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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

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)

RESERVATIONS: 202–523–4538

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

Electronic Bulletin Board
Free **Electronic Bulletin Board service for Public** Law numbers and Federal Register finding aids is available on 202–275–1538 or 275–0920.

CFR PARTS AFFECTED IN THIS ISSUE

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

Rules and Regulations

Federal Register
Vol. 58, No. 199
Monday, October 18, 1993

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 92–NM–220–AD; Amendment 39–8709; AD 93–20–02]

Airworthiness Directives; McDonnell Douglas Model DC–8 Series Airplanes Equipped With a Cargo Conversion Modification Installed in Accordance With Supplemental Type Certificate (STC) SA1802SO or SA421NW

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to certain McDonnell Douglas Model DC–8 series airplanes, that currently requires a revision to the FAA-approved Airplane Flight Manual Supplement to include detailed procedures for use of the cargo door warning light system; and repetitive inspections of the cargo door warning system wiring to detect damage to the wiring or the door latching roller mechanism, and repair or replacement of damaged components. This amendment revises the existing AD by requiring that the cargo door indicating light circuit breaker not be disabled. This amendment is prompted by the FAA's review of data indicating that disabling of that circuit breaker may deprive the flight crew of necessary information. The actions specified by this AD are intended to prevent loss of the cargo door, damage to flight control surfaces, and reduced controllability of the airplane.

DATES: Effective November 17, 1993.

FOR FURTHER INFORMATION CONTACT: Ozzie Lopez, Aerospace Engineer, Airframe Branch, ACE–120A, FAA, Small Airplane Directorate, Atlanta Aircraft Certification Office, Suite 210C, 1669 Phoenix Parkway, Atlanta, Georgia 30349; telephone (404) 991–2910; fax (404) 991–3606.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations by superseding AD 92–02–05, Amendment 39–8141 (57 FR 180, January 3, 1992), which is applicable to certain McDonnell Douglas Model DC–8 series airplanes, was published in the **Federal Register** on June 18, 1993 (58 FR 33574). The action proposed to require a new revision to the FAA-approved Airplane Flight Manual Supplement to include detailed procedures for use of the cargo door warning light system; and to continue to require repetitive inspections of the cargo door warning system wiring to detect damage to the wiring or the door latching roller mechanism, and repair or replacement of damaged components. The action also proposed to limit circuit breaker disabling to the door operating systems.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

The FAA estimates that 58 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required actions, and that the average labor rate is $55 per work hour. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $3,190, or $55 per airplane. This total cost figure assumes that no operator has yet accomplished the requirements of this AD.

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 "significant regulatory action" under Executive Order 12866; (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 final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it 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, 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 amendment 39–8141 (57 FR 180, January 3, 1992), and by adding a new airworthiness directive (AD), amendment 39–8709, to read as follows:

93–20–02 McDonnell Douglas: Amendment 39–8709. Docket 92–NM–220–AD. Supersedes AD 92–02–05, Amendment 39–8141.

Applicability: Model DC–8–61, –62, –63, and –73 series airplanes equipped with a cargo conversion modification installed in accordance with Supplemental Type Certificate (STC) SA1802SO; and Model DC–8–21, –32, –33, and –51 series airplanes equipped with a cargo conversion modification installed in accordance with STC SA421NW; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent loss of the cargo door, damage to flight control surfaces, and reduced controllability of the airplane, accomplish the following:

(a) Within 7 days after the effective date of this AD, revise the Limitations Section of the appropriate FAA-approved Airplane Flight Manual Supplement (AFMS) by replacing item 5 in the AFMS for SA1802SO, and item

6 in the AFMS for SA421NW, with the following. (This may be accomplished by inserting a copy of this AD into the AFMS.) "Prior to initiating the cargo door closing sequence, a flight crew member must verify that the cargo door warning light is illuminated. After the door closing sequence is complete, and visual verification has been made that the latches are closed and the lockpins are properly engaged, a flight crew member must verify that the cargo door warning light is extinguished, and then conduct a PRESS-TO-TEST of the warning light to ensure that the light is operational. Pull the cargo door circuit breakers labeled "pump" and "valve" prior to takeoff. Methods for documentation of compliance with the preceding procedures must be approved by the FAA Principal Maintenance Inspector (PMI)."

(b) Within 7 days after January 21, 1992 (the effective date of AD 92-02-05, Amendment 39-8141), and thereafter at intervals not to exceed 100 hours time-in-service, perform the following inspections:

(1) Inspect the cargo door wire bundle between the exit point of the cargo liner and the attachment point on the cargo door to detect crimped, frayed, or chafed wires; and inspect for damaged, loose, or missing hardware mounting components. Prior to further flight, repair any damaged wiring or hardware mounting components in accordance with FAA-approved maintenance procedures.

(2) Inspect the cargo door latch rollers in the lower sill of the cargo door opening of the airplane to ensure that all twelve rollers can be freely rotated by hand. Prior to further flight, replace any discrepant roller components found, and repair any rollers that cannot be rotated freely by hand, in accordance with FAA-approved maintenance procedures.

(c) 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, Atlanta Aircraft Certification Office (ACO), ACE-115A, FAA, Small 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, Atlanta ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

(d) 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.

(e) This amendment becomes effective on November 17, 1993.

Issued in Renton, Washington, on October 9, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93-25420 Filed 10-15-93; 8:45 am]

BILLING CODE 4910-13-P

14 CFR Part 39

[Docket No. 93-NM-153-AD; Amendment 39-8708; AD 93-20-01]

Airworthiness Directives; Beech Aircraft Corporation Model 400A and 400T (Military T-1A) Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to certain Beech Model 400A and 400T (military T-1A) airplanes. This action requires inspection to verify that the wiring of the engine electronic fuel control (EFC) start circuit and the main circuit breaker panel has been installed properly; modification of wiring installed improperly; and installation of a non-conductive sheet. This amendment is prompted by a report of an electrical short circuit between the main bus terminal and the sidewall upholstery panel. The actions specified in this AD are intended to prevent smoke and/or fire in the cockpit.

DATES: Effective November 2, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 2, 1993.

Comments for inclusion in the Rules Docket must be received on or before December 17, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-153-AD, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

The service information referenced in this AD may be obtained from Beech Aircraft Corporation, Commercial Services Department, P.O. Box 85, Wichita, Kansas 67201-0085. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; or at the Office of the Federal Register, 800 North Capitol Street NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dale A. Vassalli, Aerospace Engineer, Systems and Equipment Branch, ACE-130W, FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, room 100, Mid-Continent Airport, Wichita, Kansas 67209; telephone (316) 946-4132; fax (316) 946-4407.

SUPPLEMENTARY INFORMATION: Recently, the FAA received a report that the upholstery panel on a Beech Model 400T (military T-1A) airplane burned and filled the cockpit with smoke, due to arcing between the sheet metal structure of the upholstery panel and an electrical terminal on the P147D6 bus wire. Investigation revealed that the P147D6 wire terminal was installed, during production, with insufficient clearance between the terminal and the upholstery panel. The upholstery panel may have been forced outward by the pilot placing objects between the pilot's seat and the upholstery panel. An electrical short between this bus terminal and the sidewall upholstery panel, if not corrected, could result in smoke and/or fire in the cockpit.

Further investigation of this incident indicated that the standby power feeder wire (16 gauge) was attached, during production, to the wrong terminal of the circuit breaker (CB279). Therefore, protection for the 22 gauge wire to the engine electronic fuel control (EFC) start circuit was lost. This 22 gauge wire is approximately 23 feet long and is part of a wire bundle.

In test demonstrations, Beech simulated this miswiring by connecting a 22 gauge wire to a circuit that was configured similarly as on the affected airplane. When this 22 gauge wire drew more than 21 amperes, the circuit breaker opened and stopped the flow of current. The heat generated by this 22 gauge wire was sufficient to melt the insulation on this wire. Had this wire been in a wire bundle, as it would have been on the affected airplane, the insulation on other wires in the wire bundle also would have been affected. The loss of insulation on these wires may result in the loss of other systems on the airplane.

Since the two subject circuits [the one in the engine EFC start circuit and the other in the main circuit breaker panel (P147D6 wire)] installed on Model 400T (military T-1A) airplanes are identical to those installed on Model 400A airplanes, the FAA has determined that Model 400A airplanes may be subject to the same unsafe condition.

This investigation also revealed that a certain moisture (insulator) shield was not installed during manufacture of the incident airplane. This moisture shield functions as a moisture barrier between the upholstery panel and the circuit breaker panel. Although this moisture shield is not an electrical insulator, if it

had been installed, it may have decreased the possibility for the bus terminal of the P147D6 wire to make contact with the upholstery panel.

The FAA has reviewed and approved Beechcraft Mandatory Service Bulletin 2520, dated August 1993, that describes procedures for inspection to verify that the wiring of the EFC start circuit has been properly installed, modification of improperly installed wiring, and installation of a non-conductive sheet on the sidewall upholstery panel.

Beech Aircraft Corporation has also issued Beechcraft Safety Communique 400–101, dated July 1993, that describes procedures for performing an inspection to verify proper positioning of the wire of the main circuit breaker panel and repositioning of the improperly positioned wire of the main circuit breaker panel. This safety communique also recommends that, during this inspection, operators verify that an appropriate moisture shield is in place.

Since an unsafe condition has been identified that is likely to exist or develop on other Beech Model 400A and 400T (military T–1A) airplanes of the same type design, this AD is being issued to prevent smoke and/or fire in the cockpit. This AD requires inspection to verify that the wiring in the engine EFC start circuit and the main circuit breaker panel has been installed properly; modification of wiring installed improperly; and installation of a non-conductive sheet. The actions are required to be accomplished in accordance with the documents described previously.

This AD also recommends that operators verify that the moisture shield is installed.

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 shall 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 notice must submit a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket Number 93–NM–153–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 that must be issued immediately to correct an unsafe condition in aircraft, and is not a "significant regulatory action" under Executive Order 12866. 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:

93–20–01 Beech Aircraft Corporation: Amendment 39–8708. Docket 93–NM–153–AD.

Applicability: Model 400A airplanes having serial numbers RK–45, RK–49 through RK–77 inclusive, and RK–79; and Model 400T (military T–1A) airplanes having serial numbers TT–01 through TT–42 inclusive, and TT–44; certificated in any category.

Compliance: Required as indicated, unless accomplished previously.

To prevent smoke and/or fire in the cockpit, accomplish the following:

(a) Within 25 hours time-in-service after the effective date of this AD, accomplish paragraphs (a)(1), (a)(2), and (a)(3) of this AD.

(1) Perform a general visual inspection to verify that the wiring of the engine electronic fuel control (EFC) start circuit has been installed properly, in accordance with Beechcraft Mandatory Service Bulletin 2520, dated August 1993. If the wiring has been installed improperly, prior to further flight, modify the wiring in the engine EFC start circuit in accordance with the service bulletin.

(2) Install a non-conductive sheet, part number 132–530027–13, on the sidewall upholstery in accordance with Beechcraft Mandatory Service Bulletin 2520, dated August 1993.

(3) Perform a general visual inspection to verify the proper positioning of the end terminals on wire P147D6, in accordance with Beechcraft Safety Communique 400–101, dated July 1993. If the end terminals have been positioned improperly, prior to further flight, reposition the end terminals on wire P147D6 in accordance with the communique.

Note: While accessing the main circuit panel to comply with the inspections required by this paragraph, as a convenience, operators should verify that moisture (insulator) shields, part numbers 45A88859–11 and 45A88859–31, are installed, in accordance with BEECHCRAFT Beechjet 400/400A Maintenance Manual, Chapter 24–50–00. If any shield is missing, the FAA recommends that it be replaced with an appropriate shield at the next scheduled maintenance service.

(b) 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, Wichita

Aircraft Certification Office (ACO), FAA, Small 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, Wichita ACO.

Note: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Wichita ACO.

(c) 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.

(d) The inspection and modification of wiring, and the installation of the non-conductive sheet, shall be done in accordance with Beechcraft Mandatory Service Bulletin 2520, dated August 1993. The inspection and repositioning of the end terminals on wire P147D6 shall be done in accordance with Beechcraft Safety Communique 400–101, dated July 1993. (The issue dates of these service documents are indicated only on page 1 of each document; no other pages of the documents are dated.) 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 Beech Aircraft Corporation, Commercial Services Department, P.O. Box 85, Wichita, Kansas 67201–0085. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at FAA, Small Airplane Directorate, Wichita Aircraft Certification Office, 1801 Airport Road, Room 100, Mid-Continent Airport, Wichita, Kansas 67209; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment becomes effective on [insert date 15 days after date of publication in the **Federal Register**].

Issued in Renton, Washington, on October 6, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–25471 Filed 10–15–93; 8:45 am]

BILLING CODE 4910–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

14 CFR Part 1260

RIN: 2700–AB31

Grant Regulations

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Final rule.

SUMMARY: This document revises NASA's regulations for grants, including cooperative agreements, in order to streamline the requirements for their award and administration. The revisions are intended to enable NASA grant officers to award grants within 30 days of receiving a request from the NASA technical office.

EFFECTIVE DATE: December 1, 1993.

FOR FURTHER INFORMATION CONTACT: David K. Beck, (202) 358–0482.

SUPPLEMENTARY INFORMATION:

Background

In response to the Notice of Proposed Rulemaking (57 FR 47944 to 47964, Oct. 20, 1992), NASA received 141 comments from 19 persons.

1. Changes Made in Response to Comments

The definitions of "non-technical property" and "technical property" in § 1260.201(r) (6) and (9) were revised to include synonymous terms ("general purpose equipment" and "special purpose equipment," respectively) from Office of Management and Budget (OMB) Circular No. A–21. However, the A–21 synonyms were not used throughout part 1260 because OMB has proposed revisions that would eliminate the terms from A–21 (57 FR 58394, 58397; Dec. 9, 1992).

Sections 402(d)(2) and 605(b) were revised to extend the date for submission of the summary of research to 90 days after the expiration date of the grant. Sections 408(h) and 604 were revised to extend the date for submission of the final inventory report to 60 days after the expiration date of the grant. The deadline for this latter report was not extended to 90 days because OMB Circular No. A–110 requires NASA to decide the disposition of certain property by 120 days after the expiration date of the grant.

Section 1260.406(a) was revised to identify three grant provisions that require prior approvals.

In the Notice of Proposed Rulemaking (§ 1260.420(a), 57 FR 47952), NASA had proposed that total expenditures for travel be limited to 125 percent (or an increase of $1,000, whichever is greater) of the amount allotted for travel in the approved budget. Travel which would cause this limit to be exceeded would have required the prior approval of the administrative grant officer. NASA received numerous comments about imposing this prior approval. Pending further study of changes that grantees are experiencing with budgeted travel, NASA is deferring the adoption of the prior approval.

2. Other Changes

Sections 1260.101 and 1260.103(b) were revised by removing "Assistant Administrator for Procurement" (Code H) so that grant regulations may be issued by the Director, Procurement Policy Division (Code HP) under authority redelegated by Code H to Code HP.

The list of grant officers in § 1260.104(e) was updated.

In § 1260.301(a), "or designee" was added in order to permit delegation of authority to approve other announcements. In the second sentence of § 1260.301(c), the reference was corrected to read "FAR 48 CFR 15.507(b)(4)."

Section 1260.302(h) was added, based on § 1260.203 of the existing grant regulation, in order to provide guidance on selecting the appropriate award instrument (grant, cooperative agreement, or contract).

The address for the Center for Aerospace Information was revised in §§ 1260.305 and 1260.402(f)(3).

Sections 1260.404(a) and 1260.504(a) were revised in order to conform NASA policy to OMB Circular No. A–110 by removing NASA's right to unilaterally revoke or terminate grants.

Section 1260.412 was corrected to restore the references to 14 CFR parts 1251 and 1252.

3. Other Comments

There were objections to NASA using terms like "procurement request" and "procurement package." Although grants are not procurements, NASA has not developed alternative terms. The existing terms for these internal documents adequately serve the purpose of forwarding funds and supporting documentation from the technical office to the procurement office.

There were several comments that the policies in part 1260 should apply consistently throughout NASA and that exceptions should require deviations. This is the intent of part 1260.

There were several requests for NASA to raise thresholds higher than ones stated in OMB Circulars No. A–21 and A–110. NASA will review the thresholds when the Circulars are revised.

Several persons asked that NASA not apply cost sharing to unsolicited proposals unless a statute requires it and stated that basing cost sharing on sales to non-Federal entities is inconsistent with the program income provision. Sections 1260.301(d)(1), 1260.303(d), and 1260.422(e) implement statutory cost sharing requirements contained in the annual NASA appropriation act. When a grant includes the cost sharing special condition, the grantee may need to use any program income to meet the grantee's cost sharing requirement.

Several comments suggested eliminating parts of § 1260.301(d)(2). The suggested changes were not made. The section emphasizes that it is the cognizant agency under OMB Circular No. A–88, and not NASA, that has authority to determine indirect cost rates. The section explains that NASA uses the rate established by the cognizant agency for research, irrespective of whether a grant or contract funds the research. NASA doesn't use a higher rate under grants.

There was a comment that unilateral awards under § 1260.303 will compound the problem of NASA grant officers erroneously including standard terms in grants to Federal Demonstration Project institutions. No change was made. If this occurs, it can be corrected by a supplement.

There was a comment that § 1260.404 be retitled as "Termination" and be revised to allow a university to terminate the grant if work becomes classified. "Revocation" is the term that NASA uses with respect to grants. If necessary, the grantee may ask NASA to revoke the grant.

It was pointed out that "significantly reduced" in § 1260.404(c) is ambiguous. NASA has asked OMB to establish an objective standard in A–110 and will await OMB guidance before changing the existing term. It was also suggested that NASA should not be able to revoke a grant because of significantly reduced Principal Investigator time. The alternative offered was that NASA should renegotiate accomplishment of the research. This NASA policy was established in 1972. Current wording has existed since 1981. A recent Inspector General report found reasons for continuing the policy: several instances were reviewed where, following award, grantees added graduate assistants and other personnel where NASA may have been expecting the principal investigator to expend effort (Audit Report A-MA–91–007, Sep. 18, 1992).

One person questioned the requirement in § 1260.407(d) for the grantee to identify in the renewal proposal the estimated amount of unexpended funds. No change was made. With an emphasis on multiple year grants, there will be fewer renewal proposals in which unexpended funds need to be reported. There is no restriction in carrying forward funds into the second and subsequent years covered by the multiple year grant and no requirement to report the anticipated amount of funds for those covered years.

The largest number of comments discussed various issues pertaining to equipment. Two persons suggested using equipment definitions from OMB Circular No. A–21. NASA uses three of the four terms suggested. NASA uses the term "expendable personal property" from OMB Circular No. A–110 instead of "supplies and materials." The definition of "equipment" is based on the current A–21 definition ($500 threshold) instead of the suggested $5,000 threshold. Grantees may use a one year standard for useful life instead of 2 years.

Most of the comments on equipment urged NASA not to require prior approval in § 1260.408(b) for non-technical property primarily used in and essential to the research. NASA had eliminated this prior approval on March 14, 1989, (54 FR 9426, Mar. 7, 1989) under OMB authorization of May 18, 1988. Audit Report LA–93–004, March 31, 1993, from the NASA Office of Inspector General recommends that general purpose equipment not be routinely charged direct to grants. Consequently, NASA is reinstating the prior approval for general purpose equipment as stated in OMB Circular No. A–21. In addition, NASA had proposed raising the threshold in § 1260.408(a) for approval of technical property from $5,000 to $25,000. NASA is deferring any change to that threshold pending further changes to OMB Circular No. A–21.

There was an objection to requiring the grantee to submit under § 1260.408(h) an inventory of grantee acquired equipment. For grantee acquired equipment, only a final inventory report is required. The report is the only way NASA is informed about all the grantee acquired equipment that exists at the end of the grant. Information for preparing the report should be readily available from the records the grantee must maintain under § 1260.507(a)(1), which is based on OMB Circular No. A–110, paragraph N.6.d.

Several comments described § 1260.409 as a patchwork regulation that is difficult to read. This method is used in order to show the few NASA changes to the Government-wide provision. The alternative would be to repeat lengthy Government-wide requirements. Doing so would place a burden on each grantee to determine how NASA requirements differ from the Government-wide requirements.

Another comment stated that the required reporting of patents in annual and final technical reports duplicates annual patent reports and involves different institutional officials. The comment asked NASA to eliminate reporting from technical reports and allow grantees to use only annual patent reports. The requested change was not made because the requirement helps to ensure the disclosure of inventions. It was also suggested that NASA should require reporting only to a central patent office instead of the installation patent counsel and administrative grant officer. This change was not made because at NASA this responsibility is decentralized.

Section 1260.410 was criticized as giving NASA data rights that are too broad, especially for grants. The data rights provision is substantively the same as the existing provision, which was established in January 1981.

Section 1260.411 was criticized as needing detailed procedures for handling classified information and for terminating grants where grantees don't want to do classified research. The provision is substantively the same as the existing provision from January 1981. The rare instances where research becomes classified are handled on a case-by-case basis.

One person asked that NASA delete the requirement under § 1260.413 for subcontract consent or raise the dollar threshold. The threshold is the current small purchases threshold for Federal contracts. NASA has used this as an appropriate threshold in place of the current threshold of $5,000 in OMB Circular No. A–110. Others suggested that NASA use "prior approval" instead of "consent." "Consent" is appropriate since it is intended to involve a less rigorous review than "approval" and does not create privity of contract between the Government and subcontractor. One person asked that subcontracts to other universities be exempt from sole source justifications. This change was not made because it would be inconsistent with A–110.

Several persons asked for changes to § 1260.416, which requires grantees to remit to NASA interest earned on advances. These changes were not made because they were inconsistent with A–110.

Objections were made to § 1260.418, on investigative procedures for foreign national employees requiring access to a NASA installation. This requirement is retained because it protects National assets from unauthorized foreign access.

One person asked that NASA eliminate the reference in § 1260.420 to regulations issued by the Department of Transportation. The reference is retained because it informs grantees about regulations that apply to hazardous materials.

Several persons objected to §§ 1260.422(h) and 1260.605(d) on withholding payment for delinquent reports. NASA may withhold an amount

specified in § 1260.605(d)(3). This provision is considered necessary for encouraging grantees to ensure submission of reports.

One person stated that delegating administration to the Office of Naval Research (ONR) will add an unnecessary layer of bureaucracy, delay responses and disrupt research. Section 1260.501 was not changed because delegation will enable NASA grant officers to concentrate on awards. After NASA and ONR have signed a Memorandum of Agreement, NASA will authorize grant officers to delegate full administration to ONR.

Two comments suggested using National Science Foundation or National Institutes of Health procedures for transferring grants instead of novation procedures under § 1260.505. This section was not changed because it does not require a grantee to enter into a novation agreement. If the grantee does not agree with a proposed novation, NASA may issue a new grant to the new institution.

One comment suggested eliminating cost sharing information from property records in § 1260.507(a)(1)(vi). Another comment objected to § 1260.510(c)(6), which requires cost or price analysis for every procurement. These comments were not accepted because the changes they propose would be inconsistent with A–110. Several persons asked that NASA postpone publishing this regulation until A–110 is revised. NASA will revise this regulation after A–110 is revised. However, the improvements that this regulation makes to NASA grants warrant its adoption at this time.

Impact

This rule has been reviewed by the Office of Management and Budget (OMB) under the provisions of Executive Order 12291. NASA certifies that these changes will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.).

The Office of Management and Budget (OMB) approved information collection under the Paperwork Reduction Act through November 30, 1995, and assigned OMB control numbers 2700–0047, Property Management and Control, and 2700–0049, Financial Management and Control.

List of Subjects in 14 CFR Part 1260

Grants.

Tom Luedtke,

Acting Deputy Associate Administrator for Procurement.

Part 1260 is revised in its entirety as follows:

PART 1260—GRANTS AND COOPERATIVE AGREEMENTS

Subpart 1260.1—General

Sec.

Subpart 1260.2—Definitions

Subpart 1260.3—The Process

Subpart 1260.4—Provisions and Special Conditions

Subpart 1260.5—Administration

Subpart 1260.6—Reports

Appendix to Part 1260—Listing of Exhibits

Authority: Pub. L. 97–258, 96 Stat. 1003 (31 U.S.C. 6301 et seq.).

Subpart 1260.1—General

§ 1260.101 Authority.

(a) NASA awards grants and cooperative agreements under the authority of 31 U.S.C. 6301 to 6308. This part 1260 is issued under authority delegated by the Administrator in NASA Management Instruction (NMI) 5101.8, subject "Delegation of Authority to Take Actions in Procurement and Related Matters".

(b) The Office of Management and Budget (OMB) approved information collection under the Paperwork Reduction Act through November 30, 1995, and assigned OMB control numbers 2700–0047, Property Management and Control, and 2700–0049, Financial Management and Control.

§ 1260.102 Applicability.

