peculiar to each facility is necessary because of the unique mix, at each, of hazards from products, tanks, pipes, structures, and site. Existing facilities may use prior studies. New facilities must have their evaluations reviewed by the COTP. Maintenance, color-coding, and approval of fire equipment by independent laboratories are necessary to ensure that the equipment is functional and readily identifiable.

32. Proposed § 127.1503 would adopt the standards in NFPA 10 for determining the number, kind, and size of portable fire-extinguishers to be available at waterfront facilities handling LHG. These standards would apply even if a facility was not handling a flammable product.

33. Proposed § 127.1505 would mandate that each waterfront facility handling LHG provide at least two outfits that will protect the wearer for firefighting, for rescue, or for other activity in an emergency due to a release of LHG. These outfits allow activity pending the arrival from off-site of personnel for firefighting, rescue, or hazardous-materials response.

34. Proposed §§ 127.1507 and 127.1509 would specify details for the water system and the fire-extinguishing and fire-control equipment. An adequate water supply is necessary for most fire-fighting; but water-based

systems alone may not be sufficient, and other systems may be necessary as well, depending upon the products handled at the waterfront facility handling LHG.

35. Proposed § 127.1511 would mandate that each waterfront facility handling LHG have an international shore-connection to provide firefighting water to foreign vessels mooring at the facility.

36. Proposed § 127.1601 would restrict smoking at LHG facilities, to reduce the risk of accidental fires.

37. Proposed § 127.1603 would restrict hotwork (such as welding and torch-cutting) through permits issued by the COTP. Authority for these permits already appears in current § 126.15(c).

38. Proposed § 127.1605 would set requirements to reduce the risk of fire from other potential sources of ignition. It implements requirements in current part 126.

Incorporation by Reference

The following material would be incorporated by reference in § 127.003:

ANSI B16.5, Steel Pipe Flanges and Flanged Fittings 1981.
ANSI B16.31, Non-Ferrous Pipe Flanges 1971.
ANSI B31.3, Chemical Plant and Petroleum Refinery Piping 1987.
ANSI S12.13, Part I, Performance Requirements, Combustible Gas Detectors 1986.
API RP 2003, Protection Against Ignitions Arising Out of Static, Lightning and Stray Currents 1974.

Copies of the material are available for inspection by arrangement with the person indicated under FOR FURTHER INFORMATION CONTACT. Copies of it are also available for purchase from the addresses in § 127.003.

Before publishing a final rule, the Coast Guard will submit this material to the Director of the Federal Register for approval of the incorporation by reference.

Regulatory Evaluation

This rulemaking is not major under Executive Order 12291 and not significant under the Regulatory Policies and Procedures of the Department of Transportation (44 FR 11034 (February 26, 1979)). A draft Regulatory Evaluation is available in the docket for inspection or copying at the first address under ADDRESSES.

The proposed rule may produce discounted costs of about $17.3 million over the next 25 years. Most of these costs will be borne by the waterfront facilities regulated, with the remainder borne by the Coast Guard. This rule will affect about 137 waterfront facilities. Over half of those facilities also handle products subject to the pollution-prevention regulations in 33 CFR parts 154 and 156, which contain similar requirements. Costs to industry will arise primarily from purchase, replacement, and maintenance of equipment, and secondarily from training personnel and from collecting information. The proposed rule may produce benefits of about $4.8 million in discounted property damages prevented, of 5 or 6 deaths prevented, and of 147 injuries prevented over the next 25 years. The cost of achieving these benefits is less than the value of life based on willingness to pay, assumed by most economists, therefore this rulemaking would be cost-beneficial. It may also produce environmental benefits by preventing the release of hazardous products into the environment, though those benefits might be slight, over the same span. Further details on the costs and benefits of this rulemaking appear in the draft Regulatory Evaluation.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal would have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

This proposal could have more than a minimal impact on any waterfront facility handling LHG that is owned or operated by a small entity. An entity large or small, however, could avoid the impact of this proposal by receiving shipments of LHG in portable tanks, tank trucks, or rail cars rather than in bulk from a vessel. A recent review of the ownership and operation of waterfront facilities handling LHG in bulk did not reveal any owned by small entities as defined under the Regulatory Flexibility Act. A comparable review in 1978 revealed about 15 facilities as potentially being operated by small entities, but those facilities no longer receive shipments of LHG in bulk. Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities. If you nevertheless think that your business qualifies as a small entity and that this proposal will have a significant economic impact on your business, please submit a comment (to the first address under ADDRESSES) explaining how your business qualifies and in what way and to what degree this proposal will economically affect your business.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection of information requirement, to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposal contains collection of information requirements in the following sections:

Section	Topic
127.007	Letter of intent.
127.015	Appeals.
127.017	Alternatives.
127.019, 127.305, 127.1305.	Operations Manual.
127.019, 127.307, 127.1307.	Emergency Manual.
127.301, 127.1301	[Certification of PIC].
127.317, 127.1317	Declaration of Inspection.
127.409, 127.1409	Records [of maintenance].
127.617, 127.1603	Hotwork [permits].

The following particulars apply:

DOT No: 2115.

OMB Control No.: New.

Administration: U.S. Coast Guard.

Title: Waterfront Facilities Handling Liquefied Hazardous Gas.

Need for Information: To prevent, or mitigate the results of, releases of liquefied hazardous gases at waterfront facilities.

Proposed Use of Information: To verify compliance with safety regulations and for program management, planning, and evaluation.

Frequency of Response: On occasion.

Burden Estimate: 9,877 hours per year.

Respondents: 137.

Forms: None.

Average Burden Hours per Respondent: 72 hours per year.

The Coast Guard has submitted the requirements to OMB for review under subsection 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under ADDRESSES.

Federalism

The Coast Guard has analyzed this proposal in accordance with the principles and criteria contained in

Executive Order 12612, and has determined that this proposal does not have sufficient implications for federalism to warrant the preparation of a Federalism Assessment. This proposed rule sets minimum safety standards for the operation of waterfront facilities transferring liquefied hazardous gas to or from vessels in bulk. Since these would be minimum standards, State and local governments would be free to set higher standards where necessary due to local conditions. Therefore, the Coast Guard intends that, if this rule became final, this rule would preempt State action to set lower safety standards but not preempt State action to set higher safety standards for waterfront facilities transferring liquefied hazardous gas.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that preparation of an Environmental Impact Statement is not necessary. An Environmental Assessment and a Finding of No Significant Impact are available in the docket for inspection or copying at the first address under **ADDRESSES**. The proposed rule should prevent or mitigate releases of LHG and will have no adverse impact on the environment.

List of Subjects

33 CFR Part 126

Explosives, Harbors, Hazardous substances, Reporting and recordkeeping requirements.

33 CFR Part 127

Harbors, Hazardous substances, Incorporation by reference, Natural gas, Reporting and recordkeeping requirements, Security measures, Vessels.

For the reasons set out in the preamble, the Coast Guard proposes to amend 33 CFR parts 126 and 127 as follows:

PART 126—[AMENDED]

1. The authority citation for part 126 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46(n)(4).

§ 126.05 [Amended]

2. In § 126.05(a), by removing the words "other than the cargoes listed in § 126.10(d)".

§ 126.10 [Amended]

3. In § 126.10, by removing paragraph (d).

§ 126.15 [Amended]

4. In § 126.15, by removing paragraph (o).

5. The authority citation for part 127 continues to read as follows:

Authority: 33 U.S.C. 1231; 49 CFR 1.46(n)(4).

6. By revising the heading of part 127 to read as follows:

PART 127—WATERFRONT FACILITIES HANDLING LIQUEFIED NATURAL GAS AND LIQUEFIED HAZARDOUS GAS

7–8. By revising § 127.001 to read as follows:

§ 127.001 Applicability.

(a) Subparts A and B of this part apply to the marine transfer area for LNG of each new waterfront facility handling LNG and to new construction in the marine transfer area for LNG of each existing waterfront facility handling LNG.

(b) Subpart A of this part and §§ 127.301 through 127.617 apply to the marine transfer area for LNG of each active existing waterfront facility handling LNG.

(c) Sections 127.007(c), (d), and (e); 127.019(b); and 127.701 of subparts A and B of this part apply to the marine transfer area for LNG of each inactive existing facility.

(d) Subparts A and C of this part apply to the marine transfer area for LHG of each active waterfront facility handling LHG.

(e) Sections 127.007(c), (d), and (e); 127.019(b); and 127.1325(c) of subparts A and C of this part apply to the marine transfer area for LHG of each inactive facility.

§ 127.003 [Amended]

9. By revising § 127.003 to read as follows:

(a) Certain material is incorporated by reference into this part with the approval of the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. To enforce any edition other than that specified in paragraph (b) of this section, the Coast Guard must publish notice of change in the **Federal Register** and make the material available to the public. All approved material is on file at the Office of the Federal Register, room 700, 800 North Capitol Street NW., Washington, DC 20408, and at the U.S. Coast Guard, (G–MPS), room 1108, 2100 Second Street SW., Washington, DC, 20593–0001, and is available from the sources indicated in paragraph (b) of this section.

(b) The material approved for incorporation by reference in this part, and the sections affected, are:

The American National Standards Institute (ANSI), 1430 Broadway, New York, NY 10018:	
ANSI B31.3, Chemical Plant and Petroleum Refinery Piping, 1987.	127.1101
ANSI B16.5, Steel Pipe Flanges and Flanged Fittings 1981.	127.1102
ANSI B16.31, Non-Ferrous Pipe Flanges, 1971.	127.1102
ANSI S12.13, Performance Requirements, Combustible Gas Detectors, 1986.	127.1203
American Petroleum Institute (API), 1220 L Street NW., Washington, DC 20005:	
API RP 2003, Protection Against Ignitions Arising Out of Static, Lightning and Stray Currents, 1974.	127.1101
American Society for Testing and Materials (ASTM) 1916 Race Street, Philadelphia, PA 19103:	
ASTM F–1121, International Shore Connections for Marine Applications, 1987.	127.1511
National Fire Protection Association (NFPA) Batterymarch Park, Quincy, MA 02269:	
NFPA 10, Portable Fire Extinguishers, 1984.	127.603; 127.1503
NFPA 30, Flammable and Combustible Liquids Code, 1984.	127.313; 127.1313
NFPA 51B, Fire Prevention in Use of Cutting and Welding Processes, 1984.	127.405; 127.1405
NFPA 59A, Production, Storage and Handling of Liquefied Natural Gas (LNG), 1985.	127.101; 127.201; 127.405; 127.603
NFPA 70, National Electrical Code, 1987.	127.107; 127.201; 127.1107
NFPA 251, Fire Tests of Building Construction and Materials, 1985.	127.005

10. In § 127.005, by revising the definitions for the terms "active", "existing", "impounding space", "LNG vessel", and "new"; by removing the definitions for the terms "LNG waterfront facility" and "marine transfer area"; and by adding definitions for the terms "facility", "flammable product", "LHG", "LHG Vessel" "liquefied hazardous gas", LNG", "marine transfer area for LHG", "marine transfer area for LNG", "mating flange", "MAWP", "toxic product", "waterfront facility handling LHG", and "waterfront facility handling LNG", in alphabetical order, to read as follows:

§ 127.005 Definitions.

* * * * *

Active means accomplishing the transfer of LHG or LNG, or scheduling

one to occur, within 12 months of the current date.

* * * * *

Existing as applied to a waterfront facility means a facility handling LNG constructed or being constructed under a contract awarded before June 2, 1988, or a facility handling LHG constructed or being constructed under a contract awarded before [*Insert effective date of final rule.*].

Facility means either a waterfront facility handling LHG or a waterfront facility handling LNG.

* * * * *

Flammable product means a product indicated by the letter "F" or by the letters "F + T" in Table 1 to this part.

* * * * *

Impounding space means a space formed by dikes and floors that confines a spill of LHG or LNG.

LHG means liquefied hazardous gas.

LHG vessel means a vessel constructed or converted to carry LHG, in bulk.

Liquefied hazardous gas (LHG) means a liquid containing one or more of the products listed in Table 1 to this part.

* * * * *

LNG means liquefied natural gas.

LNG vessel means a vessel constructed or converted to carry LNG, in bulk.

* * * * *

Marine transfer area for LHG means that part of a waterfront facility handling LHG between the vessel, or where the vessel moors, and the first shutoff valve on the pipeline immediately inland on the terminal manifold or loading arm, including the entire part of a pier or wharf used to serve LHG vessels.

Marine transfer area for LHG means that part of a waterfront facility handing LNG between the vessel, or where the vessel moors, and the last manifold or valve immediately before the receiving tanks.

Mating flange means that flange in the product-transfer pipeline on a waterfront facility handling LHG or a waterfront facility handling LNG that connects this pipeline to the pipeline or transfer hose of the vessel.

* * * * *

MAWP means maximum allowable working pressure.

New as applied to a waterfront facility means a facility handling LNG constructed or being constructed under a contract awarded on or after June 2, 1988, or a facility handling LHG constructed or being constructed under a contract awarded on or after [*Insert effective date of final rule.*].

* * * * *

Toxic product means a product indicated by the letter "T" or by the letter "F + T" in Table 1 to this part.

Waterfront facility handling LHG means any structure on, in, or under the navigable waters of the United States, or any structure on land or any area on shore immediately adjacent to such waters, used or capable of being used to transfer liquefied hazardous gas, in bulk, to or from a vessel.

Waterfront facility handling LNG means any structure on, in, or under the navigable waters of the United States, or any structure on land or any area on shore immediately adjacent to such waters, used or capable of being used to transfer liquefied natural gas, in bulk, to or from a vessel.

§§ 127.007, 127.009, 127.011, 127.013, 127.019 [Amended]

11. By adding the phrase "LHG or" before the term "LNG" wherever the latter appears in the following:

(a) § 127.007(c).
(b) § 127.007(d)(5).
(c) § 127.007(d)(6).
(d) § 127.007(e)(2).
(e) The introductory text of § 127.009.
(f) The introductory text of § 127.013(a).
(g) § 127.019(b).

§ 127.011 [Heading revised]

12. By revising the heading of § 127.011 to read "Inspections of Waterfront Facilities."

§ 127.019 [Amended]

13. In § 127.019(c) by removing the words "§ 127.305 and the Emergency Manual meets § 127.307" and adding in their place the words "§ 127.305 or § 127.1305 and that the Emergency Manual meets § 127.307 or § 127.1307".

14. By removing the subpart designations, subparts C, D, E, F, G, and H, and leaving the headings as undesignated text headings, by removing the undesignated text heading "Fire Equipment" before § 127.601, by removing the undesignated text heading "Fire Protection" before § 127.613, and by revising the heading for subpart B to read as follows:

Subpart B—Waterfront Facilities Handling Liquefied Natural Gas

§§ 127.101, 127.105, 127.109, 127.111, 127.113, 127.203, 127.207, 127.305, 127.313, 127.315, 127.319, 127.607, 127.609, 127.611, 127.613, 127.615, 127.701, 127.703, 127.705, and 127.711 [Amended]

15. By replacing the words "marine transfer area" wherever they appear with the words "marine transfer area for LNG" in the following:

(a) The introductory text of § 127.101.
(b) § 127.109(a).
(c) § 127.111(a).
(d) § 127.113(a), introductory text.
(e) § 127.203.
(f) § 27.207 (a) and (b).
(g) § 127.305 (d) and (e).
(h) § 127.313(a), introductory text.
(i) § 127.315(g).
(j) § 127.319 (a)(1) and (b)(3)(i).
(k) The introductory text of § 127.603.
(l) § 127.607(a).
(m) § 127.609(a).
(n) § 127.611.
(o) § 127.613.
(p) § 127.615.
(q) The heading of § 127.703.
(r) § 127.703 (a), introductory text, and (b).
(s) The introductory text of § 127.705.
(t) § 127.711.

§ 127.105 [Heading revised]

16. By revising the heading of § 127.105 to read "Layout and spacing of marine transfer area for LNG."

§§ 127.103, 127.105, 127.301, 127.303, 127.305, 127.307, 127.309, 127.317, 127.319, 127.321, 127.401, 127.703, and 127.711 [Amended]

17. By replacing the word "facility" with the phrase "waterfront facility handling LNG" wherever it appears in the following:

(a) § 127.103(a).
(b) § 127.105(a).
(c) §§ 127.301 (a), introductory text, and (b).
(d) § 127.303.
(e) § 127.305(d).
(f) § 127.307(f).
(g) § 127.309(a).
(h) §§ 127.317 (b) and (c)(1).
(i) § 127.319(a), introductory text.
(j) § 127.321(a), introductory text.
(k) § 127.401.
(l) §§ 127.703 (a)(1) and (b).
(m) § 127.711.

18. By adding a new subpart C, consisting of §§ 127.1101 through 127.1605, to read as follows:

Subpart C—Waterfront Facilities Handling Liquefied Hazardous Gas Design and Construction

Sec.
127.1101 Piping systems.
127.1102 Transfer hoses and loading arms.
127.1103 Piers and wharves.
127.1105 Layout and spacing of marine transfer area for LHG.
127.1107 Electrical systems.
127.1109 Lighting systems.
127.1111 Communications systems.
127.1113 Warning signs.

Equipment

127.1203 Portable gas-detectors.
127.1205 Emergency shutdown.
127.1207 Warning alarms.

127.1209 Respiratory protection.

Operations

127.1301 Persons in charge of transfers for the facility: Qualifications and certification.
127.1302 Personnel training.
127.1303 Compliance with suspension order.
127.1305 Operations Manual.
127.1307 Emergency Manual.
127.1309 Operations Manual and Emergency Manual: Use.
127.1311 Motor vehicles.
127.1313 Storage of hazardous materials.
127.1315 Preliminary transfer-inspection.
127.1317 Declaration of Inspection.
127.1319 Transfer of LHG.
127.1321 Release of LHG.
127.1325 Access to marine transfer area for LHG.

Maintenance

127.1401 General.
127.1403 Inspection.
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127.1407 Tests.
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Firefighting Equipment

127.1501 General.
127.1503 Portable fire extinguishers.
127.1505 Emergency outfits.
127.1507 Water systems for fire protection.
127.1509 Equipment for controlling and extinguishing fires.
127.1511 International shore-connection.

Fire Protection

127.1601 Smoking.
127.1603 Hotwork.
127.1605 Other source of ignition.

Design and Construction

§ 127.1101 Piping systems.

Each piping system within the marine transfer area for LHG used for the transfer of LHG must meet the following criteria:

(a) Each system must be designed and constructed in accordance with ANSI B31.3.

(b) Each pipeline on a pier or wharf must be located so that it is not exposed to physical damage from vehicular traffic or cargo-handling equipment. Each pipeline under navigable waters must be covered or protected to meet 49 CFR 195.248.

(c) The transfer manifold of each liquid-transfer line and of each vapor-return line must have an isolation valve and a bleed connection, so that transfer hoses and loading arms can be blocked off, drained or pumped out, and depressurized before disconnecting. Bleeds or vents must discharge to a safe area.

(d) In addition to the isolation valve at the transfer manifold, each liquid-transfer line and each vapor-return line must have a readily accessible isolation valve located near the edge of the marine transfer area for LHG.

(e) Each power-operated isolation valve must be timed to close so that it will not produce a hydraulic shock capable of causing failure of the line or equipment. If the layout of the piping does not allow the isolation valve at the transfer manifold to close within 30 seconds without creating excessive stresses on the system, the layout must be reconfigured to reduce the stresses to a safe level.

(f) Each waterfront facility handling LHG that transfers to or from a vessel requiring vapor return during transfer must be equipped with a vapor-return line designed to attach to the vessel's vapor connection.

(g) Where two or more products are loaded or unloaded at the same facility, each manifold must be identified or marked to indicate each product it handles.

(h) Each pipeline used to transfer flammable liquids or vapors must be provided with precautions against static, lightning, and stray currents in accordance with API RP 2003.

§ 127.1102 Transfer hoses and loading arms.

(a) Each hose used for the transfer of LHG or its vapors must—

(1) Be made of materials resistant to each product transferred, in both the liquid and vapor state (if wire braid is used for reinforcement, the wire must be of corrosion-resistant material, such as stainless steel);

(2) Be constructed to withstand the temperature and pressure foreseeable during transfer, with a MAWP not less than the maximum pressure to which it may be subjected and at least 150 psig (1034 kPa gauge);

(3) Be designed for a minimum bursting pressure of at least five times the MAWP;

(4) Have either—

(i) Full-threaded connections;

(ii) Flanges that meet standard B16.5, Steel Pipe Flanges and Flange Fittings, or standard B16.31, Non-Ferrous Pipe Flanges, of the American National Standards Institute (ANSI); or

(iii) Quick-connect couplings that are acceptable to the Commandant;

(5) Be adequately supported against the weight of its constituent parts, the product, and any ice formed on it;

(6) Have no kinks, bulges, soft spots, or other defects that will let it leak or burst under normal working pressure; and

(7) Have a permanently attached nameplate that indicates, or otherwise be permanently marked to indicate—

(i) Each product for which it is suitable;

(ii) Its MAWP at the corresponding service temperature; and

(iii) Its minimum service temperature if used for service at other than ambient temperature.

(b) Each loading arm used for the transfer of LHG or its vapor must—

(1) Be made of materials resistant to each product transferred, in both the liquid and vapor state;

(2) Be constructed to withstand the temperature and pressure foreseeable during transfer;

(3) Be adequately supported against the weight of its constituent parts, the product, and any ice formed on it;

(4) Be provided with an alarm to indicate when it is approaching the limits of its extension; and

(5) Have a permanently attached nameplate that indicates, or otherwise be permanently marked to indicate—

(i) Each product it may handle;

(ii) Its MAWP at the corresponding service temperature; and,

(iii) If it is used for service at other than ambient temperature, its minimum service temperature.

§ 127.1103 Piers and wharves.

(a) Each new waterfront facility handling LHG, and all new construction in the marine transfer area for LHG of each existing facility, must comply with the seismic design and construction standards in 49 CFR part 41.

(b) Each substructure, except moorings and breasting dolphins, that supports, or is within 15 feet (4.57 meters) of, any pipe or equipment containing a flammable product or that is within 50 feet (15.24 meters) of a loading flange used to transfer a flammable product must have a fire-endurance rating of not less than two hours.

§ 127.1105 Layout and spacing of marine transfer area for LHG.

(a) Each building, shed, and other structure within each marine transfer areas for LHG must be located, constructed, or ventilated to prevent the accumulation of flammable or toxic gases within the structure.

(b) Each impounding space for flammable products located within the area must be designed and located so that the heat flux from a fire over the impounding space not cause, to a vessel, damage that could prevent the vessel's movement.

(c) Each manifold, loading arm, or independent mating flange must be located at least 200 feet (61 meters) from each of the following structures, if that structure is intended primarily for the use of the general public or of railways:

(1) A bridge crossing a navigable waterway.

(2) The entrance to, or the superstructure of, a tunnel under a navigable waterway.

(d) Each manifold, loading arm, or independent mating flange must be located at least 100 feet (30 meters) from each public roadway or railway.

§ 127.1107 Electrical systems.

Electric equipment and wiring must be of the kind specified by, and must be installed in accordance with, NFPA 70.

§ 127.1109 Lighting systems.

(a) Each waterfront facility handling LHG at which transfers of LHG take place between sunset and sunrise must have outdoor lighting that illuminates the marine transfer area for LHG.

(b) All outdoor lighting must be located or shielded so that it cannot be mistaken for any aids to navigation and does not interfere with navigation on the adjacent waterways.

(c) The outdoor lighting must provide a minimum average illumination on a horizontal plane 3 feet (1 meter) above the deck that is—

(1) Five foot-candles (54 lux) at any loading flange; and

(2) One foot-candle (11 lux) for the remainder of the area.

§ 127.1111 Communications systems.

(a) The marine transfer area for LHG must possess a communications system that enables continuous two-way voice communication between the person in charge of transfer aboard the vessel and the person in charge of transfer for the facility.

(b) The communication system required by paragraph (a) may consist either of fixed or portable telephones or of portable radio devices. The system must be usable and effective in all phases of the transfer and all weather at the facility.

(c) Devices used to comply with paragraph (a) during the transfer of a flammable product must be listed as intrinsically safe by Underwriters Laboratories Inc., Factory Mutual Research Corp., or other independent laboratory recognized by the Commandant, for use in the hazardous location in which it is used.

§ 127.1113 Warning signs.

(a) The marine transfer area for LHG must have warning signs that—

(1) Meet paragraph (b) of this section;

(2) Can be seen from the shore and the water; and,

(3) Except as provided in paragraph (c) of this section, bear the following text:

Warning
Dangerous Cargo
No Visitors
No Smoking
No Open Lights

(b) Each letter on the sign must be—

(1) In block style:

(2) Black on a white background; and

(3) At least 3 inches (7.62 centimeters) high.

(c) The words "No Smoking" and "No Open Lights" may be omitted when the product being transferred is not flammable.

Equipment

§ 127.1203 Portable gas-detectors.

(a) Each waterfront facility handling LHG that transfers a flammable product must have at least two portable gas-detectors in the marine transfer area for LHG. The detectors must be capable of measuring from 0% to 100% of the lower flammable limit of each flammable product being transferred and must meet ANSI S12.13, part I.

(b) Each waterfront facility handling LHG that transfers a toxic product must have at least two portable gas-detectors available in the area. The detectors must be capable of showing whether the concentration of each toxic product being transferred is above or below the exposure limits listed in 29 CFR part 1910, subpart Z.

(c) The portable gas-detectors required by paragraphs (a) and (b) of this section must be available to detect leaks, check structures for gas accumulations, and help indicate workers' exposure to toxic gases in the area.

§ 127.1205 Emergency shutdown.

(a) Each piping system used to transfer LHG or its vapors to or from a vessel must have a quick-closing shutoff valve to stop the flow of liquid and vapor from the waterfront facility handling LHG if a transfer hose or loading arm fails. This valve may be the isolation valve required by § 127.1101(c).

(b) The valve required by paragraph (a) of this section must be located as near as practicable to the terminal manifold or loading-arm connection and must—

(1) Close on loss of power;

(2) Close from the time of activation in 30 seconds or less;

(3) Be capable of local manual closing and remotely controlled closing; and,

(4) If the piping system is used to transfer a flammable product, have fusible elements that melt at less than 220 °F (104 °C) and activate the emergency shutdown.

(c) The remote actuator for each valve must be located in a place accessible in an emergency, at least 50 feet (15.24 meters) from the terminal manifold or loading arm, and conspicuously marked with its designated function. When activated, the actuator must also automatically shut down terminal pumps and compressors used to transfer liquid and vapor from the facility.

§ 127.1207 Warning alarms.

(a) Each marine transfer area for LHG must have a rotating or flashing amber light that is visible for at least 1 mile (1.6 km) from the transfer connection in all directions.

(b) Each marine transfer area for LHG must also have a siren that is audible for at least 1 mile (1.6 km) from the transfer connection in all directions.

(c) Each light and siren required by this section must be located so as to minimize obstructions. If obstructions will prevent these alarms from meeting paragraphs (a) and (b) of this section, the operator of the waterfront facility handling LHG shall propose for approval by the local COTP additional or alternative warning devices that provide an equivalent level of safety.

§ 127.1209 Respiratory protection.

Each waterfront facility handling LHG must provide equipment for respiratory protection for each person in the marine transfer area for LHG if it handles one or more of the following toxic products: anhydrous ammonia, chlorine, dimethylamine, ethylene oxide, methyl bromide, sulphur dioxide, or vinyl chloride. The equipment must protect the wearer from the product's vapor for at least 5 minutes.

Operations

§ 127.1301 Persons in charge of transfers for the facility: Qualifications and certification.

(a) No person may serve, or use the services of any person, as a person in charge of transfers for the facility regulated under this subpart, unless that person—

(1) Has at least 48 hours' transfer experience with each product being transferred;

(2) Knows the hazards of each product being transferred;

(3) Knows the rules of this subpart; and

(4) Knows the procedures in the examined Operations Manual and the examined Emergency Manual;

(b) Before a person in charge of transfers on a waterfront facility handling LHG supervises a LHG transfer, the operator of the facility shall certify in writing that that person has met the criteria in paragraph (a) of this section. The operator shall ensure that

a copy of each current certification is available for inspection at the facility.

§ 127.1302 Personnel training.

(a) Each operator of a waterfront facility handling LHG shall ensure that each person assigned to transfer for the facility has training in the following subjects:

(1) Properties and hazards of each product being transferred to or from the facility.

(2) Use of the portable gas-detectors required by § 127.1203.

(3) Use of the equipment for respiratory protection required by § 127.1209.

(4) Basic firefighting procedures, including the use of the portable fire extinguishers required by § 127.1503.

(5) Use of the emergency outfits required by § 127.1505.

(6) Content and use of the examined Operations Manual and examined Emergency Manual.