This part 1260 establishes policies and procedures for all research grants and cooperative agreements awarded by the National Aeronautics and Space Administration (NASA) to educational institutions and other nonprofit organizations. It does not cover training grants, facilities grants, grants for the Centers for the Commercial Development of Space, or contracts.

§ 1260.103 Amendment.

(a) *NASA Research Grant Handbook Directive (GHD).* This part 1260 will be amended by publication of changes in the **Federal Register** and by issuance of printed loose-leaf directives containing revised or additional pages for the handbook version of this part 1260. Each revised or new page will contain the date, the GHD number, and an indication of changes made. GHD's will be numbered consecutively for each edition of the handbook.

(b) *Grant Notice (GN).* Non-regulatory changes to the handbook which require immediate dissemination may be issued

as Grant Notices. The mailing list for Grant Notices is maintained by the Office of Procurement, NASA Headquarters, Procurement Policy Division (Code HP), Washington, DC 20546.

(c) *Effective date.* The NASA Research Grant Handbook and any amendment may be implemented as soon as practicable following the date of issuance, but no later than 60 days thereafter, except as otherwise prescribed by the GHD or GN.

§ 1260.104 Publication and points of contact.

(a) The NASA Research Grant Handbook is published as part 1260 of title 14 of the Code of Federal Regulations (CFR). The handbook is numbered "NASA Handbook (NHB) 5800.1C."

(b) The handbook is also available in loose-leaf form. Subscriptions to the NASA Research Grant Handbook may be purchased by other Government agencies, private concerns, universities, and individuals from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402, telephone number (202) 783–3238. Requests should cite GPO Subscription Stock No. 933–001–00000–8. A subscription consists of the basic edition, plus all changes issued for an indefinite period.

(c) The NASA Research Grant Handbook, GHD's, and GN's will be distributed by Code HP directly to installation distribution points. These NASA elements must inform the Office of Procurement, NASA Headquarters, Procurement Policy Division (Code HP) of the numbers of copies required. Requests for additional copies should be sent directly to Code HP by Installation distribution points.

(d) Installation directives, handbooks or similar guidance documents shall not repeat, paraphrase, extract, condense, be inconsistent with or otherwise restate the material contained in this handbook. Upon issuance of any directive, handbook, or similar guidance document affecting grants, Installations shall provide one copy to the Office of Procurement, NASA Headquarters, Procurement Policy Division (Code HP).

(e) NASA grant officers, addresses, and telephone numbers are as follows:

(1) Barbara Cephas, NASA Headquarters, Code HWG, Washington, DC 20546, (202) 358–0504.

(2) Barbara Hastings, NASA Ames Research Center, M/S 241–1, Moffett Field, CA 94035, (415) 604–5802.

(3) Gloria Blanchard, NASA Goddard Space Flight Center, Code 286, Greenbelt, MD 20771, (301) 286–3318.

(4) Daryl W. Chilcutt, NASA Johnson Space Center, M/S BE311, Houston, TX 77058, (713) 483–5441.

(5) Earl Gilbert, NASA Kennedy Space Center, OP-SCO, Kennedy Space Center, FL 32899, (407) 867–7346.

(6) Richard Siebels, NASA Langley Research Center, M/S 126, Hampton, VA 23665, (804) 864–2418.

(7) Saundra Gage, NASA Lewis Research Center, M/S 500/315, Code 1520, Cleveland, OH 44135, (216) 433–2754.

(8) Lydia Van Wagner, NASA Marshall Space Flight Center, Code AP29, Huntsville, AL 35812, (205) 544–0304.

(9) Frank Oerting, NASA Stennis Space Center, Code DA–10, Stennis Space Center, MS 39529, (601) 688–1638.

§ 1260.105 Deviations.

(a) *Applicability.* A deviation is required for any of the following:

(1) When a prescribed grant provision is set forth verbatim in this handbook, and the Installation uses a provision covering the same subject matter, or omits such provision.

(2) When a grant provision is set forth in this handbook, but not for use verbatim, and the Installation uses a provision covering the same subject matter which is inconsistent with the intent, principle, and substance of the handbook provision.

(3) When a NASA form or other form is prescribed by this handbook, alteration of such form, or use of any other form for the same purpose.

(4) When limitations, imposed by this handbook upon the use of a grant provision, form, procedure, or any other grant action, are changed.

(5) Creation of a form for grantee use which constitutes a "Collection of Information" within the meaning of the Paperwork Reduction Act of 1980 (44 U.S.C. 35) and its implementation in 5 CFR 1320.

(b) *Request for deviations.* Requests for authority to deviate from this handbook shall be submitted to the Office of Procurement, NASA Headquarters, Procurement Policy Division (Code HP). Such requests, signed by the Procurement Officer, will be submitted as far in advance as the situation will permit. Each request for a deviation shall contain as a minimum:

(1) A full description of the deviation and the circumstances in which it will be used.

(2) Detailed rationale for the request, including any pertinent background information.

(3) The name of the grantee or party to a cooperative agreement and identification of the grant or cooperative agreement affected, including the dollar value.

(4) A statement as to whether the deviation has been requested previously, and, if so, circumstances of the previous request.

(5) Identification of the handbook requirement from which a deviation is sought.

(6) A description of the intended effect of the deviation.

§ 1260.106 Foreign grants.

Installations requiring grants with institutions located outside the United States, its possessions and its territories, shall forward the procurement package to the Office of Procurement, Headquarters Acquisition Division, Headquarters Grants and Closeout Branch (Code HWG) for negotiation, award, and administration. Code HWG will distribute copies of the grant to the Installation payment office, technical office, and grants office. See § 1260.422(f) for a special condition on inventions for use with foreign grants.

Subpart 1260.2—Definitions

§ 1260.201 Definitions.

Throughout this part 1260 the term "grant" includes "cooperative agreement" unless otherwise indicated.

Administrative grant officer. A grant officer assigned responsibility for grant administration, such as under a delegation from a NASA grant officer.

Administrator. The Administrator or Deputy Administrator of NASA.

Associate Administrator for Procurement. The head of the Office of Procurement, NASA Headquarters (Code H).

Cooperative agreement. An agreement that provides funds to an educational institution or other nonprofit organization to accomplish a public purpose of support or stimulation authorized by Federal statute. Substantial technical involvement between NASA and the recipient is expected and will be identified in the agreement.

Days. Calendar days, unless otherwise indicated.

Educational institution. Any institution which

(1) has a faculty,

(2) offers courses of instruction, and

(3) is authorized to award a degree upon completion of a specific course of study.

Equipment. As used in this handbook, "equipment" is another term for nonexpendable personal property.

(1) *Government furnished equipment.* Equipment in the possession of, or

acquired directly by, the Government and subsequently delivered, or otherwise made available, to a grantee.

(2) *Grantee acquired equipment.* Equipment purchased or fabricated with grant funds by a grantee, for the performance of research under its grant.

Grant. An agreement that provides funds to an educational institution or other nonprofit organization to accomplish a public purpose of support or stimulation authorized by Federal statute. No substantial technical involvement is expected between NASA and the grantee.

Grant officer. A Government employee who has been delegated the authority to negotiate, award, or administer grants.

Grant provision. A term or condition applicable to all grants awarded under this part 1260.

Grant specialist. A Government employee who is assigned the responsibility of negotiating or administering grants.

Historically Black Colleges and Universities. Institutions determined by the Secretary of Education to meet the requirements of 34 CFR 608.2 and listed therein.

Incremental funding. A method of funding a grant where the funds initially allotted to the grant are less than the award amount. Additional funding is added as described in § 1260.302(d).

Minority educational institution. An institution meeting the criteria established in 34 CFR 607.2.

Multiple year grant. A grant for which NASA obligates funds for an initial period and states an intention to obligate funds for one or more additional periods. The initial period together with the unfunded periods exceeds one year. Continuation of the grant is a unilateral decision by the Government based on availability of funds, continued relevance, and scientific progress.

Nonprofit organization. An organization that qualifies for the exemption from taxation under § 501 of the Internal Revenue Code of 1954, as amended, 26 U.S.C. 501.

Performance report. A concise statement of the research accomplished during the report period. This report will normally be limited to a maximum of three pages.

Property—(1) *Acquisition cost.* Acquisition cost of an item of nonexpendable personal property means the net invoice unit price of the property, including the cost of modifications, attachments, accessories, or auxiliary apparatus, necessary to make the property usable for the purpose for which it was acquired. Other charges, such as the cost of installation, transportation, taxes, duty, or protective in-transit insurance, shall be included or excluded from the unit acquisition cost in accordance with the grantee's regular accounting practices.

(2) *Nonexpendable personal property.* Nonexpendable personal property means tangible personal property having a useful life of more than 2 years, and an acquisition cost of $500 or more per unit. A grantee may use its own definition of nonexpendable personal property, provided the definition would at least include all tangible personal property included in this definition.

(3) *Excess personal property.* Excess personal property means any personal property under the control of any Federal agency which is not required for its needs and the discharge of its responsibilities, as determined by each agency's procedures.

(4) *Exempt property.* Exempt property means tangible personal property acquired in whole or in part with Federal funds, title to which is vested in the grantee without further obligation, except as provided in § 1260.506(a)(4), to the Federal Government.

(5) *Expendable personal property.* Expendable personal property refers to all tangible personal property not included in the definition of nonexpendable personal property.

(6) *Non-technical property.* Property which is usable for other than research, medical, scientific, or technical activities, whether or not special modifications are needed to make it suitable for a particular purpose. Examples include office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment. The term "non-technical property" is synonymous with the term "general purpose equipment" in paragraph J.16.a.(4) of OMB Circular No. A–21.

(7) *Personal property.* Personal property means property of any kind except real property. It may be tangible or intangible (such as patents, inventions, and copyrights).

(8) *Real property.* Real property means land, including land improvements, structures and appurtenances thereto, but excluding movable machinery and equipment.

(9) *Technical property.* Equipment which is usable only for research, medical, scientific, or technical activities. The term "technical property" is synonymous with the term "special purpose equipment" in paragraph J.16.a.(3) of OMB Circular No. A–21.

Research. Systematic, intensive study directed toward greater knowledge or understanding of the subject studied. The term includes conferences held for the purpose of communicating research results.

Small business concern. A concern, including its affiliates, that is independently owned and operated, not dominant in the field of operation in which it is bidding, and qualifies as a small business under the criteria and size standards in 13 CFR part 121.

Small disadvantaged business concern. A small business concern owned or controlled by individuals who are both socially and economically disadvantaged (within the meaning of § 8(a) (5) and (6) of the Small Business Act, as amended, 15 U.S.C. 637(a) (5) and (6).

Special condition. A term or condition appended to a grant if applicable.

Subcontract. A written agreement between a grantee and a third party for the furnishing of services or supplies.

Summary of research. Summary of results of the entire project. This summary will normally be limited to a maximum of 3 pages, not counting bibliographies, abstracts, and lists of other media in which the research was discussed.

Support. Funding of a NASA research project.

Technical officer. The official of the cognizant NASA office who is responsible for monitoring the technical aspects of the work under a grant.

Women-owned small business concern. A small business concern that is at least 51 percent owned by women who are United States citizens and who also control and operate the business.

Subpart 1260.3—The Process

§ 1260.301 Proposals.

(a) *General.* A grant can result from: (1) a proposal submitted in response to a NASA Research Announcement (NRA), an Announcement of Opportunity (AO), or after approval by the Associate Administrator for Procurement or designee, another type of broad agency announcement (BAA) or

(2) an unsolicited proposal.

(b) *Proposals under NRA's and AO's.* The NASA Research Announcement and NASA Announcement of Opportunity (broad agency announcements) are described in NASA Handbook 8030.6.

(c) *Unsolicited proposals.* Guidance on unsolicited proposals is contained in FAR 48 CFR subpart 15.5 and NASA FAR Supplement (NFS) 48 CFR subpart

1815.5. The synopsis requirement in FAR 48 CFR 15.507(b)(4), however, does not apply to the grant process. Contact with agency technical personnel prior to proposal submission is encouraged to determine if preparation of a proposal is warranted. These discussions should be limited to understanding NASA research needs and do not jeopardize the unsolicited status of any subsequently submitted proposal. The grant officer or university affairs officer may refer prospective grantees to technical personnel working in their area of research.

(d) *Cost and budget issues.* The allowability of costs chargeable to NASA research grants is governed by OMB Circulars No. A–21, No. A–88, No. A–110, No. A–122, No. A–128, and No. A–133.

(1) *Cost sharing.* A grant resulting from an unsolicited proposal will include cost sharing if the grantee will benefit from the research results through sales to non-Federal entities. In addition, NASA may accept cost sharing when voluntarily offered as part of any proposal. The amount of cost sharing is not a factor in determining whether to select a proposal for award.

(2) *Recovery of indirect costs.* Subject to applicable cost principles, NASA normally allows full recovery of indirect expenses, but in no case shall an overhead rate used for determining amounts chargeable to a grant exceed, in equivalence, the most recent overhead rate at the recipient institution for comparable research contracts of the Government. The indirect cost rates are negotiated between grantees and the cognizant agencies assigned under OMB Circular No. A–88. NASA is required to apply the negotiated rate for all grants awarded to a grantee. Added or lowered amounts of indirect cost must be determined by the cognizant agency.

(3) *Multiple year grants.* In accordance with NASA policy to foster continuity of research, multiple year grant proposals are encouraged where appropriate, for a period generally up to 3 years. For multiple year grants that exceed 3 years, the technical officer shall ensure compliance with paragraph 4.h. of NMI 8320.1D. Proposals for multiple year grants shall include a separate budget exhibit for each year of research.

(4) *Budget content.* Proposals shall include budgets as prescribed in this handbook (Budget Summary in Exhibit B of the appendix to this part 1260) and in NRA's and AO's. Narrative detail must support the budgets.

(5) *Incremental funding.* NASA reserves the right to either fully fund or incrementally fund research grants.

(e) *Certifications and assurances.* The following certifications or assurances are required:

(1) *Civil rights requirements—nondiscrimination in certain Federally-funded programs.* Grantees must furnish assurances of compliance with civil rights statutes specified in 14 CFR parts 1250 through 1252. Such assurances are not required for each grant, if they have previously been furnished and remain current and accurate. Certifications to NASA are normally made on NASA Form 1206, which may be obtained, if required, from the grant officer. If acceptable, the grant officer will forward this assurance to the NASA Office of Equal Opportunity Programs for recording and retention purposes.

(2) *Debarment and suspension, drug-free workplace, and lobbying.* Each proposal shall contain certifications concerning debarment and suspension, drug-free workplace, and lobbying. These certifications and other requirements are contained in 14 CFR parts 1265 and 1271. NASA does not require any particular form or format for the certifications under 14 CFR part 1265.

§ 1260.302 Evaluation and selection.

(a) *Technical evaluation.* Technical evaluation of proposals will be conducted by the cognizant NASA technical office and may be based on peer reviews.

(1) *Proposals under NRA's, AO's, and other BAA's (see § 1260.301(a)).* The technical officer will evaluate proposals in accordance with the criteria in the NRA, AO, or other BAA. Proposals selected for award will be supported by documentation as described in paragraph (b)(1) of this section. When evaluation results in a proposal not being selected, the proposer will be notified in accordance with the NRA, AO, or other BAA.

(2) *Unsolicited proposals.* Evaluation of unsolicited proposals must consider whether: the subject of the proposal is available to NASA from another source without restriction; the proposal closely resembles a pending competitive acquisition; and the research proposed demonstrates an innovative and unique method, approach, or concept. Recommendations to fund unsolicited proposals will be supported by documentation as described in paragraph (b)(2) of this section. Institutions submitting unaccepted proposals will be notified in writing.

(b) *Documentation requirements.* For proposals selected for award, the technical officer will prepare and furnish to the grant officer the following documentation:

(1) A proposal selected under an NRA, AO, or other BAA (see § 1260.301(a)) shall be supported by a signed selection statement and technical evaluation based on the evaluation criteria stated in the NRA, AO, or other BAA.

(2) An unsolicited proposal recommended for acceptance shall be supported by a justification for acceptance of an unsolicited proposal (JAUP) prepared by the cognizant technical office. The JAUP shall be submitted for the approval of the grant officer after review and concurrence at a level above the technical officer. The evaluator shall consider the following factors, in addition to any others appropriate for the particular proposal:

(i) Unique and innovative methods, approaches or concepts demonstrated by the proposal.

(ii) Overall scientific or technical merits of the proposal.

(iii) Potential contribution of the effort to the agency's specific mission.

(iv) The offeror's capabilities, related experience, facilities, techniques, or unique combinations of these which are integral factors for achieving the proposal objectives.

(v) The qualifications, capabilities, and experience of the proposed principal investigator, team leader, or key personnel who are critical in achieving the proposal objectives.

(vi) Current, open NRA's under which the unsolicited proposal could be evaluated.

(3) When most of the proposed budget is for equipment or travel and associated indirect cost, the technical officer shall sign, and submit for grant officer approval, an Equipment Justification or Travel Justification. The justification shall describe the extent to which the equipment or travel is necessary to support NASA-sponsored research.

(c) *Proposal budget evaluation.*

(1) The technical officer will review the budget for conformance to program requirements and fund availability, indicating the results of this review in Column B of the proposed budget.

(2) The grant officer will review the budget and the changes made by the technical officer, if any, to identify any budget item which may be unallowable under the cost principles, or which appears unreasonable or unnecessary after considering any budget explanations. The grant officer will complete Column C of the proposed budget after discussing significant changes with the grantee. The grant officer should only request the additional budget detail which is necessary to comply with the instructions for the Budget Summary in

Exhibit B of the appendix to this part 1260.

(d) *Incremental funding.* Grants with anticipated annual funding exceeding $1 million may be funded for less than the amount and period of performance stated in the proposal provided:

(1) Two increments per grant year are authorized. The second increment will be the balance of funding for the year.

(2) Procedures are established for adding all remaining funds to the grant without any action required of the grantee. The grant officer shall notify the grantee in writing when the remaining funds have been obligated on the grant.

(3) The incremental funding special condition contained in § 1260.422(d) is included in the grant.

(e) *Printing, binding, and duplicating.* Proposals which involve printing, binding, and duplicating in excess of 25,000 pages are subject to the regulations of the Congressional Joint Committee on Printing. The technical office will refer such proposals to the Installation Central Printing Management Officer (ICPMO) to ensure compliance with NMI 1490.1. The grant officer will be advised in writing of the results of the ICPMO review.

(f) *Rights in data.* Section 1260.410 is adequate only for grants for basic or applied research, where the principal purpose (or only expected NASA involvement) is the publication or dissemination of the results, such as in journals or NASA publications (see § 1260.402). Other expected purposes, especially where there may be substantial NASA involvement under a cooperative agreement or grantee development of software programs, may require a special condition providing customized or expanded data rights. The special condition shall be developed by, or in consultation with, intellectual property or patent counsel and may be used in the grant.

(g) *Clean Air and Federal Water Pollution Control Acts.*

(1) By accepting a grant containing § 1260.414, the grantee agrees (for grants exceeding $100,000) that the expenditure of grant funds is in compliance with the Clean Air Act and the Federal Water Pollution Control Act.

(2) The Administrator may exempt for a period not to exceed 1 year any individual or class of grant or any subcontract thereunder from the requirements of the Clean Air and Federal Water Pollution Control Acts. Requests for exemptions or renewals thereof shall be made to the Office of Procurement, NASA Headquarters, Procurement Policy Division (Code HP), Washington, DC 20546.

(h) *Choice of Award Instrument.* (1) This paragraph provides guidance on the appropriate choice of award instruments consistent with 31 U.S.C. 6301 to 6308. Throughout this paragraph (h) the term "grant" excludes cooperative agreement.

(2) Procurement Contracts. A procurement contract shall be used as the legal instrument to reflect a relationship between the Federal Government and a recipient whenever (i) the principal purpose of the instrument is the acquisition by purchase, lease, or barter of property or services for the direct benefit or use of the Federal Government; or (ii) whenever NASA determines in a specific instance that the use of a type of procurement contract is appropriate (see paragraph (h)(5)(iii) of this section).

(3) Grants. A grant shall be used as the legal instrument to reflect a relationship between the Federal Government and a recipient whenever the principal purpose of the relationship is the transfer of a thing of value to the recipient in order to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than by acquisition, purchase, lease, or barter of property or services for the direct benefit or use of the Federal Government; and no substantial involvement is expected between NASA, acting for the Federal Government, and the grantee during performance of the contemplated activity. A proposed award which exhibits the general characteristics set forth in paragraph (h)(6)(i) of this section meets the above-described statutory criteria for use of the grant.

(4) Cooperative Agreements. A cooperative agreement shall be used as the legal instrument to reflect a relationship between the Federal Government and a recipient whenever the principal purpose of the relationship is the transfer of a thing of value to the recipient to accomplish a public purpose of support or stimulation authorized by Federal statute, rather than acquisition by purchase, lease, or barter of property or services for the direct benefit or use of the Federal Government; and substantial involvement is expected between NASA, acting for the Federal Government, and the recipient during performance of the contemplated activity. Situations requiring use of cooperative agreements are limited. The examples and discussions set forth in paragraph (h)(6)(ii) shall be used in determining the existence of "substantial involvement."

(5) Limitations. (i) As a matter of policy, NASA does not award grants for donative assistance purposes, but only to meet program objectives. Research in any academic discipline related to NASA interests normally will qualify; however, advice of counsel should be sought in unusual situations. Similarly, where unusual project activities or organizational attributes are evident, advice of local counsel should be obtained.

(ii) Under no circumstances are cooperative agreements to be used solely to obtain the stricter control requirements typical of a contract.

(iii) 31 U.S.C. 6303 allows the use of contracts "whenever an executive agency determines in a specific instance that the use of a type of procurement contract is appropriate." This provision accommodates situations in which an agency determines that specific public needs can be satisfied best using the procurement process. However, because the provision, if misused, could allow agencies to circumvent the criteria for use of procurement or assistance instruments, use of this authority is restricted to extraordinary circumstances, and only with prior approval of the Associate Administrator for Procurement.

(iv) It is NASA's policy that non-monetary (zero dollar) grants or cooperative agreements shall not be used (except for no-cost extensions). Loans of Government personal property not associated with a contract, grant, or cooperative agreement under 31 U.S.C. 6301 to 6308, and made under the Space Act of 1958, should be consummated as loan agreements under paragraph 1.211 and Part 3.400 of NHB 4200.1, "Equipment Management Manual."

(v) Grants and cooperative agreements shall not be used as legal instruments for consulting service arrangements (see FAR/NFS 37.2).

(vi) Other instruments authorized by statute shall be used only after it has been determined, with the advice of General Counsel, that the action cannot be accomplished under a grant, cooperative agreement, or contract, as described above.

(6) Characteristics and examples. Subject to the statutory requirements set forth in paragraphs (h)(2), (h)(3), and (h)(4) of this section, the characteristics generally inherent in grants, cooperative agreements, and contracts are as follows:

(i) Grant. (A) The principal purpose is to accomplish a NASA objective through stimulating or supporting the acquisition of knowledge or understanding of the subject or phenomena under study, or attempting to determine and exploit the potential of scientific discoveries or improvements

in technology, materials, processes, methods, devices, or techniques and advance the state of the art;

(B) The exact course of the work and its outcome cannot be defined precisely and specific points in time for achievement of significant results cannot be realistically specified;

(C) NASA desires, or the nature of the proposed investigation is such, that the grantee will bear prime responsibility for the conduct of the research, and exercises judgment and original thought toward attaining the scientific goals within broad parameters of the research areas proposed and the related resources provided;

(D) The research problem is such that long term support (i.e., in excess of 1 year) is required for the study to mature to maximum scientific effectiveness (however, this does not preclude shorter-term grants in special cases);

(E) Meaningful technical reports (as distinguished from the Performance Reports) can be prepared only as new findings are made, rather than on a predetermined time schedule; and

(F) Simplicity and economy in execution and administration are mutually desirable.

(ii) Cooperative agreement. Characteristics inherent in a cooperative agreement include the characteristics of a grant plus the following:

(A) Substantial NASA involvement in and contribution to the technical aspects of the effort are necessary for its accomplishment;

(B) The project, conducted as proposed, would not be possible without extensive NASA-university technical collaboration; and

(C) The nature of the collaboration can be clearly defined and specified in advance. Cooperative agreements would be appropriate, for instance, where a university investigator works for a substantial amount of time at a NASA center (or a NASA investigator works at the university), or when the NASA-university scientific collaboration is such that a jointly authored report is appropriate. The cooperative agreement special provision, required by paragraph 422, must be completed to state the nature of the NASA-recipient cooperative interaction without which the effort would not be possible.

(iii) Procurement contract. The following characteristics are associated with procurement contracts. However, not all characteristics need be present in order for a contract to be the appropriate funding instrument.

(A) The principal purpose is to acquire, for NASA's direct use or benefit, well-defined, specific effort clearly required for the accomplishment of a scheduled NASA mission or project;

(B) The work to be conducted is intended to solve a specific problem;

(C) A specific service, piece of hardware, or improved performance of a specific device is the ultimate end product;

(D) NASA considers it necessary to exercise control over the objectives, direction, specifications, costs or methods of the research, and schedule control is desirable and feasible;

(E) The work to be conducted is classified (however, access to security classified information may be given grantees where a demonstrated need exists);

(F) The end result is clearly defined or parameters and specifications are prepared in advance of the work; and

(G) A significant portion of the total effort will be performed by an organization other than the one submitting the proposal, and such portion will involve the development, fabrication or acquisition of instruments or hardware.

§ 1260.303 Award procedures.

(a) *General.* NASA policy is to use multiple year grants to support research. However, grants for lesser periods may be awarded.

(b) *Multiple year grant.*

(1) NASA fosters continuation of research and recognizes that research projects may span several years. Proposers are encouraged to submit research proposals that describe the entire research project, supported by annual work and budget plans.

(2) The entire research proposal will be evaluated by the cognizant technical office with the recommendation for award identifying the proposal as a multiple year grant. By use of the Multiple Year Grant special condition, the grant clearly indicates at time of award, the initial grant period and funded value as well as the planned values of the subsequent years of the multiple year grant.

(3) Thus, neither a new proposal nor an additional technical evaluation are required for subsequent funding in the approved period unless a special need for new reviews is indicated by monitoring of the project and of its reports, by the introduction of work outside the scope of the approved proposal, or by the need for substantial unanticipated funding. The technical office will notify the grantee if the grant is to be funded; if additional information is required; or if the Government has determined that additional funding will not be provided.

(4) Based upon availability of funds, continued research relevance and scientific progress made by the grantee (as determined by the technical officer by monitoring of the grant, including timely submission of performance reports) the Government may elect to fund the subsequent grant periods as identified in the multiple year grant. To insure continuation of a multiple year grant, the technical office must forward to the grant office a funded PR in the amount that the technical officer recommends for continuation. This continued funding for the grant should be processed 45 days before the expiration of the funded period.

(5) Section 1260.422(c) is the special condition for multiple year grants.

(6) Normally, each year of a multiple year grant will be funded at the approximate level indicated in the original award instrument, subject to satisfactory scientific progress, availability of funds and continued relevance to NASA programs. However, NASA program constraints and developments within the project may dictate adjustment in the originally anticipated level. When the actual funding differs from the planned funding, the technical officer shall mark up Column B of the budget summary and provide it to the grant officer with an explanation of any increases. The grantee may rebudget under the grant provisions to keep the project within the funding actually provided.

(7) A funded extension beyond the period listed in the multiple year grant special condition may be proposed, however, it will require the submission of a new proposal, subject to full review as discussed in § 1260.303(c).

(c) *Annual grant.* Grants may be awarded for a short term (e.g., on an annual basis), and may be extended if appropriate. The extension should be executed prior to the grant expiration date. Such extensions (other than no-cost extensions) must be supported by a new proposal from the grantee. A complete technical evaluation and support documentation are required and should be forwarded to the grant office at least 6 weeks prior to the expiration of the original grant term. If otherwise acceptable, NASA may fund the proposal extensions through a multiple year grant or by an extension of the existing grant.

(d) *Cost sharing.* NASA grantees usually gain no measurable benefit ("mutuality of interest") from grants, other than conducting the research. The statutory requirement for cost sharing based on mutuality of interest applies to NASA grants resulting from unsolicited proposals only in exceptional cases

where the grant officer has reason to believe that the grantee will benefit from the research results through sales to non-Federal entities. When cost sharing is required by statute or when the grant officer accepts voluntarily-offered cost sharing, the grant officer shall use a special condition substantially as shown in § 1260.422(e).

(e) *Partial support.* NASA may provide partial support for a research project or conference where additional Federal funding is being provided by other agencies. If the grant also involves cost sharing by the grantee, the grant officer will ensure that the cost sharing special condition applies only to the non-Federal funding.

(f) *Grant renewals.* If grants are to be renewed, this should be done prior to the grant expiration date. Although the grant officer has little control over the timely receipt of purchase requests, he/she is responsible for informing the technical officer of current lead-time requirements and for timely processing continuation agreements. Alternatively, if a grant is not to be renewed, the grantee should be given a minimum of 4 months advance notice of pending close-out (see § 1260.511(a)).

(g) *Instrument usage.* To eliminate the paperwork burdens associated with the closeout of a grant and negotiation of a new grant for continuing the same effort, ongoing efforts at the same institution will be continued by amending or supplementing the current instrument unless there is a significant change in the nature of the work. If a new grant must be issued, the period of performance should be continuous with the previous award.

(h) *Unilateral award.* Grants may be awarded, amended, or extended unilaterally at the discretion of the grant officer.

§ 1260.304 Format and numbering.

(a) *General.* The grant shall be brief in format, containing only those provisions and special conditions necessary to protect the interests of the Government.

(b) *Formats.* Grant officers are authorized to use the formats in Exhibit B of the appendix to this part 1260 for the award of all research grants and cooperative agreements. Computer-generated versions and omission of inapplicable items are allowed. Special conditions, if required, shall be placed on a separate page. In all instances, the heading, "SPECIAL CONDITION(S), GRANT (COOPERATIVE AGREEMENT) N_____", shall be used, followed by the applicable special condition(s). Use of preprinted checklists containing all special conditions or a separate page for each special condition is not authorized. An acceptance block may be added when the grant officer considers it necessary to require bilateral execution of the grant. When enclosing detailed budgets with the grant, the grant officer will strike out any information that would reveal salaries paid by the grantee.

(c) *Grant numbering.* The identification numbering system for all research grants shall conform to NFS 48 CFR 1804.7102–3, except that a NAG prefix will be used in lieu of the NAS prefix. The prefix designation will include the Center Identification Number; e.g., NAGW would be the Headquarters prefix designation, and NAG5 would be the Goddard prefix designation. Grants will be sequentially numbered beginning with "1."

(d) *Cooperative agreement numbering.* The numbering system for cooperative agreements will be the same as for grants, except that NCC (for Centers) and NCCW (for Headquarters) prefixes shall be used in lieu of the NAG and NAGW prefixes.

§ 1260.305 Distribution of grants.

Copies of grants and grant supplements will be provided to: payment office, technical officer, administrative grant officer when delegation has been made, NASA Center for Aerospace Information (CASI), Attn: Document Processing Section, 800 Elkridge Landing Road, Linthicum Heights, Maryland 21090–2934, and any other appropriate recipient. Copies of the statement of work, contained in the grantee's proposal and accepted by NASA, will be provided to the administrative grant officer and CASI. The grant file will contain a record of the addresses for distributing grants and grant supplements.

Subpart 1260.4—Provisions and Special Conditions

§ 1260.401 General.

The provisions set forth in this subpart 1260.4 shall be incorporated in and made a part of all NASA research grants (§§ 1260.402 through 1260.421) and cooperative agreements (§§ 1260.402 through 1260.421 and 1260.422(b)) subject to this part 1260. Whenever the words "grant" or "grantee" appear in these provisions and special conditions, they shall be deemed to include, as appropriate, the words "cooperative agreement" and "recipient of cooperative agreement," respectively. The provisions for use in grants will be incorporated by reference in an enclosure to each grant (See Exhibit B as listed in the appendix to this part 1260). Special conditions (§ 1260.422(b) through (h)) will be incorporated in full text. For inclusion of provisions in subcontracts, see § 1260.510 (d) and (e).

§ 1260.402 Publications and reports.

Publications and Reports (Jun. 1993)

(a) NASA encourages the widest practicable dissemination of research results at any time during the course of the investigation.

(b) All information disseminated as a result of the grant, shall contain a statement which acknowledges NASA's support and identifies the grant by number.

(c) Prior approval by the NASA grant officer is required only where the grantee requests that the results of the research be published in a NASA scientific or technical publication. Two copies of each draft publication shall accompany the approval request.

(d) Reports shall be informal in nature and contain full bibliographic references, abstracts of publications and lists of all other media in which the research was discussed. Reports ordinarily should not exceed 3 pages, not counting bibliographies, abstracts, and lists of other media. The grantee shall submit the following technical reports:

(1) A performance report for every year of the grant (except the final year). Each report is due 60 days before the anniversary date of the grant and shall describe research accomplished during the report period.

(2) A summary of research, which is due by 90 days after the expiration date of the grant, regardless of whether or not support is continued under another grant. This report is intended to summarize the entire research accomplished during the duration of the grant.

(e) Performance reports and summaries of research shall display the following on the first page:

(1) Title of the grant.

(2) Type of report.

(3) Name of the principal investigator.

(4) Period covered by the report.

(5) Name and address of the grantee's institution.

(6) Grant number.

(f) An original and two copies, one of which shall be of suitable quality to permit micro-reproduction, shall be sent as follows:

(1) Original—administrative grant officer.

(2) Copy—technical officer.

(3) Micro-reproducible copy—NASA Center for Aerospace Information (CASI), Attn: Accessioning Department, 800 Elkridge Landing Road, Linthicum Heights, Maryland 21090–2934.

§ 1260.403 Extensions.

Extensions (Jun. 1992)

(a) It is NASA policy to provide maximum possible continuity in funding grant-supported research, and grants may be extended for additional periods of time. Any extension requiring additional funding should be supported by a proposal submitted at least 3 months in advance of the expiration date of the grant.

(b) Grantees may extend the expiration date of a grant or a supplement thereto if

additional time beyond the established expiration date is required to assure adequate completion of the original scope of work within the funds already made available. For this purpose, the grantee may make a single no-cost extension not exceeding 12 months. The grantee must make the extension prior to the expiration date and must notify the administrative grant officer in writing within 10 days of making the extension. Requests for all other extensions (in excess of 30 days) must be submitted, in writing, to the administrative grant officer for prior approval.

§ 1260.404 Suspension or revocation.

Suspension or Revocation (Sep. 1993)

(a) If NASA determines that the grantee has failed to comply with the grant, NASA may suspend or revoke the grant in whole or in part after consultation with the grantee. Suspension or revocation of the grant prior to the planned expiration date will be reserved for exceptional situations which cannot be handled any other way.

(b) Suspension of the grant may occur when the grantee has failed to comply with the terms of the grant. Upon reasonable notice to the grantee, NASA may temporarily suspend the grant, withhold further payments, and prohibit the grantee from incurring additional costs, pending corrective action by the grantee or a decision by NASA to revoke the grant. NASA will allow all necessary and proper costs which the grantee could not reasonably avoid during the period of suspension.

(c) In the event of revocation, the grantee shall refund to NASA any unexpended funds that it has received under the grant, except such portion thereof as may be required by the grantee to meet commitments which had in the judgment of NASA become firm prior to the effective date of revocation and are otherwise appropriate. Significantly reduced availability of the services of the principal investigator(s) named in the grant instrument may be grounds for revocation, unless alternative arrangements are made and approved in writing by the administrative grant officer.

§ 1260.405 Change in principal investigator or scope.

Change in Principal Investigator or Scope (Feb. 1992)

The grantee shall obtain the approval of the NASA grant officer to change the principal investigator or to continue the research work during a continuous period in excess of 3 months without the participation of an approved principal investigator. Change in objective or scope, likewise, requires prior approval.

§ 1260.406 Allowable costs.

Allowable Costs (Jun. 1993)

(a) OMB Circular No. A–21, "Cost Principles for Educational Institutions," OMB Circular No. A–122, "Cost Principles for Nonprofit Organizations," and OMB Circular No. A–110, "Grants and Agreements with Institutions of Higher Education, Hospital and other Nonprofit Organizations," as applicable, govern the allowability of costs chargeable to research sponsored by NASA under grants, except that cost-related and administrative "prior approvals" required by A–21 and A–110 are waived unless specifically required elsewhere in the grant provisions or special conditions. Sections 1260.405, 1260.408, and 1260.413 require prior approvals.

(b) Payments to individuals for consultant services under a NASA grant shall not exceed the daily equivalent of the maximum rate paid to a GS–18 Federal employee. The limit applies to personal compensation exclusive of expenses and indirect cost.

(c) Grantees may approve preaward costs of up to 90 days prior to the effective date of a new award, provided the costs are necessary for the effective and economical conduct of the project and they are otherwise allowable under the terms of the grant. Any preaward expenditures are made at the grantee's risk. Approval by the grantee does not impose any obligations on NASA in the absence of appropriations, if an award is not subsequently made, or if an award is made for a lesser amount than the grantee anticipated.

(d) In addition, Comptroller General decisions govern allowability of costs for international air transportation (see § 1260.420(b)).

§ 1260.407 Financial management.

Financial Management (Jun. 1992)

(a) *Payment.* Advance payments by electronic funds transfer will be made by the Financial Management Office of the NASA Installation which issued the grant. The grantee shall submit Federal Cash Transaction Reports (SF 272) to the aforementioned office and, if NASA has delegated administration, to the administrative grant officer, within 15 working days following the end of each Federal fiscal quarter, containing current estimates of the cash requirements for each of the 4 months following the quarter being reported. The final SF 272 is due within 90 days after the expiration date of the grant.

(b) *Management and audit.* The grantee's financial management system shall meet the standards set forth in § 1260.509. The provisions of OMB Circular No. A–133, "Audit of Institutions of Higher Education and Other Nonprofit Organizations," or OMB Circular No. A–128, "Audits of State and Local Governments," as applicable, apply to this award. NASA Federal domestic assistance numbers do not apply to NASA grants.

(c) *Records.* Financial records, supporting documents, statistical records, and all other records (or microfilm copies) pertinent to this grant shall be retained for a period of 3 years, except that (1) if any litigation, claim, or audit is started before the expiration of the 3-year period, the records shall be retained until all litigation, claims, or audit findings involving the records have been resolved, and (2) records for nonexpendable property acquired with grant funds shall be retained for 3 years after its final disposition. The retention period starts from the date of the submission of the final Federal Cash Transactions Report (SF 272). The Administrator of NASA and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any pertinent books, documents, papers, and records of the grantee and of subcontractors to make audits, examinations, excerpts, and transcripts. All provisions of this paragraph (c) shall apply to any subcontractor performing substantive work under this grant.

(d) *Unexpended balances.* Any unexpended balance of funds which remains at the end of any funding period, except the final funding period of the grant, shall be carried over to the next funding period, and may be used to defray costs of any funding period of the grant. The estimated amount of unexpended funds shall be identified in the grant budget section of the grantee's renewal proposal.

§ 1260.408 Equipment and other property.

Equipment and Other Property (Jun. 1993)

(a) NASA grants permit acquisition of technical property required for the conduct of research. Acquisition of property costing in excess of $5,000 and not included in the approved proposal budget requires the prior approval of the administrative grant officer unless the item is merely a different model of an item shown in the approved proposal budget. Requests for prior approval of technical property may be made telephonically to the administrative grant officer.

(b) Grantees may not purchase, as a direct cost to the grant, items of non-technical property, examples of which include but are not limited to office equipment and furnishings, air conditioning equipment, reproduction and printing equipment, motor vehicles, and automatic data processing equipment. If the grantee requests an exception, the grantee shall submit a written request for administrative grant officer approval, prior to purchase by the grantee, stating why the grantee cannot charge the property to indirect costs.

(c) Under no circumstances shall grant funds be used to acquire land or any interest therein, to acquire or construct facilities, or to procure passenger carrying vehicles.

(d) Title to equipment purchased with grant funds shall vest in the grantee unless otherwise provided. The Government reserves the right to require transfer to itself of title to items costing more than $1,000 each or, when fabricated into a single coherent system, in aggregate cost. Such reservation is subject to § 1260.506.

(e) Title to Government furnished equipment (including equipment, title to which has been transferred to the Government pursuant to § 1260.408(d) prior to completion of the work) will remain with the Government.

(f) Title to expendable personal property shall vest in the grantee upon acquisition. If there is a residual inventory of such property exceeding $1,000 in total aggregate fair market value, upon termination or expiration of the grant, and the property is not needed for any other Federally sponsored project or program, the grantee shall retain the property for use on non-Federally sponsored activities, or sell it, but must in either case, compensate

the Federal Government for its share. The amount of compensation shall be computed in accordance with subparagraph 6c, Attachment N to OMB Circular No. A–110.

(g) The grantee shall establish and maintain property management standards for nonexpendable personal property and otherwise manage such property as set forth in § 1260.507.

(h) Annually by July 31, the grantee shall submit 2 copies of an inventory report which lists all Government furnished equipment in their custody as of June 30. The grantee shall submit 2 copies of a final inventory report by 60 days after the expiration date of the grant. The final inventory report shall contain a list of all grantee acquired equipment and a list of Government furnished equipment. Annual and final inventory reports shall reflect the elements required in § 1260.507(a)(1) and be submitted to the administrative grant officer. When Government furnished equipment is no longer needed, the grantee shall notify the administrative grant officer, who will provide disposition instructions.

§ 1260.409 Patent rights—retention by the grantee.

Patent Rights—Retention by the Grantee (Feb. 1992)

This award is subject to the provisions of 37 CFR 401.3(a) which requires use of the standard clause set out at 37 CFR 401.14 "Patent Rights (Small Business Firms and Nonprofit Organizations)" and the following:

(a) Where the term "contract" or "contractor" is used in the "Patent Rights" clause, the term shall be replaced by the term "grant" or "grantee," respectively.

(b) In each instance where the term "Federal Agency," "agency," or "funding Federal agency" is used in the "Patent Rights" clause, the term shall be replaced by the term "NASA."

(c) The NASA regulation applicable to paragraph (e) of the "Patent Rights" clause is at 14 CFR subpart 1245.2, Licensing of NASA Inventions, § 1245.210.

(d) The following item is added to the end of paragraph (f) of the "Patent Rights" clause:

(5) The grantee shall include a list of all Subject Inventions required to be disclosed during the preceding year in the performance report, technical report, or renewal proposal, and a complete list (or a negative statement) for the entire award period shall be included in the summary of research.

(e) The term "subcontract" in paragraph (g) of the "Patent Rights" clause shall include purchase orders.

(f) The NASA implementing regulation for paragraph (g)(2) of the "Patent Rights" clause is at 48 CFR 1827.373(b) (NASA FAR Supplement, 18–27.373(b)).

(g) The following requirement constitutes paragraph (l) of the "Patent Rights" clause:

(l) Communications.

A copy of all submissions or requests required by this clause, plus a copy of any reports, manuscripts, publications or similar material bearing on patent matters, shall be sent to the Installation Patent Counsel and the administrative grant officer in addition to any other submission requirements in the grant provisions. If any reports contain information describing a "subject invention" for which the grantee has elected or may elect title, NASA will use reasonable efforts to delay public release by NASA or publication by NASA in a NASA technical series, for 6 months from the date of receipt, in order for a patent application to be filed, provided that the grantee identify the information and the "subject invention" to which it relates at the time of submittal. If required by the administrative grant officer, the grantee shall provide the filing date, serial number and title, a copy of the patent application, and a patent number and issue date for any "subject invention" in any country in which the grantee has applied for patents.

§ 1260.410 Rights in data.

Rights in Data (Feb. 1992)

The grantee grants to the Government, for Governmental purposes, the right to publish, translate, reproduce, deliver, use and dispose of, and to authorize others to do so, all data, including reports, drawings, blueprints, and technical information resulting from the performance of work under this grant.

§ 1260.411 Security.

Security (Jun. 1992)

Normally, NASA grants do not involve classified defense information. However, if information is sought or developed by the grantee that should be classified in the interests of national security, the NASA grant officer who issued the grant shall be notified immediately.

§ 1260.412 Civil rights.

Civil Rights (Jun. 1993)

Work on NASA grants is subject to the provisions of Title VI of the Civil Rights Act of 1964 (Public Law 88–52; 42 U.S.C. 2000d-l), Title IX of the Education Amendments of 1972 (20 U.S.C. 1680 et seq.), Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), and the NASA implementing regulations (14 CFR parts 1250, 1251, and 1252).

§ 1260.413 Subcontracts.

Subcontracts (Jun. 1992)

(a) NASA grant officer consent is required for subcontracts over $25,000, if not accepted by NASA in the original proposal, and may be requested through the administrative grant officer by providing the name of the subcontractor and the purpose and dollar amount of the subcontract. For subcontracts over $100,000, the grantee shall provide the following additional information, as a minimum, to the administrative grant officer for forwarding to the NASA grant officer:

(1) A copy of the proposed subcontract.

(2) Basis for subcontractor selection.

(3) Justification for lack of competition when competitive bids or offers are not obtained.

(4) Basis for award cost or award price.

(b) The grantee shall utilize small business concerns, small disadvantaged business concerns, Historically Black Colleges and Universities, minority educational institutions, and women-owned small business concerns as subcontractors to the maximum extent practicable.

§ 1260.414 Clean Air-Water Pollution Control Acts.

Clean Air-Water Pollution Control Acts (Mar. 1992)

If this grant or supplement thereto is in excess of $100,000, the grantee agrees to notify the administrative grant officer promptly of the receipt, whether prior or subsequent to the grantee's acceptance of this grant, of any communication from the Director, Office of Federal Activities, Environmental Protection Agency (EPA), indicating that a facility to be utilized under or in the performance of this grant or any subcontract thereunder is under consideration to be listed on the EPA "List of Violating Facilities" published pursuant to 40 CFR 15.20. By acceptance of a grant in excess of $100,000, the grantee (a) stipulates that any facility to be utilized thereunder is not listed on the EPA "List of Violating Facilities" as of the date of acceptance; (b) agrees to comply with all requirements of Section 114 of the Clean Air Act, as amended (42 U.S.C. 1857 et seq. as amended by Public Law 91–604) and Section 308 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq. as amended by Public Law 92–500) relating to inspection, monitoring, entry, reports and information, and all other requirements specified in the aforementioned Sections, as well as all regulations and guidelines issued thereunder after award of and applicable to the grant; and (c) agrees to include the criteria and requirements of this clause in every subcontract hereunder in excess of $100,000, and to take such action as the administrative grant officer may direct to enforce such criteria and requirements.

§ 1260.415 Procurement standards.

Procurement Standards (Feb. 1992)

The grantee's procurement practices shall meet the standards set forth in § 1260.510.

§ 1260.416 Interest-bearing accounts.

Interest-Bearing Accounts (Jan. 1992)

Advances of federal funds shall be maintained in interest-bearing accounts. Interest earned on federal advances deposited in such accounts shall be remitted to NASA at least quarterly, as instructed by the Financial Management Office of the NASA installation which issued the grant. Interest amounts up to $100 per year may be retained by the grantee.

§ 1260.417 Debarment and suspension and drug-free workplace.

Debarment and Suspension and Drug-Free Workplace (Feb. 1992)

NASA grants are subject to the provisions of 14 CFR part 1265, Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide requirements for Drug-Free Workplace (Grants), unless excepted by §§ 1265.110 or 1265.610. The certifications required by that

regulation must accompany extension proposals.

§ 1260.418 Foreign national employee investigative requirements.

Foreign National Employee Investigative Requirements (May 1992)

(a) The grantee shall submit a properly executed Name Check Request (NASA Form 531) and a completed applicant fingerprint card (Federal Bureau of Investigation Card FD–258) for each foreign national employee requiring access to a NASA Installation. These documents shall be submitted to the Installation's Security Office at least 75 days prior to the estimated duty date. The NASA Installation Security Office will request a National Agency Check (NAC) for foreign national employees requiring access to NASA facilities. The NASA Form 531 and fingerprint card may be obtained from the NASA Installation Security Office.

(b) The Installation Security Office will request from NASA Headquarters, International Relations Division (Code IR), approval for each foreign national's access to the Installation prior to providing access to the Installation. If the access approval is obtained from NASA Headquarters prior to completion of the NAC and performance of the grant requires a foreign national to be given access immediately, the technical officer may submit an escort request to the Installation's Chief of Security.

§ 1260.419 Restrictions on lobbying

Restrictions on Lobbying (Apr. 1990)

This award is subject to the provisions of 14 CFR part 1271 "New Restrictions on Lobbying."

§ 1260.420 Travel and transportation.

Travel and Transportation (Jun. 1993)

(a) Section 5 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 App. U.S.C. 1517)(Fly America Act) requires the grantee to use U.S.-flag air carriers for international air transportation of personnel and property to the extent that service by those carriers is available.

(b) Department of Transportation regulations, 49 CFR part 173, govern grantee shipment of hazardous materials and other items.

§ 1260.421 Program income.

Program Income (Jun. 1992)

Program income shall be retained by the grantee and shall be added to funds already committed to the project and used to further project objectives.

§ 1260.422 Special conditions.

(a) In addition to the provisions set forth in this subpart, NASA grants are subject to various conditions which either are not applicable to all awards or are temporary in nature. Such conditions are not incorporated by reference or printed in NASA Form 1463A, "NASA Provisions for Research Grants and Cooperative Agreements," but are appended in full text to specific grants, as applicable.