(7) The configuration and limitations of LHG vessel cargo systems.

(8) Procedures for transferring LHG to and from LHG vessels.

(9) Procedures for response to a release of the LHG handled by the facility.

(10) First aid for persons—

(i) With burns;

(ii) Needing cardio-pulmonary resuscitation;

(iii) Exposed to toxic liquid or toxic vapors (if a toxic product is handled by the facility); and

(iv) Needing transportation to a medical facility.

(11) Restrictions on access to the marine transfer area for LHG.

(b) Each person that receives training under paragraph (a) of this section shall receive refresher training in the same subjects at least once every 5 years.

(c) The operator shall maintain, for each person trained, a record of all training provided under paragraphs (a) and (b) of this section. These records shall be retained for the duration of the person's employment on the waterfront facility plus 12 months.

§ 127.1303 Compliance with suspension order.

If the COTP issues to the operator or owner of a waterfront facility handling LHG an order to suspend a transfer, the transfer may not take place at the facility until the COTP withdraws the order.

§ 127.1305 Operations Manual.

Each Operations Manual must contain—

(a) A description of each liquid-transfer system and vapor-transfer system, including each mooring area, transfer connection, and (where installed) control room, and a diagram of the piping and electrical systems;

(b) The duties of each person assigned to transfers;

(c) The maximum relief-valve setting or MAWP of the transfer system;

(d) The telephone numbers of supervisors, persons in charge of transfers for the facility, persons on watch in the marine transfer area for LHG, and security personnel of the facility;

(e) A description of each security system provided for the transfer area;

(f) A description of the training programs established under § 127.1302;

(g) The procedures to be followed for security violations; and

(h) For each product handled, the procedures for transfer that include—

(1) Requirements for each aspect of the transfer (startup, gauging, cooldown, pumping, venting, and shutdown);

(2) The maximum transfer rate;

(3) The minimum transfer temperature;

(4) Firefighting equipment requirements; and

(5) Communications procedures.

§ 127.1307 Emergency Manual.

Each Emergency Manual must contain—

(a) For each product handled—

(1) A physical description of the product;

(2) A description of the hazards of the product;

(3) First-aid procedures for persons exposed to the product or its vapors;

(4) The procedures for response to a release of the product; and,

(5) If flammable, the procedures for fighting a product fire;

(b) A description of the emergency shutdown required by § 127.1205;

(c) The procedures for emergency shutdown;

(d) A description of the number, kind, place, and use of the fire equipment required by § 127.1501(a) and of the portable fire extinguishers required by § 127.1503;

(e) The telephone numbers of local Coast Guard units, hospitals, fire departments, police departments, and other emergency-response organizations;

(f) If the facility has personnel shelters, the place of and provisions in each shelter;

(g) If the facility has first-aid stations, the location of each station; and

(h) Emergency procedures for mooring and unmooring a vessel.

§ 127.1309 Operations Manual and Emergency Manual: Use.

Each operator of a waterfront facility handling LHG shall ensure that—

(a) No transfer is conducted unless the facility has an examined Operations Manual and an examined Emergency Manual:

(b) Each transfer is conducted in accordance with the examined Operations Manual; and

(c) Each emergency response is conducted in accordance with the examined Emergency Manual.

§ 127.1311 Motor vehicles.

(a) When LHG is being transferred or stored in the marine transfer area of a waterfront facility handling LHG, the operator shall ensure that no person—

(1) Stops or parks a motor vehicle in a space other than a designated parking space;

(2) Refuels a motor vehicle within the area; or

(3) Operates a vehicle or other mobile equipment that constitutes a potential ignition source within 100 feet (30 meters) of any storage container, manifold, loading arm, or independent mating flange containing a flammable liquid or vapor.

(b) If motor vehicles are permitted to stop in the marine transfer area for LHG, the operator shall designate and mark parking spaces that—

(1) Do not block fire lanes;

(2) Do not impede any entrances or exits; and

(3) Are not located within 100 feet (30 meters) of any storage container, manifold, loading arm, or independent mating flange containing a flammable liquid or vapor.

§ 127.1313 Storage of hazardous materials.

(a) Each operator of a waterfront facility handling LHG shall ensure that no materials listed in the table of hazardous materials under 49 CFR 172.101, except for the following, are stored in the marine transfer area for LHG:

(1) The product being transferred.

(2) Fuel required by the vessel.

(3) Oily wastes received from vessels.

(4) Solvents, lubricants, paints, and similar materials in the amount required for one day's operations and maintenance.

(b) The operator shall ensure that flammable liquids are stored in accordance with chapter 4 of NFPA 30.

§ 127.1315 Preliminary transfer-inspection.

Before transferring, the person in charge of transfer for the facility shall—

(a) Inspect piping and equipment within the marine transfer area for LHG

to be used during the transfer and ensure that it meets the requirements in this part;

(b) Determine the contents, pressure, temperature, and capacity of each storage tank to or from which product will be transferred, to ensure that it is safe for transfer;

(c) Confer with the person in charge of transfer aboard the vessel, to review and agree on—

(1) The sequence of acts required for transfer;

(2) The rate, maximum working pressure, and minimum working temperature of transfer;

(3) The duties, stations, and watches of each person assigned for transfer; and

(4) The emergency procedures in the examined Emergency Manual;

(d) Ensure that vessel is securely moored and that the transfer connections allow it to move to the limits of its moorings without placing a strain on the piping, hose, or loading arm used for transfer;

(e) Ensure that each part of the transfer system is aligned to allow the flow of product to the desired place;

(f) Ensure the display of the warning signs required by § 127.1113;

(g) Ensure that the requirements of this part concerning smoking and fire protection are met;

(h) Ensure that qualified personnel are on duty in accordance with the examined Operations Manual and §§ 127.1301 and 127.1302; and

(i) Test the following to determine that they are operable:

(1) The communication system required by § 127.1111.

(2) The portable gas-detectors required by § 127.1203.

(3) The emergency shutdown required by § 127.1205.

(4) The warning alarms required by § 127.1207.

§ 127.1317 Declaration of Inspection.

(a) Each person in charge of transfer for the facility shall ensure that no person transfers LHG to or from a vessel until a Declaration of Inspection that meets paragraph (c) of this section is executed and signed by both the person in charge aboard the vessel and the person in charge on the waterfront facility handling LHG.

(b) No person in charge of transfer for the facility may sign the Declaration unless that person has fulfilled the requirements of § 127.1315 and has indicated fulfillment of each requirement by initialing in the appropriate space on the Declaration.

(c) Each Declaration must contain—

(1) The name of the vessel and that of the facility;

(2) The date and time that the transfer begins;

(3) A list of the requirements in § 127.1315 with the initials of both the person in charge aboard the vessel and the person in charge for the facility after each requirement, indicating the fulfillment of the requirement;

(4) The signatures of both the person in charge aboard the vessel and the person in charge for the facility, and the date and time of signing, indicating that they are both ready to begin transfer; and

(5) The signature of each relief person in charge and the date and time of each relief.

(d) The person in charge of transfer for the facility shall give one signed copy of the Declaration to the person in charge of transfer aboard the vessel and retain the other.

(e) Each operator of a facility shall retain a signed copy of the Declaration at the facility for 30 days after the transfer.

§ 127.1319 Transfer of LHG.

(a) The operator of a waterfront facility handling LHG shall notify the COTP of the time and place of each transfer of LHG in bulk at least 24 hours before it begins.

(b) During transfer, each operator of a waterfront facility handling LHG shall ensure that—

(1) The marine transfer area for LHG is under the supervision of a person in charge certified for LHG transfers, who has no other assigned duties during the transfer;

(2) No personnel transferring fuel or oily waste are involved in the transfer; and

(3) No vessels are moored outboard of any LHG vessel without the permission of the COTP or as allowed by the examined Operations Manual of the facility.

(c) During transfer, each person in charge of transfer for the facility shall—

(1) Maintain communications with the person in charge of transfer aboard the LHG vessel;

(2) Ensure that an inspection of the transfer piping and equipment for leaks, frost, defects, and other threats to safety takes place at least once every transfer;

(3) Ensure that transfer is discontinued—

(i) When electrical storms or uncontrolled fires approach near the area; and

(ii) As soon as a leak or fire is detected in the area or aboard the vessel; and

(4) Ensure that the outdoor lighting required by § 127.1109 is turned on between sunset and sunrise.

Note: Corresponding standards for vessels appear at 46 CFR part 154.

§ 127.1321 Release of LHG.

(a) Each operator of a waterfront facility handling LHG shall ensure that—

(1) No person intentionally releases LHG into the environment; and

(2) If LHG or its vapor is released, vessels near the facility are notified by activating the warning alarms.

(b) If LHG or its vapor is released, the person in charge of the transfer for the facility shall—

(1) Immediately notify the person in charge of transfer aboard the vessel that the transfer must be shut down;

(2) Shut down the transfer in coordination with the person aboard the vessel;

(3) Notify the COTP of the release; and

(4) Not resume the transfer until authorized by the COTP.

§ 127.1325 Access to marine transfer area for LHG.

Each operator of a waterfront facility handling LHG shall ensure that—

(a) Access to the marine transfer area for LHG from shoreside and waterside is limited to—

(1) Personnel who work in the area, transfer personnel, vessel personnel, and delivery and service personnel in the course of their business;

(2) Coast Guard personnel; and

(3) Other persons authorized by the operator;

(b) No person is allowed into the area, unless the person either is identified by a card displaying his or her photograph, or is escorted and displays an identifying badge;

(c) Guards are stationed, and fences or other devices are installed, to prevent, detect, and respond to unauthorized access, fires, and releases of LHG in the area; but alternative measures authorized by the COTP (such as electronic monitoring or random patrols) will be sufficient where the stationing of guards is impracticable; and

(d) Coast Guard personnel are allowed access to the facility, at any time, to make any examination or to board any vessel moored at the facility.

Maintenance

§ 127.1401 General.

Each operator of a waterfront facility handling LHG shall ensure that all cargo-handling equipment is operable, and that equipment that may cause the release or ignition of a product is not used in the marine transfer area for LHG.

§ 127.1403 Inspections.

(a) Each operator of a waterfront facility handling LHG shall conduct a visual inspection for defects of each pressure-relief device not capable of being tested.

(b) The operator shall conduct the inspection at least once each calendar year, with intervals between inspections of at most 15 months.

§ 127.1405 Repairs.

Each operator of a waterfront facility handling LHG shall ensure that—

(a) Equipment is repaired so that—

(1) The equipment continues to meet the applicable requirements in this subpart; and

(2) Safety is not compromised; and

(b) Welding and cutting operations meet NFPA 51B.

§ 127.1407 Tests.

(a) Each operator of a waterfront facility handling LHG shall conduct a static liquid-pressure test of the piping, hoses, and loading arms of the LHG-transfer system, and shall verify the set pressure of the safety and relief valves—

(1) After the system or the valves are altered;

(2) After major repairs to the system or the valves;

(3) After any increase in the MAWP of the system; or

(4) At least once each calendar year, with intervals between tests of at most 15 months.

(b) The pressure for the test under paragraph (a) of this section must be at least 1.1 times the MAWP and last for at least 30 minutes.

(c) The operator shall conduct a test of each pressure gauge to ensure that the displayed pressure is within 10 percent of the actual pressure.

(d) The operator shall conduct a test of each item of remote operating or indicating equipment, such as a remotely operated valve or emergency-shutdown device, to ensure that it can perform its intended function.

(e) The operator shall conduct the tests in paragraphs (c) and (d) of this section at least once each calendar year, with intervals between tests not exceeding 15 months.

§ 127.1409 Records.

(a) Each operator of a waterfront facility handling LHG shall keep on file:

(1) A description of the components inspected or tested under § 127.1403 or 127.1407.

(2) The date and results of each inspection or test under § 127.1403 or 127.1407.

(3) A description of any repair made after the inspection or test.

(4) The date and a description of each alteration or major repair to the LHG-transfer system or its valves.

(b) The operator shall keep this information on file for at least 24 months after the inspection, test, alteration, or major repair.

Firefighting Equipment

§ 127.1501 General.

(a) The number, kind, and place of equipment for fire detection, protection, control, and extinguishment must be determined by an evaluation based upon sound principles of fire-protection engineering, analysis of local conditions, hazards within the waterfront facility handling LHG, and exposure to other property. The evaluation for each new facility and for all new construction on each existing facility must be reviewed and approved by the COTP. A description of the number, kind, place, and use of fire equipment must appear in the Emergency Manual for each facility.

(b) All fire equipment for each facility must be adequately maintained, and periodically inspected and tested, so it will perform as intended.

(c) The following must be red or some other conspicuous color and be in places that are readily accessible:

(1) Hydrants and standpipes.

(2) Hose stations.

(3) Portable fire extinguishers.

(4) Fire monitors.

(d) Fire equipment must bear the approval, if applicable, of Underwriters Laboratories, Inc., or of the Factory Mutual Research Corporation.

§ 127.1503 Portable fire extinguishers.

Each operator of a waterfront facility handling LHG must provide portable fire extinguishers of appropriate number, size, and kind in the marine transfer area for LHG in accordance with the standards of NFPA 10.

§ 127.1505 Emergency outfits.

(a) Each waterfront facility handling LHG that transfers a flammable product must provide at least two firefighting and rescue outfits, each consisting of at least:

(1) One explosion-proof flashlight.

(2) A pair of boots and one of gloves, both pairs made of heat-resistant rubber or other heat-resistant, electrically non-conductive material.

(3) A suit that protects the skin from scalding steam and from the heat of a fire, and that has a water-resistant outer surface.

(4) A set of heat-resistant goggles and helmet or other devices that protect the head, eyes, and face.

(5) A self-contained, pressure-demand-type, air-breathing apparatus approved by the Mine Safety and Health Administration (MSHA) or the National Institute for Occupational Safety and Health (NIOSH), having at least a 30-minute capacity.

(6) A spare bottle of air for the air-breathing apparatus having at least a 30-minute capacity.

(b) Each facility that transfers a toxic product must provide at least two toxic-chemical outfits consisting of at least:

(1) A pair of boots and one of gloves, both pairs made of a material impervious to the product being transferred.

(2) A chemical-protective suit made of a material impervious to the product being transferred, that protects the wearer from the particular hazards to personnel presented by the product's vapor.

(3) A helmet or hood, and a breathing-mask with a full face-shield, or other devices, that protect the head, eyes, and face from the product's vapor.

(4) A self-contained, pressure-demand-type, air-breathing apparatus approved by MSHA or NIOSH, having at least a 30-minute capacity.

(5) A spare bottle of air for the air-breathing apparatus having at least a 30-minute capacity.

(c) Where both firefighting and toxic-chemical outfits are required at the facility, one piece of equipment (such as an air-breathing apparatus) may be used to meet the requirement for both a firefighting outfit and a toxic-chemical outfit.

(d) Each outfit under paragraphs (a) and (b) of this section must be in a place readily accessible and be marked for easy recognition.

§ 127.1507 Water systems for fire protection.

(a) Each waterfront facility handling LHG must have a supply of water and a means for distributing and applying it to protect personnel; to cool storage tanks, equipment, piping, and vessels; and to control unignited leaks and spills in the marine transfer area for LHG. Each water system must include on the pier or wharf at least one 2½-inch supply line, one 2½-inch fire hydrant, and enough 2½-inch hose to connect the hydrant to the international shore-connection aboard the vessel.

(b) Each water system must provide, for at least 2 hours, for the simultaneous supply of any fixed fire-protection systems, including monitor nozzles, at their designed flow and pressure for the worst single incident foreseeable, plus an allowance of 1000 gpm (63 L/s) for streams from hand-held hoses.

§ 127.1509 Equipment for controlling and extinguishing fires.

(a) Within each marine transfer area for LHG of each waterfront facility handling LHG that transfers a flammable product, portable or wheeled fire extinguishers suitable for gas fires, preferably dry-chemical extinguishers, must be available at strategic sites, as determined by the evaluation required by § 127.1501(a).

(b) Fixed systems for extinguishing or controlling fires may be appropriate for protection against particular hazards. The evaluation required by § 127.1501(a) may specify the use in those systems of one or more of the following:

(1) Low-, medium-, or high-expansion foam.

(2) Dry chemicals.

(3) Water applied as deluge, spray, or sprinkle.

(4) Carbon dioxide.

(5) Other NFPA-approved fire-extinguishing media.

§ 127.1511 International shore-connection.

The marine transfer area for LHG must have an international shore-connection meeting the requirements of ASTM F–1121.

Fire Protection

§ 127.1601 Smoking.

Each operator of a waterfront facility handling LHG shall ensure that no person smokes in the marine transfer area for LHG unless—

(a) No flammable product is present in the area; and

(b) The person is in a place designated and marked in accordance with local law.

§ 127.1603 Hotwork.

Each operator of a waterfront facility handling LHG shall ensure that no person conducts welding, torch-cutting, or other hotwork on the facility, or on a vessel moored to the facility, unless—

(a) The COTP has issued a permit for that hotwork; and

(b) The conditions of the permit are met.

§ 127.1605 Other sources of ignition.

Each operator of a waterfront facility handling LHG shall ensure that in the marine transfer area for LHG—

(a) There are no open fires or open-flame lamps;

(b) Heating equipment will not ignite combustible material;

(c) Each chimney and appliance has a spark arrestor if it uses solid fuel or is located where sparks may ignite combustible material; and

(d) All rubbish, debris, and waste go into appropriate receptacles.

19. By adding to part 127, after new § 127.1605, a Table 1, to read as follows:

TABLE 1.—TO PART 127—LIST OF PRODUCTS AND HAZARDS

Product	Hazard
Acetaldehyde	F+T
Ammonia, anhydrous	T
Butadiene	F
Butanes	F
Butane and propane (mixtures)	F
Butylenes	F
Chlorine	T
Dimethylamine	F+T
Ethane	F
Ethyl chloride	F+T
Ethylene	F
Ethylene oxide	F+T
Methyl-acetylene and propadiene (mixtures).	F
Methyl bromide	F+T
Methyl chloride	F+T
Propane	F
Propylene	F
Sulphur dioxide	T
Vinyl chloride	F+T

NOTE: "F" indicates a flammable product. "T" indicates a toxic product. "F+T" indicates a product both flammable and toxic.

Dated: May 12, 1993.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

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October 5, 1993

Part III

Department of Transportation

Coast Guard

33 CFR Part 187
Vessel Identification System; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 187

[CGD 89-050]

RIN 2115-AD35

Vessel Identification System

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to establish a vessel identification system (VIS), as required by legislation, guidelines for State vessel titling systems, procedures for certifying compliance with those guidelines, and rules for participation in this system for undocumented vessels. VIS, in conjunction with current Coast Guard vessel documentation information, will provide a nationwide pool of vessel and vessel owner information that will help in identification and recovery of stolen vessels and deter vessel theft. Mortgages that cover the whole of an undocumented vessel in States that both participate in VIS and hold certification of compliance with guidelines for State vessel titling systems would be deemed to have preferred mortgage status.

DATES: Comments must be received on or before January 3, 1993.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G-LRA/3406), (CGD 89-050), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001, or may be delivered to room 3406 at the same address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267-6233. Comments on collection of information requirements must be mailed to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC, 20503, ATTN: Desk Officer, U.S. Coast Guard.

The Executive Secretary maintains the public docket for this rulemaking. Comments will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

The Coast Guard has prepared an informational video tape designed for State boating administrators considering participation in the proposed vessel identification system. For information regarding viewing or obtaining a copy of the video tape contact LT David Fish, (202) 267-6044.

FOR FURTHER INFORMATION CONTACT: LT David Fish, Office of Marine Safety, Security and Environmental Protection, Information Management Division (202) 267-6044.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written data, views, or arguments. Persons submitting comments should include their name and address, identify this rulemaking (CGD 89-050) and the specific section of this proposal to which each comment applies, and give a reason for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If not practical, a second copy of any bound materials is requested. Persons wanting acknowledgement of receipt of comments should enclose a stamped, self-addressed postcard or envelope.

The Coast Guard will consider all comments received during the comment period. It may change this proposal in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the Marine Safety Council at the address under "**ADDRESSES.**" The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place to be announced by a later notice in the **Federal Register**.

Drafting Information

The principal persons involved in drafting this document are LT David Fish, Project Manager, Office of Marine Safety, Security and Environmental Protection, Information Management Division; Jeanne Timmons, Project Liaison Office of Navigation Safety and Waterway Services, Auxiliary, Boating, and Consumer Affairs Division; and Helen Boutrous, Project Counsel, Office of Chief Counsel.

Background and Purpose

The Secretary of Transportation is required to establish VIS; to prescribe the manner and form for participating States to make information available to VIS; to establish guidelines for State vessel titling systems; and to establish procedures for certifying compliance with those guidelines (46 U.S.C. chapters 125, 131 & 313). The Secretary has delegated to the Commandant, U.S. Coast Guard, the authority to implement VIS. State participation in VIS is entirely voluntary. Likewise, requesting certification that a State vessel titling system complies with the guidelines is also voluntary. However, once a State elects to participate, it must comply with certain requirements to ensure the integrity and uniformity of the information provided to VIS.

On September 15, 1989, the Coast Guard published an advance notice of proposed rulemaking (ANPRM) in the **Federal Register** (54 FR 38358). The purpose of the ANPRM was to solicit information and views on establishing the nationwide information system, required by 46 U.S.C. chapter 125, for: Identifying recreational and commercial vessels, whether documented by the Coast Guard under 46 U.S.C. chapter 121, numbered under 46 U.S.C. chapter 123, or titled under the laws of a State; identifying vessel owners; and providing guidelines for State vessel titling systems as required under 46 U.S.C. 31322. The Coast Guard has determined that information on documented vessels will not be covered by the vessel identification system requirements of this NPRM. The Coast Guard currently maintains an information system on over 200,000 vessels documented under 46 U.S.C. chapter 121 and their owners. A planned enhancement of the current Coast Guard vessel documentation process will allow States participating in VIS increased access to information on vessels which are documented with the Coast Guard. The systems would be linked such that access to information on documented vessels would be available to States participating in VIS. However, the collection and maintenance of information on documented vessels will not be subject to the requirements of this proposed system. The planned enhanced vessel documentation system, therefore, is not addressed in this NPRM.

The States currently register over 10 million undocumented vessels under voluntary, Coast Guard-approved, vessel numbering systems (33 CFR part 174). Forty-nine States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, and the Northern Mariana Islands have Coast Guard-approved numbering systems. The Coast Guard continues to number vessels in Alaska. The establishment and maintenance of vessel numbering systems by the States is entirely voluntary. However, to receive Coast Guard approval, a State must collect the information required under 33 CFR 174.17. As suggested in the ANPRM, the information collected by the States under their Coast Guard-approved numbering systems is included in the proposed vessel identification system. This information would be accessed

automatically through VIS resulting in a central, nationwide, pool of vessel information.

The ANPRM also asked questions about whether or not to collect a $1.00 per vessel annual fee to maintain the information system. However, the provision authorizing the collection of the $1.00 fee was subsequently repealed by section 603 of Public Law 101–595. Finally, the ANPRM solicited information on the charging of user fees for information provided to or requested from the system.

The Coast Guard considered all the comments received in response to the ANPRM and now proposes a new part 187 to establish a vessel identification system, requirements for participating States, and guidelines for State vessel titling systems with procedures for certifying compliance with those guidelines. This NPRM proposes to prescribe minimum requirements for States participating in VIS. The participation requirements are intended to ensure that the minimum information needed to identify a vessel, its owner, and the location where evidence of vessel liens (if applicable) may be obtained, is collected, maintained and made available in a reliable manner.

Discussion of Comments

The ANPRM solicited input on the establishment of a vessel identification system by asking 45 questions in four areas. The areas were: (1) Manner and form of information to be included in VIS; (2) requirements for participating States; (3) guidelines for State vessel titling systems and procedures for certifying compliance with those guidelines; and (4) collection of an annual $1.00 fee and charging user fees for information provided to or requested from VIS. A total of 33 comments were received. Included in this number were comments from 16 State government agencies involved with recreational vessel numbering or titling systems. The comments came from the following categories in the numbers noted:

1 recreational boater;
9 commercial boating interests;
3 individual boat owners;
3 national boating interests;
1 Member of Congress; and
16 State government agencies.

One comment requested an extension of the comment period in order to further consider and comment on State vessel titling requirements. The Coast Guard has determined that the 90-day comment period provided in the ANPRM was adequate.

Of those comments generally addressing the VIS concept, most supported establishment of some vessel identification system. One emphasized keeping VIS simple; another recommended combining VIS and vessel documentation information to provide the most comprehensive and cost effective system. One comment recommended VIS be managed similarly to the current Coast Guard system for documented vessels, but provide better telephone access to lien and ownership information than current documentation service. Two comments suggested that the Coast Guard, when developing a suitable marine system, consider the Federal Aviation Administration consolidated system, which can identify, title and track U.S.-registered aircraft, or the Corps of Engineers information system on Waterborne Transportation Lines of the United States. Another comment suggested obtaining any needed information from the Maritime Administration, Interstate Commerce Commission, Federal Maritime Commission, and other agencies.

Two comments suggested State motor vehicle agencies should handle vessel information along with motor vehicle information and recommended the National Crime Information Center (NCIC) be expanded to include VIS. Two asserted that VIS only duplicates what is now provided by NCIC and that VIS does not provide any new or improved information due to reliance on State data. Three comments said State vessel registration programs are inconsistent on vessels registered and registration periods.

Two comments questioned a need for VIS and recommended required titling instead. One comment said VIS needs a verification program and that, since titling States are closer to providing validated data than non-titling States, only titling states should be allowed to participate in VIS. One comment favored a nationwide titling program to deter theft. Two comments suggested the money for VIS would be better spent by providing titling guidelines for States, helping non-titling States enact titling laws, and enhancing the availability of stolen boat information in NCIC to all States and law enforcement agencies.

Title 46 U.S.C. chapter 125 mandates establishment of a vessel identification system that will provide a nationwide pool of vessel and vessel owner information to help in identification and recovery of stolen vessels and deter vessel theft. Legislation further provides that mortgages on vessels titled in States that both participate in VIS and hold certification of compliance with the titling system guidelines be deemed to have preferred mortgage status. The Coast Guard considered all comments received, as well as the legislative requirements, in developing this NPRM. While a number of the comments received were beyond the scope of this rulemaking, other specific comments will be addressed below in conjunction with the discussion of particular proposed provisions.

Discussion of Proposed Regulations

1. Subpart A—General Provisions

Section 187.1 Applicability

Section 187.1 would prescribe the scope of applicability of part 187. This section explains that part 187 would establish minimum requirements for States electing to participate in VIS by prescribing the information to be collected by participating States on vessels, vessel owners and, as appropriate, the location where evidence of vessel liens may be obtained; and that this part would also prescribe guidelines for State vessel titling systems and the procedures for obtaining certification of compliance with those guidelines.

Section 187.3 Definitions

Section 187.3 would provide definitions of key terms used in part 187. This list includes:

Certificate of origin (COO) means a document establishing the initial chain of ownership, such as manufacturer's certificate of origin (MCO) or statement of origin (MSO), importer's certification of origin (ICO) or statement of origin (ISO), and builder's certification (form CG–1261; see 46 CFR part 67).

Commandant means the Commandant of the United States Coast Guard.

Dealer means any person who engages wholly or in part in the business of buying, selling or exchanging new or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage or otherwise, and who has an established place of business for the sale, trade and display of such vessels.

Department or *division* means the State agency designated to issue certificates of number or title, or both, for vessels, and its duly authorized representatives.

Documented vessel means a vessel documented under 46 U.S.C. chapter 121.

Issuing authority means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a State numbering system has not been approved.

Lienholder means a person holding a security interest.

Manufacturer means any person engaged in the business of manufacturing or importing new vessels for the purpose of sale or trade.

Owner means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest in it that entitles that person to such possession.

Participating State means a State that has elected to participate in VIS and complies with the participation requirements in subpart C of this part. States participating in VIS would be listed in appendix A of this part.

Person means an individual, partnership, firm, corporation, association, or other entity.

Security interest means an interest that is reserved or created by an agreement and that secures payment or performance of an obligation and is valid against third parties generally.

State means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

Titling authority means a State whose vessel titling system has been certified by the Coast Guard as complying with the guidelines for State vessel titling systems listed in this part. Titling authorities participating in VIS would be listed in appendix B of this part.

Vessel includes every description of watercraft other than a seaplane on the water, used or capable of being used, as a means of transportation on water.

A guideline for State vessel titling systems in subpart D would call for States to define most of the terms included in § 187.3 substantially as defined in this section.

Section 187.5 Vessel Identification Number

Section 187.5 would establish a vessel identification number (VIN) for all vessels subject to identification in VIS. Rather than create a duplicative identifying number, the Coast Guard proposes to utilize the hull identification number (HIN) as the VIN for any vessel having an HIN. The State registration number could be used as the VIN for undocumented vessels subject to State numbering or titling that lack an HIN until such time as ownership of the vessel is transferred or the vessel is numbered in a new State of principal operation. Upon transfer of ownership, application for a title meeting the requirements of subpart D of this part, or numbering in a new State of principal operation, the State would assign an HIN.

As discussed earlier, the planned enhanced vessel documentation system will be accessible to States participating in VIS. This section would establish the Coast Guard Official Number assigned to documented vessels under 46 U.S.C. chapter 121 as the VIN for documented vessels.

Of the comments received in response to the ANPRM regarding the VIN, most favored the use of an HIN as the VIN. Some suggested including all previous numbers issued. Several comments opposed creating a new duplicative numbering system for identifying vessels and two opposed using any new number as the VIN. The Coast Guard proposal, which calls for a valid HIN to be the preferred number for undocumented vessels, corresponds with most of the comments received and avoids the creation of a duplicative numbering system.

Section 187.7 Participation Procedures

Section 187.7 would prescribe the procedures to be followed by those States electing to participate in VIS. To participate in VIS, a State official within the department, as defined in § 187.3, would be required to submit a written request to the Commandant (G–NAB) and certify that the State will comply with the VIS participation requirements in subpart C of part 187. This section also would establish appendix A to part 187, listing those States that elect to participate in VIS and that comply with the participation requirements prescribed in this part. A State would remain listed in appendix A to part 187 as long as it continued to comply with the participation requirements in subpart C of this part.

Section 187.9 Procedures for Certification of Compliance With Guidelines for State Vessel Titling Systems

Section 187.9 would prescribe the procedures to be followed by those States electing to comply with both the State vessel titling system guidelines in subpart D of this part and the VIS participation requirements in subpart C. To receive certification, a State official within the department, as defined in § 187.3, would be required to submit a written request to the Commandant (G–NAB), along with a copy of the State's vessel titling laws, regulations and administrative procedures, and certify that the State will comply with the VIS participation requirements in subpart C of this part. This section also would establish appendix B to part 187, listing those States that both participate in VIS and comply with the guidelines prescribed in subpart D of this part. A State would remain listed in appendix B of this part as long as it continued to comply with both the participation requirements in subpart C of this part and the guidelines in subpart D of this part.

2. Subpart B—Information To Be Collected by Participating States on State-Numbered and Titled Vessels

The States currently number undocumented vessels under Coast Guard-approved vessel numbering systems. The Coast Guard continues to number undocumented vessels in Alaska. Requirements for information to be collected by the States to identify vessels and vessel owners are contained in 33 CFR 174.17. To assist in determining the appropriate information to be included in VIS, the Coast Guard solicited information in the ANPRM regarding which items of information, if any, currently collected by the States during vessel numbering should be included in the VIS and what additional information, if any, should be collected. The Coast Guard considered all comments received in developing the following proposals requiring participating States to collect information regarding identification of vessel owners, identification of vessels, titled vessels and existence of liens, and data which may be of assistance to law enforcement officers.

Section 187.101 Information To Identify a Vessel Owner

Section 187.101 would require States participating in VIS to collect the following specific information, most of which is currently collected by States when numbering undocumented vessels: Name of each owner including percentage of ownership interest; the address of each individual owner's principal place of residence or, if an owner is not an individual, the address of that owner's principal place of business, including zip code; and mailing address of any owner with a different mailing address from the other address provided.

Title 46 U.S.C. chapter 125 has been amended to require that a Social Security number (SSN), or, if that number is not available, other means of identification acceptable to the Secretary be included in VIS to identify individual vessel owners. In order to identify the owner of a vessel that is required to be numbered or titled by a State, § 187.101 would require States participating in VIS to provide an individual owner's SSN or, if that number is not available, the individual owner's date of birth and driver's license number. For an owner other

than an individual, § 187.101 would require the owner's taxpayer identification number or, if the owner does not have such a number, the SSN or, if that number is not available, birthdate and driver's license number of an individual who is a corporate officer, general partner, or individual trustee of the owner and who signed the application for numbering the vessel. An individual's SSN is not available to State officials where State law does not give them the authority to require individuals to provide their SSNs. Acceptance of the birth date and driver's license number would allow States lacking authority to collect SSNs to participate in VIS and minimize information gaps.

Of the comments received in response to this topic, most suggested that VIS include all information now collected by States for numbering, or registering, vessels. Several comments supported using an owner's SSN, one warned that some States do not have the authority to require an individual to provide his or her SSN. Several comments supported including birth date with the name to locate or identify owners through driver's license and other computer means. One comment suggested including an owner's telephone number.

As suggested by most of the comments, this proposal incorporates the owner information now collected by States in the numbering process. The provisions allowing for collection of birthdates and drivers' license numbers should satisfy concerns regarding those States without authority under State law to require individuals to provide their SSNs.

Section 187.103 Information to Identify a Vessel

Section 187.103 would require participating States to collect the following specific information, most of which currently is collected by States when numbering undocumented vessels: Vessel manufacturer or builder; model year or year built; the vessel identification number (VIN) established in § 187.5; number assigned by the State issuing authority, as printed on the certificate of number; length and type of vessel (open, cabin, house, or other); hull type (wood, metal, fiberglass, plastic, or other); propulsion type (inboard, outboard, inboard-outdrive, sail, jet drive, or other); fuel type (gasoline, diesel, or other); vessel use (pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing, or other commercial use); numbers previously issued to the vessel by an issuing authority; and expiration date of the State certificate of number.

Most comments suggested including the manufacturer or make, model or model year, hull identification number (HIN), and one or more of the following items: Length, vessel type, hull material, propulsion, fuel, vessel use, State of principal use, and previous number issued. Five comments suggested including the current number or registration validation issued and one suggested including current validation expiration. One suggested including vessel drive type and vessel color, another suggested adding "jet drive" to the propulsion category.

As suggested by most of the comments, this proposal incorporates the vessel information now collected by States in the numbering process. Section 187.103 would include the term "jet drive" in the propulsion category, as suggested by one comment, but not vessel color, as this feature may be too easily altered, and thus is unreliable.

Section 187.105 Information on Titled Vessels

Section 187.105 would require participating States to collect information indicating the State in which a vessel is titled, where applicable, as well as information indicating the existence of a lien, where information on a lien may be obtained, and lienholder name and address. Section 187.105 would include optional information that could be collected to help verify required information.

Most of the comments were in favor of including the information proposed in this section. Several of the comments suggested including information not proposed herein such as: Where the lien is held; date the lien was filed and amount of the lien; indication as to the status of a lien as active; the port of documentation; the date a lien was filed or a security interest perfected; date of sale; gross price of fair market value (FMV) of vessel in order to provide a source of complete security interest information for prospective buyers; and whether a lien is recorded on a vessel's title or under the Uniform Commercial Code.

After consideration of all comments received, the Coast Guard does not propose to require the additional information suggested. It is the Coast Guard's position that the information requirements proposed are sufficient to meet the purposes of the law, and that inclusion of the additional suggested information would unduly complicate the VIS program.

Section 187.107 Information To Assist Law Enforcement Officials

Section 187.107 would provide a means of indicating the status of a vessel as lost, stolen, destroyed, abandoned, or recovered, and the name and telephone number of a contact for reported stolen vessels. Section 187.107 would also include optional information to be collected to help verify required information and other optional information to be collected to aid law enforcement efforts to deter stolen boats and insurance fraud, including a vessel's insurance company name, address, telephone number, and policy number, and information on notification of vessel theft, reporting contacts and recovery.

Several of the comments received regarding this topic suggested including information on fisheries or other permits. Several other comments suggested including any insurance company, policy number and effective dates. Another comment suggested tying VIS into NCIC, to reflect stolen vessel status and vessels under investigation, and to notify the last registration authority. Another comment advised that NCIC is not helpful with watercraft or motors, and most boats recovered by that State's officers are not listed in NCIC. Six comments suggested including the status of a vessel as stolen, lost, abandoned, junked, or destroyed. One comment suggested that VIS should provide law enforcement officers with the most complete, accurate information about any vessel to help prevent States from accepting fraudulent documents in registration. The comment stated that this would deter insurance fraud, a serious problem in that State for the last 10 years, and would aid law enforcement officers in theft investigations and would deter theft of boats and marine equipment. One comment stated that VIS was intended to be flexible enough to add additional information as the need arises, including the identity of parties providing and requesting information, and the purpose for which information is used, and that, in the future, the Coast Guard should expand VIS rather than create new data bases.

The intent of this rulemaking is to prescribe the minimum information to be required of the vessel owners and the States that elect to participate in VIS. However, much of the information suggested by comments is being included as optional provisions for those States with the ability and desire to provide more expansive information. Thus, the Coast Guard does not propose

to require the additional suggested information.

3. Subpart C—VIS Participation Requirements

Participation in VIS would be entirely voluntary. However, those States that choose to participate in VIS would be required to comply with certain requirements to ensure efficient and effective use of the information system. The ANPRM solicited comments regarding requirements for participating States. Comments received providing general views included one comment suggesting that VIS include all States, even if legislation is needed to make State participation mandatory. Another suggested only allowing titling States to participate in VIS to ensure correct information. One comment asserted that a State should not be required to participate both in VIS and comply with the guidelines for State vessel titling systems for a mortgage to be deemed to have preferred mortgage status. Others expressed the need to establish computer networks to access the data base created through VIS.

Regarding the suggestion for mandatory participation in VIS, the Coast Guard does not propose mandatory participation in VIS as there is no statutory authority to require State participation. Regarding the granting of preferred mortgage status, 46 U.S.C. 31322(d)(1) provides for preferred mortgage status only if the two stated requirements (certification of the State's vessel titling system and participation in VIS) are met. The Coast Guard does not propose to exclude States without a formal titling system from participation in VIS, as suggested by a comment. The Coast Guard proposes that, even without a formal titling system, a State requiring basic ownership documents can provide VIS with accurate vessel and vessel owner identification information and should have the benefit of sharing information with other States through VIS.

As for comments regarding the development of a computer system, the Coast Guard is not addressing development of the VIS computer system in this rulemaking. The Coast Guard plans to work closely with the many States that have expressed interest in helping to develop the information system requirements. The intent of this rulemaking is to establish VIS, to prescribe minimum requirements for States participating in VIS, and to establish guidelines for State vessel titling systems and procedures for certifying compliance with those guidelines.

Section 187.201 Participating State Requirements

Section 187.201 would require participating States to collect the required information listed in subpart B of 33 CFR part 187. This information would have to be provided in the manner and form to be specified in Coast Guard-State Cooperative Agreements. Also, participating States would be required to obtain evidence of ownership, such as certificate of origin or current certificate of title or number. Further, participating States would be required to return a surrendered Certificate of Documentation to the issuing Coast Guard Vessel Documentation Office; retain any previously-issued certificate of title or number and notify the issuing authority by mail or electronic message; and retain, for 3 years, information identifying the type of evidence used to establish the accuracy of the information required to be made available to VIS. The Coast Guard is also proposing in § 187.201 to require participating States to make updated information available to the VIS file on a vessel to indicate when the registration is inactive or that the vessel has been moved to a nonparticipating State, if known.

Section 187.203 would include the following optional items that may be made available by participating States: Additional optional information listed in proposed subpart B of 33 CFR part 187; updated information on a vessel that has moved to a nonparticipating State; and interaction with nonparticipating States to provide information to or request information from VIS concerning a vessel or nationwide statistics. VIS would be designed to retrieve only the required information and the specified optional information from participating States' data bases.

The majority of the comments received suggested including participating State requirements that are either required or optional in the Coast Guard proposal. Other comments suggested including requirements for States to provide recreational boating accident report information, with six comments suggesting that States should have an option to provide recreational boating accident report information to VIS or provide report copies to the Coast Guard.

Section 187.201 would include only those requirements needed to ensure the availability of accurate information on vessels and their owners in VIS. The Coast Guard does not propose that participating States provide recreational boating accident information to VIS in addition to, or in lieu of, providing report copies to the Coast Guard. The optional items are proposed to benefit States that are interested in, and capable of using, VIS utilities beyond the proposed minimum requirements. Some comments responding to this issue are addressed in other sections; other comments referred to changes beyond the scope of this proposal.

4. Subpart D—Guidelines for State Vessel Titling Systems

Over half the States title vessels. Procedures and requirements for vessel titling vary from State to State. Within the past several years there has been an increased awareness by State legislatures of the need to title vessels. Under 46 U.S.C. 31322(d)(1), a mortgage on a State-titled vessel may be deemed a preferred mortgage if the Secretary has certified that a participating State's vessel titling system complies with the Secretary's guidelines, and information about the vessel is made available to the Secretary through VIS. The ANPRM solicited comments on the appropriate guidelines for State vessel titling systems and procedures for obtaining certification of compliance with those guidelines.

Section 187.301 Eligibility for Preferred Mortgage Status

The Coast is proposing guidelines for State vessel titling systems in order to implement 46 U.S.C. 31322(d)(1), which provides for preferred mortgage status for mortgages covering the whole of a vessel if the vessel is titled in a State certified as complying with the guidelines and if information on the vessel is made available to VIS. The States would not be required to comply, but, in accordance with 46 U.S.C. 31322(d)(1), preferred mortgage status is dependent upon a participating State also complying with the vessel titling guidelines. Thus, preferred mortgage status would be conveyed upon mortgages covering the whole of a vessel perfected after the date the titling-State has received certification of its vessel titling system, provided that the State is participating in VIS. When viewing a State's vessel titling system for certification of compliance, the Coast Guard would consider the State's laws, regulations, and administrative procedures to establish compliance with the guidelines.

For the most part, the comments which addressed the concept of guidelines for State vessel titling systems expressed concern that any changes or additions to State vessel titling systems be drafted so as to not

conflict with existing authorities. Also, the comments expressed concern over the amount of time that would be required for those States choosing to follow the guidelines to comply with such requirements. The proposed guidelines are intended to provide a State with sufficient guidance to establish an effective titling system while maintaining the flexibility necessary to allow a State to develop a system that will meet that State's need. Subpart D would set forth the guidelines to be met by a State seeking to obtain Coast Guard certification as a vessel titling authority.

Section 187.303 Definitions

Section 187.303 would provide a list of terms to be defined by a State in its procedures for titling vessels. This is the same list of terms in proposed § 187.3, with the exclusion of some terms applicable only to VIS. States would be required to define the terms in substantially the same manner as proposed in § 187.3. Additional terms may be defined at a State's discretion.

The majority of the comments received suggested defining each of the terms proposed in § 187.303. Other suggested terms included "livery vessel or boat", "marina", "undocumented vessel", "waters of the State", "use of waters", "amphibious and all vehicle-vessel combinations", and "vessel agent". The Coast Guard does not propose to include these additional terms, but they may be included at a State's discretion.

Section 187.305 Application for Title

(a) *Timing requirements for vessel titling.* Section 187.305(a) would provide that a State must require application for a title within a specified period of time, not to exceed 90 days, after initial purchase, ownership transfer, or change in vessel data listed on the certificate of title. Dealers would be subject to the titling requirements of § 187.307.

Most of the comments received responding to this issue suggested the requirements included in the proposal. Other comments suggested prohibiting ownership transfer unless a lien was satisfied or the lienholder, in writing, permitted the transfer. Another comment asserted that VIS should issue titles, with State participation optional.

The Coast Guard proposes the minimum requirements necessary to achieve meaningful guidelines, and thus is not proposing to include requirements such as restrictions on transfer without satisfaction of existing liens. Further, the Coast Guard is not proposing to have VIS issue titles, as this would be beyond the scope of the enabling legislation.

(b) *Information on a security agreement.* Section 187.305(b) would require disclosure of the amount of indebtedness covered by any security agreement pertaining to the vessel in the titling application form.

(c) *State or country where last numbered or titled.* Section 187.305(c) would require that an application for a vessel title provided by the State include an entry for identification of the State or country in which the vessel was last numbered or titled, if applicable.

(d) *Application certification.* Section 187.305(c) would provide that States must require a signed application for a certificate of title and certification that the statements provided on the application are true and correct to the best of the applicant's knowledge, under penalty of perjury.

The Coast Guard proposal is consistent with most of the comments received. Five comments further suggested a requirement for paying fees with the application. Two suggested requiring the application be sworn to before a notary public. Another comment suggested adding a requirement to certify the State of principal use. One comment explained that titling and registration should be separate functions, since a title is issued once per owner and registration is a continuing function.

After consideration, the Coast Guard does not propose to require that the application be notarized, or that the State require certification of principal use; however, a State could elect to do so. The Coast Guard recognizes registration and titling may be conducted independently or concurrently from State to State.

The vast majority of the comments received addressing title applications suggested including requirements that are included in the Coast Guard proposal. Other suggestions included requiring States to provide information such as fair market value, previous owner's name and address, additional lien information, and requirements for new States to retain old titles. The Coast Guard proposes to include the minimum requirements with which States must comply. States wishing to provide the additional information suggested in the comments, but not included in this proposal, could do so. Any comments addressing these requirements will be considered before a final rule is issued.

Section 187.307 Dealer and Manufacturer Provisions

Section 187.307 would provide that States must: Require dealers in that State to report acquisition of a used vessel for resale, with an option to apply for a certificate of title; require a dealer in that State to apply for title for a used unnumbered vessel acquired for resale if that vessel is required to be titled; allow a dealer in that State to apply for a certificate of title for a new vessel acquired for resale; require dealers and manufacturers of vessels offered for sale in that State to provide the certificate of origin for a new vessel; and require dealers and manufacturers of vessels offered for sale in that State to maintain for at least 3 years a record of any vessel bought, sold exchanged, or received for sale or exchange and have such records open for inspection by the State.

Of the comments received addressing dealer provisions, two comments opposed requiring any provisions while one comment recommended using the National Association of State Boating Law Administrators (NASBLA) Model Title Act (Model Act), requiring dealers to notify the department of an acquisition, and allowing them to apply for title certification in their own name for new and used vessels, with a 15-day time limit to apply for title certificates for unnumbered used vessels. One comment suggested exempting dealers from taxes. One comment recommended that a dealer need not apply if holding a certificate of origin. One comment recommended allowing a builder or dealer to transfer a vessel without applying for a title or paying taxes. One comment suggested allowing a dealer to apply for a title in the purchaser's name before delivering the vessel. Two comments suggested allowing a dealer to execute a title assignment; one suggested allowing the old registration or title to cover dealer ownership until vessel resale; one suggested requiring a dealer to mail an assignment of title to the department, along with a buyer's title application, within 20 days of sale; and one comment suggested allowing resale titles only on rescinded sales or garage keeper's liens. The Coast Guard proposal comports with all eight comments received regarding requiring a manufacturer or dealer to provide a COO with the sale of each new vessel subject to either numbering or titling or both. Most comments suggested maintaining records longer than the proposed 3 years. The Coast Guard's position is that three years is a sufficient period of time to ensure a reliable system of records and is therefore proposing the three year period as a

minimum. However, individual States may require a longer period of required record retention as they deem appropriate.

The Coast Guard proposes a guideline similar to the NASBLA Model Act with modifications for simplicity and flexibility. After considering the comments received, the Coast Guard is not proposing to require that dealers be exempted from taxes or fees, or other titling requirements; however, a State may elect to include such provisions. There is no indication in the legislative history that issues of taxes or fees to be paid incident to titling transactions were intended to be included. These issues, therefore, are properly left to be decided by the individual States.

Section 187.309 Transfer of Title

Except as provided in § 187.311 regarding transfers by operation of law, § 187.309 would require that States specifically prohibit, the sale, assignment or transfer, of a titled vessel whether by the manufacturer, dealer or an individual, without delivery of a title certificate to the new owner.

Comments suggested that, if the vessel is from a nontitling State, the State should require the certificate of number and positive vessel identification, along with a certified bill of sale showing the purchaser's name and address, the vessel HIN, date of sale and sale price, signed by the previous owner. Another comment suggested numerous details regarding title certificates and selling, buying, operating a vessel, transfer by law, lienholder security agreement, and more.

After consideration of the comments received, the Coast Guard does not propose additional restrictions, other than those described in proposed § 187.309. However, a State could elect to include them.

Section 187.311 Transfer by Operation of Law

Section 187.311 would provide that States must require a new owner to apply for a certificate of title within a specified period of time, not to exceed 90 days, if ownership of a vessel is transferred by operation of law, such as by inheritance, order in bankruptcy, insolvency, replevin, execution sale or default judgment, and to include an original or certified copy of the legal transfer document along with the application. The Coast Guard proposal is consistent with the vast majority of the comments received addressing this issue.

Section 187.313 Title of Another State

Section 187.313 would require States to honor another State's certificate of title as proof of ownership for sale of a vessel and for applying for a certificate of number or title in the new State of principal operation.

The majority of the comments received recommended requirements consistent with the Coast Guard proposal. One comment stated, without explanation, that such a requirement would be inappropriate. The Coast Guard proposes, however, that a requirement to honor a certificate of title from another State is appropriate for the purposes described in § 187.313.

Section 187.315 Information on a Certificate of Title

Section 187.315(a) (1) through (6) would require States to include the following information on a certificate of title when issued: The required information listed under subpart B of part 187 to identify the vessel and all owner(s); information on liens and lienholders; and recording or perfection date of new liens and original recording date of any liens outstanding.

Section 187.315(b) would also require States to provide space on the title form to record assignment of interests in the vessel, with a certification that statements provided on the title assignment are true and correct to the best of the owner's knowledge, under penalty of perjury. Section 187.323 addresses the assignment of security interests.

Section 187.317 Duplicate Title

Section 187.317(a) would require that States stamp the term "DUPLICATE" across the face of a duplicate certificate.

Section 187.317(b) would provide that States must require the holder of an original title, whether the owner or lienholder, to apply for a duplicate title within a period of time specified by the State after, or after the discovery of, the loss, theft, mutilation, or destruction of an original title certificate, and to surrender any recovered original certificate of title, or remains, to the department for cancellation.

The Coast Guard proposal comports with the majority of the comments. The Coast Guard does not propose, as suggested by other comments, to require that the application be notarized or to require that a State's computer be programmed to reject an application for registration based on an original title for which a duplicate was issued. A State, however, could elect to include such requirements.

Section 187.319 HIN Provisions

Section 187.319 would provide that States must assign an HIN to each undocumented vessel subject to State vessel titling that does not have an HIN assigned and affixed to the vessel, upon transfer of ownership, or upon application for title, or registration in a new State of principal operation. Section 187.319 also would require States to record the HIN on the certificate of title, and to prohibit removal or alteration of an HIN without authorization from the Commandant.

All seven comments responding to this topic suggested requiring that an HIN be assigned and affixed to a vessel, and that the State assign an HIN to a vessel without an HIN. The comments also suggested that alteration, destruction or removal of the HIN or its plate be prohibited; three comments specified without Coast Guard approval and two specified without State approval. Thus, the Coast Guard proposal is consistent with the comments.

Section 187.321 Perfection of Security Interests

Section 187.321(a) would require that States provide that a security interest is not valid under State law unless perfected, and that States specify the necessary procedures and information for perfecting security interests. If a vessel is already subject to a security interest when it is brought into a State, the validity of the security is to be determined by the law of the jurisdiction where the vessel was when the security interest attached.

One comment asserted that VIS should establish mandatory titling system requirements and that all States be required to follow those procedures. The Coast Guard has determined that the vessel titling guidelines should set forth the minimum requirements necessary for a State to establish an effective titling system while allowing for sufficient flexibility to enable a State to design a system that will meet the needs of that State.

Section 187.321(b) would provide that a State must specify three exceptions to the perfection provisions that it establishes under paragraph (a) of this section. The perfection provisions required to be established under paragraph (a) of this section would not apply to: A lien given by statute or rule of law to a supplier of services or materials for the vessel; a lien given by statute to the United States, a State, or a political subdivision thereof; or any lien arising out of an attachment of a vessel.

One comment recommended following the NASBLA Model Act exemptions. One comment recommended exempting non-judicial sale of vessel for an ownership claim by a marina for unpaid costs of repair, improvements, storage, or for documented vessel in default of marina storage fees. One comment suggested the provision be the same as State motor vehicle law. One comment opposed any exemptions from the lien perfection provisions. After consideration of the divergent comments received, the Coast Guard proposes to follow the above exemptions included in the NASBLA Model Title Act. The Coast Guard specifically seeks comments regarding any other exemptions that may be appropriate, or whether any of those listed should not be included.

Section 187.323 Assignments

Section 187.323 would require States to specify whether security interests in a vessel may be assigned and how the assignment of security interests are to be perfected.

Two comments comport with the Coast Guard proposal. Two comments suggested requiring satisfaction of a lien prior to transfer. States could include such a requirement under the Coast Guard proposal.

Section 187.325 Satisfaction of a Security Interest

Section 187.325 would require that States specify the procedures, time limits, evidence and information that lienholders are required to submit to the State regarding satisfaction of a security interest.

Four comments recommended requiring a lienholder to send notice of lien satisfaction to the State, one specifying within 15 days and another within 30 days. Two comments suggested requiring a lienholder to annotate the certificate of title and send it to the State for lien cancellation prior to forwarding to the owner; one adding that a lienholder may complete another document for lien cancellation. One comment recommended holding a lienholder liable for legal costs to cancel a lien if they did not notify the State of lien satisfaction within 30 days. One comment recommended such a provision be the same as State motor vehicle law. In consideration of the varying suggestions, the Coast Guard does not propose specific procedures, but would require that a State vessel titling system prescribe the appropriate procedural requirements regarding satisfaction of a security interest within its system.

Section 187.327 Forms

Section 187.327 would require States to prescribe and provide application forms, certificates of title, notice of security interests, and other forms needed to comply with the State vessel titling system provisions.

One comment suggested that a national issuing agency provide the forms instead of a State. However, the Coast Guard agrees with the majority of the comments, which recommended that States provide all necessary forms so that they will comport with the varying optional requirements prescribed by the individual States.

Section 187.329 Retaining Information

Section 187.329 would require that States retain information identifying the type of evidence used to establish the accuracy of information required for vessel titling purposes for 3 years and that the information be made available to the Coast Guard on request.

Prerequisites

The ANPRM solicited comments on what prerequisites, if any, State vessel titling systems should condition issuance or renewal of a certificate of number for a vessel required to be titled. Several comments recommended conditioning registration upon issuance of a title; one emphasized that this should apply only to initial registration. One comment suggested conditioning registration on proof of taxes paid; and another on application for title. One comment explained that a certificate of number should only change for out-of-State transfers or if an owner fails to renew registration for three years. One comment suggested that the initial registration number assigned should remain on all vessel documents and include all transfers of ownership while a vessel remains in that State's registration system.

After considering the divergent comments received, the Coast Guard does not propose a guideline regarding prerequisites upon which States would condition numbering of vessels required to be titled; however, a State could elect to include prerequisites it considers appropriate.

The ANPRM further requested comments on what prerequisites, if any, a State vessel titling system should condition issuance of vessel title. For example, such prerequisites could include proof of payment of State sales tax, use tax, or property tax applicable to the vessel.

Five comments suggested conditioning title issuance on proof of taxes paid, with two emphasizing that this should be at the option of the States. Three comments recommended conditioning title issuance upon adequate proof of ownership, one adding that surrender of a previous title and two adding that payment of fees should also be required. One comment suggested the Coast Guard condition vessel documentation upon proof that any local taxes were paid.

After considering the comments received the Coast Guard does not propose to require States to condition vessel titling issuance upon proof of taxes paid; however, a State may elect to do so. Further, the Coast Guard does not propose the recommended change in documentation procedures regarding conditioning issuance upon proof of payment of local taxes. The payment or nonpayment of taxes is not an appropriate consideration under the vessel documentation laws.

Certification of Compliance

The Coast Guard proposes that, in order to receive a certificate of compliance, a State must comply with each of the guidelines in subpart D. The Coast Guard is proposing to list only those guidelines with which a State vessel titling system must comply in order to be certified. States desiring to include additional requirements would be authorized to do so. Under the review procedures, the Coast Guard would consider provisions in a State's laws, regulations or administrative procedures to determine compliance with the listed guidelines. Upon written request of a VIS participating State, review of the State's vessel titling system and a finding of compliance with the guidelines, the Coast Guard would add the State to the list in appendix B of this part, along with the date of certification. State authorities continuing to comply with both the VIS participation requirements in subpart C of 33 CFR part 187, and the vessel titling guidelines in subpart D of 33 CFR part 187, would be retained in appendix B of this part.