(b) With respect to cooperative agreements under 31 U.S.C. 6305, it has been determined that the NASA guidelines and regulations applicable to grants will apply to cooperative agreements. The cooperative agreement, NASA Form 1562, shall contain a special condition stating the nature of the recipient/NASA interaction in accordance with 31 U.S.C. 6305. That special condition is as follows:

Cooperative Agreement Special Condition (Feb. 1992)

This award is a cooperative agreement as it is anticipated that there will be substantial NASA involvement during performance of the effort. That is, the recipient can expect NASA collaboration or participation in the management of the project. The terms "grant" and "grantee" mean "cooperative agreement" and "recipient of cooperative agreement," respectively, wherever the terms appear in provisions and special conditions included in this agreement. NASA and the recipient mutually agree to the following statement of anticipated cooperative interactions which may occur during the performance of this effort. (Insert here a concise statement of the exact nature of the cooperative interactions. In addition, note that the statement must deal with existing facts and not contingencies. Under no circumstances shall the statement be used as a work statement or an expanded grant title.)

(c) See § 1260.303(b)(5).

Multiple Year Grant (Nov. 1991)

This is a multiple year grant. Contingent on the availability of funds, scientific progress of the project and continued relevance to NASA programs, NASA anticipates continuing support at approximately the following levels:

Second year $... Anticipated funding date: _____

Third year $... Anticipated funding date: _____

(Additional periods may be included or omitted as applicable.)

(d) See § 1260.302(d).

Incremental Funding (Jun. 1992)

Only $_____of the amount indicated on the face of this award is available for payment and allotted to this award. NASA contemplates making an additional allotment in the amount of $_____by _____.

These funds will be obligated to the grant as appropriated funds become available without any action required by the grantee, and the grantee will be given written notification by the NASA grant officer. NASA is not obligated to reimburse the grantee for the expenditure of amounts in excess of the total funds allotted by NASA.

(e) See § 1260.303(d).

Cost Sharing (Jun. 1992)

The grantee agrees to share in the cost of the research by charging to the Government no more than _____percent of the costs incurred in performing the work contemplated by the grant as determined to be allowable in accordance with 14 CFR 1260.406. The remaining _____percent, or more, of the allowable costs of performance so determined will constitute the grantee's share and will not be charged to the Government under this grant or under any other grant or contract (including allocation to other grants or contracts as part of an independent research and development program). The grantee will maintain records of all grant costs claimed by the grantee as constituting part of its share and such records shall be subject to audit by the Government.

(f) See § 1260.106. "INVENTION REPORTING AND RIGHTS—FOREIGN" in NASA FAR Supplement 18–52.227–85 (48 CFR 1852.227–85) (suitably tailored to identify the parties and the instrument) may be used as a special condition unless in consultation with Installation Patent Counsel, a different provision would be more appropriate.

(g) See § 1260.605(a).

Reports Substitution (Feb. 1992)

Technical reports may be substituted for the required performance reports. The title page of such reports shall clearly indicate that the substitution has been made, showing the period covered by the originally required performance report.

(h) See § 1260.605(d).

Withholding (Jul. 1992)

Pending receipt of the satisfactorily completed summary of research and other final reports under this grant, the financial management office will withhold $ _____from the last payment.

Subpart 1260.5—Administration

§ 1260.501 Delegation of administration.

(a) Policy. Pursuant to the Government-wide "cross-servicing" policy, it is NASA's policy to delegate administration to the Office of Naval Research (ONR).

(b) Procedures. Delegations will be made using NASA Form 1430, "Letter of Contract Administration Delegation, General;" NASA Form 1430A, "Letter of Contract Administration Delegation, Special Instructions;" and NASA Form 1431, "Letter of Acceptance of Contract Administration Delegation." The grant officer will inform the grantee, in writing, that the delegation has been made, and provide specific instructions regarding actions requiring ONR involvement.

(c) Types of administration.

(1) Full administration. The grant officer will use NASA Form 1430, as provided in Exhibit A, Figure 1, of the appendix to this part 1260, to delegate to ONR full administration for each

grant, except when ONR is not the cognizant administration office or when ONR administration services are not reasonably available.

(2) Property administration. Property administration (review and approval of grantees' property control procedures, and on-site surveys of grantees' property control systems) and plant clearance (screening, redistribution and disposal of Government property from grantees' work sites) will be delegated to ONR. Installations will use standard, special instruction wording on the NASA Form 1430A, as provided in Exhibit A, Figure 2, of the appendix to this part 1260.

(3) Closeout. Grant closeout may be retained if the grant officer determines that delegation to ONR is not in the best interest of NASA. Closeout delegation must be preceded or accompanied by a Property Administration and Plant Clearance Delegation (if any grantee acquired or Government-furnished equipment (GFE) is involved). Installations will use standard special instruction wording on the NASA Form 1430A, as provided in Exhibit A, Figure 3, of the appendix to this part 1260. ONR shall obtain the approval of the NASA grant officer prior to initiating closeout. To expedite closeout, NASA grant officers shall respond to ONR inquiries within 30 days. NASA grant officers shall inform individuals named on NASA Form 1430A, Item 4(f), (i) that a delegation has been made and (ii) of the requirement for timely responses to any inquiries received directly from ONR.

§ 1260.502 Grant supplements.

The NASA grant officer may modify a grant by using a grant supplement. Uses include multiple year grants and grant renewals (§ 1260.303(b) and (f)), extensions (§ 1260.403), incremental funding (§ 1260.302(d)), and novations (§ 1260.505).

§ 1260.503 Adherence to original budget estimates.

Although NASA assumes no responsibility for budget overruns, the grantee may spend grant funds for the proposed research without strict adherence to individual allocations within total budgets, except as provided in § 1260.408(a) and (b) and § 1260.413(a).

§ 1260.504 Suspension or revocation.

(a) *Policy.* Suspension or revocation of a grant prior to the planned expiration date must be reserved for exceptional situations which cannot be handled any other way (see § 1260.404). Before suspending or revoking any grant with a university, the NASA grant officer and technical officer shall take into account the consequences to graduate students working under the grant.

(b) *Suspension of the grant.* When a grantee has failed to comply with the terms of a grant, NASA may, upon reasonable notice to the grantee, temporarily suspend the grant, withhold further payments, and prohibit the grantee from incurring additional costs, pending corrective action by the grantee or a decision by NASA to revoke the grant. NASA will allow all necessary and proper costs that the grantee could not reasonably avoid during the period of suspension.

§ 1260.505 Transfers, novations, and change of name agreements.

(a) *Transfer of grants.* Novation as provided in § 1260.505(b), is the only means by which a grant may be transferred from one institution to another. When the principal investigator changes organizational affiliation and desires support for the research at a new location and novation is not used, a new proposal must be submitted to NASA via the appropriate officials of the new institution. Although such a proposal will be reviewed in the normal manner, every effort will be made to expedite a decision. Regardless of the action taken on the new proposal, final reports on the original grant, describing the scientific progress and expenditure to date, will be required.

(b) *Novation and change of name.* All novation agreements and change of name agreements of the grantee, prior to execution, shall be reviewed by legal counsel for legal sufficiency. When a change in principal investigator from one institution to another occurs, novation of the grant is preferable to revocation.

§ 1260.506 Use, disposition, and vesting of title to equipment.

(a) *Policy.* The following policies will be reflected, as applicable, in NASA grants.

(1) Title to equipment purchased with grant funds vests in the grantee subject to § 1260.506(a)(4), and the equipment does not automatically follow the principal investigator when he or she leaves the institution.

(2) Title to Government furnished equipment remains with the Government. In accordance with Public Law 94–519, NASA policy is not to furnish excess property, acquired by NASA from other Government agencies, to grantees.

(3)When Government furnished equipment is reported excess by a grantee, the administrative grant officer will report the equipment to the Installation property disposal officer for further NASA use. If NASA has no further need for the property, it shall be declared excess by the Installation property disposal officer and reported to the General Services Administration. Disposition instructions will be issued to the grantee by the administrative grant officer after completion of the Federal-wide review by GSA.

(4) NASA may require transfer to it of title to individual items or coherent systems (§ 1260.506(a)(9)) of grantee acquired equipment purchased at a cost of more than $1,000 subject to the following conditions:

(i) NASA shall notify the grantee in writing.

(ii) NASA shall issue disposition instructions by 120 days after the end of the grant under which it was acquired. If NASA fails to issue disposition instructions within the 120-day period, the grantee shall apply the standards of subparagraphs 6b and 6c, Attachment N to OMB Circular No. A–110, as appropriate.

(iii) When NASA exercises its right to take title, the equipment shall be subject to the provisions for Government furnished equipment discussed in § 1260.507(a).

(iv) When title is transferred to the Federal Government, the provisions of subparagraph 6c(2)(b), Attachment N to OMB Circular No. A–110, shall be followed.

(5) Title to equipment costing $1,000 or less is not subject to transfer to the agency, except under the conditions of § 1260.506(a)(9).

(6) NASA procedure does not require a grantee to transfer title to grantee acquired equipment directly to another grantee or contractor. Such transfers are accomplished by the Government's taking title and issuing it as Government furnished equipment.

(7) NASA normally will not recover equipment that a grantee desires to retain unless it is required for NASA work at a different location.

(8) Cost sharing by NASA and a grantee in the acquisition of individual items or coherent systems of equipment, that could result in joint ownership, shall normally be avoided. When joint ownership cannot be avoided, and the NASA contribution will exceed $1,000, agreement regarding NASA retention of its option to take title and the conditions under which the option (if retained) will be exercised, shall be reached and documented prior to purchase.

(9) When two or more components are fabricated into a single coherent system in such a way that the components lose their separate identities, and their

separation would render the system useless for its original purpose, the components will be considered as integral parts of a single system. If such a system includes grantee-owned components (for cost sharing or other purposes), § 1260.506(a)(8) applies. The requirement for agreement regarding NASA's retention of its option to take title shall further apply where it is expected that one or more grantee-acquired components costing $1,000 or less will be fabricated into a single coherent system costing in excess of $1,000. However, an item that is used ancillary to a system, without loss of its separate identity and usefulness, will be considered as a separate item and not as an integral component of the system.

(b) *Procedures.*

(1) When a decision is made to revoke, not renew, or otherwise not continue support of a grant, the administrative grant officer shall notify the grantee in writing of the requirement under the grant for submission of a final inventory report of grantee acquired equipment and Government furnished equipment.

(2) When the technical officer desires that NASA take title to an item of grantee acquired equipment, the technical officer shall request the administrative grant officer to obtain information regarding the grantee's desire to retain the equipment, the use to which it would be put in the absence of further NASA support of the grant, and the effect of removal of the equipment.

(3) The administrative grant officer shall obtain the information described in § 1260.506(b)(2) and provide copies to the technical officer and the Headquarters Supply and Equipment Management Office (Code JIE) for their coordinated review and recommendation regarding acquisition of title. The technical officer shall inform the administrative grant officer of the recommendation by means of a memorandum concurred in by Code JIE.

(4) When NASA acquires title to items of grantee acquired equipment, the administrative grant officer shall notify both the cognizant NASA Installation financial management officer and supply and equipment management officer to ensure proper entries in financial and property accounting records.

§ 1260.507 Property management standards.

(a) *Nonexpendable personal property.* As prescribed by OMB Circular No. A–110, the grantee shall be subject to the following property management standards for Government furnished equipment and grantee acquired equipment:

(1) Property records shall be maintained accurately and shall include:

(i) A description of the property.

(ii) Manufacturer's serial number, model number, national stock number, or other identification number.

(iii) Source of the property, including grant or other agreement number.

(iv) Whether title vests in the grantee or the Federal Government.

(v) Acquisition date (or date received, if the property was furnished by the Federal Government) and cost.

(vi) Percentage (at the end of the budget year) of Federal participation in the cost of the project or program for which the property was acquired. (Not applicable to property furnished by the Federal Government.)

(vii) Location, use and condition of the property and the date the information was reported.

(viii) Unit acquisition cost.

(ix) Ultimate disposition data, including date of disposal and sales price or the method used to determine current fair market value where a recipient compensates the Federal sponsoring agency for its share.

(2) Property owned by the Federal Government must be marked to indicate Federal ownership.

(3) A physical inventory of property shall be taken and the results reconciled with the property records at least once every 2 years. Any differences between quantities determined by the physical inspection and those shown in the accounting records shall be investigated to determine the causes of the difference. The grantee shall, in connection with the inventory, verify the existence, current utilization, and continued need for the property.

(4) A control system shall be in effect to ensure adequate safeguards to prevent loss, damage, or theft of the property. Any loss, damage, or theft of nonexpendable property shall be investigated and fully documented. If the property was owned by the Federal Government, the grantee shall promptly notify the administrative grant officer.

(5) Adequate maintenance procedures shall be implemented to keep the property in good condition.

(6) Where the grantee is authorized or required to sell the property, proper sales procedures shall be established which would provide for competition to the extent practicable and result in the highest possible return.

(b) *Exempt property.* Title to nonexpendable personal property acquired with grant funds shall be vested in the grantee upon acquisition, unless it is determined that to do so is not in furtherance of the objectives of NASA. When title is vested in the grantee, the grantee shall have no other obligation or accountability to the Federal Government for its use or disposition, except as provided in §§ 1260.408(h), 1260.506(a)(4), and 1260.507(a).

§ 1260.508 Screening of requests for Government furnished equipment.

(a) Pursuant to NMI 4000.2, "NASA Equipment Management," a NASA Equipment Management System (NEMS) has been established to identify and effect optimum use and reuse of Government-owned equipment items of high value and reuse potential. The NEMS and this paragraph apply only to grantee requests for Government furnished equipment. Requests for grantee acquired equipment are neither required nor encouraged to be screened through the NEMS.

(b) When a grantee requests Government furnished equipment of $1,000 or more, the grant officer shall screen the item through the Installation's NEMS coordinator. Screening requests shall list the manufacturer, model number, description, national stock number, estimated cost, and any other information deemed necessary by the NEMS coordinator to properly identify the item. Urgent requests may be screened by telephone and documented.

(c) When suitable equipment is located through the foregoing procedures, the holding Installation will place a "freeze" on the item for 10 working days, pending shipping instructions. Extension of the freeze period must be requested through the NEMS Coordinator if shipping instructions cannot be furnished within the required period. (See paragraph 5.307, NASA Equipment Management Manual, NHB 4200.1.)

§ 1260.509 Financial management standards.

As prescribed by OMB Circular No. A–110, the grantee shall be subject to the following financial management standards:

(a) Accurate, current, and complete disclosure of the financial results of the project.

(b) Records that identify adequately the source and application of funds for the grant. These records shall contain information pertaining to the award, authorizations, obligations, unobligated balances, assets, outlays, and income.

(c) Effective control over and accountability for all funds, property, and other assets. The grantee shall

adequately safeguard all such assets and shall assure that they are used solely for authorized purposes.

(d) Comparison of actual outlays with obligated amounts for the grant.

(e) Procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and the disbursement by the grantee. When advances are made by a letter-of-credit method or electronic funds transfer, the grantee shall make drawdowns as close as possible to the time of making disbursements.

(f) Procedures for determining the reasonableness, allowability, and allocability of costs in accordance with the provisions of § 1260.406 and any other terms of the grant.

(g) Accounting records that are supported by source documentation.

(h) A systematic method to assure timely and appropriate resolution of audit findings and recommendations.

§ 1260.510 Procurement standards.

As prescribed by OMB Circular No. A–110, the grantee shall be subject to the following procurement standards:

(a) The grantee shall maintain a code of standards of conduct that shall govern the performance of its officers, employees or agents engaged in the awarding and administration of a subcontract using NASA funds. No employee, officer, or agent shall participate in the selection, award, or administration of subcontracts under grants using NASA funds, where, to his or her knowledge, there exists a financial interest on the part of that person, that person's immediate family or partners, or any organization in which that person or an immediate family member or partner has a financial interest or with whom he or she is negotiating or has any arrangement concerning prospective employment. The grantee's officers, employees, or agents shall neither solicit nor accept gratuities, favors, or anything of monetary value from subcontractors or potential subcontractors. Such standards shall provide for disciplinary actions to be applied for violation of such standards by the grantee's officers, employees, or agents.

(b) All procurement transactions shall be conducted in a manner to provide, to the maximum extent practical, open and free competition. The grantee should be alert to organizational conflicts of interest or noncompetitive practices among its subcontractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective subcontractor performance and eliminate unfair competitive advantage, subcontractors that develop or draft specifications, requirements, statements of work, invitations for bids, or requests for proposals should be excluded from competing for such procurements, except when NASA gives approval to a grantee's request to waive this requirement for a particular procurement. Awards shall be made to the bidder/offeror whose bid/offer is responsive to the solicitation and is most advantageous to the grantee—price and other factors considered. Solicitations shall clearly set forth all requirements that the bidder/offeror must fulfill in order for the bid/offer to be evaluated by the grantee. Any and all bids/offers may be rejected when it is in the grantee's interest to do so.

(c) The grantee shall establish procurement procedures that provide for, at a minimum, the following procedural requirements:

(1) Proposed procurement actions shall follow a procedure to assure the avoidance of purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(2) Solicitations for goods and services shall be based upon a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such a description shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" descriptions may be used as a means to define the performance or other salient requirements of a procurement and, when so used, the specific features of the named brand which must be met by bidders/offerors shall be clearly specified.

(3) Positive efforts shall be made by the grantee to utilize small business concerns, small disadvantaged business concerns, Historically Black Colleges and Universities, minority educational institutions, and women-owned small business concerns as sources of supplies and services. Such efforts should allow these sources the maximum practicable opportunity to compete for subcontracts utilizing NASA funds.

(4) The types of procuring instruments used, e.g., fixed-price subcontracts, cost reimbursable subcontracts, purchase orders, and incentive subcontracts, shall be determined by the grantee but must be appropriate for the particular procurement and for promoting the best interest of the program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used.

(5) Subcontracts shall be made only with responsible subcontractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as subcontractor integrity, record of past performance, financial and technical resources, and accessibility to other necessary resources.

(6) Some form of price or cost analysis should be made in connection with every procurement action. Price analysis may be accomplished in various ways, including the comparison of price quotations submitted, market prices and similar indicators, together with discounts. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability, and allowability.

(7) Procurement records and files for purchases in excess of $10,000 shall include the following:

(i) Basis for subcontractor selection.

(ii) Justification for lack of competition when competitive bids or offers are not obtained.

(iii) Basis for award cost or award price.

(8) A system for subcontract administration shall be maintained to ensure subcontractor conformance with terms, conditions, and specifications of the subcontract, and to ensure adequate and timely follow up of all purchases.

(d) The following provisions are required in subcontracts in excess of $10,000 awarded by the grantee or a subcontractor, regardless of tier

(1) Provisions or conditions that will allow for administrative, contractual, or legal remedies in instances in which subcontractors violate or breach subcontract terms and provide for such remedial actions as may be appropriate.

(2) Provisions for termination by the grantee, including the manner by which termination will be effected, and the basis for settlement. In addition, such subcontracts shall describe conditions under which the subcontract may be terminated for default, as well as conditions where the subcontract may be terminated because of circumstances beyond the control of the subcontractor.

(3) A provision requiring compliance with Executive Order 11246, entitled "Equal Employment Opportunity," as amended by Executive Order 11375, and as supplemented in Department of Labor regulations (41 CFR part 60).

(4) For negotiated subcontracts, a provision to the effect that the grantee, NASA, the Comptroller General of the United States, or any of their duly

authorized representatives, shall have access to any books, documents, papers, and records of the subcontractor which are directly pertinent to the specific project, for the purpose of making audits, examinations, excerpts, and transcriptions.

(e)(1) All subcontracts, regardless of tier, which may involve international air transportation shall require subcontractor compliance with the statute cited in § 1260.420(a).

(2) All subcontracts, regardless of tier, which may involve shipment of hazardous materials or other regulated items shall require subcontractor compliance with the regulation cited in § 1260.420(b).

§ 1260.511 Closeout procedures.

The closeout of a grant is the process by which NASA determines that all applicable administrative actions and all required work under the instrument have been completed by the grantee and NASA. Closeout procedures consist of the following steps:

(a) Initiation. As a basis for closeout initiation, the NASA grant officer shall determine from the technical officer that work under a particular grant will not be continued or is completed. The NASA grant officer will promptly notify the administrative grant officer to begin closeout within 90 days of this determination. The administrative grant officer will inform the grantee of pending closeout and the final documentation required. To the extent practicable, such notification will be made prior to the grant's expiration date.

(b) Reports submission. The administrative grant officer will ensure that the summary of research and all other final reports have been received by the appropriate NASA offices. Specifically:

(1) Summary of research (see §§ 1260.402 (d) through (f) and 1260.605(b)).

(2) Final report of inventions and subcontracts (see §§ 1260.409 and 1260.605(b)).

(3) Final Federal cash transactions report (see §§ 1260.407(a), 1260.603 and 1260.605(c)).

(4) Final property inventory (see §§ 1260.408(h), 1260.506(b), and 1260.604).

(c) Reports certification. The administrative grant officer will obtain from the recipients of all NASA reports, written certification that the above-noted reports have been satisfactorily completed. In reviewing the certifications, ensure the following:

(1) The grantee is required to immediately refund any balance of unobligated (unencumbered) cash that NASA has advanced or paid. NASA shall make prompt payment for any remaining allowable, reimbursable costs under the grant being closed out.

(2) Final audit of NASA grants normally occurs as a part of scheduled overall audits performed by the cognizant audit agency. Therefore, requests for audit of specific grants in conjunction with closeout are generally unnecessary and should be reserved for unusual circumstances. Unless the cognizant audit agency has performed a final audit prior to closeout of the grant, the administrative grant officer shall state in the closeout letter to the grantee that:

> "NASA retains the right to recover an appropriate amount after fully considering the recommendations on disallowed costs resulting from any subsequent audit."

(3) The property certification should indicate that disposal of any remaining Government property has been made as directed and that NASA has been compensated for any residual inventory (see § 1260.408 (f) through (h)).

(4) Upon administrative grant officer receipt of all four certifications from recipients of the summary of research and other final reports, a grant is considered to be administratively complete. A DD Form 1594 will be provided by ONR to the NASA grant officer for the file. Closeout may be cited as the date the administrative grant officer documents the file that all required actions have been satisfactorily completed, and that no further actions are necessary.

(d) Prohibitions. Forms, procedures, or requirements (regardless of modifications) applicable to contracts shall not be used during grant closeout unless otherwise authorized in this handbook. Grantees shall not be requested to complete forms or supply information other than discussed in § 1260.511(b), except in unusual situations.

(e) Retention of documents. The original or a signed copy of each grant, with supporting data, shall be retained by the installation, for audit purposes, for 3 years after the expiration date of the grant.

Subpart 1260.6—Reports

§ 1260.6011 Individual procurement action report (NASA Form 507).

The grant officer is responsible for submitting NASA Form 507 for all grant actions.

§ 1260.602 Committee on Academic Science and Engineering (CASE) report (NASA Form 1356).

For grants awarded to educational institutions, NASA Form 1356 is submitted with funded procurement requests. In the case of certain non-funded actions for educational institutions, the NASA Form 1356 is initiated by the grant officer.

§ 1260.603 Federal cash transactions report (SF 272).

The SF 272 shall be submitted by the grantee within 15 working days following the end of each Federal fiscal quarter, as a condition of receiving advance payments, in accordance with instructions to be provided by the financial management office of the Installation which issued the grant. Any questions regarding payment should be directed to the financial management officer of that Installation.

§ 1260.604 Inventory listings of equipment.

As provided in § 1260.408(h) of this part 1260, an annual inventory listing of Government furnished equipment will be submitted by July 31 of each year. The listing shall include the information specified in § 1260.507(a)(1) and beginning and ending dollar value totals for the reporting period. Upon receipt of each annual inventory listing, the administrative grant officer will provide 1 copy to the NASA installation financial management officer and 1 copy to the NASA installation industrial property officer. A final inventory report of Government furnished equipment and grantee acquired equipment is due 60 days after the end of the grant, in accordance with § 1260.408(h). Upon receipt of the final inventory report, the administrative grant officer will provide 1 copy to the technical officer and 1 copy to the NASA Installation industrial property officer.

§ 1260.605 Performance reports, summaries of research, and other final reports.

(a) Three copies of a performance report, including a concise statement of the research accomplished during the report period, shall be submitted for every year of the grant (except the final year) and is due 60 days before the anniversary date of the grant. At the specific request of the technical officer, this requirement may be modified by use of the special condition entitled "Reports Substitution" (see § 1260.422(g)).

(b) By 90 days after the expiration date of the grant, the grantee shall submit three copies of a summary of research which summarizes the results of the entire project. Citation of

publications resulting from the research, or abstracts thereof, may serve as all or part of this summary of research. In addition, the grantee will report to NASA whether or not any inventions, required to be reported under the grant, have been made in the performance of work thereunder.

(c) A properly certified final Federal cash transactions report, SF 272, is required from the grantee for each grant as provided in § 1260.511(b)(3).

(d)(1) Failure to provide a required grant report can result in: The agency and the public being denied information about grant activities; agency officials having less information for making decisions based on the grant; grant closeout being delayed; and confidence being undermined that the grantee will follow requirements under other grants. Consistent with OMB Circular No. A–110, NASA does not withhold payment under grants, for the purpose of ensuring receipt of reports, until a grantee's failure to provide a required report indicates a need for withholding payment.