5. User Fees and Annual $1.00 Vessel Fee

User Fees

Section 12505 of title 46 United States Code provides that the Secretary of Transportation may charge a fee under 31 U.S.C. 9701 for providing information from VIS. Section 12505 exempts Federal agencies and participating States from the fee for providing information to or requesting information from VIS. However, the Coast Guard or participating States may charge reasonable user fees, under

existing authority, to nonparticipating States, insurance or lending institutions, or others not otherwise exempted. The Coast Guard intends to propose user fees for Coast Guard services in a separate rulemaking in the future, when VIS cost data becomes available and a basis for the charges can be developed. Participating States may establish user fees in accordance with their own laws and regulations.

Annual Fee

The ANPRM solicited comments regarding the collection of an annual user fee of not more than $1.00 from vessel owners for maintaining VIS. If a State collected the fee, the State would have been authorized to retain one-half of the amount collected. The authorization to collect this fee was included in the legislation as an incentive for States to participate voluntarily in VIS. Most of the comments received opposed collecting the fee, advising that the administrative costs of collecting the fee would outweigh the revenue collected. Some comments supported the collection of the fee if done on a voluntary basis. However, the provisions of 46 U.S.C. chapter 125 that authorized the fee were repealed by section 603 of Public Law 101–595 and will not, therefore, be considered in this rulemaking.

6. Solicited Views

Regulating a national pool of information on vessels and vessel owners is a new program for the Coast Guard. The Coast Guard has solicited the views of other Federal agencies, and State and local agencies. The National Boating Safety Advisory Council has been altered to the existence of the law and that this NPRM would be available for its consideration.

Comments are requested on all or any portion of this NPRM, particularly the portions of the NPRM that are directed at the extent of information to be maintained and made available, requirements for participating States, and vessel titling system guidelines. Comments are specifically requested from all State recreational boating authorities. The Coast Guard will consider all comments received before taking final action.

Regulatory Evaluation

This proposal is not major under Executive Order 12291 and not significant under the "Department of Transportation Regulatory Policies and Procedures" (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation is unnecessary. This proposal would implement the provisions of the Act regarding establishing VIS, requirements for States that elect to participate, guidelines for State vessel titling systems, and procedures for certifying compliance with those guidelines. Also, States would be authorized to establish and charge user fees to nonparticipating States and other non-Federal interests for making vessel information available. Participation in VIS and compliance with the guidelines for State vessel titling systems is entirely voluntary. Most of the information to be included in VIS is already collected by States when registering vessels within the State. Preliminary review of titling laws, regulations and administrative procedures of 28 States revealed that 21 of the State vessel titling systems would comply with most or all of the proposed guidelines. Technical variances, such as definitions, could be incorporated into State vessel titling administrative procedures. The overall impact of this proposal will be improvement of vessel and owner identification, and potentially decrease the amount of information that is collected, other than for vessel registration, to identify a vessel or owner by State and Federal officials.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632).

This proposal, if adopted, would prescribe the information to be collected by States electing to participate in VIS on vessels, vessel owners and the location where evidence of vessel liens may be obtained. If adopted, this proposal would also prescribe guidelines for State vessel titling systems and the procedures for obtaining certification of compliance with those guidelines. It is anticipated that the VIS computer system to be developed will facilitate the collection of information directly from State computer files. Thus, the impact of the rulemaking would be on States electing to participate rather than on small entities. Most of the information to be included in VIS is already collected by States when registering vessels within the State and by States that title vessels.

Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

Under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), the Office of Management and Budget (OMB) reviews each proposed rule that contains a collection of information requirement to determine whether the practical value of the information is worth the burden imposed by its collection. Collection of information requirements include reporting, recordkeeping, notification, and other, similar requirements.

This proposal contains collection of information requirements in the following sections: 187.7, 187.9, 187.101, 187.103, 187.105, 187.107, 187.201, and 187.301. The following particulars apply:

DOT: 2115.

OMB Control No.: 2115–XXXX.

Administration: U.S. Coast Guard.

Title: Vessel Identification system.

Need for Information: The information collection requirements contained in this proposal are necessary to meet the statutory requirements of 46 U.S.C. chapter 125 regarding the establishment of a national vessel identification system for recreational vessel owners.

Proposed Use of Information: To be used by State agencies, local law enforcement, the Coast Guard and other Federal agencies and be available, on a fee basis, to private businesses involved in the maritime industry (such as banking firms and insurance companies) as a centralized data base regarding recreational vessels.

Burden Estimate: 2094 hours annually.

Respondents: States and territories of the United States (56).

Forms: None.

Average Burden Hours per Respondent: .17 hours per business day.

Additional information collection and reporting associated with this proposal is expected to be minimal. States choosing to participate in VIS would be required to collect the information listed in subpart B of proposed part 187 and provide information to VIS in the manner and form to be specified in Coast Guard-State Cooperative Agreements. Most of the information that would be required of participating States is currently collected by the States when registering vessels within the State. Additional information is collected by those States that have a vessel titling system. It is anticipated

that the VIS computer system will be developed to facilitate the collection of information directly from State computer files, thus alleviating burdensome reporting requirements on States. States would be required to update their files periodically. Assuming that all States and U.S. territories elect to participate in VIS, an estimated 2057 hours of reporting annually, for all States and territories combined, would be associated with this requirement. Also, a participating State would be required to submit a request to the Commandant in writing and certify its intent to comply with VIS requirements. Assuming that all States and U.S. territories elect to participate in VIS, an estimated 56 hours of reporting would be associated with this one-time information collection requirement. For mortgages on vessels to have preferred mortgage status, the State must submit a request to the Commandant in writing, along with a copy of the State's titling laws, regulations and administrative procedures, and certify its intent to comply with the participation requirements in subpart C of this part., Assuming that all States and U.S. territories elect to participate in VIS and the State vessel titling guidelines, and estimated 82.5 hours of reporting would be associated with this one-time information collection requirement.

Title 46 U.S.C. 12503 requires that a SSN or other means of identification acceptable to the Secretary be included in VIS in order to identify vessel owners. The information collection burden associated with the collection of SSNs would consist of only seconds for each individual vessel owner to report the number.

The Coast Guard has submitted the requirements to OMB for review under section 3504(h) of the Paperwork Reduction Act. Persons submitting comments on the requirements should submit their comments both to OMB and to the Coast Guard where indicated under "ADDRESSES."

Federalism

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

This proposal is not expected to infringe upon the rights of States to regulate, or preempt existing State regulations. State participation is entirely voluntary. However, once electing to participate, a State must comply with the proposed requirements to ensure integrity and uniformity of information in VIS. Likewise, requesting certification that a State vessel titling system complies with guidelines is also voluntary. Such certification, for participating States, confers preferred status on mortgages for vessels titled in the State.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that, under sections 2.B.2(c) and Enclosure (1) of Commandant Instruction M16475.1B, this proposal is categorically excluded from further environmental documentation. This proposal, if adopted, would establish a nationwide information system for identifying vessels and vessel owners, and guidelines for State vessel titling systems. This action clearly would have no environmental consequences. A Categorical Exclusion Determination is available in the docket for inspection or copying where indicated under "ADDRESSES."

List of Subjects in 33 CFR Part 187

Administrative practice and procedure, Marine safety, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, the Coast Guard proposes to amend chapter I of title 33, Code of Federal Regulations, by adding part 187 to read as follows:

PART 187—VESSEL IDENTIFICATION SYSTEM

Subpart A—General

Sec.
187.1 Applicability.
187.3 Definitions.
187.5 Vessel identification number.
187.7 Participation procedures.
187.9 Procedures for certification of compliance with guidelines for State vessel titling systems.

Subpart B—Information To Be Collected by Participating States

187.101 Information to identify a vessel owner.
187.103 Information to identify a vessel.
187.105 Information on titled vessels.
187.107 Information to assist law enforcement officials.

Subpart C—Vessel Identification System Participation Requirements

187.201 Participating State requirements.
187.203 Voluntary provisions for participating States.

Subpart D—Guidelines for State Vessel Titling Systems

187.301 Eligibility for preferred mortgage status.
187.303 Definitions.
187.305 Application for title.
187.307 Dealer and manufacturer provisions.
187.309 Transfer of title.
187.311 Transfer by operation of law.
187.313 Title of another State.
187.315 Information on a certificate of title.
187.317 Duplicate title.
187.319 Hull identification number (HIN) provisions.
187.321 Perfection of security interests.
187.323 Assignments.
187.325 Satisfaction of a security interest.
187.327 Forms.
187.329 Retaining information.

Appendix A to Part 187—Participating Authorities

Appendix B to Part 187—Participating and Certified Vessel Titling Authorities

Authority: 46 U.S.C. 2103; 49 CFR 1.46.

Subpart A—General

§ 187.1 Applicability.

(a) This part establishes minimum requirements for States electing to participate in the vessel identification system (VIS) established under 46 U.S.C. chapter 125. This part also prescribes guidelines for State vessel titling systems and the procedures for obtaining certification of compliance with those guidelines for those States electing to establish titling systems to support preferred mortgages.

(b) This part applies only to vessels numbered or titled under the laws of a State. It does not apply to vessels documented under 46 U.S.C. chapter 121 and the regulations in 46 CFR parts 67 and 68.

§ 187.3 Definitions.

The following definitions apply to terms used in this part.

Certificate of Origin (COO) means a document establishing the initial chain of ownership, such as manufacturer's certificate of origin (MCO) or statement of origin (MSO), importer's certificate of origin (ICO) or statement of origin (ISO), and builder's certification (Form CG-1261; see 46 CFR part 67).

Commandant means the Commandant of the United States Coast Guard.

Dealer means any person who engages wholly or in part in the business of buying, selling, or exchanging new or used vessels, or both, either outright or on conditional sale, bailment, lease, chattel mortgage or otherwise, and who has an established place of business for the sale, trade, and display of such vessels.

Department or *division* means the State agency designated to issue

certificates of number or title, or both for vessels, and its duly authorized representatives.

Documented vessel means a vessel documented under 46 U.S.C. chapter 121.

Issuing authority means a State that has a numbering system approved by the Coast Guard or the Coast Guard where a State numbering system has not been approved.

Lienholder means a person holding a security interest.

Manufacturer means any person engaged in the business of manufacturing or importing new vessels for the purpose of sale or trade.

Owner means a person who claims lawful possession of a vessel by virtue of legal title or equitable interest in it that entitles that person to such possession.

Participating State means a State that has elected to participate in VIS and complies with the participation requirements in subpart C of this part. States participating in VIS are listed in appendix A of this part.

Person means an individual, partnership, firm, corporation, association, or other entity.

Security interest means an interest that is reserved or created by an agreement and that secures payment or performance of an obligation and is valid against third parties generally.

State means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States.

Titling authority means a State whose vessel titling system has been certified by the Coast Guard as complying with the guidelines for State vessel titling systems listed in this part. Titling authorities participating in VIS are listed in appendix B of this part.

Vessel includes every description of watercraft other than a seaplane on the water, used or capable of being used, as a means of transportation on water.

§ 187.5 Vessel identification number.

(a) The vessel identification number (VIN) is the hull identification number (HIN) assigned to an undocumented vessel in accordance with subpart C of part 181 of this subchapter. For documented vessels, the VIN is the Coast Guard Official Number assigned to a documented vessel in accordance with 46 U.S.C. chapter 121.

(b) If the vessel does not have an HIN, the VIN for vessels subject to the numbering requirements of parts 173 and 174 of this subchapter is the number issued on a certificate of number by the issuing authority for the State in which the vessel is principally operated.

(c) When a vessel that does not have a valid HIN and is subject to the numbering requirements of parts 173 and 174 of this subchapter is transferred to a new owner, or the vessel is required to be numbered in a new State of principal operation, or application for a title meeting the requirements of subpart D of this part is made, a hull identification number shall be assigned by the issuing authority for the State.

§ 187.7 Participation procedures.

To be listed in appendix A of this part, a State official within the department must submit a written request to the Commandant (G–NAB) and certify that the State will comply with the VIS participation requirements in subpart C of this part. Appendix A of this part lists those States that have elected to participate in VIS and comply with the participation requirements prescribed in this part. A State that continues to comply with the participation requirements in subpart C of this part will remain listed in appendix A of this part.

§ 187.9 Procedures for certification of compliance with guidelines for State vessel titling systems.

To be listed in appendix B of this part, a State official within the department must submit a written request to the Commandant (G–NAB), along with a copy of the State's titling laws, regulations and administrative procedures, and certify that the State will comply with the participation requirements in subpart C of this part. Appendix B of this part lists those States that are both participating in VIS and that, after Coast Guard review of the material submitted in accordance with this section, have been certified by the Commandant as having a State vessel titling system that complies with the guidelines prescribed in subpart D of this part. A State with a vessel titling system that complies with the guidelines of subpart D of this part and that continues to comply with the participation requirements in subpart C of this part will remain listed, along with the date of certification of its vessel titling system, in appendix B of this part.

Subpart B—Information To Be Collected by Participating States

§ 187.101 Information to identify a vessel owner.

A participating State must collect the following information regarding vessel ownership:

(a) Name of each owner, including percentage of ownership interest.

(b) The address of the principal place of residence of each individual owner, and the address of the principal place of business of each owner that is not an individual, including zip code.

(c) Mailing address of each owner, if different from the address required by paragraph (b) of this section.

(d) If an individual, the owner's social security number or, if that number is not available, the individual's birth date and driver's license number.

(e) If the owner is other than an individual, the owner's—

(1) Taxpayer identification number; or

(2) If the owner does not have a taxpayer identification number, the social security number, or if social security number is not available, birth date and driver's license number of an individual who is a corporate officer, general partner, or individual trustee of the owner and who signed the application for numbering the vessel.

§ 187.103 Information to identify a vessel.

A participating State must collect the following information regarding the identity of a vessel:

(a) Make of vessel or name of vessel builder, if known.

(b) Manufacture year, year vessel built, or vessel model year, if known.

(c) Vessel identification number required by § 187.5 of this part.

(d) Official number assigned by U.S. Coast Guard or predecessor agency, if applicable.

(e) Number assigned by the State issuing authority, as printed on the certificate of number.

(f) Length of vessel.

(g) Type of vessel (open, cabin, house, or other).

(h) Whether the hull is wood, fiberglass, metal, plastic, or other.

(i) Whether the propulsion is inboard, outboard, inboard-outdrive, sail, jet drive, or other.

(j) Whether the fuel is gasoline, diesel, or other.

(k) Whether the vessel is operated for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing, or other commercial operation.

(l) Number previously issued to the vessel by an issuing authority.

(m) Expiration date of certificate of number issued by State vessel numbering authority.

§ 187.105 Information on titled vessels.

(a) Participating States must collect the following information on titled vessels, where applicable:

(1) The State in which a vessel is titled.

(2) Title number issued by the State.

(3) Where evidence of a lien or other security interest may be found against a vessel titled in a State.

(4) Name(s) of the lienholder(s).

(5) Address of principal place of residence of each individual lienholder and the address of the principal place of business of each lienholder that is not an individual, including zip code.

(b) Participating States may collect the following information on titled vessels:

(1) Mailing address of any lienholder that is different from the addresses required by paragraph (a)(5) of this section.

(2) Telephone number of each lienholder.

§ 187.107 Information to assist law enforcement officials.

(a) Participating States must provide the following information to assist law enforcement officials:

(1) Notice that a vessel, identified by VIN, has been reported lost, stolen, destroyed, abandoned, or recovered.

(2) Name and telephone number of organization to contact for additional information or to notify regarding the recovery of a vessel.

(b) Participating States may collect the following information to assist law enforcement officials:

(1) Reported date that the vessel was stolen.

(2) Reported location of vessel when stolen.

(3) Vessel insurance policy number, if insured.

(4) Name of the insurance company.

(5) Address of insurance company, including zip code.

(6) Mailing address of the insurance company for notification, if different from the address provided under paragraph (b)(5) of this section.

(7) Telephone number of insurance company.

(8) Date that the vessel was recovered.

(9) Location of vessel when recovered.

(10) Name(s) and telephone number(s) of organizations(s), in addition to the one provided under paragraph (a) of this section, public or private, to contact for additional information on sighting and recovery of vessels.

(11) Request to be notified if vessel is sighted.

(12) Purpose of sighting notification request.

(13) Date and time when vessel sighted.

(14) Location of vessel when sighted.

(15) Organization to contact for additional information on sighting.

Subpart C—Vessel Identification System Participation Requirements

§ 187.201 Participating State requirements.

(a) A participating State must comply with the following requirements:

(1) Collect the required information listed in subpart B of this part and provide that information to the vessel identification system in the manner and form specified in the applicable Coast Guard-State Cooperative Agreement.

(2) Obtain specific evidence of ownership, such as certificate of origin or current certificate of title or number, to identify a vessel's owner.

(3) Return any surrendered Certificate of Documentation to the issuing Coast Guard Vessel Documentation Office.

(4) Retain previously issued certificate of number or title and notify issuing authority by mail or electronic message.

(5) Retain information identifying the type of evidence used to establish the accuracy of the information required to be made available to VIS, and make it available to the Coast Guard upon request.

(6) Upon the information required to be made available to VIS on a vessel that has been reregistered to label the vessel file "inactive" or, if notified that a vessel has been moved to a nonparticipating State, notify the Coast Guard and indicate the new State, if known.

(b) [Reserved]

§ 187.203 Voluntary provisions for participating States.

A participating State may—

(a) Provide VIS with the optional information listed in subpart B of this part;

(b) Make updated information provided by the vessel owner, government agency or lienholder, available to VIS regarding a vessel that has been moved to a nonparticipating State; and

(c) Interact with nonparticipating States to make information available to, or request information from, VIS concerning a vessel or nationwide statistics.

Subpart D—Guidelines for State Vessel Titling Systems

§ 187.301 Eligibility for preferred mortgage status.

A State vessel titling system that meets the requirements of this subpart may be certified by the Commandant under 46 U.S.C. 31322(d)(1)(A), in accordance with the procedures of § 187.9, as complying with the guidelines for vessel titling systems for the purpose of conveying preferred mortgage status on mortgages perfected after the date of certification, covering the whole of a vessel titled in that State, provided that the State also complies with the vessel identification system participation requirements of § 187.7 and subpart C of this part.

§ 187.303 Definitions.

A State must define the terms, "certificate of origin", "dealer", "department" or "division", "documented vessel", "issuing authority", "lienholder", "manufacturer", "owner", "person", "security interest", "titling authority", and "vessel", substantially as those terms are defined in § 187.3.

§ 187.305 Application for title.

(a) Except as provided in § 187.307, a State must require application for a title within a specified period of time, not to exceed 90 days, after a vessel is first purchased, ownership is transferred, or there is a change in vessel data listed on the certificate of title.

(b) A State must require disclosure of the amount of indebtedness covered by any security agreement pertaining to the vessel in its titling application form.

(c) The title application must include an entry for identification of the State or country in which the vessel was last numbered or titled, if applicable.

(d) A State must require that the title application include a signed certification that statements made are true and correct to the best of the applicant's knowledge, information and belief, under penalty of perjury.

§ 187.307 Dealer and manufacturer provisions.

A State must include the following provisions for dealers or manufacturers, building, buying, acquiring, or transferring vessels, in that State.

(a) Dealers must be required to report acquisition of a used numbered vessel for resale, and allowed to apply for certificate of title.

(b) Dealers must be required to apply for a certificate of title for a used unnumbered vessel acquired for resale if such vessel is required to be titled.

(c) Dealers must be allowed to apply for a certificate of title for a new vessel acquired for resale.

(d) Dealers and manufacturers must be required to provide to the vessel owner a certificate of origin, or other document, at the time of delivery of a new vessel to initiate the chain of ownership.

(e) Dealers and manufacturers must be required to maintain for at least 3 years a record of any vessel bought, sold, exchanged, or received for sale or exchange, and have such records open for inspection by the State.

§ 187.309 Transfer of title.

Except for transfers by operation of law such as inheritance, order in bankruptcy, replevin, default judgment or execution sale, a State must require that to complete the sale, assignment or transfer of a titled vessel, a manufacturer, dealer or individual, must deliver the vessel's certificate of title to the new owner.

§ 187.311 Transfer by operation of law.

A State must require a new owner to apply for a certificate of title within a specified period of time, not to exceed 90 days, if ownership of a vessel is transferred by operation of law, such as inheritance, order in bankruptcy, replevin, default judgment or execution sale, and to include an original or certified copy of the legal transfer document along with the application.

§ 187.313 Title of another State.

A State must provide for honoring a current and valid title issued by another State, or a Certificate of Ownership issued by the Coast Guard, as proof of ownership for transfer or sale of a vessel, and for applying for certificates of number or title in a new State of principal operation.

§ 187.315 Information on a certificate of title.

(a) A State must specify the following information on a certificate of title:

(1) Current owner(s) name(s), including percent of ownership interest.

(2) The address of the principal place of residence of each individual owner, and the address of the principal place of business of each owner that is not an individual, including zip code.

(3) Date of title issuance.

(4) Vessel description, including the vessel identification number required by § 187.05 of this part, name of manufacturer or model, year built or the model year, vessel length, vessel type, drive or propulsion type, vessel use, hull material and fuel type.

(5) Each lienholder's name and address.

(6) Recording or perfection date of new liens and original recording date of any liens outstanding.

(b) Space must be provided on the certificate of title form for assignment of interests in the vessel, with a certification that statements provided on the title assignment are true and correct to the best of the owner's knowledge, under penalty of perjury.

§ 187.317 Duplicate title.

(a) The term "DUPLICATE" must be stamped across the face of a duplicate certificate.

(b) A State must require the holder of an original the title, whether the owner or lienholder, to apply for a duplicate title within a specified period of time after, or after the discovery of, the loss, theft, mutilation, or destruction of an original certificate of title; provide information concerning the original certificate and the circumstances of its loss, theft, mutilation, or destruction; and surrender to the department any recovered original title or remains.

§ 187.319 Hull identification number (HIN) provisions.

A State must—

(a) Require that an HIN be assigned and affixed to undocumented vessels that do not have an HIN upon transfer of ownership or upon registration in a new State of principal operation;

(b) Provide for assigning HINs to undocumented vessels lacking HINs at time of title application and for recording the HIN on the certificate of title; and

(c) Prohibit removal or alteration of an HIN without authorization from the Commandant.

§ 187.321 Perfection of security interests.

(a) A State must provide that a security interest is not valid under State law unless perfected under procedures specified by the State. If a vessel is already subject to a security interest when it is brought into a State, the validity of the security is to be determined by the law of the jurisdiction where the vessel was when the security interest attached. The State must specify at least the following procedures.

(1) The procedures by which a security interest is perfected, including a requirement for the delivery of an application for new or amended certificate of title.

(2) The procedures by which the date of perfection is determined.

(b) The perfection provisions required to be established under paragraphs (a) and (b) of this section must not apply to—

(1) A lien given by statute or rule of law to a supplier of services or materials for the vessel;

(2) A lien given by statute to the United States, a State, or a political subdivision thereof; or

(3) Any lien arising out of an attachment of a vessel.

§ 187.323 Assignments.

A State must specify whether a security interest in a vessel titled under the State titling system may be assigned and the procedures for perfecting assignments.

§ 187.325 Satisfaction of a security interest.

A State must specify procedures, time limits, evidence and information that lienholders are required to submit to the State regarding satisfaction of a security interest.

§ 187.327 Forms.

A State must prescribe and provide the application, certificate of title, notice of security interests, and other forms needed to comply with the titling system provisions.

§ 187.329 Retaining information.

A State must retain information identifying the evidence used to establish the accuracy of the information required for vessel titling purposes for 3 years and make the information available to the Coast Guard on request.

Appendix A to Part 187—Participating Authorities

The following States comply with the requirements for participating in VIS:

Appendix B to Part 187—Participating and Certified Titling Authorities

The following States both comply with the requirements for participating in VIS and have a titling system certified to be in compliance with the guidelines for State vessel titling systems:

Dated: September 24, 1993.

R.C. North,

Captain, U.S. Coast Guard, Acting Chief, Office of Marine Safety, Security and Environmental Protection.

[FR Doc. 93-24210 Filed 10-4-93; 8:45 am]

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federal register

Tuesday
October 5, 1993

Part IV

Department of Agriculture

Commodity Credit Corporation

7 CFR Part 1413

1994 Upland Cotton Program; Proposed Rule

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1413

RIN 0560-AD21

1994 Upland Cotton Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Act of 1949 (1949 Act), as amended, requires the Secretary of Agriculture to implement an acreage reduction program (ARP) for upland cotton which will result in a ratio of carry-over to total disappearance of 30 percent. This proposed rule would amend the regulations to set forth the acreage reduction percentage for the 1994 crop of upland cotton.

DATES: Comments must be received on or before October 20, 1993, in order to be assured of consideration.

ADDRESSES: Comments must be mailed to Director, Fibers and Rice Analysis Division, Agricultural Stabilization and Conservation Service (ASCS), U.S. Department of Agriculture (USDA), room 3754-S, P.O. Box 2415, Washington, DC 20013-2415.

FOR FURTHER INFORMATION CONTACT: Wayne E. Bjorlie, Fibers and Rice Analysis Division, ASCS, USDA, room 3754-S, P.O. Box 2415, Washington, DC 20013-2415 or call 202-720-7954.

SUPPLEMENTARY INFORMATION:

Preliminary Regulatory Impact Analysis

The Preliminary Regulatory Impact Analysis describing the options considered in developing this proposed rule and the impact of the implementation of each option is available on request from the above-named individual.

Executive Order 12291 and Departmental Regulation 1512-1

This rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and provisions of Departmental Regulation 1512-1 and has been classified as "major." It has been determined that an annual effect on the economy of $100 million or more may result from implementation of the provisions of this proposed rule.

Regulatory Flexibility Act

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

Environmental Evaluation

It has been determined by an environmental evaluation that this action will not have a significant impact on the quality of the human environment. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Federal Assistant Program

The title and number of the Federal Assistance Program, as found in the catalog of Federal Domestic Assistance, to which this rule applies are: Cotton Production Stabilization—10.052.

Executive Order 12778

This proposed rule has been reviewed in accordance with Executive Order 12778. The provisions of the proposed rule do not preempt State laws, are not retroactive, and do not involve administrative appeals.

Executive Order 12372

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

Paperwork Reduction Act

The amendments to 7 CFR part 1413 set forth in this proposed rule do not contain information collections that require clearance by the Office of Management and Budget under the provisions of 44 U.S.C. 35.

Request for Public Comment

Comments are requested with respect to this proposed rule, and such comments shall be considered in developing the final rule.

Background

In accordance with section 103B of the 1949 Act, an ARP is required to be implemented for the 1994 crop of upland cotton if it is determined that the total supply of upland cotton, in the absence of an ARP, will be excessive, taking into account the need for an adequate carry-over to maintain reasonable and stable supplies and prices and to meet a national emergency.

Land diversion payments also may be made to producers of upland cotton, whether or not an ARP for upland cotton is in effect, if needed to assist in adjusting the total national acreage of upland cotton to desirable goals. If, at the time of final announcement of the ARP, the projected carry-over of upland cotton for the crop year is equal to or greater than 8 million bales, a paid land diversion shall be offered to upland cotton producers. A paid land diversion has not been considered because, given the existing supply/use situation, it is not needed.

If an ARP is announced, the reduction shall be achieved by applying a uniform percentage reduction (from 0 to 25 percent) to the upland cotton crop acreage base for the crop for each upland cotton-producing farm. In making such a determination, the number of acres placed into the agricultural resources conservation program established under subtitle D of title XII of the Food Security Act of 1985, as amended, must be taken into consideration.

Producers who knowingly produce upland cotton in excess of the permitted upland cotton acreage for the farm plus any upland cotton acreage planted in accordance with the flexibility provisions are ineligible for upland cotton loans and payments with respect to that farm.

If it is determined that an ARP for the 1994 crop of upland cotton is needed, a preliminary announcement of the ARP uniform percentage requirement (from 0 to 25 percent) must be made not later than November 1 of the calendar year preceding the year in which the crop is harvested. Not later than January 1 of the calendar year in which the crop is harvested, a final announcement of the ARP uniform percentage requirement must be made. Producers in early planting areas may elect to participate in the program on the terms of the ARP first announced for the crop, or as subsequently revised, if the Secretary determines that the producers may be unfairly disadvantaged by the revision.

The ARP for the 1994 crop of upland cotton must be set at a level that will result in a ratio of carry-over to total disappearance of 30 percent, based on the most recent projection of carry-over and total disappearance at the time of announcement of the ARP. For the purposes of this provision, the term "total disappearance" means all upland cotton utilization, including total domestic, total export, and total residual disappearance.

Based on August 1993 supply/use estimates, ending stocks for the 1994 marketing year under a 17.5-percent ARP, a 20.0-percent ARP, a 22.5-percent ARP, and a 25.0-percent ARP are 5.60

million bales, 5.35 million bales, 5.10 million bales, and 4.85 million bales, respectively. Such ARP levels would result in ratios of carry-over to total disappearance of 33.3, 32.0, 30.7, and 29.4 percent, respectively. For the purposes of this proposed rule, these four ARP options will be considered. However, because of changes in the supply/use situation that may develop between now and November 1, the actual announced preliminary ARP may be different from the options discussed in this rule.

The estimated impacts of the ARP options are shown in the following table.

UPLAND COTTON SUPPLY/DEMAND ESTIMATES

Item	Option 1	Option 2	Option 3	Option 4
	Percent			
ARP	17.5	20.0	22.5	25.0
Participation	86.0	85.0	84.0	83.0
	Thousand			
Planted	12,200	11,900	11,600	11,300
	Thousand bales			
Production	15,900	15,550	15,200	14,800
Domestic use	10,400	10,400	10,400	10,400
Exports	6,400	6,300	6,200	6,100
Ending Stocks	5,600	5,350	5,100	4,850
	Percent			
Stocks to Use	33.3	32.0	30.7	29.4
	Million dollars			
Deficiency payments	951	896	839	783

Accordingly, comments are requested as to the 1994 acreage reduction percentage for upland cotton. The final determination of this percentage will be set forth at 7 CFR part 1413.

List of Subjects in 7 CFR Part 1413

Cotton, Feed grains, Price support programs, Rice, Wheat.

Accordingly, it is proposed that 7 CFR part 1413 be amended as follows:

PART 1413—FEED GRAIN, RICE, UPLAND AND EXTRA LONG STAPLE COTTON, WHEAT AND RELATED PROGRAMS

1. The authority citation for 7 CFR part 1413 continues to read as follows:

Authority: 7 U.S.C. 1308, 1308a, 1309, 1441–2, 1444–2, 1444f, 1445b–3a, 1461–1469; 15 U.S.C. 714b and 714c.

2. Section 1413.54 is amended by:

A. Revising paragraphs (a)(3)(ii) and (a)(3)(iii),

B. Adding paragraph (a)(3)(iv),

C. Redesignating paragraph (d)(4), as proposed at 58 FR 41641 (August 5, 1993), as paragraph (d)(4)(i),

D. Adding and reserving paragraph (d)(4)(ii), and

E. Adding paragraph (d)(4)(iii) to read as follows:

§ 1413.54 Acreage reduction program provisions.

(a) * * *

(3) * * *

(ii) 1992 upland cotton, 10 percent;

(iii) 1993 upland cotton, 7.5 percent; and

(iv) 1994 upland cotton shall be within the range of 0 to 25 percent, as determined and announced by CCC;

* * * * *

(d) * * *

(4) For the 1994 crop:

(1) Shall not be made available to producers of feed grains, as determined and announced by CCC.

(ii) [Reserved]

(iii) Shall not be made available to producers of the 1994 crop upland cotton.

* * * * *

Signed at Washington, DC, on September 30, 1993.

J.A. Wells,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 93–24462 Filed 9–30–93; 4:02 pm]

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federal register

Tuesday
October 5, 1993

Part V

Department of Transportation

Federal Aviation Administration

14 CFR Part 91, et al.

Extended Overwater Operations With a Single High Frequency Communication System and a Single Long-Range Navigation System; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 91, 121, 125 and 135

[Docket No. 27474; Notice No. 93–13]

Extended Overwater Operations With a Single High Frequency Communication System (HF) and a Single Long-Range Navigation System (LRNS)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This notice proposes to revise the Federal Aviation Regulations for certain overwater operations for air carriers, commercial operators, and general aviation operators of large and turbine-powered multiengine airplanes. It would define and clarify requirements for using long-range navigation systems (LRNS) and set forth criteria for navigation and communications equipment requirements for certain overwater operations. Under this proposal, air carriers and commercial operators would be authorized to use a single high frequency communication system (HF) and a single LRNS for extended overwater routes detailed in their operations specifications. Affected general aviation operators, who already are authorized to use a single HF when they have two very high frequency (VHF) communications systems, would be authorized to use a single LRNS in overwater operations in the Gulf of Mexico, the Caribbean Sea, and part of the western Atlantic Ocean. This proposal is needed to give the FAA greater flexibility in responding to advances in aviation technology and changes in the operational environment and to allow operators to conduct extended overwater operations without carrying unnecessary communication and navigation equipment.

DATES: Comments must be received October 20, 1993.

ADDRESSES: Comments on this notice may be mailed in duplicate or delivered to: Federal Aviation Administration, Office of Chief Counsel, Attention: Rules Docket (AGC–204), Docket No. 27474, 800 Independence Avenue, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Daniel V. Meier Jr., Project Development Branch, AFS–240, Air Transportation Division, Office of Flight Standards, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, Telephone (202) 267–3749.

SUPPLEMENTARY INFORMATION:

Background

Air traffic in the Gulf of Mexico, the Caribbean Sea, and part of the western Atlantic Ocean (subsequently referred to in this proposal as the geographic area) has increased substantially during the last 20 years. Normally, such increases would be expected to intensify the potential for air traffic conflicts. That situation has not materialized. Instead, as air traffic volume has increased in the geographic area, new routes and route structures have been added. More routes are under consideration. These new routes permit Air Traffic Control (ATC) to accommodate air traffic demands while providing the amount of aircraft separation needed to ensure safety.

The number of ground-based communications and navigation facilities also has grown. As a result, areas without VHF communications, automatic direction finders (ADF), or very high frequency omnirange (VOR) coverage within the geographic area have been reduced. The usable radius distance of an ADF, with a transmitting station power output of 2,000 watts or more, is 75 nautical miles (NM) for all altitudes. The normal usable radius distance of a high-altitude VOR, for altitudes between 18,000 feet through flight level 450 is 130 NM. On some routes within the geographic area, the distance from the nearest usable ADF or VOR transmitting station exceeds these transmission limits. However, as discussed below, several factors have led the FAA to conclude that safety would not be compromised, under the provisions of the proposal, when those transmission limits are exceeded.

Advances in aircraft technology have increased the overall speed and functional reliability of modern airplanes. These high-speed airplanes can cover routes in the geographic area much more quickly than their predecessors. Because of their higher speeds, they also can cover greater distances during the time between positional fixes than their predecessors. Since such aircraft also routinely operate at higher altitudes en route, they can conduct VHF communications at greater ranges from their corresponding ground facilities than their predecessors.

Advances in avionics have resulted in increasingly accurate and dependable navigation systems, such as the Loran C system, the Omega/very low frequency navigation system, the nonradio-based inertial navigation system (INS) and flight management systems (FMS), all of which have been available for some time, and the global positioning satellite navigation system (GPS), which will become fully operational soon.

Moreover, a number of operators have been allowed, with certain conditions and limitations, to conduct operations in the geographic area with a single HF and a single LRNS. To date, such operations have had no significant adverse effect on safety. Based on this experience and the factors set forth above, the FAA has concluded that operators in the geographic area can reduce the amount of navigation and communications equipment required for their operations without adversely affecting safety. The FAA therefore proposes, under certain conditions, to expand the authority for air carriers and commercial operators to amend their operations specifications to use a single HF and a single LRNS. The FAA contemplates that, for the time being, deviation authority will be limited to the geographic area. This limitation is based primarily on the increased availability of ground-based VHF communications and ADF or VOR navigation facilities within the geographic area, which provide a crucial buffer in the event of an HF or LRNS failure. In appropriate circumstances, the FAA may expand the areas in which operations with a single HF and a single LRNS will be permitted for part 121, 125, and 135 operators.

Since affected general aviation operators cannot be controlled through operations specifications, they would be authorized to use a single LRNS, but only in the geographic area. Under existing § 91.511(d), affected general aviation operators are already authorized to use a single HF when the airplane has two VHF transmitters and receivers, i.e., two VHF communications systems.

Aside from the current authority set forth in §§ 91.511(d) and 121.349(b), this proposal would not change the general requirements under parts 91, 121, 125, and 135 for two VHF communications systems and two each of any appropriate navigation systems required for the route to be flown. The FAA has concluded that maintaining these requirements would ensure that air transportation safety is not compromised.

General Discussion of Current Requirements for Extended Overwater Operations

General Aviation Operations

With one exception, set forth in § 91.511(d), part 91 Subpart F currently requires large and turbine-powered multiengine airplanes engaged in overwater operations to be equipped

with two independent communications and two independent navigation systems. Communications equipment must be appropriate to the facilities to be used and able to transmit to and receive from at least one surface facility at any place on the route. Navigation equipment must be able to provide the pilot with the information necessary to navigate the airplane within the airspace assigned by ATC. Under the exception in § 91.511(d), if a route requires the use of both VHF and HF communications equipment, and the airplane has two VHF transmitters and two VHF receivers then only one HF transmitter and one HF receiver is required for communications.

Air Carrier and Commercial Operations

Parts 121, 125, and 135 also require airplanes engaged in extended overwater operations to be equipped with two independent communications and two independent navigation systems. Like part 91, parts 125 and 135 require that the communications equipment be appropriate to the facilities to be used and capable of transmitting to and receiving from at least one ground facility at any place on the route. Although the regulatory language differs somewhat, part 121 contains essentially the same requirements for communications equipment. Specifically, part 121 requires two independent communications systems able to communicate, under normal operating conditions, with at least one appropriate ground station from any point on the route and with appropriate air traffic control facilities from any point in the control zones within which the flights are intended to be conducted. These communications systems also must be able to receive, under normal operating conditions, meteorological information from any point en route. Unlike part 91, however, parts 121, 125, and 135 do not allow the use of a single HF where the airplane is also equipped with two VHF. Thus, if a route requires use of both VHF and HF, airplanes operating under parts 121, 125, and 135 must have two VHF and two HF.

Section 121.349(b) allows for the use of a single ADF when two VOR navigation units are installed and VOR navigation aids are so located and the airplane is so fueled that, in the case of a failure of the ADF, the flight may proceed safely to a suitable airport by means of VOR aids. In all other cases when use of ADF, VOR navigation equipment, or both, is needed for primary navigation, the current rules for parts, 121, 125, and 135 require the airplane to be equipped with two ADF and two VOR navigation units, as appropriate.

Rationale for the Proposal

In this proposal, the FAA defines an LRNS as an electronic navigation unit that is approved for use under instrument flight rules (IFR) as a sole means of navigation, such as an INS, Omega/very low frequency, and Loran C. Thus, the FAA does not limit the scope of acceptable LRNS to radio-based or ground-based systems. Such nonradio, nonground-based systems as INS and FMS are included within the scope of acceptable alternatives as long as the system chosen has been approved for use under IFR. Once operational and approved for use, GPS or other satellite-based navigation systems also will fall within this definition. Where ADF or VOR radio navigation units are impractical or unusable, the FAA interprets the current regulations to require the airplane to be equipped with two LRNS for extended overwater operations. The FAA proposes to authorize deviation from this dual LRNS requirement. For parts 121, 125, and 135, authorization for a deviation would be approved in the certificate holder's operations specifications. Since affected part 91 operators are not controlled through operations specifications, they would be authorized to use a single LRNS, but only in the geographic area.

ATC uses various methods to control air traffic, but control becomes difficult when ATC is unable to communicate with aircraft under its control (§ 91.185). This is particularly true when an airplane is also having navigation difficulties. In a nonradar, oceanic environment, ATC relies on flightcrews to navigate along planned routes, in accordance with established International Civil Aviation Organization (ICAO) separation standards, to maintain planned airspeeds, to report their positions accurately as required, and to maintain two-way radio communications with ATC regardless of the routes being flown. Since flightcrews are expected to comply with these procedures, a pilot's failure to provide ATC with an expected position report within a reasonable amount of time, for example, could serve to alert ATC that the aircraft is having problems and that ATC should implement appropriate procedures to deal with the situation.

ATC's navigation accuracy requirements were established to separate air traffic operating under IFR in a nonradar environment. These requirements vary within the geographic area. For example, ICAO Document 7030 shows that the lateral separation standards established in the Caribbean regional supplementary procedures vary from 120 nautical miles (NM) to 90 NM in different established Caribbean oceanic areas.

Navigation systems have increased in number and availability during the past 20 years. Loran C, Omega, and INS are now in common use, and satellite navigation systems will be available soon. The airborne equipment that these systems use has improved due to advances in avionics reliability and miniaturization. Each unit is now a microprocessor which gives instantaneous readouts of position, ground speed, wind, and waypoint progress.

Radio communication systems have enjoyed similar advances. Bulky vacuum tube units have given way to miniaturized units with transistors, precise frequency selection, and high reliability, which produce the same or greater transmitting power when compared to older models. In addition, the proliferation of VHF communications facilities within the geographic area ensures that most routes can be flown with a VHF communications gap of no more than 30 minutes.

Advanced technology notwithstanding, a single HF may fail during a flight segment in which the airplane is operated beyond the range of ground-based VHF radio communications equipment. However, the FAA concludes that the probability that an airplane would experience a failure of its single HF and its single LRNS when suitable ground-based navigation aids cannot be received is minimal. Even if such a dual failure did occur, the increased density of other air traffic in the vicinity could provide the affected airplane with some backup VHF communications with ATC. Moreover, regardless of the number of other aircraft in the area, if the flightcrew adheres to the operational procedures outlined in the first paragraph of this section, the failure of the LRNS should not lead to an increased potential for conflict between aircraft before the airplane could come into range of ground-based ADF or VOR equipment.

Modern airplanes, especially turbine-powered airplanes, can reduce the overall time spent on extended overwater distances because of their ability to operate at higher speeds. They can operate on longer routes than their predecessors while still providing ATC with reliable fixes once each hour from ICAO standard ground-based navigation aids. Thus, the number of routes in the geographic area where time between

reliable fixes was 1 hour or more has been reduced for these airplanes. Similarly, the airplane's exposure to the loss of its single LRNS before the next reliable fix can be obtained is limited.

The increased reliability of modern LRNS reduces navigation errors. Sophisticated flight management systems (FMS), integrated with control and navigation systems of an airplane provide greater position reliability. If the LRNS fails on an airplane using such sophisticated equipment, navigation errors inherent in dead-reckoning procedures from the moment of the failure until the next reporting point or fix should be well within the navigational performance capability required by ATC.

Because of the increased speeds and higher altitudes at which airplanes now operate, improved equipment reliability and LRNS accuracy, the FAA has concluded that, where exposure time for a critical equipment failure is 1 hour or less, the following is true:

- The probability of a failure occurring during this period is less than the probability of a failure with less modern equipment;
- With the accuracy of the present equipment, operators have a better knowledge of their position if a failure does occur;
- Increased air traffic density often allows operators, who experience loss of HF equipment, to use VHF equipment and transmit a message using another airplane as an intermediary in an emergency situation.

General Discussion of the Proposal

The FAA bases its proposals to amend part 91 and consider deviations for parts 121, 125, and 135 on the factors mentioned above and on the operator's ability to maintain two-way communications with ATC and, where appropriate, the certificate holder's dispatch office. Without such factors, ATC's ability to control airplanes in the geographic area would be adversely impacted, increasing the potential for air traffic conflicts. The flightcrew must be able to notify ATC of an LRNS failure and must be able to tell ATC whether the flightcrew can reliably fix the airplane's position using other means.

Part 91

As a result of changes in technology, the operational environment described, and experience gained with exemptions allowing a single LRNS, the FAA has concluded that part 91 operators of large and turbine-powered multiengined airplanes should be able to operate safely with a single HF and a single LRNS in the geographic area. In conducting operations in the geographic area, these general aviation operators should consider how long they may be without two-way VHF communications. For flight planning purposes the FAA recommends that this gap should not exceed 30 minutes. The operator also should consider whether the position of the airplane can be reliably fixed once each hour if the LRNS fails.

Parts 121, 125, and 135

The FAA believes that the only appropriate method for authorizing single HF/single LRNS operations for part 121, 125, and 135 certificate holders is through FAA-approved deviations, which would be set forth in the certificate holder's operations specifications. This method of approval is necessary because it would provide both the FAA and the certificate holder greater flexibility in dealing with varied equipment configurations, possible reclassification of airspace operating areas, and changes in air traffic separation standards.

The FAA has authorized these operations in the past and has determined that permitting a VHF communications gap of not more than 30 minutes is appropriate for this proposal and provides an equivalent level of safety. Loss of the single LRNS still requires each operator currently authorized to operate with a single LRNS to reliably fix the airplane's position at least once each hour if the flight is continued and to navigate within the ATC-required degree of accuracy over any authorized route.

Conditions and Limitations for All Operators

Because part 91 operators are not required to have operations specifications, this proposal would limit general aviation operations to the geographic area. The areas of operation covered in this proposal for affected general aviation operators include the Gulf of Mexico, the Caribbean Sea, and the Atlantic Ocean west of a line which extends from 44°47'00" N/67°00'00" W to 39°00'00" N/67°00'00" W to 38°30'00" N/60°00'00" W south along the 60°00'00" W longitude line to the point where the line intersects with the northern coast of South America. This geographic area does not include the North Atlantic Minimum Navigational Performance Specifications (NAT/MNPS) airspace, where operations are governed by § 91.705 and Appendix C to part 91.

Limitations for air carrier and commercial operations would be set forth in the certificate holders' operations specifications. As in the case of general aviation operations, the area of operation for air carrier and commercial operators would not include NAT/MNPS airspace.

Economic Summary

The proposed rule would reduce costs to operators by eliminating the requirement for two HF and two LRNS in the geographic area. These savings would come from reduced avionics costs, reduced fuel consumption from less aircraft weight, and reduced risk of flight cancellations.

The FAA estimates the fleet size operating in the geographic area at approximately 150 airplanes. This fleet varies from jumbo jets to smaller twin-engine turboprop planes; however, commercial operators most often use Boeing 727's. The FAA assumes that the size of this fleet will grow by 5.2 percent annually over the next 10 years.

In addition to the scheduled commercial fleet, general aviation and non-commercial operators also operate in the geographic area. These operators would also gain some relief from the proposed rule. However, the FAA does not have a measure of the number of airplanes of this type. The FAA requests comments on the size of the general aviation and non-scheduled commercial fleet operating in the geographic area.

Each commercial operator could save approximately $17,000 per airplane in equipment costs and reduce aircraft weight 20 pounds per airplane by eliminating an HF; it could save about $35,000 per airplane in equipment costs and 20 pounds per airplane by eliminating one LRNS. For existing airplanes with equipment made surplus by this proposed rule, the rule would result in cost savings because operators could return LRNS and HF equipment to inventory instead of purchasing new equipment. The FAA estimates that each additional pound on an airplane costs an additional 15 gallons of fuel annually. Hence the reduction in weight would save 600 gallons of fuel a year. The savings would total nearly $5,000 per airplane over the decade.

Additional savings from the proposed rule would come from reduced flight cancellations. Reduced costs from preventing a cancellation depend on passenger time, passenger handling costs, lost revenue, operating costs. The approximate cost of a cancellation is $28,000. This evaluation assumes that one-fourth of the aircraft affected by the proposed rule would suffer one less cancellation in the 2 years after the publication of the rule.

The FAA assumes that 50 percent of the commercial fleet will convert to having only one HF and one LRNS. In

the first year after the proposed rule becomes effective, the industry would reduce avionics costs by nearly $2 million and save $1 million in reduced flight cancellations. Over the decade, the net discounted savings would total $7.3 million. The FAA requests comments on a total cost savings estimate.

The FAA has determined that no safety problem exists with the reduction in the requirements for HF and LRNS for certain overwater operations. In the past 2 decades, the FAA has granted to certain qualified operators limited exemption from requirements for dual HF and dual LRNS in the geographic area. No airplanes operating under exemption have had an accident caused from having one HF or one LRNS. Thus, the FAA believes that this proposed rule presents no degradation in aviation safety in the geographic area. The FAA seeks comment on additional information on the potential influence of this proposed amendment on safety.

International Trade Impact Analysis

This proposed rule would provide a small but negligible cost relief to domestic operators. It would provide no relief to foreign operators. Hence, this rule would have no effect on the sale of foreign aviation products or services in the U.S. or on the sale of U.S. products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) ensures that government regulations do not needlessly and disproportionately burden small businesses. The RFA requires the FAA to review each rule that may have "a significant economic impact on a substantial number of small entities."

FAA criteria define "a substantial number" as not less than 11 and more than one-third of the small entities subject to the rule. Among air carriers, a small entity is defined as one which owns, but does not necessarily operate, nine or fewer aircraft. The criteria define "a significant impact" as follows: $102,000 for scheduled air carriers with 60 or more seats; $57,000 for scheduled air carriers with fewer than 60 seats.

The proposed amendment is completely cost relieving by eliminating the need two HF and two LRNS in the geographic area. The estimated cost savings to an operator is $52,000. This savings is less than the threshold amount for small scheduled operators.

Federalism Implications

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

International Civil Aviation Organization and Joint Aviation Regulations

In keeping with U.S. obligations under the Convention on International Civil Aviation, it is FAA policy to comply with ICAO Standards and Recommended Practices (SARP) to the maximum extent practicable. For this notice, the FAA has reviewed the SARP of Annex 6, Parts I and II, applicable to international commercial air transportation operations and international general aviation operations respectively. The FAA has determined that this proposal, if adopted, would not present any differences.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980, (Pub. L. 92–511), there are no requirements for information collection associated with the proposed rule.

Conclusion

For the reasons discussed in the preamble, and based on the findings in the Economic Assessment and the International Trade Impact Statement, the FAA has determined that this proposed regulation is not major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). In addition, the FAA certifies that 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.

List of Subjects

Part 91

Agriculture, Air traffic control, Aircraft, Airmen, Airports, Aviation safety, Freight, Noise control, Reporting and recordkeeping requirements.

Part 121

Air safety, Air transportation, Aviation safety, Drug abuse, Narcotics, Safety, Transportation.

Part 125

Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

Part 135

Air taxis, Aircraft, Airmen, Aviation safety, Flight Attendants, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend parts 91, 121, 125, and 135 of the Federal Aviation Regulations (14 CFR parts 91, 121, 125, and 135) as follows:

PART 91—AIR TRAFFIC AND GENERAL OPERATING RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. app. §§ 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514, 35 FR 4247; 3 CFR, 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

2. Section 91.511 is amended by revising the phrase "paragraphs (c) and (d)" to read "paragraphs (c), (d), and (f)" in the introductory language of paragraph (a) and by adding paragraph (f) to read as follows:

§ 91.511 Radio equipment for overwater operations.

* * * * *

(f) Notwithstanding the requirements in paragraph (a)(2) of this section, a person may operate in the Gulf of Mexico, the Caribbean Sea, and the Atlantic Ocean west of a line which extends from 44°47′00″ N / 67°00′00″ W to 39°00′00″ N / 67°00′00″ W to 38°30′00″ N / 60°00′00″ W south along the 60°00′00″ W longitude line to the point where the line intersects with the northern coast of South America, when—

(1) A single long-range navigation system (LRNS) [1] is installed, operational, and appropriate for the route; and

(2) Flight conditions and the aircraft's capabilities are such that no more than a 30-minute gap in two-way radio VHF communications is expected to exist.

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

3. The authority citation for part 121 continues to read as follows:

[1] An LRNS is an electronic navigation unit that is approved for use under instrument flight rules as a sole means of navigation, such an an inertial navigation system, Omega/very low frequency, and Loran C.

Authority: 49 U.S.C. app. §§ 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).

4. The first sentence of § 121.99 is revised to read as follows:

§ 121.99 Communication facilities.

Each domestic and flag air carrier must show that a two-way air/ground radio communication system is available at points that will ensure reliable and rapid communications, under normal operating conditions over the entire route (either direct or via approved point to point circuits) between each airplane and the appropriate dispatch office, and between each airplane and the appropriate air traffic control (ATC) unit except as specified in § 121.351(c). * * *

5. Section 121.351 is amended by revising paragraph (a) and adding new paragraph (c) to read as follows:

§ 121.351 Radio equipment for extended overwater operations and for certain other operations.

(a) Except as provided in paragraph (c) of this section, no person may conduct an extended overwater operation unless the airplane is equipped with the radio equipment necessary to comply with § 121.349, an independent system that complies with § 121.347(a)(1), and two long-range navigation systems (LRNS) when use of VOR or ADF radio navigation equipment is unusable along a portion of the route. An LRNS is an electronic navigation unit that is approved for use under instrument flight rules as a sole means of navigation, such as an inertial navigation system, Omega/very low frequency, and Loran C.

(b) * * *

(c) Notwithstanding the requirements of paragraph (a) of this section, deviations from this section for the installation and use of a single LRNS and a single high frequency (HF) communication system may be authorized by the Administrator and approved in the certificate holder's operations specifications. The following are among the operational factors the Administrator may consider in granting a deviation: (1) the ability of the flightcrew to reliably fix the position of the airplane at least once each hour within the degree of accuracy required by ATC, (2) the length of the route being flown, and (3) the duration of the very high frequency (VHF) communications gap.

PART 125—CERTIFICATION AND OPERATIONS: AIRPLANES HAVING A SEATING CAPACITY OF 20 OR MORE PASSENGERS OR A MAXIMUM PAYLOAD CAPACITY OF 6,000 POUNDS OR MORE

6. The authority citation for part 125 continues to read as follows:

Authority: 49 U.S.C. 1354, 1421 through 1430, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

7. Section 125.203 is amended by adding the phrase "Except as provided in paragraph (e) of this section," at the beginning of the first sentence of paragraph (c) introductory text and adding a new paragraph (e) to read as follows:

§ 125.203 Radio and navigational equipment.

* * * * *

(e) Notwithstanding the requirements of paragraph (c) of this section, deviations from this section for the installation and use of single long-range navigation system (LRNS) and a single high frequency (HF) communication system, for extended overwater operations, may be authorized by the Administrator and approved in the certificate holder's operations specifications. An LRNS is an electronic navigation unit that is approved for use under instrument flight rules as a sole means of navigation, such as an inertial navigation system, Omega/very low frequency, and Loran C. The following are among the operational factors the Administrator may consider in granting a deviation: (1) the ability of the flightcrew to reliably fix the position of the airplane at least once each hour within the degree of accuracy required by ATC, (2) the length of the route being flown, and (3) the duration of the very high frequency (VHF) communications gap.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

8. The authority citation for part 135 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1355(a), 1421–1431, and 1502; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983).

9. Section 135.165 is amended by adding a new paragraph (d) to read as follows:

§ 135.165 Radio and navigation equipment: Extended overwater or IFR operations.

* * * * *

(d) Notwithstanding the requirements of paragraphs (a) and (b) of this section, deviations from this section for the installation and use of a single long-range navigation system (LRNS) and a single high frequency (HF) communication system, for extended overwater operations, may be authorized by the Administrator and approved in the certificate holder's operations specifications. An LRNS is an electronic navigation unit that is approved for use under instrument flight rules as a sole means of navigation, such as an inertial navigation system, Omega/very low frequency, and Loran C. The following are among the operational factors the Administrator may consider in granting a deviation: (1) the ability of the flightcrew to reliably fix the position of the airplane at least once each hour within the degree of accuracy required by ATC, (2) the length of the route being flown, and (3) the duration of the very high frequency (VHF) communications gap.

Issued in Washington, DC, on September 27, 1993.

William J. White,

Acting Director, Flight Standards Service.

[FR Doc. 93–24277 Filed 10–4–93; 8:45 am]

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Tuesday
October 5. 1993

Part VI

Department of Transportation

Federal Aviation Administration

14 CFR Part 121, et al.
Aging Airplane Safety; Proposed Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 121, 129 and 135

[Docket No. 26718; Notice No. 93-14]

RIN 2120-AE42

Aging Airplane Safety

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes rule changes that would: Require persons operating older airplanes to certify that certain airplane maintenance actions have been performed; and allow the Administrator to establish an airplane operational limit beyond which additional maintenance actions must be accomplished. This rulemaking project would implement part of the Federal Aviation Administration's (FAA) Aging Airplane Program Plan and respond to the Aging Aircraft Safety Act of 1991. The proposed rules are intended to assure that older airplanes are properly maintained for continued use in air transportation.

DATES: Comments must be received on or before February 2, 1994.

ADDRESSES: Comments on this proposal should be mailed or delivered in triplicate to: Federal Aviation Administration (FAA), Office of the Chief Counsel, Attention: Rules Docket (AGC-10), Docket No. 26718, 800 Independence Avenue SW., Washington, DC 20591. Comments may be examined in the Rules Docket, room 915-G, weekdays between 8:30 a.m. and 5 p.m., except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Frederick Sobeck, Flight Standards Service, Aircraft Maintenance Division (AFS-300), Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591, telephone (202) 267-7355.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Comments relating to the environmental, energy, federalism, or economic impact that might result from adopting the proposals in this notice are also invited. Substantive comments should be accompanied by cost estimates. Comments should identify the regulatory docket or notice number and should be submitted in triplicate to the Rules Docket address specified above.