(2) Because NASA grants provide for advance payments, the circumstances under which NASA grant officers can withhold payment are limited. The grantee has an opportunity to be paid all of the funds before final reports are due. At this point, it is usually too late to withhold payment under the grant for overdue final reports. When a report is more than 90 days overdue, the NASA grant officer can include the special condition for withholding payment in the grant with the overdue report only if the grant is being supplemented with additional funds, and can also include the special condition in other grants that are being awarded or supplemented.

(3) To ensure receipt of reports and summaries of research from any grantee that has failed to comply with Federal reporting requirements for a period longer than 90 days, the NASA grant officer will take, but not to be limited to, the following action: when awarding a new grant or supplementing an existing grant, include the special condition at § 1260.422(h). The special condition instructs the financial management office to withhold from the last payment a dollar amount pending receipt of the satisfactorily completed summary of research and other final reports identified in § 1260.511(b). The NASA grant officer shall insert in the special condition a dollar amount for withholding that is not more than five percent of the dollar value of the first year of the grant.

(4) The grant officer may waive the withholding requirement for any grant when the grantee has taken corrective action that makes withholding unnecessary. To release for payment the amount withheld, the NASA grant officer shall use a memorandum substantially as shown in Exhibit C as listed in the appendix to this part 1260.

§ 1260.606 Disclosure of lobbying activities (SF LLL).

(a) Grant officers shall provide one copy of each SF LLL furnished under 14 CFR 1271.110 to the Procurement Officer for transmittal to the Director, Procurement Systems Division (Code HM).

(b) Suspected violations of the statutory prohibitions implemented by 14 CFR part 1271 shall be reported to the Director, Procurement Policy Division (Code HP).

§ 1260.607 Debarment and suspension.

The Director, Procurement Policy Division (Code HP) shall provide to the General Services Administration information concerning all NASA debarments, suspensions, determinations of ineligibility, and voluntary exclusions of persons in accordance with 14 CFR 1265.505.

Appendix to Part 1260—Listing of Exhibits

Exhibit A—Delegation of Administration

Figure 1—General

Exhibit A—Delegation of Administration

Figure 2—Property Administration and Plant Clearance

Exhibit A—Delegation of Administration

Figure 3—Close-Out

Exhibit A—Delegation of Administration

Figure 4—Memorandum of Agreement

Exhibit B—Formats

Figure 1—Research Grant

Exhibit B—Formats

Figure 2—Cooperative Agreement

Exhibit C—Release of Withholding

The preceding exhibits are included in the NASA Research Grant Handbook which may be obtained as set forth in § 1260.104(b).

[FR Doc. 93–25254 Filed 10–15–93; 8:45 am]

BILLING CODE 7510–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 346 and 381

[Docket No. RM92–17–001]

Elimination of Certain Filing Fees

Issued October 12, 1993.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule; Order denying rehearing.

SUMMARY: On January 4, 1993, the Federal Energy Regulatory Commission adopted a final rule that amends the Commission's regulations by eliminating certain filing fees. ANR Pipeline Company and Colorado Interstate Gas Company filed a joint request for rehearing of the final rule. The Commission is denying the request for rehearing.

EFFECTIVE DATE: The order on rehearing is effective October 12, 1993.

FOR FURTHER INFORMATION CONTACT: Alan M. Briskin, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 208–0457.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission has made this document available so that all interested persons may inspect or copy its contents during normal business hours in room 3104, 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, 2400 baud, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this document 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 located in room 3104, 941 North Capitol Street NE., Washington, DC 20426.

[Order No. 548–A]

Order Denying Rehearing

Issued October 12, 1993.

Before Commissioners: Elizabeth Anne Moler, Chair; Vicky A. Bailey, James J. Hoecker, William L. Massey, and Donald F. Santa, Jr.

I. Introduction and Background

On January 4, 1993, the Commission issued Order No. 548 eliminating certain filing fees from parts 346 and 381 of the Commission's regulations.[1] ANR Pipeline Company and Colorado Interstate Gas Company (ANR and CIG or requesters) filed a timely joint request for rehearing. The request for rehearing does not raise any new issues of fact, law, or policy that ANR and CIG did not previously raise in their comments filed in response to the Notice of Proposed Rulemaking.[2] The Commission fully considered and addressed these comments in Order No. 548. For the reasons stated there and discussed further below, the Commission denies rehearing.

II. Discussion

A. The Commission's Decision To Eliminate Certain Filing Fees Is Supported by Substantial Evidence

ANR and CIG argue that the Commission did not provide adequate justification for eliminating certain filing fees. The Commission disagrees. In its Notice of Proposed Rulemaking and in the Final Rule (Order No. 548), the Commission explained its reasons for eliminating most filing fees and recovering costs associated with these filings through annual charges. The Commission observed that this approach will simplify the filing process and expedite the consideration of filings and enhance certainty for jurisdictional companies because fees for specific types of regulatory action are, by their nature, subject to greater fluctuation than is a single annual charge based on a pro rata share of the Commission's costs for an entire regulatory program. It will also encourage jurisdictional companies to make filings purely on the basis of their assessment of market and competitive factors, since the presence of fees and the varying amounts of fees will no longer create artificial incentives to take or avoid certain actions or to make one type of filing rather than another. Further, it will lower some of the Commission's administrative costs. The Commission also emphasized that these benefits would not be counterbalanced by burdensome increases in annual charges. The elimination of the fees will not result in additional Commission revenues. The same level of expenses will be recouped so that any increase in annual charges will be offset by a corresponding decrease in the revenues otherwise collected through filing fees.

The claim of ANR and CIG that the Commission has failed to articulate a reasoned basis for its decision ignores most of these specific findings. Moreover, to the extent ANR and CIG challenge specific Commission findings, they rely on an evidentiary standard that is inapplicable to general policy rulemaking and for which they offer no legal support.

For example, the Commission, as noted, concluded that the elimination of filing fees would remove artificial incentives for companies to take or avoid certain actions based on the regulatory fees associated with those actions, and observed that the elimination of such artificial incentives was especially desirable as energy companies are expected to operate in an increasingly competitive environment. The Commission also cited specific complaints by certain public utilities that filing fees discouraged them from engaging in economically efficient sales to the public. ANR and CIG do not dispute the Commission's rationale but complain that it was not based on cost and revenue study data.

ANR and CIG have failed to identify what relevant information such a study would produce. The Commission is not aware of any basis in law or logic to require a cost and revenue study to support judgmental and predictive determinations of the kind involved here, and ANR and CIG have offered none. See *FCC* v. *National Citizens Committee for Broadcasting*, 436 U.S. 775, 814 (1978).

Next, requesters dispute the Commission's conclusions about the financial impact of the proposal on jurisdictional companies, but their arguments support rather than vitiate those conclusions. Specifically, the Commission found that, while in any given year a particular pipeline or public utility may face a higher or lower increase in annual charges than it saves through the elimination of fees, in the long run these increases and savings should balance out. Moreover, even in the short term, no company faces the kind of increases that could substantially affect its financial condition or ability to compete.

Requesters point to the Commission's recognition in the Final Rule that annual charges for individual gas companies would have risen by as much as $469,396 under the new rule in 1992. However, this in no way undermines the Commission's conclusions. First, the $469,396 increase was the highest in a range of increases starting at $17. Equally important, these figures ignore savings resulting from the elimination of filing fees. Requesters claim that the rule's net effect on ANR (considering both increased annual charges and eliminated fees) would have been to raise costs by $167,419 in 1992 or an average of $208,132 over the 1990–1992 period. Assuming these numbers are accurate, they are entirely consistent with the Commission's recognition that for any particular company annual charge increases may well exceed savings in filing fees in the short term. But for gas companies as a group, increased annual charges will be balanced by filing fee savings. (It is noteworthy, for example, that while ANR and CIG mention ANR's increased costs, they are silent about the impact on CIG, which would have saved $53,063 under the new rule in 1992.) Moreover, the annual increases claimed by ANR represent a small fraction of its revenues and could not substantially affect its financial condition or ability to compete, as the Commission found. Finally, annual charge payments to the Commission are properly included as a regulatory expense in the rates a pipeline charges its customers, just as have been the filing fees paid by pipelines.

In short, while requesters couch their argument in the form of a claim that the Commission has not provided an adequate explanation for its decision, the Commission has in fact provided an adequate justification for a policy determination with which requesters happen to disagree. The fact that they disagree with the Commission's judgment is not a sound basis for overturning it. The United States Court of Appeals for the District of Columbia Circuit has held that "the possibility of drawing two inconsistent conclusions from the evidence does not prevent an administrative agency's finding from being supported by substantial evidence." *Consolidated Gas Transmission Corp.* v. *FERC*, 771 F.2d 1536 (1985) (quoting *Consolo* v. *FMC*, 383 U.S. 607, 620 (1966)).

B. The Requesters' Claim That the Commission Must Assess Regulatory Costs in Proportion to the Regulatory Activity of Jurisdictional Companies Is an Invalid Attack on Annual Charges, Per Se

ANR and CIG repeat the argument that regulated companies should be required to pay only the costs associated with their individual filings. This argument amounts to an attack on

[1] 58 FR 2968 (Jan. 7, 1993), III FERC Stats. & Regs. ¶ 30,960 (Jan. 4, 1993).

[2] 57 FR 48005 (Oct. 21, 1992), IV FERC Stats. & Regs. ¶ 32,488 (Oct. 15, 1992).

annual charges as such. Under the Omnibus Budget Reconciliation Act of 1986 (OBRA), the Commission is expressly authorized to collect annual charges to recover all of its costs, including costs not related to a particular jurisdictional company's regulatory filings. The Commission allocates the costs of a particular program to individual companies on the basis of the volumes of gas they sell or transport, their jurisdictional electricity transactions, oil pipeline revenues, or hydropower capacity and generation. This approach accords with the expectations of Congress reflected in the Conference Report accompanying the OBRA legislation [3] and has been affirmed by the courts.[4] Requesters' insistence that the Commission is limited by law to recovering from a jurisdictional company only the costs engendered by that company's own regulatory filings ignores both OBRA and the judicial decisions sustaining it. The Commission's policy reasons for removing most filing fees have already been discussed above and in the earlier Commission order and require no further comment.

C. The Annual Charges Mechanism

ANR and CIG further argue that the Commission did not consider their suggestions for alternative methods to implement Order No. 548, as provided in their comments.[5] These alternative methods involve changes in the annual charges regulation (18 CFR part 382), which are beyond the scope of this rulemaking. The Commission will address questions concerning annual charges in a future rulemaking. That rulemaking will take into account the comments that were filed by all commenters in this case and will seek additional comments from entities that are affected by the Commission's annual charges assessments.

For all these reasons, the request for rehearing of the Final Rule adopted in Order No. 548 is denied.

[3] Joint Explanatory Statement of the Committee of Conference to Accompany H.R. 5300. H.R. Rep. No. 1012, 99th Cong., 2d Sess. 238, reprinted in 1988 U.S.C.C.A.N. 3607, 3883, 3884.

[4] Skinner v. Mid-America Pipeline Co., 490 U.S. 212 (1989) (upheld user fees, similar to the Federal Energy Regulatory Commission's annual charges, that are assessed based upon the usage, in reasonable relationship to volume-miles, miles, revenues, or an appropriate combination thereof for industry self-regulation as a fair allocation of the cost for regulation); INGAA v FERC, No. 87-1570 (D.C. Cir. filed Oct. 9, 1987) (voluntarily dismissed June 5, 1989, based on the decision in Skinner v. Mid-America Pipeline Co., 490 U.S. 212 (1989)).

[5] III FERC Stats. & Regs. at pp. 30,751-30,752.

By the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93-25486 Filed 10-15-93; 8:45 am]

BILLING CODE 6717-01-M

TENNESSEE VALLEY AUTHORITY

18 CFR Part 1301

Freedom of Information Act

AGENCY: Tennessee Valley Authority (TVA).

ACTION: Final rule.

SUMMARY: The Tennessee Valley Authority is amending its Freedom of Information Act (FOIA) regulations to more accurately reflect its direct reasonable operating costs in searching for and reviewing records requested under the Freedom of Information Act.

DATES: The regulations are effective October 18, 1993. The new rates apply to all requests received after October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Mark R. Winter, Tennessee Valley Authority, 1101 Market Street (BR 6B), Chattanooga, TN 37402-2801, telephone number: (615) 751-2523.

SUPPLEMENTARY INFORMATION: On April 5, 1993 (58 FR 17553), TVA gave notice of its intention to amend its FOIA regulations. One comment was received from the public in response to this notice. The commenter expressed concern that imposition of the new rate structure would restrict citizens' access to public information.

TVA recognizes that the new rate structure may affect certain individuals who request information under the Freedom of Information Act. However, the rates are consistent with the fee schedule guidelines that define the "direct costs" permitted to be recovered under the FOIA.

TVA is therefore amending 18 CFR 1301.2(c)(1) to more accurately reflect its direct reasonable operating costs in searching for and reviewing records requested under the Freedom of Information Act. The rates reflect an average rate for the range of TVA pay grades typically involved in responding to Freedom of Information Act requests. For time spent by clerical employees, the charge is currently $8.35 per hour. For time spent by supervisory and professional employees, the charge is currently $19.75 per hour. TVA is amending the charges to $10.10 per hour and $32.20 per hour, respectively. In conformance with section (a)(4)(A)(iv) of the Freedom of Information Act, as amended, TVA is also amending 18 CFR 1301.2(d)(2) by reducing the amount of search time that will be provided without charge from 4 hours to 2 hours.

List of Subjects in 18 CFR Part 1301

Administrative practice and procedure, Freedom of Information, Privacy Act, Sunshine Act.

For the reasons set forth in the preamble, title 18, chapter XIII, part 1301 of the Code of Federal Regulations is amended as follows:

PART 1301—PROCEDURES

Subpart A—[Amended]

1. The authority citation for subpart A of part 1301 continues to read as follows:

Authority: 16 U.S.C. 831-831dd; 5 U.S.C 552.

2. Section 1301.2 is amended by revising paragraph (c)(1) and the first sentence of paragraph (d)(2) to read as follows:

§ 1301.2 Schedule of fees.

* * * * *

(c) * * *

(1) *Search time charges for other than computer searches.* For time spent by clerical employees in searching files, the charge is $10.10 per hour. For time spent by supervisory and professional employees, the charge is $32.20 per hour.

* * * * *

(d) * * *

(2) Except for documents provided in response to a commercial use request, the first 100 pages and the first 2 hours of search time will be provided without charge. * * *

* * * * *

William S. Moore,

Manager, Information Support Services.

[FR Doc. 93-25383 Filed 10-15-93; 8:45 am]

BILLING CODE 8120-08-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[T.D. 8492]

RIN 1545-AQ95

Bank Bad Debts, Conclusive Presumption

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final and temporary regulations.

SUMMARY: This document contains final regulations that clarify the scope of the express determination that is required under § 1.166–2(d)(3) in order for a bank to elect to use a method of accounting that conforms tax accounting for bad debts to regulatory accounting (conformity election). Section 1.166–2(d)(3) provides a conclusive presumption that debts charged off for regulatory purposes are worthless for tax purposes. The final regulations affect banks that have made or intend to make an election under § 1.166–2(d)(3).

DATES: These regulations are effective October 18, 1993.

These regulations apply to taxable years ending on or after December 31, 1991.

FOR FURTHER INFORMATION CONTACT: Craig Wojay, 202–622–3920 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

On October 2, 1992, the Internal Revenue Service published in the **Federal Register** (57 FR 45568) a notice of proposed rulemaking that, by cross reference to temporary regulations, proposed to amend § 1.166–2(d)(3) of the income tax regulations to clarify the scope of the express determination requirement in § 1.166–2(d)(3)(iii)(D). The language of the uniform express determination letter set forth in Rev. Proc. 92–18, 1992–1 C.B. 684, required similar clarification. Accordingly, Rev. Proc. 92–18 was modified and superseded by Rev. Proc. 92–84, 1992–2 C.B. 489. The revisions did not alter the intended scope of the express determination requirement.

In addition, an amendment to the transition rules in § 1.166–2(d)(3)(iii)(E) of the regulations was proposed because a bank may have been unable to obtain an express determination letter in connection with a Federal supervisory examination of its loan review process that occurred after December 31, 1991, and before October 2, 1992. Extension of the transitional period for which a bank may make the conformity election without an express determination would prevent the automatic revocation under § 1.166–2(d)(3)(iv) of an election made by a bank for its 1991 taxable year in reliance on the regulations.

No public hearing on these regulations was requested or held, but written comments were received. After consideration of the written comments, the temporary regulations are adopted as modified by this Treasury decision.

Explanation of Provisions

Section 1.166–2(d)(3) of the regulations permits supervised banks to elect a method of accounting under which their debts generally are conclusively presumed to be worthless for Federal income tax purposes when the debts are charged off for regulatory purposes. One of the requirements for this "conformity presumption" is that the bank obtain an express determination letter from its supervisory authority in connection with the most recent examination involving the bank's loan review process.

Prior to the temporary regulations, § 1.166–2(d)(3)(iii)(D) required an express determination by a bank's supervisory authority that the bank maintains and applies loan review and loss classification standards that are consistent with those of its supervisory authority. Transitional rules in §§ 1.166–2(d)(3)(iii)(E) and 1.166–2(d)(3)(iv)(C)(*2*) permitted a bank to make an election to use the conformity presumption without an express determination letter for taxable years ending on or after December 31, 1991, and before completion of the first examination involving the bank's loan review process that is after December 31, 1991, provided certain requirements are satisfied.

After the regulations were finalized, a notice of proposed rulemaking by cross reference to temporary regulations was published to alleviate concerns pertaining to the scope of the express determination requirement in § 1.166–2(d)(3). The final regulations contained in this document amend § 1.166–2(d)(3) to require that a bank's supervisory authority expressly determine that the bank maintains and applies "loan loss classification standards," rather than "loan review and loss classification standards" that are consistent with regulatory standards. See § 1.166–2(d)(3)(iii)(D). In addition, the transition rules in § 1.166–2(d)(3) are being amended to allow a bank to make the conformity election without an express determination letter until its first examination (involving the loan review process) that is after October 1, 1992, rather than December 31, 1991. See § 1.166–2(d)(3)(iii)(E) and (d)(3)(iv)(C)(*2*). Therefore, a bank that made the conformity election for its first taxable year ending on or after December 31, 1991, is not required to obtain an express determination letter until the completion of its first Federal examination that is after October 1, 1992, regardless of possible intervening examinations between December 31, 1991, and October 2, 1992.

Three comments were received on the regulations. The first comment requested relief for any bank that, because of the delay in resolving issues related to the express determination letters, did not make a conformity election for a taxable year ending on or after December 31, 1991.

In response to this comment, the Service is releasing concurrently with these regulations Notice 93–50, to be published in Internal Revenue Bulletin No. 1993–34, November 1, 1993, which allows certain banks, on an amended return for a taxable year ending on or after December 31, 1991, to elect to use the conformity method of accounting. The Notice prescribes a period of time in which the election may be made.

The second comment raised the concern that small State-chartered banks may not be able to rely on the conformity presumption for tax years in which they are examined by State banking agencies. Although a small State-chartered bank may not be examined by a Federal banking agency on an annual basis, this does not prejudice the bank's eligibility to use the conformity presumption. Section 1.166–2(d)(3)(iii)(D) requires an express determination letter only upon an examination of a bank's loan review process by a Federal banking agency. When the letter is issued, it covers all tax years until the next such Federal examination. Although a bank may be examined by its State banking authority in an intervening year, the bank is not required to obtain a new determination letter from that authority.

The final comment requested that the conformity presumption be extended to debts that are classified as substandard or doubtful, rather than limited to debts that are classified as loss. This issue was carefully considered during the drafting of the final regulations under § 1.166–2(d)(3), which were published in the **Federal Register** on February 24, 1992 (57 FR 6291), and was not adopted for the reasons expressed at that time. Moreover, this issue is beyond the scope of this regulation project.

Special Analyses

It has been determined that these rules are not major rules as defined in Executive Order 12291. Therefore, a Regulatory Impact Analysis is not required. It has also been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) and the Regulatory Flexibility Act (5 U.S.C. chapter 6) do not apply to these regulations, and, therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the notice of

proposed rulemaking for the regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Drafting Information

The principal author of these regulations is Craig Wojay, Office of the Assistant Chief Counsel (Financial Institutions and Products), Internal Revenue Service. However, other personnel from the Service and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 1 is amended as follows:

PART 1—INCOME TAXES

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

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.166–2 is amended by revising paragraphs (d)(3)(iii)(D), (d)(3)(iii)(E), and (d)(3)(iv)(C)(*2*) to read as follows:

§ 1.166–2 Evidence of worthlessness.

* * * * *

(d) * * *
(3) * * *
(iii) * * *

(D) *Express determination requirement.* In connection with its most recent examination involving the bank's loan review process, the bank's supervisory authority must have made an express determination (in accordance with any applicable administrative procedure prescribed hereunder) that the bank maintains and applies loan loss classification standards that are consistent with the regulatory standards of that supervisory authority. For purposes of this paragraph (d)(3)(iii)(D), the supervisory authority of a bank is the *appropriate Federal banking agency* for the bank, as that term is defined in 12 U.S.C. 1813(q), or, in the case of an institution in the Farm Credit System, the Farm Credit Administration.

(E) *Transition period election.* For taxable years ending before completion of the first examination of the bank by its supervisory authority (as defined in paragraph (d)(3)(iii)(D) of this section) that is after October 1, 1992, and that involves the bank's loan review process, the statement or Form 3115 filed by the bank must include a declaration that the bank maintains and applies loan loss classification standards that are consistent with the regulatory standards of that supervisory authority. A bank that makes this declaration is deemed to satisfy the express determination requirement of paragraph (d)(3)(iii)(D) of this section for those years, even though an express determination has not yet been made.

(iv) * * *
(C) * * *

(*2*) *Year of revocation.* If a bank makes the conformity election under the transition rules of paragraph (d)(3)(iii)(E) of this section and does not obtain the express determination in connection with the first examination involving the bank's loan review process that is after October 1, 1992, the election is revoked as of the beginning of the taxable year of the election or, if later, the earliest taxable year for which tax may be assessed. In other cases in which a bank does not obtain an express determination in connection with an examination of its loan review process, the election is revoked as of the beginning of the taxable year that includes the date as of which the supervisory authority conducts the examination even if the examination is completed in the following taxable year.

* * * * *

Par. 3. Section 1.166–2T is removed.

Approved: August 19, 1993.

Margaret Milner Richardson,

Commissioner of Internal Revenue.

Approved:

Samuel Y. Sessions,

Acting Assistant Secretary of the Treasury.

[FR Doc. 93–25393 Filed 10–15–93; 8:45 am]
BILLING CODE 4830–01–U

DEPARTMENT OF JUSTICE

Office of the Pardon Attorney

28 CFR Part 1

[AG Order No. 1798–93]

Rules Governing Petitions for Executive Clemency

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The regulations governing petitions for executive clemency describe the procedures involved in petitioning the President for executive clemency and the responsibility of the Attorney General in investigating each application for clemency and advising the President as to its disposition. This order republishes the present clemency regulations in their entirety, as initially published in the **Federal Register** on May 18, 1983, 48 FR 22290–22291, with amendments relating to the eligibility requirements for filing pardon and commutation petitions, and certain other amendments. Section 1.2 has been revised to require a single five-year minimum waiting period for all offenses, and also has been amended to exclude language making reference to the waiver of the waiting period in the cases of aliens seeking to avoid deportation. Further, individuals on supervised release have been added to the excluded class identified in the last sentence in the section. Similarly, individuals on probation and supervised release have been added to the last sentence in § 1.7. Editorial revisions have been made in § 1.3 to update and clarify the "exhaustion of other available remedies" requirement for the consideration of a clemency petition, and the phrase "unusual circumstances" (and specific examples thereof) has been eliminated as unnecessary. Certain language in §§ 1.1, 1.6, 1.7, and 1.9 has been edited to correct and clarify gender references. Existing § 1.8(b) has been amended to exclude capital cases from its coverage. Nonsubstantive editorial changes have been made in §§ 1.1. and 1.2.

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule does not have a significant adverse economic impact on a substantial number of small entities. This rule is not considered to be a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have federalism implications warranting the preparation of a federalism assessment in accordance with section 6 of E.O. 12612.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Margaret Colgate Love, United States Pardon Attorney, 500 First Street NW., 7th Floor, Washington, DC 20530. Telephone (202) 616–6070.

List of Subjects in 28 CFR Part 1

Clemency.

With the approval of the President, acting in conformity with his authority as Chief Executive and Article II, Section 2, United States Constitution, and by virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, part 1 of chapter I of title 28 of the Code of Federal Regulations is revised to read as follows:

PART 1—EXECUTIVE CLEMENCY

Sec.