All comments received on or before the closing date for comments specified will be considered by the Administrator before taking action on this proposed rulemaking. The proposals contained in this notice may be changed in light of comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact, concerned with the substance of this rulemaking, will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a pre-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. 26718." The postcard will be date/time stamped and mailed to the commenter.

Availability of NPRM's

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Inquiry Center (APA-430), 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267-3484. Communications must identify the notice number of this NPRM.

Persons interested in being placed on the mailing list for future NPRM's should request from the above office a copy of Advisory Circular 11-2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedures.

Discussion

Background

The FAA, airplane manufacturers, and airplane operators continually work to maintain the structural integrity of older airplanes. Traditionally, this effort has been accomplished through an exchange of field service information and subsequent changes to inspection programs, and by the development and installation of modifications in particular airplanes. However, increased utilization, longer operational lives, and higher safety demands imposed on current operating airplanes have indicated that there is a need for a program to assure a high level of structural integrity for all airplanes operating in air transportation.

On April 28, 1988, a Boeing Model 737 airplane experienced an in-flight decompression and separation of approximately 18 feet of the fuselage skin and structure at the top of the airplane. A post-accident investigation revealed that the airframe had many fatigue cracks and a large amount of untreated corrosion despite the operator's compliance with required maintenance programs. The National Transportation Safety Board (NTSB) determined that the probable cause of the accident was the failure of the operator to detect the presence of skin disbonding, with resulting corrosion, metal fatigue, and separation of the airplane's skin and structure.

The airplane involved in the 1988 accident had been in service for 19 years and had flown 89,680 flights, accumulating 35,496 flight hours. One of the most highly utilized airplanes in the world, it was operated in a salt and moisture-laden atmosphere throughout its life. At that time, the average large transport airplane, similar to the one above, had been in operation approximately 12.4 years with 19,000 to 74,000 flights. Today these airplanes have been in operation an average of 17.8 years with up to 94,300 flights.

The accident, coupled with the increased use of older airplanes in air transportation, prompted the FAA to reexamine the adequacy of required airplane maintenance procedures. As a result of this examination, additional maintenance actions have been implemented through airworthiness directive (AD) actions. These AD's required for certain airplanes: (1) Structural modifications and inspections to be accomplished for fatigue problems; and (2) corrosion prevention and control programs be added to the required maintenance program.

Public concern that air carriers perform maintenance with the highest degree of safety led Congress in 1991 to direct the FAA to assure that older airplanes are properly maintained. The Aging Aircraft Safety Act of 1991 (the Act) requires the Administrator to initiate rulemaking and to take other actions to assure the continuing airworthiness of aging airplanes. The FAA's efforts to address the safety of older airplanes are known as the Aging Airplane Program. The Aging Airplane Program addresses: Transport Airplanes, Commuter Airplanes, Engines, Maintenance, and Research. The major thrust of the FAA's Aging Airplane Program is described below in a summary of the efforts underway to address large transport airplanes and commuter airplanes.

The FAA has identified eleven wide and narrow-bodied airplanes as aging transport airplanes. They are: Airbus Model A-300; Boeing Models 707/720,

727, 737, and 747; British Aerospace Model BAC 1–11; Fokker Model F–28; Lockheed Model L–1011; and McDonnell Douglas Models DC–8, DC–9, and DC–10. These airplane model fleets contain individual model airplanes that are approaching the design life goals established by the airplane manufacturer at the time of type certification.

Following the 1988 accident, the FAA concluded that a system to assure the structural integrity of older airplanes should place less reliance on routine, repetitive inspections. The FAA has adopted a policy that requires modifications or replacement of certain parts instead of routine inspections when three criteria exist: A structural fatigue cracking problem is likely to occur; a potentially catastrophic failure could result should the fatigue cracking go undetected; and the fatigue cracks are difficult to detect during routine maintenance. The FAA has mandated these structural modifications and directed certain inspections through a series of AD's for all of the aging transport airplanes.

The Aging Airplane Program also established corrosion prevention and control procedures for certain aging transport airplane models. These corrosion procedures supplement each operator's existing maintenance requirements. The FAA has issued AD's mandating corrosion programs for the Boeing models 707/720, 727, 737, 747, and the McDonnell Douglas models DC–8, DC–9, and DC–10 airplanes. AD's are being prepared for four other airplane models.

The FAA and industry are studying methodologies peculiar to each airplane model to assess airplane structural repairs. Some operators are using these methodologies to assess repair designs that preceded the requirement for damage tolerance assessment (Federal Aviation Regulations (FAR) 25, Amendment 45). The FAA may mandate these methodologies through rulemaking where appropriate.

The FAA is also reviewing the existing Supplemental Structural Inspection Documents (SSID). These SSID's and the AD's that mandated their use constitute part of the FAA's earlier approach to controlling the effects of fatigue cracking on older airplanes. The first SSID was mandated by AD in 1984. The purpose of the review is to determine if these inspections are sufficient and can be expected to remain effective throughout the life of the airplane. The SSID's and the AD's that mandated them will be revised as necessary to incorporate the results of the review.

Finally, the aging transport airplane program will establish structural maintenance program guidelines for older airplanes. An industry advisory committee has evaluated operator maintenance programs and prepared a set of guidelines called "Structural Maintenance Program General Guidelines." Operators may use this document to develop or enhance their structural maintenance programs. The FAA is evaluating this document to determine if any of the guidelines should be made mandatory through rulemaking.

The FAA is developing a program for aging commuter airplanes parallel to the program for aging transport airplanes. This aging commuter airplane portion of the Aging Airplane Program addresses those multi-engines used in air transportation having maximum takeoff weights between 6,000 and 75,000 pounds. These airplanes may be operated under 14 CFR parts 121, 129, or 135.

The FAA and the commuter industry have reviewed manufacturer's service bulletins and applicable AD's. These reviews may result in airplane specific modifications to reduce the reliance on repetitive inspections. The FAA is considering rulemaking to implement some recommended modifications. The FAA is investigating the development of airplane specific supplemental inspection documents (SID) that address both fatigue cracks and corrosion. These SID's may include provisions for the type of damage being considered, damage sites, inspection access, inspection threshold, inspection interval, inspection methods, and repair procedures. The FAA intends to implement SID programs through separate rulemaking.

A copy of the draft Aging Airplane Program Plan that discusses the FAA's efforts has been placed in the docket. Any person may obtain a copy of this plan by submitting a request to the FAA, Office of Public Affairs, Attention: Public Inquiry Center (APA–430), 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–3484. Communications must identify the notice number of this NPRM.

Discussion of the Proposal

Sections 121.368, 129.16, and 135.422

Proposed new §§ 121.368, 129.16, and 135.422 define the term "heavy maintenance check" (HMC). This term evolved from the "A", "B", "C", and "D" check maintenance philosophy that was developed in the early days of the aviation industry. The HMC closely approximates the "D check" in this philosophy. The "D check" is frequently the scheduled maintenance visit for the accomplishment of major maintenance requirements that usually include systems operational or functional checks, structural inspections, airplane modifications, painting, cabin refurbishment, and overhaul, or repair of airplane powerplant or systems components. The "D check" has also been referred to as the heavy maintenance visit, heavy maintenance check, heavy level check, or special structural visit.

Proposed new §§ 121.368, 129.16, and 135.422 contain a definition for the HMC that encompasses the "D check" philosophy. All operators must accomplish the major maintenance requirements even if they do not use the "D check" terminology. The HMC as used in this proposed rule is intended to be the airplane maintenance visit that includes airframe structural inspections, airframe modifications, exterior painting, and overhaul of major systems and components.

The proposal would require that the operator establish an HMC for each airplane it operates, and that the operator make a maintenance record (a certification) as part of each HMC conducted on or after the first day of the fifteenth year of the airplane's service. The proposal also requires that the operator notify the Administrator prior to the start of an HMC. The operator would certify in the maintenance record that the airplane meets all maintenance requirements. In order to make the certification, the operator must conduct inspections and make records reviews applicable to the airplane. These inspections and reviews must determine that the airplane has complied with all applicable airworthiness requirements. The FAA would use this maintenance record as evidence that the operator has accomplished all required inspections and reviews. Therefore, this rulemaking would add only the requirement for an additional maintenance record certifying that the all requirements for maintenance have been accomplished. This requirement would be consistent with the FAA's established practice of relying on the operators and the existing delegations of the Administrator's authority (Reference section 601(a)(3)(C) of the Federal Aviation Act of 1958) to make physical inspections and reviews for each airplane. The new requirements are the FAA's response to section 402(b), (c), and (e) of the Aging Aircraft Safety Act of 1991. The FAA intends to utilize the aging airplane inspection procedures contained in existing maintenance programs to accomplish

the intent of section 402(d). The certification provides the FAA evidence that the operator has complied with those mandates published to assure the safety of aging airplanes.

There are many airplanes that are not required to have scheduled checks as discussed above. These airplanes may be subject to a 100 hour or annual inspection schedule, progressive inspection schedule, or an FAA-approved aircraft inspection program (AAIP). Unlike the "D" check, these inspection programs do not have an established interval for the structural inspections normally included in an HMC-type inspection. For this reason, the HMC for these airplanes must be treated differently.

The 100 hour inspection provides for a complete inspection of the airplane each 100 hours time in service. Similarly, the annual inspection provides for a complete inspection of the airplane once each 12 calendar months. The FAA intends that the certification be accomplished at a major inspection point for the airplane, i.e. the HMC. Since the 100 hour inspection and the annual inspection are identical in scope, the FAA will consider the annual inspection acceptable as the HMC for those operators subject to these types of inspections.

The progressive inspection program provides for incremental inspection segments resulting in a complete inspection of the airplane each twelve calendar months. The twelve month inspection period that coincides with completion of the progressive inspection program cycle would be considered the HMC interval for these airplanes.

An approved aircraft inspection program (AAIP) allows operators to develop and utilize inspection programs adjusted for their unique operating environment. Because of the variation among the AAIP's the FAA cannot define a generic HMC interval.

Therefore, the operator would establish an HMC interval as that interval that most closely approximates completion of all tasks in the AAIP inspection cycle.

The phrase "years in service" would mean the calendar time accrued since the airplane was issued its first United States (U.S.) or first foreign airworthiness certificate. This starting point for computing years in service was selected because before an airplane can be flown in the U.S. it must have an appropriate airworthiness certificate. This threshold will give a consistent starting point for the computation of age. In the U.S., the first airworthiness certificate issued is normally a special airworthiness certificate for a manufacturer's production test flight. For foreign manufactured airplanes, the threshold would be the first issuance of an equivalent airworthiness certificate. The years in service period will not be adjusted for storage or nonoperating time. As corrosion may develop even in an unused airplane, the FAA chose not to give credit for nonoperational passage of time.

Sections 121.212, 129.20, and 135.168

Proposed new §§ 121.212, 129.20, and 135.168 would initiate the regulatory framework for the future establishment of an operational limit for certain airplanes. This operational limit would apply unless the Administrator has established certain additional maintenance requirements that are met. These limits will establish the point in the airplane's life where, due to unknown effects of fatigue and corrosion, its continued airworthiness cannot be assured using normal maintenance practices. The term "operational limit" would be that point in the life of the airplane where additional maintenance action is required to assure the continued airworthiness of the airplane's principle structural elements.

Section 402(a) of the Act requires the Administrator to initiate rulemaking in order to assure the continuing airworthiness of aging airplanes. The FAA examined the Aging Airplane Program Plan activities currently underway and the airplanes being addressed in that program, and considered either requiring a supplemental inspection program based on a damage tolerance assessment of these airplanes or establishing an operational limit.

The FAA may establish operational limits based on the most critical "service life" limit of the airplane Principle Structural Elements (PSE). The operational limit would be expressed in terms of flight hours, landings, or pressurization cycles and would be based on a structural substantiation approved by the Administrator.

Principle Structural Element and "service life" is described in 14 CFR 25.571. The FAA could consider some of the following:

a. Cumulative damage criteria based on fatigue tests, analysis, fleet history, teardown inspections, or combinations thereof; or

b. The principles of fracture mechanics that may include the assumption of an initial flaw; or

c. The service life chosen by the applicant at initial certification to comply with § 25.571.

The FAA envisions establishing an appendix to parts 121, 129, and 135 where the specific operational limit would appear. As part of that appendix would be a listing of appropriate maintenance requirements that would be imposed if the operator wished to go beyond the established operational limits. Such provisions would include, but may not be limited to, supplemental inspection programs, repetitive inspections of specific PSE's based on the principles of fracture mechanics or on engineering analysis, one-time major inspections of specific and/or repetitive major inspections based on the principles of fracture mechanics, replacement of life-limited components, other technically sound methods offered by the organization applying for the life extension; or any combination of the above, and demonstration that corrosion in primary structure of the airplane is maintained to an acceptable level.

This rulemaking will not set any operational limit nor will it set out the maintenance requirements for exceeding the operational limit. Separate rulemaking will be used to impose the operational limit. The preamble to the notice of proposed rulemaking for that rule will describe and solicit comments on the methodology used to establish the operational limit.

The FAA has tasked the Small Airplane Airworthiness Assurance Working Group within the Aviation Rulemaking Advisory Committee to study the methods used to develop and extend operational limits. The recommendations of this working group will be considered by the FAA.

Airplanes meeting the damage tolerance design criteria of part 25 and those being inspected in accordance with a mandatory SSID that has been developed in accordance with damage tolerance principles may not need an operational limit.

Consideration of Foreign-Operated U.S.-Registered Airplanes

Most foreign air carriers and foreign persons engaged in common-carriage operations have airplane maintenance program requirements adopted by their domestic governments that are consistent with the international standards in Part I of Annex 6 to the Convention on International Civil Aviation. Annex 6 requires each operator to comply with the terms of the airplane's certificate of airworthiness and to maintain the airplane in an airworthy condition. However, some countries may not have requirements

completely consistent with the international airplane maintenance program requirements as set forth in Annex 6. This means that U.S.-registered airplanes operated by foreign operators or persons from those countries might not meet international let alone U.S. standards. FAR 129 regulates the operation of these U.S.-registered airplanes consistent with U.S. international obligations. Inclusion of the proposed rules in FAR 129 would assure the continued airworthiness of aging U.S.-registered airplanes in such use.

Consideration of all Classes of Operators

The FAA has considered the circumstances of all classes of operators, including air cargo operators, in the development of the Aging Airplane Program. The factors affecting aging airplanes—fatigue and corrosion—apply whether passengers or cargo is being carried. For that reason, this proposed rule does not distinguish between passenger-carrying and all-cargo operations for either large transport or commuter aging airplanes.

Comments Received During Development of the NPRM

The FAA received unsolicited comments before the publication of the NPRM regarding the agency's action under the legislation. These comments have been placed in Docket No. 26718 and will be considered along with those received after this NPRM is published.

Paperwork Reduction Act

This NPRM will create a slight additional burden to currently approved information collections. The requirement for clearance from this additional burden will be submitted to the Office of Management and Budget.

Regulatory Evaluation Summary

This section summarizes the full regulatory evaluation prepared by the FAA that provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, Federal, State, and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs Federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual increase in consumer costs, a significant adverse effect on the economy of $100 million or more, or a significant adverse effect on competition.

The FAA has determined that this proposed rule is not "major" as defined in the executive order; therefore, a full Regulatory Impact Analysis, which includes the identification and evaluation of cost-reducing alternatives to this rule, has not been prepared. Instead, the agency has prepared a more concise document termed a regulatory evaluation that analyzes only this proposed rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains the Regulatory Flexibility determination required by the Regulatory Flexibility Act and an International Trade Impact Analysis. If more detailed economic information is desired, the reader may refer to the full regulatory evaluation contained in the docket.

Costs

The provisions of the proposed rule can be considered in three categories: (1) Definitions that are needed to clarify the intent of the proposal, (2) provisions for the future prohibition of operating an airplane beyond its operational limit unless it meets additional airworthiness requirements prescribed by the FAA, and (3) notification of inspection and certification of compliance with applicable maintenance programs.

No significant costs are attributed to the proposed definitions. They are included for purposes of clarification and explanation of the remaining provisions. The definitions themselves will not exact any expenditures by manufacturers or operators.

The proposed rule would also prohibit the operation of certain airplanes, yet to be specified, beyond their operational limits unless those airplanes meet certain additional airworthiness requirements prescribed by the FAA. The proposed rule itself would not impose any new requirements for any airplanes, but instead, would establish the regulatory structure for later agency rulemaking. As they are developed, the operational limits and additional airworthiness requirements for each affected airplane model would be listed in an appendix to the appropriate part(s) of the FAR's. Accordingly, the economic justification of the additional requirements for each model would be evaluated as part of the rulemaking that implements it.

The evaluation does not ascribe to this proposed rule any of the costs that will be incurred to actually perform the work associated with a given airplane's maintenance program requirements. These requirements are either currently in place, or are being developed for near-term application under other rulemaking efforts. The current rules, the aging airplanes airworthiness directives that have been issued through February 1993, have been estimated to require a total one-time expenditure of $278 million and a recurring annual cost of $42 million.

Additional costs would be incurred by the operator in notifying the FAA that a heavy maintenance check was scheduled, and in making the maintenance record check to certify maintenance program compliance. The certification would necessitate a brief review of the pertinent maintenance records that would normally be available during a heavy maintenance check.

Over the ten-year study period, the FAA forecasts that the numbers of heavy maintenance checks, as defined in the proposal, would increase from an estimated 1,966 in 1995, to 2,262 checks in the year 2004. Approximately one-half hour of time would be required per airplane, per heavy maintenance check to comply with the proposed requirements for notification and certification. Based on an assumed wage of $42 per hour, including overhead, the requirements of this provision would incur an annual cost to industry of $41,286 to $47,502 over the study period.

The FAA would also incur additional costs as a result of the proposed rule. The agency estimates that an incremental 1,920 work hours would be expended annually in reviewing operator certifications to determine compliance. For the purposes of this analysis, the initial 1,920 hour estimate was inflated over time to coincide with the projected increase in the numbers of large transport category airplanes. Again assuming an average hourly wage rate of $42 per hour, the FAA would incur additional annual costs of $80,640 in the first year, increasing to $105,672 ten years later. The present value of the ten-year costs of this proposal to industry and the FAA is estimated to be $880,000.

Benefits

The expected benefit of the proposed rule is a reduction in the risk of accidents related to fatigue and corrosion that might otherwise occur. This benefit would result from the requirement that operators review their

records and certify through a maintenance record entry that their aging airplanes are in full compliance with all maintenance program requirements.

The economic valuation of the 1988 accident totals $18.2 million. Given the potential severity of the accident, it is fortuitous that more fatalities did not occur. Had the airplane broken up and crashed with all 95 lives lost, the economic valuation of that single accident would have exceeded $248 million.

The greater portion of the expected benefits in aging-airplane accident prevention will probably derive from the maintenance program initiatives themselves, rather than from this proposed rule. The FAA cannot assess the exact proportion of potential benefits that should be attributed specifically to this proposed rule. However, it should be noted that the U.S. fleet continues to age and recent accident history may not be representative of future conditions or of future exposure to such accidents. The economic environment of the aviation industry may necessitate greater use of aging airplanes than in the past.

It is the FAA's position that the requirement for operator demonstration of maintenance program compliance would result in the more consistent conduct of necessary maintenance and in an associated increase in the overall airworthiness of the aging airplane fleet. Thus, the effect of the proposed rule would be to reduce the likelihood of aging airplane accidents at a projected ten-year cost less than one-twentieth of the economic valuation of the 1988 accident.

The costs of this proposal would be directly related to the future exposure to accidents involving aging airplanes. If the use of aging airplanes decreases, the costs of this proposed rule would decrease proportionately. If the use of aging airplanes increases, the more effective maintenance generated by the proposed rule would correspondingly minimize the likelihood of future accidents to an increased number of airplanes. Accordingly, the FAA holds that the potential benefits of this rule would exceed the expected costs. In addition, the proposed rule was mandated by statute.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily or disproportionately burdened by Government regulations. The RFA requires a Regulatory Flexibility Analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. FAA Order 2100.14A, Regulatory Flexibility Criteria and Guidance, establishes threshold cost values and small entity size standards for complying with RFA review requirements in FAA rulemaking actions. The size threshold for operators of aircraft for hire is ownership of nine or fewer airplanes. The lowest cost threshold for operators affected by this rule is the $3,300 annual limit for unscheduled operators. At an estimated $21 per year per aging airplane, the largest potential impact of this rule on a small entity would equal $189 (9 × $21). Accordingly, the FAA has determined that this proposed rule would not have a significant economic impact on a substantial number of small entities.

International Trade Impact Analysis

This proposed rule would not significantly influence or affect the sale of foreign products or services domestically, or the sale of U.S. products or services in foreign countries. The proposed rule would apply equally to U.S. operators and to foreign operators of U.S.-registered airplanes.

Federalism Implications

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

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, the FAA certifies that 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 Department of Transportation (DOT) Order 2100.5, Policies and Procedures for Simplification, Analysis, and Review of Regulations. A draft regulatory evaluation of the proposal, including a Regulatory Flexibility Determination and International 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

14 CFR Part 121

Air carriers, Aircraft, Airmen, Aviation safety, Charter flights, Drug testing, Reporting and recordkeeping requirements, Safety, Transportation.

14 CFR Part 129

Air carriers, Aircraft, Aviation safety, Reporting and recordkeeping requirements.

14 CFR Part 135

Air taxis, Aircraft, Airmen, Aviation safety, Reporting and recordkeeping requirements.

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 14 CFR parts 121, 129, and 135 of the Federal Aviation Regulations as follows:

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

1. The authority citation of part 121 is revised to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355, 1356, 1357, 1401, 1421–1430, 1472, 1485, and 1502, 49 U.S.C. 106(g) and Pub. L. 102–143 (October 28, 1991), 105 Stat. 951.

2. Section 121.212 is added to read as follows:

§ 121.212 Aging airplane limitation.

No certificate holder may operate an airplane beyond an operational limit established in this part unless the airplane has met any additional prescribed maintenance requirements for extending the operational limit.

3. Section 121.368 is added to read as follows:

§ 121.368 Maintenance certification for aging airplanes.

(a) *Heavy maintenance check* means an airplane's maintenance visit during which airframe structural inspections, airframe modifications, exterior painting, and overhaul of major systems and components are accomplished.

(b) Each certificate holder shall establish, as part of its FAA-approved maintenance program, a heavy maintenance check interval for each airplane it operates.

(c) At each heavy maintenance check after the start of an airplane's fifteenth year in service and thereafter as part of each subsequent heavy maintenance check, the certificate holder shall make a maintenance record certifying that the airplane meets all maintenance program requirements.

(d) *Years in service* means the calendar time accrued since the airplane was issued its first United States or first foreign airworthiness certificate.

(e) Each certificate holder operating an airplane subject to the requirement of paragraph (c) of this section shall notify the Administrator at least 30 days prior to the start of an airplane's heavy maintenance check.

PART 129—OPERATIONS: FOREIGN AIR CARRIERS AND FOREIGN OPERATORS OF U.S.-REGISTERED AIRCRAFT ENGAGED IN COMMON CARRIAGE

4. The authority citation of part 129 is revised to read as follows:

Authority: 49 U.S.C. app. 1346, 1354(a), 1356, 1357, 1421, 1502, 1511, and 1522, 49 U.S.C. 106(g) and Pub. L. 102–143 (October 28, 1991), 105 Stat. 951.

5. Section 129.1(b) is revised to read as follows:

§ 129.1 Applicability.

* * * * *

(b) Sections 129.14, 129.16, and 129.20 also apply to U.S.-registered aircraft operated in common carriage by a foreign person or foreign air carrier solely outside the United States. For the purpose of this part, a foreign person is any person, not a citizen of the United States, who operates a U.S.-registered aircraft in common carriage solely outside the United States.

6. Section 129.16 is added to read as follows:

§ 129.16 Maintenance certification for U.S.-registered aging airplanes.

(a) *Heavy maintenance check* means an airplane's maintenance visit during which airframe structural inspections, airframe modifications, exterior painting, and overhaul of major systems and components are accomplished.

(b) Each foreign air carrier and each foreign person operating a U.S.-registered aircraft within or outside the United States in common carriage shall establish, as part of its FAA-approved maintenance program, a heavy maintenance check interval for each U.S.-registered airplane it operates.

(c) At each heavy maintenance check after the start of an airplane's fifteenth year in service and thereafter as part of each subsequent heavy maintenance check, the foreign air carrier and each foreign person operating a U.S.-registered aircraft within or outside the United States in common carriage shall make a maintenance record certifying that the airplane meets all maintenance program requirements.

(d) *Years in service* means the calendar time accrued since the airplane was issued its first United States or first foreign airworthiness certificate.

(e) Each foreign air carrier and each foreign person operating a U.S.-registered aircraft within or outside the United States in common carriage, subject to the requirement of paragraph (c) of this section, shall notify the Administrator at least 30 days prior to the start of an airplane's heavy maintenance check.

7. Section 129.20 is added to read as follows:

§ 129.20 Aging airplane limitation.

Each foreign air carrier and each foreign person operating a U.S.-registered aircraft within or outside the United States in common carriage may not operate a U.S.-registered airplane beyond an operational limit established in this part unless the airplane has met any additional prescribed maintenance requirements for extending the operational limit.

PART 135—AIR TAXI OPERATORS AND COMMERCIAL OPERATORS

8. The authority citation for part 135 is revised to read as follows:

Authority: 49 U.S.C. app. 1354(a), 1355(a), 1421 through 1431, and 1502; 49 U.S.C. 106(g) and Pub. L. 102–143 (October 28, 1991), 105 Stat. 951.

9. Section 135.168 is added to read as follows:

§ 135.168 Aging airplane limitation.

No certificate holder may operate an airplane beyond an operational limit established in this part unless the airplane has met any additional prescribed maintenance requirements for extending the operational limit.

10. Section 135.422 is added to read as follows:

§ 135.422 Maintenance certification for aging airplanes.

(a) *Heavy maintenance check* means an airplane's maintenance visit during which airframe structural inspections, airframe modifications, exterior painting, and overhaul of major systems and components are accomplished.

(b) Each certificate holder subject to § 135.411(a)(1) shall establish a heavy maintenance check interval as part of its inspection program under § 91.409(b) or (d) of this chapter.

(c) Each certificate holder subject to § 135.411(a)(2) shall establish a heavy maintenance check interval as part of its maintenance program.

(d) At each heavy maintenance check after the start of an airplane's fifteenth year in service and thereafter as part of each subsequent heavy maintenance check, the certificate holder shall make a maintenance record certifying that the airplane meets all maintenance and inspection program requirements.

(e) *Years in service* means calendar time accrued since the airplane was issued its first United States or first foreign airworthiness certificate.

(f) Each certificate holder operating an airplane subject to the requirement of paragraph (d) shall notify the Administrator at least 30 days prior to the start of an airplane's heavy maintenance check.

Issued in Washington, DC on September 24, 1993.

William J. White,

Acting Director, Flight Standards Service.

[FR Doc. 93–24278 Filed 10–4–93; 8:45 am]

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Part VII

Department of Housing and Urban Development

24 CFR Parts 905 and 965

Financial Standards for Housing Authority-Owned Insurance Entities; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Parts 905 and 965

[Docket No. R-93-1609; FR-3023-F-02]

RIN 2577-AB00

Financial Standards for Housing Authority-Owned Insurance Entities

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Final rule.

SUMMARY: This final rule permits Public Housing Agencies, including Indian Housing Authorities, to select an insurance provider without complying with the competitive selection process if the provider is a PHA-owned nonprofit insurance entity. It also establishes standards for HUD approval of these nonprofit insurance entities from which Public Housing Agencies may obtain insurance coverage without competitive selection. This rule implements the provision of the HUD Appropriations Act for Fiscal Year 1992 that directed the Department make these changes in policy by issuance of regulations.

EFFECTIVE DATE: November 4, 1993.

FOR FURTHER INFORMATION CONTACT: John Comerford, Director, Financial Management Division, Office of Public Housing, Department of Housing and Urban Development, 451 Seventh Street SW., Washington, DC 20410, telephone (202) 708-1872 (voice) or (202) 708-0850 (TDD). (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in §§ 905.190 (c) and (d) and 965.205 (c) and (d) of this rule have been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3504(h)). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the **Federal Register.**

Public reporting burden for the collection of information requirements contained in this rule are estimated to include the time for reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided in paragraph IV.G. of this preamble.

Comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, should be sent to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street SW., Washington, DC 20410-0500; and to the Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, room 3001, Washington, DC 20503, Attention: Desk Officer for HUD.

II. Background

Under their contracts with HUD, Public Housing Agencies and Indian Housing Authorities (collectively, housing authorities or HAs) must carry certain types of insurance provided by a "financially sound and responsible insurance company." These contracts, and the regulation found at 24 CFR part 85, also require that a competitive selection procedure be used by HAs to procure insurance (as for any other procurement). The Department's Appropriations Act for 1992 has made modifications to these requirements by eliminating the need for competitive selection in the case of selection of a HA-owned nonprofit insurance entity as the provider and by requiring that HUD establish certain standards for the HA-owned nonprofit insurance entities.

The 1992 Appropriations Act (105 Stat. 758), provided as follows:

1. Insurance may be purchased from a nonprofit insurance entity that is owned and controlled by HAs and approved by HUD without regard to competitive selection procedures.

2. HUD must issue regulations establishing standards for approval of such nonprofit insurance entities to assure that they have "sufficient surplus capital to meet reasonably expected losses, reliable accounting systems, sound actuarial projections, and employees experienced in the insurance industry." Investment restrictions must not exceed State laws regulating the investments of insurance companies. (Nonprofit insurance entities that are licensed insurance companies simply comply with applicable State law.)

3. These regulations must be issued in accordance with notice and comment rulemaking, in accordance with the Administrative Procedure Act, and they must become effective no later than one year from enactment of the Appropriations Act (October 28, 1992).

4. HUD may not approve any additional nonprofit insurance entities until the regulations have become effective, and HUD may not revoke approval of any nonprofit insurance entity unless for cause following a due process hearing.

A proposed rule was published on November 17, 1992 (57 FR 54196), which covered these topics. This final rule responds to comments received on that proposed rule.

III. Public Comments

A. General

The Department received 76 public comments. Ten of the comments were from HA-owned nonprofit insurance entities or their representatives. Four were from professional organizations (accountants and actuaries) or consulting firms. The remainder were from housing authorities, which, for the most part, echoed the comments submitted by one of the HA-owned nonprofit insurance entities.

Comment. One management firm criticized the November 1992 proposed rule as inadequate regulation of these insurance entities, apparently preferring the approach taken in the proposed rule of December 1989, which purported to regulate every insurance provider—not just insurance entities exempt from competitive procurement—and which prescribed minimum amounts of surplus capital and permitted insurance ratings to be substituted for compliance with HUD requirements.

Response. The Department is limiting its regulation of insurance entities to that which is required by the Appropriations Act. In the absence of clear evidence of an imminent threat of serious financial exposure caused by lack of greater regulation, HUD feels that no greater regulation is justified.

B. Type of Entity Covered

1. Noncompetitive Selection

Comment. It appears that a HA may not select an insurance provider that is a HA-owned nonprofit insurance entity constituted as an insurance company without using a competitive selection procedure. (See the last sentence of § 965.205(a).) Such a policy would be contrary to the intent of the Appropriations Act.

Response. The Department agrees that the Appropriations Act provides that HAs have the choice to select such a HUD-approved HA-owned nonprofit insurance entity—approved by HUD—*without* the competitive selection process, regardless of whether the entity is organized as an insurance company. Therefore, this final rule is reorganized

to place the approval of a nonprofit insurance entity in the context of the noncompetitive selection process. (See, for example, § 965.205(b).)

The approval process for such an entity that is constituted as an insurance company that is licensed by a State or authorized to do business in the State is clearly stated. It involves less oversight by HUD since the State insurance commissioner presumably performs this function. (See, for example, § 965.205(c)(1).)

2. Definition of HA-owned Nonprofit Insurance Entity

Comment. Organizations other than HAs should be able to obtain coverage from these entities. In many cases, an organization may have been created solely to provide certain services for a HA or its residents, e.g., a child care center, a resident management corporation, or a food service organization. The rule should be broadened to permit this.

Response. The Department agrees that certain organizations that perform functions for a housing authority should be able to obtain coverage from the nonprofit insurance entity. Consequently, the final rule provides that approval will be given to a nonprofit self-funded insurance entity created by HAs that limits participation to HAs (and to nonprofit entities associated with HAs that engage in activities or perform functions only for housing authorities or housing authority residents).

Comment. The provision that these insurance entities "credit PHA payments and investment income to the *loss fund*" is too broad. The term "loss fund" is not defined, and the income of these entities is used not only to pay claims but also to cover salaries and overhead. The reference to the loss fund should be eliminated.

Response. The final rule eliminates this provision. The types of allowable uses of the entity's funds are still limited to "insurance-related expenditures," however.

Comment. The rule should not limit the uses of funds of these pools to insurance-related expenditures: That is the responsibility of pool management and can be evaluated and controlled by the member housing authorities.

Response. The Department has concluded that there are other controls in place over proper expenditures: The State charter of a pool describes the types of activities that may be undertaken, and the pool is also subject to Internal Revenue Service regulations with respect to its use of funds. Therefore, this rule eliminates the reference to limiting the pool's expenditures to insurance-related expenses.

Comment. Address the possibility of a housing authority of significant size that elects to self-insure.

Response. A housing authority's decision to self-insure would not qualify it as a HA-owned nonprofit insurance entity, and this rule would not apply. Consequently, it would have to comply with the competitive selection procedures in choosing an insurance provider. It would have to obtain a waiver from HUD of its contractual requirement to maintain insurance coverage with a financially sound and responsible company. We anticipate that such a situation would arise only occasionally, when a housing authority is desperate for coverage and cannot obtain it from any reasonable source or when the HA has enough spread of risk to feasibly self-insure. It would have to demonstrate to HUD that it is setting aside adequate funds to provide appropriate coverages. In addition, for certain lines of insurance, state regulatory authority approval must be obtained.

Comment. How do municipal leagues and trusts fit into this rule? They are not owned and controlled by housing authorities but are owned and controlled by State or local governments or a combination of them.

Response. Municipal leagues and trusts do not fit the definition of HA-owned nonprofit insurance entities for which the Appropriation Act permitted the exception to competitive bidding. Consequently, this rule does not cover them. Selection of coverage from a municipal league or trust is subject to the competitive bidding procedures of 24 CFR 85.36. (However, when a new municipal league or trust is formed from which a housing authority seeks to purchase coverage, the league or trust seeks approval from HUD as satisfying the contractual requirement that coverage be provided by a "financially sound and responsible insurance company.")

C. Standards of Responsibility

1. Adequacy of Capital/Surplus and Reserves

The Appropriations Act requires HUD to provide standards to assure that such entities have adequate "surplus capital" to meet reasonably expected losses.

Comment. The adequacy of reserves should be the test of financial solvency, according to some. Others advocated a minimum dollar amount in surplus, such as $10,000,000, as a safety measure. Still others said that a stated dollar amount in surplus, even if put in terms of a percentage of net premiums written, would prevent new entities from being able to qualify.

Response. The Department agrees that adequate reserves to meet expected losses is a reasonable measure of the ability of an insurer to cover losses. This rule provides that the adequacy of reserves will be a key element evaluated in the actuarial review. The Department also believes that it is not appropriate to state specific required surplus amounts for all of these entities to maintain, since their financial exposure varies considerably with the number and size of the HAs covered. We are also concerned about the limitation on formation of new entities that a stated dollar surplus requirement would impose.

2. Employees Experienced in the Insurance Industry

Comment. Delete the language regarding the experience of management.

Response. It would be irresponsible for HUD not to require competent management on the part of the pool management—either directly or through its third party administrator.

Comment. Require that the director of the pool, not just a third party administrator, be experienced in insurance.

Response. This proposal would be too expensive for a small pool. The rule remains unchanged on this issue.

Comment. Experience in managing a public entity risk pool should qualify as recognized experience for competent underwriting and management staff.

Response. The rule adds that category of experience for both the underwriting and management experience elements.

Comment. Eliminate the reference to commercial underwriting, since the underwriting is related to habitational property owned by public entities.

Response. The insurance industry generally recognizes a distinction between underwriting for commercial lines of insurance and for personal lines of insurance. The type of coverage afforded to these HA-owned entities is not a personal line of insurance. Consequently, the reference remains.

3. Financial Controls and Organization Documents

Comment. The requirement that the entity maintain "internal audit and cost controls over income and expenditures" is excessive. Small entities cannot afford internal audits, and "cost controls over income" is a meaningless phrase.

Response. The Department's intent is that the entity be required to maintain

the type of internal controls defined in 24 CFR 44.2:

(T)he plan of organization and methods and procedures adopted by management to ensure that:

(1) Resource use is consistent with laws, regulations, and policies;

(2) Resources are safeguarded against waste, loss, and misuse; and

(3) Reliable data are obtained, maintained, and fairly disclosed in reports.

The final rule uses the term "internal controls and cost containment measures."

Comment. Proper organizational documentation should only need to be provided when an entity is first being approved. Copies of a charter from a State insurance commissioner can only be provided with respect to a licensed insurance company, which most of these entities are not.

Response. We agree with both of these comments. It was not our intent to have previously approved entities submit organizational documentation again. The rule has been clarified to restrict this requirement to initial approval, unless there are material changes. Now that a separate paragraph has been added to cover the HA-owned nonprofit insurance entities that are constituted as licensed insurance companies, the reference to submission of evidence of approval by the State insurance commissioner (or Tribal governing body) has been moved to that paragraph.

Comment. Investments should be permitted to conform with those permitted by State law for investments by public entities, not just those approved by the State department of insurance.

Response. The Department agrees and has modified the rule accordingly.

Comment. HUD should review the investment standards set by each individual State and select appropriate standards to approve for use by these entities.

Response. The Appropriation Act does not seem to envision this type of interference in what States currently regulate. Moreover, the Department is not inclined to research State approved investment policies for the purpose of choosing among them one single federally approved approach.

4. Reliable Accounting Systems and Sound Actuarial Projections

Comment. The audit and actuarial review should both be performed annually, rather than biennially, if they are to serve as a warning signal that an insurance entity is financially troubled. The first such reviews should be required after a period following the end of the entity's fiscal year, so that no additional reviews will be required mid-year.

Response. The Department agrees with this comment. The rule has been revised to require submission of the first such reviews within 90 days after the end of the first fiscal year ending on or after December 31, 1993. This will provide sufficient lead time for these entities to comply with the new requirements. Subsequent reports are required to be submitted annually.

Comment. Too much is expected of the auditor and the actuary. They should only be expected to report on items within their expertise. Other evaluations should be performed by other consultants, if they are really needed. For example, the validity of all open claims is an area of expertise for a claims specialist, not an actuary.

Response. These separate roles have been identified and treated separately in this final rule. The evaluation of the efficiency of any third party administrator, timeliness of claim payments, and the adequacy of reinsurance coverage are now to be performed by "an independent insurance consulting firm that has at least one person on staff who has received the professional designation of chartered property/casualty underwriter (CPCU), associate in risk management (ARM), or associate in claims (AIC)." (See, for example, § 965.205(d)(3).) The examination of the validity of all open claims and the evaluation of a risk management program have been eliminated.

Comment. The NAIC convention form mentioned in the preamble of the proposed rule as the form prescribed by HUD for the audit is appropriate only for a licensed insurance company. It would be particularly burdensome for small insurance entities. Some suggestions for the appropriate standards were: Generally accepted accounting principles, "Financial Accounting Standards Board Rule 60 and the Statutory Insurance Accounting Practices in force in the State of the insurer's domicile (and, in the case of a local government risk sharing entity, then also in accordance with Government Accounting Standards Board Rule 10)" for the accountant; and generally accepted auditing standards for the auditor.

Response. Statutory accounting practices would present a more conservative representation of financial solvency, and would be preferable for purposes of assuring solvency. However, considering the additional work required to follow these practices and the burden that would impose on an entity that is not an insurance company, the Department has decided to require use of generally accepted accounting principles (including any supplementary data required by GASB 10) for preparation of the financial statement and generally accepted auditing standards for the audit of the financial statement.

Comment. The audit should be required to be performed by an independent certified public accountant (comment from the American Institute of Certified Public Accountants).

Response. The term "independent auditor" is a term used in 24 CFR part 44, which embodies (for HUD) the government-wide rule with respect to audits of State and local governments that receive federal funds, as authorized by the Single Audit Act of 1984 (31 U.S.C. 7501–7507). The term is defined to mean either "[a] State or local government auditor who meets the independence standards specified in generally accepted government auditing standards; or [a] public accountant who meets such independence standards." To clarify what we mean in the rule, we have added a reference to this definition.

Comment. The required professional qualifications of the actuary should refer specifically to membership in the Casualty Actuary Society (CAS) and the American Academy of Actuaries (a comment submitted by the American Academy of Actuaries. The CAS confers a professional designation of Associate or Fellow upon an individual upon successful completion of a number of examinations dealing with casualty issues, and membership in the AAA as well indicates adherence to professional standards.

Response. The rule provides that the actuary must hold Associate or Fellowship status in a "recognized professional actuarial organization." Since the CAS is the only such organization of which we are aware that confers these titles upon actuaries specializing in the relevant field—property/casualty issues—we are adding a reference to the CAS. However, it is listed as an example rather than the sole source of acceptable recognition, since it is conceivable that another such organization could be formed.

Comment. The actuary should not be required to be an *independent* actuary, since it is the professional duty of an actuary to give an objective assessment of the adequacy of loss reserves, for which the actuary is subject to discipline for improper action. An actuary on the staff of the insurance entity should be able to render the opinion.

Response. The requirement for an independent actuarial review is intended to fulfill a similar function to that fulfilled by an independent auditor, discussed above. In the case of the auditor, 24 CFR 44.2 does permit the use of an auditor employed by the government entity being audited if the person satisfies the independence standards specified in generally accepted government auditing standards.

5. Revocation of Approval

Comment. The revocation of approval procedure should be in accordance with 24 CFR part 26, which assures a statement of the reasons for the action and an opportunity for the party against whom action is proposed to be represented by counsel.

Response. The Department has adopted a reference to part 26 in the section dealing with revocation.

IV. Findings and Certifications

A. Impact on the Economy

This rule does not constitute a "major rule" as that term is defined in section 1(b) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

B. Environmental Review

A Finding of No Significant Impact with respect to the environment was made, with respect to the proposed rule, in accordance with HUD regulations at 24 CFR part 50 that implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

C. Federalism Impact

The General Counsel, as the Designated Official under section 6(a) of Executive order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on States or their political subdivisions, or the relationship between the federal government and the States, or on the distribution of power and responsibilities among the various levels of government. This rule merely gives standards used by HUD in approving housing authority-owned nonprofit insurance entities that may be selected by HAs in accordance with longstanding provisions of the contracts between them and HUD. As a result, the rule is not subject to review under the order.

D. Impact on the Family

The General Counsel, as the Designated Official under Executive order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

E. Impact on Small Entities

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this rule before publication and by approving it certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule is limited to specifying the requirements that a housing authority nonprofit insurance entity must satisfy to be approved by HUD. These procedures are not more onerous for small HAs than for larger ones.

F. Regulatory Agenda

This rule was listed as Item No. 1576 under the Office of Public and Indian Housing in the Department's Semiannual Agenda of Regulations published on April 26, 1993 (58 FR 24382, 24437) in accordance with Executive order 12291 and the Regulatory Flexibility Act.

G. Public Reporting Burden

The Department has determined that the following sections of the final rule contain information collection or recordkeeping requirements.

ANNUAL REPORTING BURDEN.—FINAL RULE—FINANCIAL STANDARDS FOR HOUSING AUTHORITY-OWNED INSURANCE ENTITIES

Rule provision	Number of respondents	Responses/ respondent	Hours per response	Burden hours
905.190(c)(2) Initial certificate to HUD re: Management staff and Organizational Documents	1	1	3	3
905.190(d) Audit/actuarial/management reviews	2	1	8	16
965.205(c)(2) Initial certificate to HUD re: Management staff and organizational documents	5	1	3	15
965.205(d) Audit/actuarial/management reviews	20	1	8	160
Total burden hours				194

H. Catalog

The Catalog of Domestic Assistance numbers for the programs affected by this rule are 14.850 and 14.851.

List of Subjects

24 CFR Part 905

Grant programs: Indians, Low and moderate income housing, Homeownership, Public housing.

24 CFR Part 965

Energy conservation, Government procurement, Grant programs—housing and community development, Lead poisoning, Loan programs—housing and community development, Public housing, Reporting and recordkeeping requirements, Utilities.

Accordingly, parts 905 and 965 of title 24 of the Code of Federal Regulations are amended as follows:

PART 905—INDIAN HOUSING PROGRAMS

1. The authority citation for part 905 continues to read as follows:

Authority: 25 U.S.C. 450e(b); 42 U.S.C. 1437aa, 1437bb, 1437cc, 1437ee, and 3535(d).

2. A new § 905.190 is added, to read as follows:

§ 905.190 Insurance.

(a) *Purpose.* This section implements policies concerning insurance coverage required under the Annual Contributions Contract (ACC) or Mutual Help Annual Contributions Contract (MHACC) between the U.S. Department of Housing and Urban Development (HUD) and an Indian Housing Authority. These contracts require (in section 305 of the ACC and Article IX of the MHACC) that IHAs maintain specified insurance coverage for property and casualty losses that would jeopardize the financial stability of the IHAs. The insurance coverage is required to be obtained under procedures that provide "for open and competitive bidding." The HUD Appropriations Act for Fiscal Year 1992 provided that an IHA could purchase insurance coverage without regard to competitive selection procedures when it purchases it from a nonprofit insurance entity owned and controlled by IHAs approved by HUD in accordance with standards established by regulation. This section specifies the standards.

(b) *Method of selecting insurance coverage.* While 24 CFR part 85 requires that grantees solicit full and open competition for their procurements, the HUD Appropriations Act for Fiscal Year 1992 provides an exception to this requirement. IHAs are authorized to obtain any line of insurance from a nonprofit insurance entity that is owned and controlled by IHAs and approved by HUD in accordance with this section, without regard to competitive selection procedures. Procurement of insurance from other entities is subject to competitive selection procedures.

(c) *Approval of a nonprofit insurance entity.* Under the following conditions, HUD will approve a nonprofit self-funded insurance entity created by IHAs that limits participation to IHAs (and to nonprofit entities associated with IHAs that engage in activities or perform functions only for housing authorities or housing authority residents):

(1) *An insurance company (including a risk retention group).* (i) The insurance company maintains a current license or is authorized to do business in the State or Tribal area by the State Insurance Commissioner or Indian Tribal governing body and has submitted documentation of this approval to HUD; and

(ii) The insurance company has not been suspended from providing insurance coverage in the State or Tribal area or been suspended or debarred from doing business with the federal government. The insurance company is obligated to send to HUD a copy of any action taken by the authorizing official to withdraw the license or authorization.

(2) *An entity not organized as an insurance company.* (i) The entity has competent underwriting staff (hired directly or engaged by contract with a third party), as evidenced by professionals with an average of at least five years of experience in large risk (exceeding $100,000 in annual premiums) commercial underwriting or at least five years of experience in the underwriting of risks for public entity risk pools. This standard may be satisfied by submission of evidence of competent underwriting staff, including copies of resumes of underwriting staff for the entity;

(ii) The entity has efficient and qualified management (hired directly or engaged by contract with a third party), as evidenced by the report submitted to HUD in accordance with paragraph (d)(3) of this section and by having at least one senior staff person who has a minimum of five years of experience:

(A) At the management level of Vice President of a property/casualty insurance entity;

(B) As a senior branch manager of a branch office with annual property/casualty premiums exceeding $5 million; or

(C) As a senior manager of a public entity risk pool. Documentation for this standard must include copies of resumes of key management personnel responsible for oversight and for the day-to-day operation of the entity;

(iii) The entity maintains internal controls and cost containment measures, as evidenced by an annual budget;

(iv) The entity maintains sound investments consistent with:

(A) The State insurance commissioner's requirements for licensed insurance companies, or other State statutory requirements controlling investments of public entities, in the State in which the entity is organized, investing only in assets that qualify as "admitted assets"; or

(B) Any applicable provisions of Indian Tribal law concerning investments, in the case of an IHA that is not subject to such State law;

(v) The entity maintains adequate surplus and reserves for undischarged liabilities of all types, as evidenced by a current audited financial statement and an actuarial review conducted in accordance with paragraph (d) of this section; and

(vi) Upon application for initial approval, the entity has proper organizational documentation, as evidenced by copies of the articles of incorporation, by-laws, business plans, copies of contracts with third party administrators, and an opinion from legal counsel that establishment of the entity conforms with all legal requirements under Federal and State, or Tribal law. Any material changes made to these documents after initial approval must be submitted for review and approval before becoming effective.

(d) *Professional evaluations of performance.* Audits and actuarial reviews are required to be prepared and submitted annually to the HUD Office of Public and Indian Housing, for review and appropriate action, by nonprofit insurance entities that are not insurance companies approved under paragraph (c)(1) of this section. In addition, an evaluation of other management factors is required to be performed by an insurance professional every three years. For fiscal years ending on or after December 31, 1993, the initial audit, actuarial review, and insurance management review required for a nonprofit insurance entity must be submitted to HUD within 90 days after the entity's fiscal year.

(1) The annual financial statement prepared in accordance with generally accepted accounting principles (including any supplementary data required by GASB 10) is to be audited by an independent auditor (see 24 CFR part 44), in accordance with generally accepted auditing standards. The independent auditor shall express an opinion on whether the entity's financial statement is presented fairly in accordance with generally accepted accounting principles. A copy of this audit must be submitted to HUD.

(2) The actuarial review must be done consistent with requirements established by the National Association of Insurance Commissioners and must be conducted by an independent property/casualty actuary who is an Associate or Fellow of a recognized professional actuarial organization, such as the Casualty Actuary Society. The report issued, a copy of which must be submitted to HUD, must include an

opinion on any over or under reserving and the adequacy of the reserves maintained for the open claims and for incurred but unreported claims.

(3) A review must be conducted, a copy of which must be submitted to HUD, by an independent insurance consulting firm that has at least one person on staff who has received the professional designation of chartered property/casualty underwriter (CPCU), associate in risk management (ARM), or associate in claims (AIC), of the following:

(i) Efficiency of any Third Party Administrator;

(ii) Timeliness of the claim payments and reserving practices; and

(iii) The adequacy of reinsurance coverage.

(e) *Revocation of approval of a nonprofit insurance entity.* HUD may revoke its approval of a nonprofit insurance entity under this section when it no longer meets the requirements of this section. The nonprofit insurance entity will be notified in writing of: the proposed revocation of its approval, the reasons for the action, and the manner and time in which to request a hearing to challenge the determination. The procedure to be followed is specified in 24 CFR part 26.

PART 965—PHA-OWNED OR LEASED PROJECTS—MAINTENANCE AND OPERATION

3. The authority citation for part 965 continues to read as follows:

Authority: 42 U.S.C. 1437, 1437a, 1437d, 1437g, and 3535(d). Subpart H is also issued under 42 U.S.C. 4821–4846.

4. A new subpart B is added to replace the currently reserved subpart B, to read as follows:

Subpart B—Required Insurance Coverage

Sec.
965.201 Purpose and applicability.
965.205 Selection of insurance coverage from an approved PHA-owned insurance entity.

* * * * *

Subpart B—Required Insurance Coverage

§ 965.201 Purpose and applicability.

(a) *Purpose.* The purpose of this subpart is to implement policies concerning insurance coverage required under the Annual Contributions Contract (ACC) between the U.S. Department of Housing and Urban Development (HUD) and a Public Housing Agency (PHA).

(b) *Applicability.* The provisions of this subpart apply to all housing owned by PHAs, including Turnkey III housing. However, these provisions do not apply to Section 23 and Section 10(c) PHA-leased projects or to Section 8 Housing Assistance Payments Program projects.

§ 965.205 Qualified PHA-Owned insurance entity.

(a) *Contractual requirements for insurance coverage.* The Annual Contributions Contract (ACC) between PHAs and the U.S. Department of Housing and Urban Development requires (in section 305 of the ACC) that PHAs maintain specified insurance coverage for property and casualty losses that would jeopardize the financial stability of the PHAs. The insurance coverage is required to be obtained under procedures that provide "for open and competitive bidding." The HUD Appropriations Act for Fiscal Year 1992 provided that a PHA could purchase insurance coverage without regard to competitive selection procedures when it purchases it from a nonprofit insurance entity owned and controlled by PHAs approved by HUD in accordance with standards established by regulation. This section specifies the standards.

(b) *Method of selecting insurance coverage.* While 24 CFR part 85 requires that grantees solicit full and open competition for their procurements, the HUD Appropriations Act for Fiscal Year 1992 provides an exception to this requirement. PHAs are authorized to obtain any line of insurance from a nonprofit insurance entity that is owned and controlled by PHAs and approved by HUD in accordance with this section, without regard to competitive selection procedures. Procurement of insurance from other entities is subject to competitive selection procedures.

(c) *Approval of a nonprofit insurance entity.* Under the following conditions, HUD will approve a nonprofit self-funded insurance entity created by PHAs that limits participation to PHAs (and to nonprofit entities associated with PHAs that engage in activities or perform functions only for housing authorities or housing authority residents):

(1) *An insurance company (including a risk retention group).* (i) The insurance company is licensed or authorized to do business in the State by the State Insurance Commissioner and has submitted documentation of this approval to HUD; and

(ii) The insurance company has not been suspended from providing insurance coverage in the State or been suspended or debarred from doing business with the federal government. The insurance company is obligated to send to HUD a copy of any action taken by the authorizing official to withdraw the license or authorization.

(2) *An entity not organized as an insurance company.* (i) The entity has competent underwriting staff (hired directly or engaged by contract with a third party), as evidenced by professionals with an average of at least five years of experience in large risk (exceeding $100,000 in annual premiums) commercial underwriting or at least five years of experience in the underwriting of risks for public entity risk pools. This standard may be satisfied by submission of evidence of competent underwriting staff, including copies of resumes of underwriting staff for the entity;

(ii) The entity has efficient and qualified management (hired directly or engaged by contract with a third party), as evidenced by the report submitted to HUD in accordance with paragraph (d)(3) of this section and by having at least one senior staff person who has a minimum of five years of experience:

(A) At the management level of Vice President of a property/casualty insurance entity;

(B) As a senior branch manager of a branch office with annual property/casualty premiums exceeding $5 million; or

(C) As a senior manager of a public entity risk pool. Documentation for this standard must include copies of resumes of key management personnel responsible for oversight and for the day-to-day operation of the entity;

(iii) The entity maintains internal controls and cost containment measures, as evidenced by an annual budget;

(iv) The entity maintains sound investments consistent with the State insurance commissioner's requirements for licensed insurance companies, or other State statutory requirements controlling investments of public entities, in the State in which the entity is organized, investing only in assets that qualify as "admitted assets";

(v) The entity maintains adequate surplus and reserves for undischarged liabilities of all types, as evidenced by a current audited financial statement and an actuarial review conducted in accordance with paragraph (d) of this section; and

(vi) Upon application for initial approval, the entity has proper organizational documentation, as evidenced by copies of the articles of incorporation, by-laws, business plans, copies of contracts with third party administrators, and an opinion from

legal counsel that establishment of the entity conforms with all legal requirements under Federal and State law. Any material changes made to these documents after initial approval must be submitted for review and approval before becoming effective.

(d) *Professional evaluations of performance.* Audits and actuarial reviews are required to be prepared and submitted annually to the HUD Office of Public and Indian Housing, for review and appropriate action, by nonprofit insurance entities that are not insurance companies approved under paragraph (c)(1) of this section. In addition, an evaluation of other management factors is required to be performed by an insurance professional every three years. For fiscal years ending on or after December 31, 1993, the initial audit, actuarial review, and insurance management review required for a nonprofit insurance entity must be submitted to HUD within 90 days after the entity's fiscal year.

(1) The annual financial statement prepared in accordance with generally accepted accounting principles (including any supplementary data required under GASB 10) is to be audited by an independent auditor (see 24 CFR part 44), in accordance with generally accepted auditing standards. The independent auditor shall express an opinion on whether the entity's financial statement is presented fairly in accordance with generally accepted accounting principles. A copy of this audit must be submitted to HUD.

(2) The actuarial review must be done consistent with requirements established by the National Association of Insurance Commissioners and must be conducted by an independent property/casualty actuary who is an Associate or Fellow of a recognized professional actuarial organization, such as the Casualty Actuary Society. The report issued, a copy of which must be submitted to HUD, must include an opinion on any over or under reserving and the adequacy of the reserves maintained for the open claims and for incurred but unreported claims.

(3) A review must be conducted, a copy of which must be submitted to HUD, by an independent insurance consulting firm that has at least one person on staff who has received the professional designation of chartered property/casualty underwriter (CPCU), associate in risk management (ARM), or associate in claims (AIC), of the following:

(i) Efficiency of any Third Party Administrator;

(ii) Timeliness of the claim payments and reserving practices; and

(iii) The adequacy of reinsurance coverage.