Sec.
1.2 Eligibility for filing petition for pardon.
1.3 Eligibility for filing petition for commutation of sentence.
1.4 Offenses against the laws of possessions or territories of the United States.
1.5 Disclosure of files.
1.6 Consideration of petitions; recommendations to the President.
1.7 Notification of grant of clemency.
1.8 Notification of denial of clemency.
1.9 Delegation of authority.
1.10 Advisory nature of regulations.

Authority: U.S. Const., Art. II, sec. 2; authority of the President as Chief Executive; and 28 U.S.C. 509, 510.

§ 1.1 Submission of petition; form to be used; contents of petition.

A person seeking executive clemency by pardon, reprieve, commutation of sentence, or remission of fine shall execute a formal petition. The petition shall be addressed to the President of the United States and shall be submitted to the Pardon Attorney, Department of Justice, Washington, DC 20530, except for petitions relating to military offenses. Petitions and other required forms may be obtained from the Pardon Attorney. Petition forms for commutation of sentence also may be obtained from the wardens of federal penal institutions. A petitioner applying for executive clemency with respect to military offenses should submit his or her petition directly to the Secretary of the military department that had original jurisdiction over the court-martial trial and conviction of the petitioner. In such a case, a form furnished by the Pardon Attorney may be used but should be modified to meet the needs of the particular case. Each petition for executive clemency should include the information required in the form prescribed by the Attorney General.

§ 1.2 Eligibility for filing petition for pardon.

No petition for pardon should be filed until the expiration of a waiting period of at least five years after the date of the release of the petitioner from confinement or, in case no prison sentence was imposed, until the expiration of a period of at least five years after the date of the conviction of the petitioner. Generally, no petition should be submitted by a person who is on probation, parole, or supervised release.

§ 1.3 Eligibility for filing petition for commutation of sentence.

No petition for commutation of sentence, including remission of fine, should be filed if other forms of judicial or administrative relief are available, except upon a showing of exceptional circumstances.

§ 1.4 Offenses against the laws of possessions or territories of the United States.

Petitions for executive clemency shall relate only to violations of laws of the United States. Petitions relating to violations of laws of the possessions of the United States or territories subject to the jurisdiction of the United States should be submitted to the appropriate official or agency of the possession or territory concerned.

§ 1.5 Disclosure of files.

Petitions, reports, memoranda, and communications submitted or furnished in connection with the consideration of a petition for executive clemency generally shall be available only to the officials concerned with the consideration of the petition. However, they may be made available for inspection, in whole or in part, when in the judgment of the Attorney General their disclosure is required by law or the ends of justice.

§ 1.6 Consideration of petitions; recommendations to the President.

(a) Upon receipt of a petition for executive clemency, the Attorney General shall cause such investigation to be made of the matter as he/she may deem necessary and appropriate, using the services of, or obtaining reports from, appropriate officials and agencies of the Government, including the Federal Bureau of Investigation.

(b) The Attorney General shall review each petition and all pertinent information developed by the investigation and shall determine whether the request for clemency is of sufficient merit to warrant favorable action by the President. The Attorney General shall report in writing his or her recommendation to the President, stating whether in his or her judgment the President should grant or deny the petition.

§ 1.7 Notification of grant of clemency.

When a petition for pardon is granted, the petitioner or his or her attorney shall be notified of such action and the warrant of pardon shall be mailed to the petitioner. When commutation of sentence is granted, the petitioner shall be notified of such action and the warrant of a commutation shall be sent to the petitioner through the officer in charge of his or her place of confinement, or directly to the petitioner if he/she is on parole, probation, or supervised release.

§ 1.8 Notification of denial of clemency.

(a) Whenever the President notifies the Attorney General that he has denied a request for clemency, the Attorney General shall so advise the petitioner and close the case.

(b) Except in cases in which a sentence of death has been imposed, whenever the Attorney General recommends that the President deny a request for clemency and the President does not disapprove or take other action with respect to that adverse recommendation within 30 days after the date of its submission to him, it shall be presumed that the President concurs in that adverse recommendation of the Attorney General, and the Attorney General shall so advise the petitioner and close the case.

§ 1.9 Delegation of authority.

The Attorney General may delegate to any officer of the Department of Justice any of his or her duties or responsibilities under §§ 1.1 through 1.8.

§ 1.10 Advisory nature of regulations.

The regulations contained in this part are advisory only and for the internal guidance of Department of Justice personnel. They create no enforceable rights in persons applying for executive clemency, nor do they restrict the authority granted to the President under Article II, section 2 of the Constitution.

Dated: August 23, 1993.

Janet Reno,

Attorney General.

Dated: October 12, 1993.

Approved:

William J. Clinton,

President.

[FR Doc. 93-25462 Filed 10-15-93; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 3

Stabilization of Disability Evaluations

AGENCY: Department of Veterans Affairs.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the regulation of the Department of Veterans Affairs (VA) governing the stabilization of disability evaluations. The amendment will correct grammatical errors in the regulation and ensure that the regulation is clear and not subject to misinterpretation.

EFFECTIVE DATE: The effective date is February 24, 1961, the effective date of the original regulation.

FOR FURTHER INFORMATION CONTACT: Steven Thornberry, Consultant, Regulations Staff, Compensation and Pension Service, Veterans Benefits Administration, 810 Vermont Avenue, NW., Washington, DC 20420, telephone (202) 233–3005.

SUPPLEMENTARY INFORMATION: Section 3.344(a) of title 38 CFR provides procedures and guidelines for reviewing examination reports in order to produce the greatest possible degree of stability in disability evaluations, consistent with the pertinent laws and VA regulations. A recent review of the regulation uncovered two technical errors which could cause confusion and result in misapplication of the regulatory provisions. In one sentence an incorrectly placed comma has separated the words "bronchial asthma." In another sentence, the passive voice of the verb has been used where the active voice is required. This amendment corrects these deficiencies and restores the language of the regulation as it was originally published.

List of Subjects in 38 CFR Part 3

Administrative practice and procedure, Claims, Handicapped, Health care, Pensions, Veterans.

For the reasons set forth in the preamble, 38 CFR part 3 is amended as set forth below:

PART 3—ADJUDICATION

Subpart A—Pension, Compensation, 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.

§ 3.344 [Corrected]

2. In § 3.344(a), the fifth sentence, remove the "," between the words "bronchial" and "asthma"; in the seventh sentence, remove the words "be considered" and insert in their place the word "consider".

Approved: September 30, 1993.

B. Michael Berger,

Director, Records Management Service.

[FR Doc. 93–25519 Filed 10–15–93; 8:45 am]

BILLING CODE 8320–01–U

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101–37

[FPMR Amendment G–101]

Government Aviation Administration and Coordination

AGENCY: Federal Supply Service, GSA.

ACTION: Final rule.

SUMMARY: This regulation contains changes concerning the documentation, approval, and use of Government aircraft. This action is necessary for compliance with the provisions of OMB Circular A–126, dated May 22, 1992, and OMB Bulletin Number 93–11, dated April 19, 1993. Implementation of this regulation will minimize the cost and improve the management and use of Government aviation resources.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Larry Godwin, Aircraft Management Division (FBA), Federal Supply Service, General Services Administration, Washington, DC 20406 (703–305–6399).

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

Regulatory Flexibility Act

This final rule is not required to be published in the **Federal Register** for notice and comment. Therefore, the Regulatory Flexibility Act does not apply.

List of Subjects in 41 CFR Part 101–37

Aircraft, Air transportation, Aviation, Government property management.

For the reasons set forth in the preamble, 41 CFR part 101–37 is amended as follows:

PART 101–37—GOVERNMENT AVIATION ADMINISTRATION AND COORDINATION

1. The authority citation for part 101–37 continues to read as follows:

Authority: Sec. 205(c), 63 Stat. 390 (40 U.S.C. 486(c)).

Subpart 101–37.4—Use of Government-Owned and Operated Aircraft

2. The subpart heading is revised as set forth above.

3. Section 101–37.400 is revised to read as follows:

§ 101–37.400 General.

The provisions of this subpart prescribe policies and procedures for the use of Government aircraft. This subpart incorporates certain provisions of OMB Circular A–126 and OMB Bulletin Number 93–11.

4. Section 101–37.401 is revised to read as follows:

§ 101–37.401 Definitions.

For purposes of this subpart, the following terms shall have the meanings set forth in this section.

Actual cost means all costs associated with the use and operation of an aircraft as specified in § 101–37.406(b).

Full coach fare means a coach fare available to the general public between the day that the travel was planned and the day the travel occurred.

Government aircraft means any aircraft owned, leased, chartered, or rented and operated by an executive agency.

Mission requirements mean activities that constitute the discharge of an agency's official responsibilities. Such activities include, but are not limited to, the transport of troops and/or equipment, training, evacuation (including medical evacuation), intelligence and counter-narcotics activities, search and rescue, transportation of prisoners, use of defense attaché-controlled aircraft, aeronautical research and space and science applications, and other such activities. Mission requirements do not include official travel to give speeches, to attend conferences or meetings, or to make routine site visits.

Official travel means travel for the purpose of mission requirements, required use travel, and other travel for the conduct of agency business.

Reasonably available means commercial airline or aircraft (including charter) is able to meet the traveler's departure and/or arrival requirements within a 24-hour period (unless the traveler demonstrates that extraordinary circumstances require a shorter period of time).

Required use means use of a Government aircraft for the travel of an executive agency officer or employee to meet bona fide communications or

security requirements of the agency or exceptional scheduling requirements. An example of a bona fide communications requirement is having to maintain continuous 24-hour secure communications with the traveler. Bona fide security requirements would include, but not be limited to, highly unusual circumstances which present a clear and present danger, such as threats which could endanger lives. Exceptional scheduling requirements could include emergencies and other operational considerations, which make commercial transportation unacceptable.

Senior executive branch official means civilian officials appointed by the President with the advice and consent of the Senate and civilian employees of the Executive Office of the President (EOP).

Senior Federal official means a person:

(1) Employed at a rate of pay specified in, or fixed according to, subchapter II of chapter 53 of title 5 of the United States Code;

(2) Employed in a position in an executive agency, including any independent agency, at a rate of pay payable for level I of the Executive Schedule or employed in the Executive Office of the President at a rate of pay payable for level II of the Executive Schedule;

(3) Employed in an executive agency position that is not referred to in paragraph (1) of this definition (other than a position that is subject to pay adjustment under 37 U.S.C. 1009) and for which the basic rate of pay, exclusive of any locality-based pay adjustment under 5 U.S.C. 5304 (or any comparable adjustment pursuant to interim authority of the President), is equal to or greater than the rate of the basic pay payable for the Senior Executive Service (5 U.S.C. 5382); or

(4) Appointed by the President to a position under 3 U.S.C. 105(a)(2) (A), (B), or (C) or by the Vice President to a position under 3 U.S.C. 106(a)(1) (A), (B), or (C). Generally, a senior Federal official is employed by the White House or an executive agency, including independent agencies, at a rate of pay equal to or greater than the minimum rate of basic pay for the Senior Executive Service. The term senior Federal official does not include an active duty military officer.

Space available means travel using aircraft capacity, that is already scheduled for use for an official purpose, that would otherwise be unutilized.

5. Section 101–37.402 is revised to read as follows:

§ 101–37.402 Policy.

Government aircraft shall be used for official purposes only in accordance with applicable laws and regulations, including this subpart.

(a) Use of Government aircraft. Agencies shall operate Government aircraft only for official purposes. Official purposes include the operation of Government aircraft for:

(1) Mission requirements, and

(2) Other official travel.

(b) Use of Government aircraft for official travel or on space available travel is subject to paragraphs (b)(1) and (2) of this section.

(1) Use of a Government aircraft for official travel other than required use travel or mission requirement travel; i.e., for the conduct of agency business, shall be authorized only when:

(i) No commercial airline or aircraft service (including charter) is reasonably available to fulfill effectively the agency's requirement; or

(ii) The actual cost of using a Government aircraft is not more than the cost of commercial airline or aircraft service (including charter). When a flight is made for mission requirements or required use travel (and is certified as such in writing by the agency which is conducting the mission), it is presumed that secondary use of the aircraft for other travel for the conduct of agency business will result in cost savings.

(2) Use of a Government aircraft on a space available basis is authorized only when:

(i) The aircraft is already scheduled for use for an official purpose;

(ii) Space available travel does not require a larger aircraft than needed for the already scheduled official purpose;

(iii) Space available use results in no, or only minor, additional cost to the Government; and

(iv) Reimbursement is provided as set forth in § 101–37.403 of this subpart.

(c) The Secretary of State, Secretary of Defense, Attorney General, Director of the Federal Bureau of Investigation, and the Director of Central Intelligence may use Government aircraft for travel other than:

(1) To meet mission requirements, or

(2) For the conduct of agency business, but only upon reimbursement at full coach fare and with authorization by the President or his designated representative on the grounds that a threat exists which could endanger lives or when continuous 24-hour secure communication is required.

6. Sections 101–37.403 through 101–37.408 are added as follows:

§ 101–37.403 Reimbursement for the use of Government aircraft.

A passenger transported by Government aircraft is required to reimburse the Government under the circumstances specified, and in the amount indicated, in paragraphs (a) through (d) of this section.

(a) For travel that is not required use travel:

(1) Any incidental private activities (personal or political) of an employee undertaken on an employee's own time while on official travel shall not result in any increase in the actual costs to the Government of operating the aircraft, and

(2) The Government shall be reimbursed the appropriate share of the full coach fare for any portion of the time on the trip spent on political activities (except as otherwise provided in paragraph (d) of this section).

(b) For required use travel (except as otherwise provided in paragraph (d) of this section).

(1) For a wholly personal or political trip, the Government shall be reimbursed the full coach fare for the trip,

(2) For an official trip during which the employee engages in political activities, the Government shall be reimbursed the appropriate share of the full coach fare for the entire trip, and

(3) For an official trip during which the employee flies to one or more locations for personal reasons, the Government shall be reimbursed the excess of the full coach fare of all flights taken by the employee on the trip over the full coach fare of the flights that would have been taken by the employee had there been no personal activities on the trip.

(c) For space available travel, whether on mission requirements or other flights, the Government shall be reimbursed at the full coach fare except:

(1) As authorized under 10 U.S.C. 4744 and regulations implementing that statute, and

(2) By civilian personnel and their dependents in remote locations not reasonably accessible to regularly scheduled commercial airline service.

(d) In any case of political travel, reimbursement shall be made in the amount required by law or regulation (e.g., 11 CFR 106.3) if greater than the amount otherwise required under paragraphs (a) through (c) of this section.

§ 101–37.404 Approving the use of Government aircraft for transportation of passengers.

(a) Use of agency aircraft for official travel may be approved only by the

agency head or official(s) designated by the agency head.

(b) Whenever a Government aircraft used to fulfill a mission requirement is used also to transport senior Federal officials, members of their families or other non-Federal travelers on a space available basis (except as authorized under 10 U.S.C. 4744 and regulations implementing that statute), the agency that is conducting the mission shall certify in writing prior to the flight that the aircraft is scheduled to perform a bona fide mission activity, and that the minimum mission requirements have not been exceeded in order to transport such space available travelers. In emergency situations, an after-the-fact written certification by the agency is permitted.

§ 101–37.405 Approving travel on Government aircraft.

Policy and practices under which travel on Government aircraft may be approved by the agency are specified in paragraphs (a) through (c) of this section.

(a) All travel on Government aircraft must have advance authorization by the sponsoring agency in accordance with its travel policies, OMB Circular A–126 and, when applicable, documented on an official travel authorization. Where possible, such travel authorization must be approved by at least one organizational level above that of the person(s) traveling. If review by a higher organizational level is not possible, another appropriate approval is required.

(b) All required use travel must have written approval on a trip-by-trip basis from the agency's senior legal official or the principal deputy, unless:

(1) The President has determined that all travel or travel in specified categories by an agency head is qualified as required use travel, or

(2) The agency head has determined that all travel or travel in specified categories by an officer or employee other than the agency head, is qualified as required use travel.

(i) Any determination by an agency head that travel by an officer or employee of that agency qualifies as required use travel must be in writing and set forth the basis for that determination. In emergency situations an after-the-fact written certification by an agency is permitted.

(ii) An agency head opting to determine that travel by an officer or employee may be required use travel shall establish written standards for determining when required use travel is permitted. Such travel shall not be permitted unless the travel is in conformance with the written standards.

(c) All travel by senior Federal officials, family members of senior Federal officials, and non-Federal travelers that is not to meet mission requirements or required use travel must be authorized in advance and in writing.

(1) Such authorization must be approved on a trip-by-trip basis and must be signed by the agency's senior legal official or the principal deputy, or be in conformance with an agency review and approval system that has been approved by the Office of Management and Budget (OMB). In emergency situations, an after-the-fact written certification by an agency is permitted.

(2) In addition to the provisions of this subpart, Federal employees on official travel shall be subject to all other applicable travel rules and regulations. Travel by such individuals that is not official travel, for purposes of this subpart, is subject to the reimbursement requirements in § 101–37.403(c) of this subpart for space available travel.

§ 101–37.406 Justification of the use of Government aircraft for transportation of passengers.

(a) The cost comparison justifying the use of a Government aircraft for a proposed trip as required by § 101–37.402(b)(1)(ii) of this subpart should be made prior to authorizing the use of the aircraft for that trip. Standard trip cost justification schedules developed by agencies may be used for this purpose. Agencies that are not able to use such schedules are required to conduct a cost justification on a case-by-case basis.

(b) When conducting a cost comparison, the agency must compare the actual cost of using a Government aircraft to the cost of using a commercial aircraft (including charter) or airline service. The actual cost of using a Government aircraft is either:

(1) The amount that the agency will be charged by the organization that provides the aircraft,

(2) The variable cost of using the aircraft, if the agency operates its own aircraft, or

(3) The variable cost of using the aircraft as reported by the owning agency, if the agency is not charged for the use of an aircraft owned by another agency.

(c) The cost of using commercial airline or aircraft services for the purpose of justifying the use of Government aircraft:

(1) Must be the current Government contract fare or price, or the lowest fare or price available for the trip(s) in question,

(2) Must include, as appropriate, any differences in the cost of ground travel, per diem and miscellaneous travel (e.g., taxis, parking, etc.), and lost employees' work time (computed at gross hourly costs to the Government, including benefits), between using Government aircraft and commercial aircraft services, and

(3) Must include only the costs associated with passengers on official business. Costs associated with passengers traveling on a space available basis may not be used in the cost comparison.

§ 101–37.407 Documentation.

All uses of Government aircraft must be documented, and this documentation must be retained for at least 2 years by the aircraft operations manager. The documentation of each use of Government aircraft must include the information specified in paragraphs (a) through (g) of this section:

(a) Aircraft registration number (the registration number assigned by the Federal Aviation Administration or military-designated tail number);

(b) Purpose of the flight (the mission the aircraft was dispatched to perform);

(c) Route(s) flown;

(d) Flight date(s) and times;

(e) Name of each traveler;

(f) Name(s) of the pilot(s) and aircrew;

(g) When Government aircraft are used to support official travel, the documentation must also include evidence that § 101–37.408 and other applicable provisions of this FPMR have been satisfied.

§ 101–37.408 Reporting travel by senior Federal officials.

Agencies shall submit semi-annual reports for the periods October 1 through March 31 (due May 31), and April 1 through September 30 (due November 30) to the General Services Administration, Aircraft Management Division (FBA), Washington, DC 20406. A copy of each report shall also be submitted to the Assistant Director for General Management, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503. Agencies shall submit report data using the Federal Aviation Management System (FAMIS) structure and management codes for automated reporting or GSA Form 3641, Senior Federal Travel. These reports shall be disclosed to the public upon request unless classified.

(a) Reports shall include data on all non-mission travel by senior Federal officials on Government aircraft

(including those senior Federal officials acting in an aircrew capacity when they are also aboard the flight for transportation), members of the families of such officials, any non-Federal travelers (except as authorized under 10 U.S.C. 4744 and regulations implementing that statute), and all mission and non-mission travel for senior executive branch officials. The reports shall include:

(1) The names of the travelers;

(2) The destinations;

(3) The corresponding commercial cost had the traveler used commercial airline or aircraft service (including charter);

(4) The appropriate allocated share of the full operating cost of each trip;

(5) The amount required to be reimbursed to the Government for the flight;

(6) The accounting data associated with the reimbursement; and

(7) The data required by § 101–37.407 (a), (b) and (d) of this subpart.

(b) Each agency is responsible for reporting travel by personnel transported on aircraft scheduled by that agency.

(c) The agency using the aircraft must also maintain the data required by this section for classified trips. This information shall not be reported to GSA or OMB but must be made available by the agency for review by properly cleared personnel.

Dated: June 18, 1993.

Julia Stasch,

Acting Administrator of General Services.

[FR Doc. 93–25387 Filed 10–15–93; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 90–571; FCC 93–463]

Telecommunications Relay Services (TRS)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Second Order on Reconsideration and Fourth Report and Order (Fourth R&O) approves the TRS Interim Fund Administrator's payment formula, fund size, and payment schedule for the interstate TRS Fund. This action is pursuant to requirements of the Americans with Disabilities Act of 1990 (ADA) which, among other things, amended Title II of the Communications Act of 1934 by adding section 225, and will have the effect of implementing an effective cost recovery program for interstate TRS costs.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Linda Dubroof, Domestic Facilities Division, Common Carrier Bureau, (202) 634–1808, or James Lande, Industry Analysis Division, Common Carrier Bureau, (202) 632–1371.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Fourth R&O adopted September 28, 1993, and released September 29, 1993, in the matter of Telecommunications Relay Services, and the Americans with Disabilities Act of 1990, Second Order on Reconsideration and Fourth Report and Order (CC Docket 90–571, FCC 93–463). The Fourth R&O and supporting file are available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the FCC Reference Center, room 239, 1919 M St., NW., Washington, DC, or copies may be purchased from the Commission's duplicating contractor, ITS, Inc., 2100 M St., Suite 140, Washington DC 20037, phone (202) 857–3800. The Fourth R&O will be published in the FCC Record.

Analysis of Proceeding

In the Report and Order and Request for Further Comments, 6 FCC Rcd 4657 (1991), (56 FR 36729, August 1, 1991), the Commission revised Subpart F of part 64 of the rules to implement the ADA. The amended rules require each common carrier providing telephone voice transmission services to provide TRS not later than July 26, 1993, throughout the area in which it offers services. Carriers may provide services individually, through designees, through a competitively selected vendor, or in concert with other carriers. The Commission also fashioned a comprehensive set of rules which set forth terminology and definitions of TRS, prescribe operational, technical, and functional minimum standards of all TRS providers, and delineate the state certification process. Specifically, the Commission's rules require that TRS shall be capable of handling any type of call normally provided by common carriers. The burden of proving the infeasibility of handling any type of call is on the carriers. With regard to confidentiality, the Commission's rules require that, consistent with the obligations of common carrier operators, TRS communications assistants (CAs) are prohibited from disclosing the content of any relayed conversation regardless of content. Furthermore, the Commission, noting that the record was not adequate to determine a specific cost recovery mechanism, sought specific proposals on interstate cost recovery.

In an Order on Reconsideration, Second Report and Order, and Further Notice of Proposed Rulemaking, 8 FCC Rcd 1802 (1993), (58 FR 12175, Mar. 3, 1993; 58 FR 12204, Mar. 3, 1993) (TRS II), the Commission proposed rules tasking the National Exchange Carrier Association, Inc. (NECA) with the responsibility for administering the shared-funding plan, but the Commission invited other proposals. Under the proposed rules, the Administrator's performance would be reviewed after an initial two-year period.

In a Third Report and Order, 8 FCC Rcd 5300 (1993), (58 FR 39671, July 26, 1993) (Third R&O), the Commission adopted rules implementing the TRS Fund, a shared-funding mechanism to recover interstate TRS costs. The Commission, in that Third R&O, determined that the TRS Fund will be administered for two years, on an interim basis, by NECA. The Third R&O also clarified the Commission's proposed rule defining "interstate" service and set forth a method of calculating contributions to, and payments from, the TRS Fund. The Commission affirmed that contributions shall be based on each interstate service provider's relative share of gross interstate revenues, and that interstate carriers services contributions shall include, but are not limited to: resale, cellular, access (including federal subscriber line charges), personal communications services (PCS), packet-switched, WATS, video, telex, mobile radio, 800, 900, operator, message telephone (MTS), private dedicated, international, satellite, and intraLATA service providers. Initial contributions to the TRS Fund were due September 26, 1993. Appendix D of the Third R&O "TRS Fund Worksheet" outlined procedures for contributors to make their contributions to the TRS Fund Administrator. Payments from the TRS Fund to TRS providers are based on the average rate of interstate TRS minutes of use. The Commission found that imposition of Part 36 jurisdictional separations requirements on TRS providers who are not common carriers presents unnecessary administrative burdens. The Commission directed the administrator to fashion a form that would establish adequate account definitions and procedures reasonably tailored to meet the needs of TRS. Further, the Commission found that existing accounting and separations rules should be adequate to deal with

the provision of interstate TRS by subject service providers.