(e) *Revocation of approval of a nonprofit insurance entity.* HUD may revoke its approval of a nonprofit insurance entity under this section when it no longer meets the requirements of this section. The nonprofit insurance entity will be notified in writing of: the proposed revocation of its approval, the reasons for the action, and the manner and time in which to request a hearing to challenge the determination. The procedure to be followed is specified in 24 CFR part 26.

Dated: August 6, 1993.

Joseph Shuldiner,

Assistant Secretary for Public and Indian Housing.

[FR Doc. 93-24352 Filed 10-4-93; 8:45 am]

BILLING CODE 4210-33-M

federal register

Tuesday
October 5, 1993

Part VIII

Department of Education

Star Schools Program; Notice

DEPARTMENT OF EDUCATION

Star Schools Program

AGENCY: Department of Education

ACTION: Notice of proposed priorities for fiscal year 1994.

SUMMARY: The Secretary proposes priorities for fiscal year 1994 under the Star Schools program. The Secretary takes this action to focus the services provided by the Star Schools distance education projects on assisting participating schools to work toward achieving the National Education Goals, and to focus the Star Schools dissemination projects on nationwide services.

DATES: Comments must be received on or before November 4, 1993.

ADDRESSES: All comments concerning these proposed priorities should be addressed to Lois N. Weinberg, U.S. Department of Education, 555 New Jersey Avenue NW., room 504E, Washington, DC 20208–5644.

FOR FURTHER INFORMATION CONTACT: Lois N. Weinberg, Telephone: (202) 219–2116. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: This notice contains three proposed absolute priorities for distance education projects under the Star Schools program. Under the distance education projects competition, the Star Schools program provides grants to telecommunications partnerships to support the use of distance education technologies. Star Schools distance education projects use telecommunications and other technologies to provide improved instruction for elementary and secondary students in public and private schools and others, and to provide staff development activities. The Secretary intends to accomplish several objectives through the use of these absolute priorities. A substantial investment has already been made at the Federal level to produce quality mathematics and science instructional programming. Through the first absolute priority, the Secretary intends to broaden the focus of the content of the programming to provide students access to a broad range of core subjects such as history, geography, English, and the arts in addition to mathematics and science.

The interim reauthorization of the Star Schools program added literacy skills to mathematics and science as one of the primary subjects to be developed; however, most programming continued to focus on subjects other than literacy skills and preparing students for the workplace. Through the second absolute priority, the Secretary intends to bring increased attention to the ways in which distance learning technologies can be used to enhance literacy skills and to prepare students for work.

Many teachers still lack adequate knowledge and sustained support to implement challenging standards in the classroom. Distance learning technologies can deliver programs and information otherwise not available in classrooms, but teachers must still become familiar with using these telecommunications resources effectively. Through the third absolute priority, the Secretary intends to focus support on the development of effective programming to help teachers implement challenging standards and to help them incorporate distance education technologies into new teaching practices to improve classroom instruction.

In addition, through the use of these three priorities, the Secretary intends to focus the resources available through the Star Schools program on the development and delivery of instructional programming for students and educational personnel, rather than on the purchase of equipment. However, at least 25 percent of the available funds will continue to be used for telecommunications facilities and equipment, as required by the statute.

The notice also contains one proposed absolute priority for dissemination projects under the Star Schools program. Dissemination projects provide information and technical assistance concerning distance education technologies to local and State education agencies. The Secretary believes that the dissemination of information concerning the use of distance education as a school improvement strategy can be accomplished more rapidly and with broader impact by projects with a nationwide scope rather than those that serve a smaller geographic area.

The Secretary will announce the final priorities in a notice in the **Federal Register**. The final priorities will be determined by responses to this notice, available funds, and other considerations of the Department. Funding of particular projects depends on the availability of funds, the nature of the final priorities, and the quality of the applications received. The publication of these proposed priorities does not preclude the Secretary from proposing additional priorities, nor does it limit the Secretary to funding only these priorities, subject to meeting applicable rulemaking requirements.

Note: This notice of proposed priorities does not solicit applications. A notice inviting applications under these competitions will be published in the **Federal Register** concurrent with or following publication of the notice of final priorities.

Priorities

Under 34 CFR 75.105(c)(3), the Secretary proposes to give an absolute preference to applications that meet the following priorities. The Secretary proposes to fund under this competition only applications that meet one or more of these absolute priorities.

Star Schools Distance Education Projects Proposed Absolute Priority 1—National Education Goals

Projects that develop and deliver instructional programming for elementary or secondary school students, or both, that supports achievement of one or more of the National Education Goals, and that is consistent with challenging national or State content standards.

Proposed Absolute Priority 2—Preparation for Work

Projects that develop and deliver instructional programming to enhance the workplace and literacy skills of high school students, or young adults who are not in school, or both, in order to prepare students for responsible citizenship, further learning, and productive employment, and make the school-to-work transition more successful.

Proposed Absolute Priority 3—Preservice and Inservice Teacher Education

Projects that develop and deliver programming for preservice teachers attending colleges and universities, or professional development for practicing teachers and other educational personnel, or both. In meeting this priority, projects must provide information about the National Education Goals, emerging national or State content standards, and ways in which standards-driven systemic reform can help ensure that all students have opportunities to reach high levels of achievement. In addition, projects must provide professional development activities that include strong academic content and subject-specific pedagogical components to help teachers provide challenging learning experiences in the core academic subjects for their students.

Star Schools Dissemination Projects

Proposed Absolute Priority: Dissemination projects that will provide services nationwide.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive Order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed priorities.

All comments submitted in response to this notice will be available for public inspection, during and after the comment period in room 504E, 555 New Jersey Avenue, NW., Washington, DC between the hours of 8:30 a.m. and 4 p.m., Monday through Friday of each week except Federal holidays.

Program Authority: 20 U.S.C. 4081–4086.

(Catalog of Federal Domestic Assistance Number 84.203 Star Schools Program)

Dated: September 30, 1993.

Sharon P. Robinson,

Assistant Secretary for Educational Research and Improvement.

[FR Doc. 93–24453 Filed 10–4–93; 8:45 am]

BILLING CODE 4000–01–P

federal register

Tuesday
October 5, 1993

Part IX

Department of Health and Human Services

Center for Disease Control and Prevention

Revision of Fees for Sanitation Inspections of Cruise Ships; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Revision of Fees for Sanitation Inspections of Cruise Ships

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service, HHS.

ACTION: Notice.

SUMMARY: This notice announces revised fees for vessel sanitation inspections effective January 1, 1994.

EFFECTIVE DATE: January 1, 1994.

FOR FURTHER INFORMATION CONTACT: Linda Anderson, Chief, Special Programs Group, National Center for Environmental Health, CDC, 4770 Buford Highway, NE., Mailstop F-29, Atlanta, Georgia 30341-3724. Telephone: (404) 488-7070.

SUPPLEMENTARY INFORMATION:

Purpose and Background

The fee schedule for sanitation inspections of passenger cruise ships currently inspected under the Vessel Sanitation Program (VSP) was first published in the **Federal Register** on November 24, 1987 (52 FR 45019), and CDC began collecting fees on March 1, 1988. Since then, CDC has revised the fee schedule annually. This notice announces fees effective January 1, 1994.

The formula used to determine the fees is as follows:

$$\text{Average cost per inspection} = \frac{\text{Total Cost of VSP}}{\text{Weighted No. of Annual Inspections}}$$

The average cost per inspection is multiplied by a size/cost factor to determine the fee for vessels in each size category. The size/cost factor was established in the proposed fee schedule published in the **Federal Register** on July 17, 1987 (52 FR 27060), and revised in a schedule published in the **Federal Register** on November 28, 1989 (54 FR 48942). The revised cost/factor is presented below in Appendix A.

Fees

The fee schedule is presented in Appendix A and will be effective January 1, 1994, through December 31, 1994. However, should there be a substantial increase in the cost of air transportation, it may be necessary to readjust the fees prior to December 31, 1994, since travel constitutes a sizable portion of the costs of this program. If such a readjustment in the fee schedule is necessary, a notice will be published in the **Federal Register** 30 days prior to the effective date.

Applicability

The fees will be applicable to all passenger cruise vessels for which sanitation inspections are conducted as part of the Vessel Sanitation Program, CDC.

Dated: September 29, 1993.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

APPENDIX A.—SIZE/COST FACTOR

Vessel size	GRT[1]	Average cost X
Extra small ...	(<3,001)	0.25
Small	(3,001–15,000)	0.5
Medium	(15,001–30,000)	1.0
Large	(30,001–60,000)	1.5
Extra large	(>60,000)	2.0

FEE SCHEDULE JANUARY 1, 1994–DECEMBER 31, 1994

Vessel size	GRT[1]	Fee
Extra small ...	(<3,001)	$799
Small	(3,001–15,000)	1,597
Medium	(15,001–30,000)	3,194
Large	(30,001–60,000)	4,791
Extra large	(>60,000)	6,388

[1] GRT-Gross Register tonnage in cubic feet, as shown in Lloyd's Register of Shipping.

Inspections and reinspections involve the same procedure, require the same amount of time and will, therefore, be charged at the same rate.

[FR Doc. 93-24387 Filed 10-4-93; 8:45 am]

BILLING CODE 4160-18-P

federal register

Tuesday
October 5, 1993

Part X

Department of Transportation

Federal Aviation Administration

14 CFR Part 91

Special Visual Flight Rules Operations; Final rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No. 27318; Amendment No. 91-234]

RIN 2120-AE85

Special Visual Flight Rules (SVFR) Operations

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends certain regulations governing special visual flight rules (SVFR) operations. By omission of certain words and phrases, the Airspace Reclassification Final Rule inadvertently altered the applicability and scope of the part 91 SVFR provisions. Further, some airspace revisions in the Terminal Airspace Reconfiguration final rule resulted in an unintentional reduction of the amount of airspace within which SVFR operations could be conducted at some airports. This action restores the applicability and scope of the SVFR provisions and reestablishes the amount of airspace for SVFR operations that is essentially equivalent to that which existed prior to those amendments.

EFFECTIVE DATE: Upon publication.

FOR FURTHER INFORMATION CONTACT: Melodie M. DeMarr, Air Traffic Rules Branch, ATP-230, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, telephone (202) 267-8783.

SUPPLEMENTARY INFORMATION:

Background

When the Airspace Reclassification Final Rule became effective on September 16, 1993, control zones ceased to exist as a type of airspace. They were replaced by Class B, Class C, Class D, and Class E surface areas, as appropriate. However, that final rule inadvertently amended § 91.157 and removed the provision whereby a pilot could request and receive an air traffic control (ATC) clearance to conduct SVFR flight through such an airspace segment. That was not the intent of the FAA. On the contrary, in response to comments to the proposal that preceded that final rule (56 FR 65648), the FAA included in the preamble a discussion of its intent to continue to permit SVFR operations for through flights as well as flights for arrival or departure at airports within Class B, C, D, or E surface areas.

Additionally, the December 17, 1991, final rule replaced, effective September 16, 1993, the SVFR prohibition provisions formerly contained in § 93.113 with the provisions in Section 3 of Appendix D to part 91. However, in establishing Section 3 of Appendix D as the replacement for § 93.113, the FAA inadvertently omitted the word "fixed-wing." That omission, in effect, results in the prohibition of SVFR operations by helicopters. This action restores the applicability of Section 3 of Appendix D to part 91 to only fixed-wing aircraft.

Further in the December 17, 1991, final rule, the FAA adopted a new § 91.155 that replaced the existing § 91.155 effective September 16, 1993. That action was intended merely to facilitate the reclassification of control zones to Class B, C, D, or E controlled airspace extending upward from the surface. However, the phrase "beneath the ceiling" in paragraph (c) of that section was unintentionally omitted. In effect, the omission prohibits operations conducted under visual flight rules (VFR) anywhere in such airspace, above as well as below a cloud ceiling, regardless of the meteorological conditions above the cloud layer, when the reported ceiling is less than 1,000 feet. It was the FAA's intent to prohibit VFR flight only beneath the ceiling when such ceiling is reported as less than 1,000 feet. This action will continue the VFR flight prohibition that existed until September 16, 1993.

Transition to the new airspace classifications began on October 15, 1992, when portions of the Terminal Airspace Reconfiguration Final Rule (57 FR 38962; August 27, 1992) became effective. That final rule, in pertinent part, revised the vertical limits of control zones at airports with an operating control tower. However, only the lateral limits were changed for control zones without an operating control tower.

The vertical limits of control zones for airports for which an airport radar service area (ARSA) or terminal control (TCA) was designated were reduced to the specified vertical limits of the ARSA or TCA. In all cases, the revised vertical limits are lower than they were prior to October 15, 1992. At other airports in control zones with an operating control tower, however, the control zone vertical limits were generally reduced to 2,500 feet above ground level (AGL). On September 16, 1993, those revised vertical limits represent the altitudes below which two-way radio communications between ATC and aircraft operating within the specific airspace segment will be required. However, that action had the unforeseen effect of reducing the amount of airspace available for SVFR operations. Such impact was not the intent of the FAA since, prior to October 15, 1992, SVFR operations could be authorized within a control zone between the surface and 14,500 feet mean sea level (MSL).

In most cases, the reduced vertical limits of control zones will only have a minor technical impact; different types of airspace designations will permit different levels of SVFR use. For example, Class B airspace generally has a vertical limit of 8,000 to 12,500 feet MSL while most Class C airspace extends upward to 4,000 feet AGL, and the majority of Class D airspace extends upward from the surface to approximately 2,500 feet AGL. SVFR operations are permitted only to the vertical limit of these differing types of controlled airspace.

At airports without an operating control tower, the Class E airspace extending upward from the surface would technically terminate at the base of the overlying transition area (700 or 1200 feet AGL). Effectively, the airspace within which SVFR operations could be authorized would be significantly reduced, resulting in a severe limitation on SVFR arrival and departure operations at those airports. This was not the intent of the FAA in promulgating the Airspace Reclassification Final Rule. This action reestablishes airspace for SVFR operations essentially equivalent to that which existed prior to the amendment.

The Rule

This rule accomplishes four actions. The rule makes three editorial changes to ensure that the SVFR provisions are continued or established as appropriate for: (1) Prohibiting flight under VFR within Class B, Class C, Class D, and Class E surface areas beneath the ceiling when the ceiling is less than 1,000 feet; (2) prohibiting only fixed-wing SVFR operations at certain specified airports; and (3) allowing SVFR operations through the airspace of Class B, Class C, Class D, and Class E surface areas.

The fourth action amends § 91.157, Special VFR weather minimums, to restore the SVFR provisions virtually to the way they were prior to the Airspace Reclassification and the Terminal Airspace Reconfiguration Final Rules. Specifically, prior to October 15, 1992, most control zones extended from the surface upward to, but not including, 14,500 feet MSL, and SVFR operations could be authorized in all or part of such airspace. To reestablish consistency in the maximum altitudes applicable to SVFR operations regardless of airspace designation, the FAA is establishing 10,000 feet MSL as the altitude below which air traffic

control (ATC) may authorize an SVFR operation in controlled airspace designated to the surface for an airport. That altitude is consistent with the level at which the visibility requirement for daytime flight under VFR increases from 3 miles to 5 miles.

The FAA finds that good cause exists, pursuant to 5 U.S.C. 553(d), for making this amendment effective in less than 30 days after publication in order to promote the safe and efficient handling of SVFR operations.

Procedural Changes

To implement this rule, a number of phraseology and procedural changes are required. Procedural changes are of an editorial nature and occur without impact on aviation users. However, noticeable changes in phraseology will occur. Examples of phraseology for an ATC clearance authorizing a pilot to conduct SVFR operations might be changed in the following ways:

"Cleared to the (name) Airport, Maintain Special V–F–R."

"Cleared to the (name) Airport, Maintain Special V–F–R– at or Below (altitude)."

"Maintain Special V–F–R."

"Maintain Special V–F–R at or Below (altitude)."

The phrase, "while in the control zone," previously used in an SVFR ATC clearance, will be absent from the phraseology. This is intentional since effective September 16, 1993, control zones ceased to exist. Further, to avoid the use of cumbersome phraseology to describe the lateral limits of an SVFR ATC clearance, the FAA expects that pilots will refer to aeronautical charts to determine, as they do today, the airspace boundaries within which SVFR operations may be conducted.

Discussion of Comments

In response to Notice 93–6, the FAA received two comments. One commenter, who identified himself as a Certified Flight Instructor, was generally in support of the proposed rulemaking. He stated that the FAA should implement this amendment on the same date (September 16, 1993) that the Airspace Reclassification Final Rule becomes effective to avoid needless confusion in the general aviation community.

The commenter also cautioned the FAA to remember that, with implementation of the Airspace Reclassification Rule, the vertical limits of the Class D airspace associated with an airport will not always be clearly indicated on sectional aeronautical charts for reference by pilots. The proposed rule stated that the FAA would expect pilots to refer to aeronautical charts to determine the airspace boundaries within which SVFR operations may be conducted. The example that the commenter gave encompassed Class D airspace underlying adjacent Class B airspace. In cases of overlapping airspace, chart clutter may preclude depicting the upper limits of both classes of airspace. SVFR will be allowed up to 10,000 feet MSL, however, regardless of the ceiling of the controlled airspace designated on the surface. Pilots should refer to the aeronautical charts for the lateral boundaries of the airspace, not the vertical limits.

The commenter also suggested that it may be necessary for all SVFR clearances to contain altitude limits in situations of overlapping classes of airspace. The FAA disagrees because the SVFR vertical limit will be standardized, making inclusion of the maximum permissible altitude unnecessary in an SVFR clearance.

The second commenter, the Air Line Pilots Association, concurred with the proposal.

Regulatory Evaluation

For the reasons set forth above, the FAA has determined that this action is not a "major rule" under Executive Order 12291. The proposed rule was considered "significant" under the Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979) because the FAA focused on the impact of the inadvertent omission of provisions for SVFR operations in the Airspace Reclassification Rule on pilots. However, upon reanalysis, this rule is not significant according to the Department's criteria. A "significant rule" is one that (1) requires a Regulatory Analysis because of its major impact on the economy; (2) concerns a matter of substantial public interest or controversy; (3) has a major impact on another agency; (4) has a substantial effect on state or local governments; (5) has a substantial impact on a major transportation safety problem: (6) initiates a substantial regulatory program or change in policy; (7) differs substantially from international requirements or standards; or (8) involves important Department policy (44 FR 11040). None of these eight factors is implicated by the promulgation of this rule.

In accordance with the Regulatory Flexibility Act of 1980, the FAA has determined that this rule would not have a significant economic impact, positive or negative, on a substantial number of small entities. This assessment is based on the fact that the rule would not impose any additional cost on aircraft operators.

The principal effect of this rule is to maintain the airspace available for SVFR operations; in the absence of the rule, the Airspace Reclassification Rule reduces the ceiling of the airspace in which an SVFR clearance could be obtained from 14,500 feet to approximately 2,500 feet AGL. The rule thus prevents an impact or operational change rather than creating one. Restoring the airspace for SVFR operations to 10,000 feet instead of 14,500 feet MSL will not impact ATC system users since, as a practical matter, SVFR operations have been rarely requested or authorized above 10,000 feet MSL. For these reasons, operators are not expected to incur any costs from compliance with the rule. Additionally, this rule will remove some of the restrictions put in place October 15, 1992, by allowing more operations in the designated airspace. This rule is considered relieving in nature. Therefore, a regulatory evaluation has not been prepared because the rule is essentially procedural in nature with no costs to aircraft operators.

Federalism Implications

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

International Trade Impact Assessment

The rule will not impose any costs on either aircraft operators or aircraft manufacturers (U.S. or foreign) that would result in a competitive disadvantage to either.

Paperwork Reduction Act

This rule contains no information collection requests requiring approval of the Office of Management and Budget pursuant to the Paperwork Reduction ACt (44 U.S.C. 3507 et seq.).

List of Subjects in 14 CFR Part 91

Aircraft, Airmen, Aviation safety.

The Amendment

In consideration of the foregoing, the Federal Aviation Administration amends part 91 of the Federal Aviation Regulations (14 CFR part 91) as follows:

PART 91—GENERAL OPERATING AND FLIGHT RULES

1. The authority citation for part 91 continues to read as follows:

Authority: 49 U.S.C. app. 1301(7), 1303, 1344, 1348, 1352 through 1355, 1401, 1421 through 1431, 1471, 1472, 1502, 1510, 1522, and 2121 through 2125; articles 12, 29, 31, and 32(a) of the Convention on International Civil Aviation (61 stat. 1180); 42 U.S.C. 4321 et seq.; E.O. 11514, 35 FR 4247, 3 CFR 1966–1970 Comp., p. 902; 49 U.S.C. 106(g).

2. Section 91.155 is amended by revising paragraph (c) to read as follows:

§ 91.155 Basic VFR weather minimums

* * * * *

(c) Except as provided in § 91.157, no person may operate an aircraft beneath the ceiling under VFR within the lateral boundaries of controlled airspace designated to the surface for an airport when the ceiling is less than 1,000 feet.

* * * * *

3. Section 91.157 is revised to read as follows:

§ 91.157 Special VFR weather minimums.

(a) Except as provided in appendix D, section 3, of this part, special VFR operations may be conducted under the weather minimums and requirements of this section, instead of those contained in § 91.155, below 10,000 feet MSL within the airspace contained by the upward extension of the lateral boundaries of the controlled airspace designated to the surface for an airport.

(b) Special VFR operations may only be conducted—

(1) With an ATC clearance;

(2) Clear of clouds;

(3) Except for helicopters, when flight visibility is at least 1 statute mile; and

(4) Except for helicopters, between sunrise and sunset (or in Alaska, when the sun is 6° or more above the horizon) unless—

(i) The person being granted the ATC clearance meets the applicable requirements for instrument flight under part 61 of this chapter; and

(ii) The aircraft is equipped as required in § 91.205(d).

(c) No person may take off or land an aircraft (other than a helicopter) under special VFR—

(1) Unless ground visibility is at least 1 statute mile; or

(2) If ground visibility is not reported, unless flight visibility is at least 1 statute mile.

4. The heading of Section 3 to Appendix D of part 91 is revised to read as follows:

Appendix D to Part 91—Airports Locations: Special Operating Restrictions

* * * * *

Section 3. Locations at which fixed-wing Special VFR operations are prohibited.

* * * * *

Issued in Washington, DC on September 27, 1993.

David R. Hinson,

Administrator.

[FR Doc. 93–24436 Filed 10–4–93; 8:45 am]

BILLING CODE 4910–13–M

federal register

Tuesday
October 5, 1993

Part XI

Department of Transportation

Federal Aviation Administration

14 CFR Part 23

Small Airplane Airworthiness Review Program Amendment No. 4; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 26269; Amendment No. 23-45]

RIN 2120-AD20

Small Airplane Airworthiness Review Program Amendment No. 4

AGENCY: Federal Aviation Administration (FAA). DOT.

ACTION: Final rule; correction.

SUMMARY: This document contains corrections to the final rule entitled "Small Airplane Airworthiness Review Program Amendment No. 4," which was published on August 6, 1993 (58 FR 42136).

EFFECTIVE DATE: September 7, 1993.

FOR FURTHER INFORMATION CONTACT: Kenneth W. Payauys, Aerospace Engineer, Standards Office (ACE-110), Small Airplane Directorate, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106, telephone (316) 426-5688.

SUPPLEMENTARY INFORMATION:

Background

On August 6, 1993, the FAA published a final rule amending the airframe and flight airworthiness standards for normal, utility, acrobatic, and commuter category airplanes. The document contained some minor errors, none of which the FAA anticipates will have any significant effect on persons affected by the final rule. As published, the final rule contains errors that may cause confusion and are in need of clarification.

The only error requiring explanation is the designation of appendices to part 23. In the NPRM (55 FR 26534, June 28, 1990), the FAA proposed to amend part 23 to include a new appendix H that covers seaplane loads. Subsequently, on April 9, 1993, the FAA published a separate final rule that included an appendix H to part 23 covering an automatic power reserve system. Accordingly, the appendix adopted in the subject final rule should have been adopted as appendix I. Changes in this document covering the designation of this appendix are necessitated by this situation.

Correction of Publication

Accordingly, in **Federal Register** document number 93-18569, published August 6, 1993 (58 FR 42136), make the following corrections:

1. On page 42137, column 1, in the table following the second paragraph, add the following entries at the end of the table:

Proposal No.	Amendment No.
* * * * *	
Appendix H	Appendix I.

2. In the preamble, change the words "append H to "appendix I" wherever they appear, except where appendix H refers to the proposed rule on page 42153, column 3, line 2 under proposal 83.

3. On page 42148, column 1, proposal 50, line 5, change "§ 23.613" to "§ 23.615".

4. On page 42151, column 1, proposal 66, line 8, change "§ 23.685" to "§ 23.865".

5. On page 42152, column 1, proposal 78, line 14, change "§ 23.1523" to "§ 23.23".

6. On page 42153, column 2, last paragraph under proposal 80, line 1, change "one" to "none".

7. On page 42153, column 3, paragraph 2 under proposal 83, line 3, remove the words "appendix H is adopted as proposed" and insert the words "proposed appendix H is adopted as appendix I."

§ 23.145 [Amended]

8. On page 42157, column 1, § 23.145(b)(1), line 3, change "interim" to "in trim"; and in the same paragraph the last line is changed to read "from 1.4 V_{S1} to 1.4 V_{SO}:"

9. On page 42157, column 2, § 23.145(b)(3), line 4, change "VV_{FE}" to "V_{FE}".

§ 23.149 [Amended]

10. On page 42157, column 3, § 23.149(a), line 9, insert the words "and level" after the word "straight".

§ 23.201 [Amended]

11. On page 42159, column 1, § 23.201(c), the second to last sentence is changed to read as follows: "Normal use of the elevator control for recovery is allowed after the pitching motion has unmistakably developed or after the control has been held against the stop for not less than two seconds."

§ 23.525 [Amended]

12. On page 42161, column 1, § 23.525(b), last line, change § 23.533(b) to § 23.533(c).

§ 23.527 [Amended]

13. On page 42161, column 1, § 23.527(b)(4), line 1, remove the "9"; in the last line of the same paragraph, change "appendix H" to "appendix I".

14. On page 42161, column 2, § 23.527(b)(6), line 2, change "weighting" to "weighing"; in line 3 of the same paragraph, change "appendix H" to "appendix I".

15. On page 42161, column 2, § 23.527(c), line 6, change "appendix H" to "appendix I".

§ 23.533 [Amended]

16. On page 42161, column 3, § 23.533(b)(1), line 6, change "appendix H" to "appendix I."

17. On page 42162, column 1, § 23.533(b)(1) (continued), lines 6 and 13, change "appendix H" to "appendix I".

18. On page 42162, column 1, § 23.533(b)(2); line 6; change "appendix H" to "appendix I".

19. On page 42162, column 1, § 23.533(b)(2), line 6 after the indented equation, change "appendix H" to "appendix I".

20. On page 42162, column 1, § 23.533(c)(1), line 7 after the indented equation, change "appendix H" to appendix I".

21. On page 42162, column 2, § 23.533(c)(2), the last line of this paragraph, change "appendix H" to "appendix I".

23.535 [Amended]

22. On page 42162, column 3, § 23.535(d), line 5, change 3.25 to 0.025.

§ 23.573 [Amended]

23. On page 42163, § 23.573(a)(2), column 2, line 2, insert a comma between the words "damage" and "under".

24. On page 42163, column 2 § 23.573(a)(6), lines 4 and 5, replace the parentheses with commas.

23.629 [Amended]

25. On page 42164, column 2, § 23.629(g), line 5, change "V_D M_D" to read "V_D/M_D".

§ 23.775 [Amended]

26. On page 42165, column 2, § 23.775(f), line 1, change "is" to "in".

§ 23.1522 [Amended]

27. On page 42166, column 1, § 23.1522, change "llmitations" to "limitations" in the section title.

23.1587 [Amended]

28. On page 42167, column 2, § 23.1587(c)(1), line 5, change "23.305" to 23.205".

Appendix H [Amended]

29. On page 42167, column 3, change the reference in amendatory instruction number 82 from "appendix H" to "appendix I".

30. On page 42167, column 3, last paragraph, change the title to read, "Appendix I to Part 23—Seaplane Loads".

31. On page 42168, change the title from "Appendix H" to "Appendix I".

32. On page 42169, line 1, change the title from "Appendix H (continued)" to "Appendix I (continued)".

Issued in Washington, D.C. on September 30, 1993.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

[FR Doc. 93-24437 Filed 10-4-93; 8:45 am]

BILLING CODE 4910-13-M

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LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "PLUS" (Public Laws Update Service) on 202–523–6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–2470).

H.R. 3049/P.L. 103–86

To extend the current interim exemption under the Marine Mammal Protection Act for commercial fisheries until April 1, 1994. (Sep. 30, 1993; 107 Stat. 930; 1 page)

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