In the Fourth R&O, the Commission, pursuant to Section 64.604(c)(4)(iii) of the rules, approved the proposed rate of $1.705 as the rate of payment to TRS providers per interstate minute of use. This rate will remain in effect through December 31, 1994. For succeeding years, the fund administrator is required to file its TRS payment formulas and associated data with the Commission by October 1, to be effective for a one-year period beginning the following January 1, as prescribed in Section 64.604(c)(4)(iii)(h) of the rules. Eligible TRS providers shall begin receiving disbursements from the TRS Fund on or about November 1, 1993, and initial payments will cover the service period July 26, 1993, through August 31, 1993. With regard to the reporting and payment schedule, TRS providers shall report actual interstate minutes of use for each monthly service period by the fifteenth work day of the succeeding month. For the service period from July 26, 1993, through August 31, 1993, TRS providers report usage to NECA no later than October 1, 1993, if they wish to be reimbursed by November 1, 1993. However, TRS providers can report usage for this period until October 28, 1993, in order to be reimbursed by December 1, 1993.

Further, the Fourth R&O clarifies that for TRS fund contributors regulated under price cap regulation, contributions may be treated as exogenous costs for the purposes of calculating the price cap index, pursuant to Section 61.45(d) of the rules, which grants exogenous treatment to any cost the Commission shall permit or require, plus a list of specifically enumerated exogenous costs. The Fourth R&O also clarifies that the ADA clearly distinguishes between the obligation to provide TRS service, which applies only to "telephone voice transmission services," and the obligation to contribute to the cost recovery for those services, which applies to "all subscribers for every interstate service" without limitation. 47 U.S.C. Sections 225(c), 225(d)(3).

Additionally, the Fourth R&O reiterates the Commission's findings in *TRS III* that existing accounting and separations rules should be adequate to deal with the provision of interstate TRS by subject service providers and, therefore, a Joint Board proceeding at this time is unnecessary. With regard to NARUC's request for clarification of the composition of the advisory committee, the Commission reiterates that the committee is to include state regulatory officials. *See TRS III* at n. 30. Further, the Commission clarifies that the administrator of the TRS Fund may reimburse advisory committee members for the reasonable costs incurred in attending advisory committee meetings because doing so may permit some groups to participate who may not otherwise be able to do so. The administrator will limit reimbursement to two persons per representative group, be based upon requests by participations for reimbursement, and result in *de minimis* reimbursement costs. The administrator is required to report these costs annually to the Commission pursuant to section 64.604(c)(4)(iii)(h) of the rules.

Lastly, the Commission rejects IDB's assertion that video and audio program distribution services by satellite or otherwise should be excluded from the TRS revenue base, and dismisses the request for stay filed by IDB.

Ordering Clauses

Accordingly, IT IS ORDERED, pursuant to Section 225 of the Communications Act and section 64.604(c)(4)(iii) of the rules, that $1.705 is the rate of payment to TRS providers per interstate minute of use, that it will remain in effect through December 31, 1994, and that in succeeding years, the fund administrator is required to file its TRS payment formulas and associated data with the Commission by October 1, to be effective for a one-year period beginning each January 1, as prescribed in Section 64.604(c)(4)(iii)(h) of the rules. Eligible TRS providers shall begin receiving disbursements from the TRS Fund on or about November 1, 1993, and initial payments will cover the service period July 26, 1993, through August 31, 1993.

It is further ordered, that the petitions filed by Ameritech Operating Companies, NYNEX, National Association of Regulatory Utility Commissioners, Southwestern Bell Corporation, Competitive Telecommunications Association, Telocator, and IDB Communications Group, Inc. are granted in part as discussed in this Order and are otherwise denied.

It is further ordered, that the request for stay filed by IDB Communications Group, Inc. is dismissed.

It is further ordered, that this proceeding is terminated.

List of Subjects in 47 CFR Part 64

Communications common carriers, Hearing and speech disabilities, Telecommunications relay services, Americans with Disabilities Act.

Federal Communications Commission
William F. Caton,
Acting Secretary.

[FR Doc. 93-25451 Filed 10-15-93; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 93-168; RM-8241]

Radio Broadcasting Services; Lena, Illinois

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 271A to Lena, Illinois, as that community's first local aural transmission service, at the request of Jane Lucas. *See* 58 FR 34555, June 28, 1993. Channel 271A can be allotted to Lena in compliance with the minimum distance separation requirements of the Commission's Rules with a site restriction of 8.5 kilometers (5.3 miles) south. The coordinates for Channel 271A at Lena are North Latitude 42-18-27 and West Longitude 89-47-45. With this action, this proceeding is terminated.

DATES: Effective November 22, 1993

The window period for filing applications for Channel 271A at Lena, Illinois, will open on November 23, 1993, and close on December 23, 1993.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93-168, adopted September 29, 1993, and released October 8, 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 contractors, International Transcription Service, Inc., (202) 857-3800, 1919 M Street, NW., room 246, or 2100 M Street NW., Suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Illinois, is amended by adding Lena, Channel 271A.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 93–25446 Filed 10–15–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–171; RM–8257]

Radio Broadcasting Services; Lindsborg and Sterling, Kansas

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 238C3 for Channel 240A at Lindsborg, Kansas, and modifies the license for Station KQNS–FM to specify operation on Channel 238C3 in response to a petition filed by JD Communications. *See* 58 FR 35420, July 1, 1993. The coordinates for Channel 238C3 at Lindsborg are 38–40–00 and 97–41–30. To accommodate Channel 238C3 at Lindsborg we shall also substitute Channel 234A for vacant Channel 239A at Sterling, Kansas. The coordinates for Channel 234A at Sterling are 38–12–42 and 98–12–12. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 22, 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. 93–171, adopted September 23, 1993, and released October 8, 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.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by removing Channel 240A and adding Channel 238C3 at Lindsborg and by removing Channel 239A and adding Channel 234A at Sterling.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 93–25447 Filed 10–15–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–202; RM–8229]

Radio Broadcasting Services; Lewiston, Idaho, and Clarkston, Washington

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document allots Channel 286A to Lewiston, Idaho, as that community's fourth local FM service, and Channel 275A to Clarkston, Washington, as that community's second local FM service, at the request of Lewiston/Clarkston Christian Broadcasters. *See* 58 FR 38547, July 19, 1993. Channel 286A can be allotted to Lewiston in compliance with the Commission's minimum distance separation requirements without a site restriction. Channel 275A can be allotted to Clarkston in compliance with the Commission's minimum distance separation requirements without a site restriction. The coordinates for Channel 286A at Lewiston are North Latitude 46–24–42 and West Longitude 117–01–12. The coordinates for Channel 275A at Clarkston are North Latitude 46–24–42 and West Longitude 117–03–06. With this action, this proceeding is terminated.

DATES: Effective November 22, 1993. The window period for filing applications for Channel 286A at Lewiston, Idaho, and Channel 275A at Clarkston, Washington, will open on November 23, 1993, and close on December 23, 1993.

FOR FURTHER INFORMATION CONTACT: Nancy J. Walls, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93–202, adopted September 29, 1993, and released October 8, 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 contractors, International Transcription Service, Inc., (202) 857–3800, 1919 M Street, NW., room 246, or 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Idaho, is amended by adding Channel 286A at Lewiston.

3. Section 73.202(b), the Table of FM Allotments under Washington, is amended by adding Channel 275A at Clarkston.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 93–25449 Filed 10–15–93; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 93–163; RM–8251]

Radio Broadcasting Services; Wilson Creek, Washington

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission, at the request of Wilson Creek Broadcasting Company, substitutes Channel 277C3 for Channel 277A at Wilson Creek, Washington, and modifies Station KVYF–FM's construction permit accordingly. *See* 58 FR 34026, June 23, 1993. Channel 277C3 can be allotted to Wilson Creek in compliance with the Commission's minimum distance separation requirements with a site restriction of 10.6 kilometers (16.6 miles) southeast at the petitioner's requested site. The coordinates for Channel 277C3 at Wilson Creek are North Latitude 47–22–00 and West Longitude 119–00–30. Since Wilson Creek is located within 320 kilometers (200 miles) of the U.S.-Canadian border, Canadian concurrence has been obtained. With this action, this proceeding is terminated.

EFFECTIVE DATE: November 22, 1993.

FOR FURTHER INFORMATION CONTACT: Sharon P. McDonald, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Report and Order, MM Docket No. 93–163, adopted September 29, 1993, and released October 8, 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 contractors, International Transcription Service, Inc., (202) 857–3800, 2100 M Street NW., suite 140, Washington, DC 20037.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

47 CFR PART 73—[AMENDED]

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

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

§ 73.202 [Amended]

2. Section 73.202(b), the Table of FM Allotments under Washington, is amended by removing Channel 277A and adding Channel 277C3 at Wilson Creek.

Federal Communications Commission.

Victoria M. McCauley,

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

[FR Doc. 93–25445 Filed 10–15–93; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 89–26; Notice 4]

RIN 2127–AD24

Federal Motor Vehicle Safety Standards; Convex Cross View Mirrors on School Buses

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

ACTION: Final rule, date for early optional compliance.

SUMMARY: On December 2, 1992, NHTSA published a final rule amending Federal Motor Vehicle Safety Standard No. 111, *Rearview Mirrors*, by establishing new requirements with respect to the field-of-view around school buses. The new requirements will become effective on December 2, 1993.

NHTSA has recently been informed that some states are requiring school bus manufacturers to produce new buses complying with the new requirements before the December 2, 1993, effective date.

Manufacturers may have difficulty in both certifying compliance with the current requirements of Standard No. 111 and satisfying these requests. Since the new requirements no longer specify the permissible radii of curvature for outside cross view mirrors, manufacturers may be unable to certify compliance with the existing standard when a school bus is equipped with mirrors that do not comply with the existing radii of curvature requirements. NHTSA has decided that it is in the interest of safety to permit manufacturers, effective immediately, to comply with the new requirements instead of the existing ones since the new requirements provide a greater degree of visibility around school buses.

EFFECTIVE DATES: The amendments to Section 571.111 (49 CFR 571.111), published at 57 FR 57000, December 2, 1992 continue to be effective December 2, 1993.

Vehicles manufactured before December 2, 1993, may voluntarily comply with that rule's amendments, effective October 18, 1993 instead of the requirements currently in effect.

FOR FURTHER INFORMATION CONTACT: Charles R. Hott, NRM–15, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590. Telephone: (202) 366–0247.

SUPPLEMENTARY INFORMATION: On December 2, 1992, NHTSA published a final rule amending Federal Motor Vehicle Safety Standard No. 111, *Rearview Mirrors*, with respect to the field-of-view around school buses. As amended, the Standard requires each school bus to be designed so that a bus driver is able to see, either directly or through mirrors, specified areas in front of and along both sides of the school bus; specifies certain criteria for convex cross view mirrors; and establishes test conditions to evaluate the clarity of an object's image. The new requirements adopted in that final rule will become effective on December 2, 1993.

NHTSA has recently been informed that some states are requiring that school bus manufacturers produce new school buses complying with the new requirements before the December 2, 1993, effective date. The agency notes that the field-of-view requirements, when paired with the existing radii of curvature requirements, may result in some manufacturers having difficulty in both certifying compliance with certain current requirements of Standard No. 111 while, at the same time, satisfying these requests. Specifically, the requirement causing potential problems is S9.2(a) of Standard No. 111 which currently states that the outside convex cross view mirror "* * * shall have a radius of curvature not less than 3.5 inches and not more than 25 inches."

Problems may arise since the new requirements no longer specify the range of permissible radii of curvature for outside cross view mirrors. Thus, manufacturers may not be able to certify compliance with the existing radii of curvature requirement when a school bus is equipped with a convex cross view mirror that does not comply with this current requirement. Under the new requirement, a school bus may be equipped with a convex cross view mirror with any radii of curvature provided that it complies with the field-of-view and the image quality requirements.

NHTSA has decided that manufacturers should have the option of complying with the existing requirements of Standard No. 111 or with those requirements as amended by the December 2, 1992 final rule. The agency is taking this action for several reasons. First, as mentioned above, it would be difficult for some manufacturers to certify compliance with certain current requirements of Standard No. 111 while, at the same time, satisfying requests for school buses that comply with the new requirements. Second, the new requirements increase the field-of-view around school buses and ensure the image quality of mirrors on school buses. Thus, school buses manufactured to comply with the new requirements will have a greater field-of-view than they would if they had been manufactured to meet the existing requirements. Third, allowing early compliance with the new requirements will allow states and school bus manufacturers to obtain school buses complying with those new requirements at an earlier date than is currently possible and without the loss of image quality.

NHTSA finds for good cause that notice and opportunity for comment are unnecessary. The agency has already sought comment on the desirability of the new field-of-view requirements. Further, early compliance with those requirements would be voluntary under Standard No. 111. NHTSA also finds for good cause that this final rule can be effective immediately. This final rule

imposes no duties or responsibilities on any party. Manufacturers may continue to comply with the current requirements until the previously established effective date (December 2, 1993) for the new requirements adopted in the December 2, 1992 final rule. As an alternative, this final rule gives manufacturers the option of complying instead with the new requirements before their December 2, 1993 effective date.

Accordingly, under the authority of 15 U.S.C. 1392, 1401, 1403, and 1407, and the delegation of authority at 49 CFR 1.50, the amendments to § 571.111 (49 CFR 571.111) published at 57 FR 57000, December 2, 1992, continue to be effective December 2, 1993. Vehicles manufactured before December 2, 1993 may comply with the requirements in that rule's amendments, instead of the requirements currently in effect.

Rulemaking Analyses and Notices

DOT Regulatory Policies and Procedures

NHTSA has examined the impact of this rulemaking action and determined that it is not "significant" within the meaning of the Department of Transportation's regulatory policies and procedures. This final rule gives manufacturers the option of complying with either the current requirements of Standard No. 111, or the requirements of Standard No. 111, as amended by the December 2, 1992 final rule, which will be effective December 2, 1993. Accordingly, this final rule will not impose any costs on manufacturers.

Regulatory Flexibility Act

NHTSA has also considered the impacts of this final rule under the Regulatory Flexibility Act. I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. As explained above, this final rule imposes no costs on manufacturers.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 Pub. L. 96–511), the agency notes that there are no requirements for information collection associated with this final rule.

National Environmental Policy Act

NHTSA has also analyzed this final rule under the National Environmental Policy Act and determined that it will not have a significant impact on the human environment.

Executive Order 12612 (Federalism)

Finally, NHTSA has analyzed this rule in accordance with the principles and criteria contained in E.O. 12612, and has determined that this rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

Issued on October 12, 1993.

Howard M. Smolkin,

Executive Director.

[FR Doc. 93–25419 Filed 10–15–93; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1145

[Ex Parte No. 394 (Sub-No. 12)]

Petition To Exempt From Regulation the Rail Transportation of Scrap Paper

AGENCY: Interstate Commerce Commission.

ACTION: Final rule.

SUMMARY: The Commission exempts from regulation the rail transportation of scrap paper, Standard Transportation Commodity Code No. 40241, except that the commodity will remain subject to the statutory rate cap of 49 U.S.C. 10731(e). The specific changes appear below. The intended effect is to increase competition with other modes of transport and to avoid the regulatory costs of tariff and contract rate administration.

EFFECTIVE DATE: November 1, 1993.

FOR FURTHER INFORMATION CONTACT: Maynard H. Dixon, Jr., (202) 927–5293 or Joseph H. Dettmar, (202) 927–5660. [TDD for hearing impaired: (202) 927–5721.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's printed decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commission Building, Washington, DC 20423. Telephone: (202) 289–4357/4359. [Assistance for the hearing impaired is available through TDD service (202) 927–5721.]

On April 7, 1993 at 58 FR 18072, we requested comments on a proposal by the Association of American Railroads to exempt from regulation the rail transportation of scrap paper. We also requested comment on whether an exemption would be lawful in view of 49 U.S.C. 10731(e) and whether a less comprehensive exemption would be more appropriate. The comments have been received and analyzed. Here, we are approving an exemption from all regulation except the provisions of section 10731(e).

Our original notice proposed to grant an exemption by adding STCC No. 40241 to the list of exempt commodities at 49 CFR 1039.11. Our final rule, however, affects the exemption through an amendment to 49 CFR 1145.9.

We reaffirm our initial finding that the exemption will not significantly affect either the quality of the human environment or the conservation of energy resources.

We also reaffirm our initial finding that the exemption will not have a significant effect on a substantial number of small entities.

List of Subjects in 49 CFR Part 1145

Administrative practice and procedure, Freight, Railroads.

Decided: September 17, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden. Vice Chairman Simmons dissented in the disposition of this proceeding. Commissioner Walden dissented in part with a separate expression.

Sidney L. Strickland, Jr.,

Secretary.

For the reasons set forth in the Preamble, title 49, chapter X, part 1145 of the Code of Federal Regulations is amended as follows:

PART 1145—RAILROAD RATES ON RECYCLABLE COMMODITIES

1. The authority citation of part 1145 continues to read as follows:

Authority: 49 U.S.C. 10321, 10505, 10731, and 10707a; 5 U.S.C. 553.

2. Section 1145.9 is amended by redesignating the text as paragraph (a), by adding a heading to newly redesignated paragraph (a), and adding a new paragraph (b) to read as follows:

§ 1145.9 Exemptions.

(a) *Formula-based exemptions.* * * *

(b) *Case-by-case exemptions.* The following commodity group(s) are exempt from regulation, except that it (they) will continue to be subject to the statutory provision prohibiting railroads from increasing individual rates that are already above the rate cap established by 49 U.S.C. 10731(e): Standard Transportation Commodity Code (STCC) No. 40241, Scrap Paper.

[FR Doc. 93–25537 Filed 10–15–93; 8:45 am]

BILLING CODE 7035–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[Docket No. 920407-2519; ID #101293B]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna

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

ACTION: Closure of the large school and small medium Atlantic bluefin tuna component of the Angling category.

SUMMARY: NMFS closes the fishery for large school and small medium Atlantic bluefin tuna conducted by Angling category fishermen. Closure of this fishery is necessary because the annual adjusted quota of 175.3 metric tons (mt) of large school and small medium Atlantic bluefin tuna allocated for this subcategory will have been attained. The intent of this action is to prevent overharvest of the quota established for this fishery.

EFFECTIVE DATE: The closure is effective from 0001 hours local time October 18 through December 31, 1993.

FOR FURTHER INFORMATION CONTACT: Kevin B. Foster, 508–281–9260, or Aaron E. King, 301–713–2347.

SUPPLEMENTARY INFORMATION: Regulations promulgated under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 *et seq.)* regulating the harvest of Atlantic bluefin tuna by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285.

Section 285.22(d) of the regulations provides for an annual quota of 119 mt of large school and small medium Atlantic bluefin tuna to be harvested by individuals in the Angling category. Prior actions under the authority of § 285.22(h) (see 58 FR 36154; 7/6/93) and § 285.22(i) (see 58 FR 350523; 9/22/93) have resulted in an adjusted annual quota for 1993 of 175.3 mt of large school and small medium Atlantic bluefin tuna. The Assistant Administrator for Fisheries, NOAA (AA), is authorized under § 285.20(b)(1) to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of Atlantic bluefin tuna will equal any quota under § 285.22. The AA is further authorized under § 285.20(b)(1) to prohibit fishing for, or retention of, Atlantic bluefin tuna by those fishing in the category subject to the quota when the catch of tuna equals the quota established under § 285.22. The AA has determined, based on the estimated catch, that the adjusted annual quota of large school and small medium Atlantic bluefin tuna will have been attained by October 18, 1993. Fishing for, retaining, or possessing any large school or small medium Atlantic bluefin tuna in the regulatory area must cease at 0001 hours local time on October 18, 1993. In addition, landing any large school or small medium Atlantic bluefin tuna in or from the regulatory area is prohibited.

Classification

This action is required by 50 CFR 285.20(b)(1) and complies with E.O. 12291.

Authority: 16 U.S.C. 971 *et seq.*

List of Subjects in 50 CFR Part 285

Fisheries, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: October 13, 1993.

David S. Crestin,

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

[FR Doc. 93–25470 Filed 10–13–93; 2:19 pm]

BILLING CODE 3510–22–P

50 CFR Part 672

[Docket No. 921107–3068; I.D. 101393A]

Groundfish of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock in Statistical Area 63 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the total allowable catch (TAC) for pollock in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), October 13, 1993, until 12 midnight, A.l.t., December 31, 1993.

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 Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with § 672.20(c)(1)(ii)(B), the 1993 pollock TAC for Statistical Area 63 is established by the final 1993 initial specifications (58 FR 16787, March 31, 1993) as 60,939 metric tons (mt). The fourth quarterly allowance of that TAC for Statistical Area 63 became available at noon, October 1, 1993, pursuant to § 672.20(a)(2)(iv).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with § 672.20(c)(2)(ii), that the 1993 pollock TAC in Statistical Area 63 soon will be reached. The Regional Director established a directed fishing allowance of 60,439 mt, and has set aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, directed fishing for pollock in Statistical Area 63 is prohibited, effective from 12 noon, A.l.t., October 13, 1993, until 12 midnight, A.l.t., December 31, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at § 672.20(g).

Classification

This action is taken under 50 CFR 672.20.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

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

Dated: October 13, 1993.

David S. Crestin,

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

[FR Doc. 93–25473 Filed 10–13–93; 2:19 pm]

BILLING CODE 3510–22–M

50 CFR Part 672

[Docket No. 921107–3068; I.D. 101293A]

Groundfish of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is closing the directed fishery for pollock in Statistical Area 62 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the total allowable catch (TAC) for pollock in this area.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), October 10, 1993, until 12 midnight, A.l.t., December 31, 1993.

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 Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson Fishery Conservation and Management Act. Fishing by U.S. vessels is governed by regulations implementing the FMP at 50 CFR parts 620 and 672.

In accordance with §672.20(c)(1)(ii)(B), the 1993 pollock TAC for Statistical Area 62 is established by the final 1993 initial specifications (58 FR 16787, March 31, 1993) as 25,974 metric tons (mt). The fourth quarterly allowance of that TAC for Statistical Area 62 became available at noon, October 1, 1993, pursuant to §672.20(a)(2)(iv).

The Director of the Alaska Region, NMFS (Regional Director), has determined, in accordance with §672.20(c)(2)(ii), that the 1993 pollock TAC in Statistical Area 62 soon will be reached. The Regional Director established a directed fishing allowance of 25,474 mt, and has set aside the remaining 500 mt as bycatch to support other anticipated groundfish fisheries. The Regional Director has determined that the directed fishing allowance has been reached. Consequently, directed fishing for pollock in Statistical Area 62 is prohibited, effective from 12 noon, A.l.t., October 10, 1993, until 12 midnight, A.l.t., December 31, 1993.

Directed fishing standards for applicable gear types may be found in the regulations at §672.20(g).

Classification

This action is taken under 50 CFR 672.20.

List of Subjects in 50 CFR Part 672

Fisheries, Recordkeeping and reporting requirements.

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

Dated: October 12, 1993.

Richard H. Schaefer,

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

[FR Doc. 93–25399 Filed 10–12–93; 8:45 am]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 58, No. 199
Monday, October 18, 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.

NUCLEAR REGULATORY COMMISSION

10 CFR Part 32

[Docket No. PRM–32–4]

mb-microtec (USA); Receipt of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Petition for rulemaking; notice of receipt.

SUMMARY: The Nuclear Regulatory Commission (NRC) is publishing for public comment a notice of receipt of a petition for rulemaking, dated July 30, 1993, which was filed with the Commission by mb-microtec (USA). The petition was docketed by the NRC on August 9, 1993, and has been assigned Docket No. PRM–32–4. The petitioner requests that the NRC amend its regulations to place timepieces with gaseous tritium light sources (GTLSs) on the same regulatory basis as timepieces with luminous tritium paint. Specifically, the petitioner requests that the regulations be amended to include timepieces with GTLSs and subsequently allow their distribution under the same requirements applicable to the distribution of timepieces with luminous tritium paint.

DATES: Submit comments by January 3, 1994. Comments received after this date will be considered if it is practical to do so but the Commission is able to assure consideration only for comments received on or before this date.

ADDRESSES: Submit written comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch. Hand deliver comments to: 11555 Rockville Pike, Rockville, Maryland, between 7:45 a.m. and 4:15 p.m. Federal workdays.

For a copy of the petition, write 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.

The petition and copies of comments received may be inspected and copied for a fee at the NRC Public Document Room, 2120 L Street, NW. (Lower Level), Washington, DC.

FOR FURTHER INFORMATION CONTACT: Michael T. Lesar, Chief, Rules Review Section, Rules Review and Directives Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: 301–492–7758 or Toll Free: 800–368–5642.

SUPPLEMENTARY INFORMATION:

Background

The NRC has established regulations governing the domestic licensing of byproduct material in 10 CFR part 30 and the domestic licenses to manufacture or transfer certain items containing byproduct material in 10 CFR part 32. The regulations in these parts govern the individuals or firms who apply byproduct material to or incorporate byproduct material into a product. These regulations also apply to firms or individuals who initially transfer a product containing small amounts of byproduct material for sale or distribution. These regulations govern the manufacture and transfer for sale or distribution of self-luminous products such as timepieces that contain small amounts of tritium.

Discussion

The petitioner believes that the regulations that govern the manufacture and distribution for sale of timepieces that contain small amounts of tritium are outdated. According to the petitioner, the NRC's regulations permit the exempt distribution of timepieces that use small amounts of tritium paint for luminescence but do not consider timepieces with GTLSs.

The Petition

The petitioner states that current regulations allow watches with GTLSs that have a level of activity up to 200 mCi T to be distributed only after each watch model is individually approved by the Commission for exempt distribution. The petitioner states that this requirement is in contrast to requirements applicable to timepieces that use tritium paint. The petitioner believes that the Commission exerts further control over GTLS timepieces by requiring a disclosure on the pertinent properties of GTLSs used in watches.

The petitioner believes that current regulations do not take into account the progress that GTLS technology has achieved over the past 15 years. According to the petitioner, an analog watch can be well illuminated with 14 GTLSs that have a total level activity of 25 mCi T, the same level of activity that is presently permitted in tritium paint timepieces.

The petitioner believes that watch manufacturers do not want to become involved with the present licensing procedures that apply to the manufacture and distribution of GTLS watches. Therefore, the petitioner believes that the present regulations are counterproductive because they withhold a better and safer means of watch illumination from the consumer.

The Suggested Amendments

In order to put timepieces that use GTLSs on the same regulatory basis as those that use tritium paint, the petitioner suggests that 10 CFR 32.14(d)(1) be amended by adding the words "and bezels" to the first sentence of the introductory text, and by adding a third paragraph to read: "Tritium is also considered to be properly bound if it is contained in gaseous form in a sealed vial of mineral glass if the vials do not get damaged or become dislodged and the loss of tritium does not exceed 5 nCi when prototype dials, hands, pointers, and bezels are subjected to the tests as specified in § 32.14(d)(1) (i), (ii), and (iii)." Section 32.14(d)(1)(iii) would be redesignated as § 32.14(d)(1)(iv) and a new § 32.14(d)(1)(iii) would be added to read: "Attachment of the hub ends of the hands and pointers to a clamp on a vibrating fixture and vibration at a rate of not less than 16 cycles per second and a vibration acceleration of not less than 2G for a period of not less than one hour."

As revised, § 32.14, paragraph d(1) would read as follows:

§ 32.14 Certain items containing byproduct material; requirements for license to apply or initially transfer.

* * * * *

(d) * * *

(1) The method of containment or binding of the byproduct material in the

product is such that the radioactive material will not be released or be removed from the product under the most severe conditions that are likely to be encountered in normal use and handling. Tritium in luminous paint will be considered to be properly bound to dials, hands, pointers, and bezels if there is no visible flaking or chipping and the total loss of tritium does not exceed 5 percent of the total tritium when prototype dials, hands, pointers, and bezels are subjected to the tests as specified in § 32.14(d)(1) (i), (ii), and (iii). Tritium is also considered to be properly bound if it is contained in gaseous form in a sealed vial of mineral glass if the vials do not get damaged or become dislodged and the loss of tritium does not exceed 5 nCi when prototype dials, hands, pointers, and bezels are subjected to the tests as specified in § 32.14(d)(1) (i), (ii), and (iii).

(i) Attachment of dials and bezels to a vibrating fixture at a rate of not less than 26 cycles per second and a vibration acceleration of not less than 2G for a period of not less than one hour.

(ii) Attachment of the hub ends of the hands or pointers to a clamp and bending of hands or pointers over a 1-inch diameter cylinder, or

(iii) Attachment of the hub ends of the hands and pointers to a clamp on a vibrating fixture and vibration at a rate of not less than 16 cycles per second and a vibration acceleration of not less than 2G for a period of not less than one hour.

(iv) Total immersion of the dials, hands, pointers, and bezels used in the tests described in § 32.14(d)(1) (i), (ii), or (iii) in 100 milliliters of water at room temperature for a period of 24 consecutive hours and analysis of the test water for its radioactive materials content by liquid scintillation counting or other equally sensitive method.

* * * * *

Dated at Rockville, Maryland, this 8th day of October 1993.

For the Nuclear Regulatory Commission.

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 93–25443 Filed 10–15–93; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

Office of Environment, Safety and Health

10 CFR Part 602

Epidemiology and Other Health Studies Financial Assistance Program

AGENCY: Office of Environment, Safety, and Health, Department of Energy.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Department of Energy (DOE) Office of Environment, Safety and Health (EH) is proposing a rule to implement an Epidemiology and Other Health Studies Financial Assistance Program. The proposed rule will support EH use of financial assistance awards when they are the appropriate instruments for programmatic activities. The proposed rule will also facilitate a fully open and competitive process for obtaining financial assistance awards. This action is taken to support EH's mission to protect the health of DOE workers as well as other individuals associated with energy production, transmission, and use.

DATES: Written comments on the proposed rule must be received by November 17, 1993.

ADDRESSES: Comments should be addressed to: Dr. Robert Goldsmith, Director, Office of Epidemiology and Health Surveillance, (EH–42), U.S. Department of Energy, Washington, DC 20585; facsimile: (301) 903–4677.

FOR FURTHER INFORMATION CONTACT: Dr. Robert Goldsmith, address above, (301) 903–5926.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

DOE proposes to amend Chapter II of Title 10 of the Code of Federal Regulations (CFR) by adding a new part 602 for use of financial assistance awards to support the EH program of epidemiology and other health-related research. Presently, EH health-related financial assistance awards are made under provisions of the generally applicable DOE Financial Assistance Rules (10 CFR part 600). Part 600 provides basic DOE procedures for the award and administration of financial instruments, but does not contain program-specific requirements for particular types of financial assistance awards. The proposed part 602 builds on and supplements part 600 by describing the special needs and requirements of the EH Epidemiological and Other Health Studies Financial Assistance Program. Because the rules work together, it is necessary to refer to both part 600 and this proposal to obtain a comprehensive picture of program procedures. The proposed rule, in conjunction with part 600, provides a framework for an ongoing, comprehensive program for the receipt, review, and evaluation of award applications, and provides specific guidance for pre- and post-award administration. A discussion of the major provisions of the proposed rule, organized by rule section, follows. DOE welcomes comments on all provisions of the proposed rule, including any that deviate significantly from part 600.

II. Proposed Rule

Proposed § 602.1 defines the purpose and scope of part 602 as setting policies and procedures for award and administration of EH health related research, education/training, conferences, and communication activities through financial assistance awards.

Proposed § 602.2 establishes applicability, stating that part 602 requirements apply to awards made on or after the effective date of the rule. It also states that part 602 supplements and does not replace 10 CFR part 600.

Proposed § 602.3 defines terms used in the proposed rule. As definitions in 10 CFR part 600 apply to terms in part 602, it was unnecessary to provide definitions except for a few terms with special meaning for the EH program of epidemiological and other health studies.

Proposed § 602.4 governs deviations from the proposed rule. It allows for single-case deviations from part 602 if authorized by the Assistant Secretary for EH, the Head of the Contracting Activity, or their designees. There is no provision for class deviation. If a proposed single-case deviation from part 602 is also a deviation from 10 CFR part 600, the provisions for deviations contained in both rules will apply. Proposed § 602.4 allows for program control over single-case deviations of a purely program nature, but assures that deviations relating to generic provisions

are also authorized pursuant to the procedures contained in the generic rules.

Proposed § 602.5 establishes that research, education/training, conferences, and communication activities in various EH program areas are eligible for awards under part 602. The program areas are listed in the section and may be expanded by Federal Register notice.

Proposed § 602.6 sets forth eligibility for awards. The only categorical restriction pertains to Federal agencies. DOE anticipates that most recipients will participate through institutions because of the substantial material and business management resources needed to conduct projects under the program.

Proposed § 602.7 establishes procedures relating to award solicitation, including mechanisms to publicize award availability and distribute application forms and other information. The section also states that DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted under award solicitations.

Proposed § 602.8 sets forth provisions and procedures required to apply for an award, including prescribed forms and other information requirements. Nothing in this section or in 10 CFR part 600 will prohibit appropriate contacts between potential applicants and DOE staff prior to submission of applications. Such contacts may include discussions of broad advice on research areas of interest or administrative procedures. Requests for information that might provide an unfair competitive advantage are not permitted.

Proposed § 602.9 describes procedures for application evaluation and selection. While DOE employees will evaluate the applications and make award selections, every effort will be made to use reviewers apart from DOE employees and contractors. Use of outside reviewers will ensure that the best experts are available to conduct technical evaluations and will also ensure open and credible peer review of applications. This is also in keeping with the Federal Government's tradition of using a broad range of peer reviewers to evaluate the scientific and technical merit of research proposals.

Proposed § 602.9(d) sets forth the evaluation criteria. They are necessarily broad because of the wide variety of projects and approaches anticipated. The criteria are consistent with those used by other DOE offices and Government agencies in similar programs. Proposed § 602.9(d)(5) will permit DOE to establish, in a notice of availability or separate solicitation, evaluation criteria consistent with the purpose of part 602 other than those listed in the proposed rule.

Proposed § 602.9(g) states that selection of applications for award will be based upon findings of technical evaluations, including peer reviews. These evaluations will be conducted according to the procedures specified in the EH Merit Review System, which will be published as a Program Notice in the Federal Register.

Proposed § 602.10 sets forth certain additional requirements that are not specifically addressed in 10 CFR part 600. The section requires recipients performing research involving human subjects, recombinant DNA molecules (and/or organisms and viruses containing recombinant DNA molecules) or warm-blooded animals to comply with certain Federal requirements. While these concerns are not common under DOE-funded projects, they require special attention because of their importance. The treatment of these matters is similar to that required by other Federal agencies.

Proposed § 602.11 provides for a project period that is long and flexible enough to accommodate research. Measurable results often take years and cannot be accurately predicted. On the other hand, DOE must assure adequate programmatic review. Accordingly, initial project periods of up to three years will be the norm. Project periods may exceed five years only if DOE makes a renewal award or allows an extension. To assure adequate financial accountability and review, proposed 602.11(b) provides a general budget period of 12 months, which is the norm as provided under 10 CFR 600.106. To allow for those projects that are not suited to this limitation, DOE may allow for a budget period of 24 months.

Proposed § 602.12 establishes that cost sharing, while always welcome, is not a factor in evaluating or selecting applications under the program. DOE wishes to fund the best projects, not just those of institutions capable of cost sharing arrangements.

Proposed § 602.13 states that DOE is liable only for the funds noted in the Notice of Financial Assistance Award. No additional obligations are required to support or extend a specific award.

Proposed § 602.14 allows fee payment to small business concerns under appropriate circumstances to permit all qualified parties to participate in the program. In establishing the need for and the amount of any such fee, the intrinsic benefits of an award provided to the recipient, such as advance payments and title to property, will be taken into consideration.

Proposed § 602.15 establishes that DOE will not provide indirect costs for conferences and scientific/technical meetings. Conferences and meetings do not require the institutional infrastructure needed to support research projects.

Proposed § 602.16 sets forth requirements pertaining to national security classified information. DOE does not intend this program to use or develop classified information. If projects develop information that may be classified, the section provides requirements for its handling and review. Such projects may be terminated by mutual agreement.

Proposed § 602.17 describes requirements for project continuation funding and reporting. This section outlines the varieties of reports required for project accounting and budgeting. A table summarizing the types of reports, time for submission, and number of copies is set forth in appendix A to this part.

Proposed § 602.18 encourages participants to disseminate project results promptly and will allow DOE to waive technical reporting requirements if the information is published or accepted for publication in an appropriate journal.

Proposed § 602.19 establishes requirement for project records and data. Because DOE is committed to the preservation and sharing of information with potential value for research or other purposes, projects are required to implement proper data and records management procedures. These procedures shall include development and maintenance of documentation for electronic data. The section also requires award recipients to comply with designated DOE records and data management needs, including providing information to the Comprehensive Epidemiologic Data Resource or to another repository, as DOE directs.

III. Opportunity for Public Comment

Written comments from interested persons are invited in response to this NOPR by submitting three copies of data, views or arguments with respect to the proposals set forth in this notice to the address above. Please identify any comments as "EH Proposed Rule."

This notice of proposed rulemaking does not involve any significant issues of law or fact and the rule would be unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Accordingly, pursuant to 42 U.S.C. 7191(c) and 5 U.S.C. 553, DOE is not scheduling a public hearing.

IV. Regulatory Review

Pursuant to the January 22, 1993 memorandum on the subject of regulatory review from the Director of the Office of Management and Budget (58 FR 6074, January 25, 1993), DOE submitted this notice to the Director for appropriate review. The Director has completed his review. Separately, DOE has determined that there is no need for a regulatory impact analysis because the rule is not a major rule as that term is defined in section 1(b) of Executive Order 12291.

V. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354, 95 Stat. 1164), which requires preparation of a regulatory flexibility analysis for any regulation that will have a significant economic impact on a substantial number of small entities; i.e., small businesses, small organizations, and small governmental jurisdictions. DOE concluded that this proposed rule would only affect small entities as they apply for and receive awards and does not create additional economic impacts on such entities. Accordingly, DOE certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared.

VI. Review Under the Paperwork Reduction Act

OMB has approved information collection requirements under this rule under control numbers 1910–0400 and 1910–1400.

VII. Review Under the National Environmental Policy Act

DOE has concluded that promulgation of this proposed rule, which is strictly procedural, is categorically excluded under subpart D of the DOE National Environmental Policy Act (NEPA) regulations (10 CFR part 1021) from preparation of either an Environmental Assessment or an Environmental Impact Statement under the NEPA of 1969 (42 U.S.C. 4321, et. seq. [1976]).

VIII. Intergovernmental Review

This program is generally not subject to the intergovernmental review requirements of Executive Order 12372 as implemented by 10 CFR part 1005. However, certain applications for financial assistance awards may require this review. Such applications, including those from governmental or nongovernmental entities that involve research, development, or demonstration activities are subject to the provisions of the Executive Order and 10 CFR part 1005 when such activities: (1) have a unique geographic focus and are directly relevant to the governmental responsibilities of a State or local government within the geographic area; (2) necessitate preparation of an Environmental Impact Statement under NEPA; or (3) are to be initiated at a particular site or location and require unusual measures to limit the possibility of adverse exposure or hazard to the general public. Entities planning to submit such applications should contact the Health Communication and Coordination Division (EH–422), U.S. Department of Energy, Washington, DC 20585 for further information.

IX. Review Under Executive Order 12612

Executive Order 12612 requires review of regulations or rules for any substantial direct effects on States, on the relationship between National Government and the States, or on the distribution of power and responsibilities among various levels of Government. Today's proposal would amend, by addition of a new part, existing regulations for a financial assistance program to stimulate research and development. There will not be any substantial direct effects on States.

X. Review Under Executive Order 12778

Section 2 of Executive Order 12778 instructs each agency, subject to Executive Order 12291, to adhere to certain requirements in promulgating new regulations and reviewing existing regulations. These requirements, set forth in sections 2(a) and (b)(2), include eliminating drafting errors and needless ambiguity, drafting the regulations to minimize litigation, providing clear and certain legal standards for affected conduct and promoting simplification and burden reduction. Agencies are also instructed to make every reasonable effort to ensure that the regulation: specifies clearly any preemptive effect, effect on existing Federal law or regulation, and retroactive effect; describes any administrative proceedings to be available prior to judicial review and any provisions for the exhaustion of such administrative proceedings; and defines key terms. DOE certifies that today's proposal meets the requirements of sections 2 (a) and (b) of Executive Order 12778.

XI. Catalog of Federal Domestic Assistance

The Catalog of Federal Domestic Assistance number for Epidemiology and Other Health Studies Financial Assistance Program is 81.049.

List of Subjects in 10 CFR Part 602

Colleges and universities, Energy, Grant programs—energy, Grant programs—health, Grant programs—science and technology, Health, Medical research, Occupational safety and health, Reporting and recordkeeping requirements, Research.

For the reasons set forth in the preamble, chapter II of title 10 CFR is proposed to be amended by adding a new part 602, as set forth below.

Issued in Washington, DC, on July 29, 1993.

Peter N. Brush,

Acting Assistant Secretary Environment, Safety and Health.

Chapter II of title 10 CFR is proposed to be amended by adding part 602 to read as follows:

PART 602—EPIDEMIOLOGY AND OTHER HEALTH STUDIES FINANCIAL ASSISTANCE PROGRAM

Sec.

Authority: 42 U.S.C. 2051; 42 U.S.C. 5817; 42 U.S.C. 5901–5920; 42 U.S.C. 7254 and 7256; 31 U.S.C. 6301–6308.

§ 602.1 Purpose and scope.

This part sets forth the policies and procedures applicable to the award and administration of grants and cooperative agreements by DOE (through the Office of Environment, Safety and Health or any office to which its functions are subsequently redelegated) for health related research, education/training, conferences, communication, and related activities.

§ 602.2 Applicability.

(a) This part applies to all grants and cooperative agreements awarded after the effective date of this rule.

(b) Except as otherwise provided by this part, the award and administration of grants and cooperative agreements shall be governed by 10 CFR part 600 (DOE Financial Assistance Rules).

§ 602.3 Definitions.

In addition to the definitions provided in 10 CFR part 600, the following definitions are provided for purposes of this part:

Conference and communication activities means scientific or technical conferences, symposia, workshops, seminars, public meetings, publications, video or slide shows, and other presentations for the purpose of communicating or exchanging information or views pertinent to DOE.

DOE means the United States Department of Energy.

Education/Training means support for education or related activities for an individual or organization that will enhance educational levels and skills, in particular scientific or technical areas of interest to DOE.

Epidemiology and Other Health Studies means research pertaining to potential health effects resulting from DOE or predecessor agency operations or from any aspect of energy production, transmission, or use (including electromagnetic fields) in the United States and abroad. Related systems or activities to enhance these areas, as well as other program areas that may be described by notice published in the Federal Register, are also included.

Principal investigator means the scientist or other individual designated by the recipient to direct the project.

Research means basic and applied research and that part of development not related to the development of specific systems or products. The primary aim of research is scientific study and experimentation directed toward advancing the state of the art or increasing knowledge or understanding rather than focusing on a specific system or product.

§ 602.4 Deviations.

(a) Single-case deviations from this part may be authorized in writing by the Assistant Secretary for Environment, Safety and Health, the Head of the Contracting Activity, or their designees upon the written request of DOE staff, an applicant for award, or a recipient. A request from an applicant or a recipient must be submitted to or through the cognizant contracting officer.

(b) Whenever a proposed deviation from this part would be a deviation from 10 CFR part 600, the deviation must also be authorized in accordance with the procedures prescribed in that part.

§ 602.5 Epidemiology and other health studies financial assistance program.

(a) DOE may issue under this part awards for research, education/training, conferences, communication, and related activities in the Office of Environment, Safety and Health program areas set forth in paragraph (b) of this section.

(b) The program areas are:

(1) Health experience of DOE and DOE contractor workers;

(2) Health experience of populations living near DOE facilities;

(3) Workers exposed to toxic substances, such as beryllium;

(4) Use of biomarkers to recognize exposure to toxic substances;

(5) Epidemiology and other health studies relating to energy production, transmission, and use (including electromagnetic fields) in the United States and abroad;

(6) Compilation, documentation, management, use, and analysis of data for the DOE Comprehensive Epidemiologic Data Resource; and

(7) Other systems or activities enhancing these areas, as well as other program areas as may be described by notice published in the Federal Register.

§ 602.6 Eligibility.

Any individual or entity other than a Federal agency is eligible for a grant or cooperative agreement. An unaffiliated individual is also eligible for a grant or cooperative agreement.

§ 602.7 Solicitation.

(a) The Catalog of Federal Domestic Assistance number for 10 CFR part 602 is 81.049, and its solicitation control number is EOHSFAP 10 CFR part 602.

(b) An application for a new or renewal award under this solicitation may be submitted at any time to DOE at the address specified in paragraph (c) of this section. New or renewal applications shall receive consideration for funding generally within 6 months but, in any event, no later than 12 months from the date of receipt by DOE.

(c) Except as otherwise provided in a notice of availability, applicants may obtain application forms, described in 602.8(b) of this part, and additional information from the Office of Epidemiology and Health Surveillance, Health Communication and Coordination Division (EH–422), U.S. Department of Energy, Washington, DC 20585, (301) 903–5328, and shall submit applications to the same address.

(d) DOE will publish program notices in the Federal Register regarding the availability of epidemiology and other health studies financial assistance. DOE may also use other means of communication, as appropriate, such as the publication of notices of availability in trade and professional journals and news media.

(1) Each notice of availability shall cite this part and shall include:

(i) The Catalog of Federal Domestic Assistance number and solicitation control number of the program;

(ii) The amount of money available or estimated to be available for award;

(iii) The name of the responsible DOE program official to contact for additional information and an address where application forms may be obtained;

(iv) The address for submission of applications; and

(v) Any evaluation criteria in addition to those set forth in § 602.9 of this part.

(2) The notice of availability may also include any other relevant information helpful to applicants such as:

(i) Program objectives;

(ii) A project agenda or potential area of project initiatives;

(iii) Problem areas requiring additional effort; and

(iv) Any other information that identifies areas in which grants or cooperative agreements may be made.

(e) DOE is under no obligation to pay for any costs associated with the preparation or submission of applications.

(f) DOE reserves the right to fund, in whole or in part, any, all, or none of the applications submitted.

(g) To be considered for a renewal award under this part, an incumbent recipient shall submit a continuation or renewal application, as provided in § 602.8 (c) and (h).

§ 602.8 Application requirements.

(a) An original and seven copies of the application for initial support must be submitted, except that State and local governments and Indian tribal governments shall not be required to submit more than the original and two copies of the application.

(b) Each new or renewal application in response to this part must include:

(1) An application face page, DOE Form 4650.2 (approved by OMB under OMB Control No. 1910–1400). However, the face page of an application submitted by a State or local government or an Indian tribal government shall be the face page of Standard Form 424 (approved by OMB under OMB Control Number 0348–0043).

(2) A detailed description of the proposed project, including its objectives, its relationship to DOE's program, its impact on the environment, if any, and the applicant's plan for carrying it out.

(3) Detailed information about the background and experience of the recipients of funds or, as appropriate, the principal investigator(s) (including references to publications), the facilities and experience of the applicant, and the cost-sharing arrangements, if any.

(4) A detailed budget for the entire proposed period of support with written justification sufficient to evaluate the itemized list of costs provided on the entire project. Applicants should note the following when preparing budgets:

(i) Numerical details on items of cost provided by State and local government and Indian tribal government applicants shall be on Standard Form 424A, "Budget Information for Non-Construction Programs" (approved under OMB Control No. 0348–0044). All other applicants shall use budget forms ERF 4620.1 (approved by OMB under Control No. 1910–1400).

(ii) DOE may, subsequent to receipt of an application, request additional budgetary information from an applicant when necessary for clarification or make informed pre-award determinations under 10 CFR part 600.

(5) Any pre-award assurances required pursuant to 10 CFR parts 600 and 602.

(c) Applications for a renewal award must be submitted with an original and seven copies, except that State and local governments and Indian tribal government applicants are required to submit only an original and two copies. (Approved by OMB under OMB Control Numbers 0348–0005–0348–0009.)

(d) The application must be signed by an official who is authorized to act for the applicant organization and to commit the applicant to comply with the terms and conditions of the award, if one is issued, or if unaffiliated, by the individual applicant. (See § 602.17(a)(1) for requirements on continuation awards.)

(e) DOE may return an application that does not include all information and documentation required by statute, this part, 10 CFR part 600 or the notice of availability, when the nature of the omission precludes review of the application.

(f) During the review of a complete application, DOE may request the submission of additional information only if the information is essential to evaluate the application.

(g) In addition to including the information described in paragraphs (b), (c), and (d) of this section, an application for a renewal award must be submitted no later than 6 months before the expiration of the project period and must be on the same forms as required for initial applications. The renewal application must outline and justify a program and budget for the proposed project period, showing in detail the estimated cost of the proposed project, together with an indication of the amount of cost sharing, if any. The application shall also describe and explain the reasons for any change in the scope or objectives of the proposed project and shall compare and explain any difference between the estimates in the proposed budget and actual costs experienced as of the date of the application.

(h) DOE is not required to return an application to the applicant.

(i) Renewal applications must include a separate section that describes the results of work accomplished through the date of the renewal application and how such results relate to the activities proposed to be undertaken in the renewal period.

§ 602.9 Application evaluation and selection.

(a) Applications shall be evaluated for funding generally within 6 months, but in any event no later than 12 months, from the date of receipt by DOE. After DOE has held an application for 6 months, the applicant may, in response to DOE's request, be required to revalidate the terms of the original application.

(b) DOE shall perform an initial evaluation of all applications to ensure that the information required by this part is provided, that the proposed effort is technically sound and feasible, and that the effort is consistent with program funding priorities. For applications that pass the initial evaluation, DOE shall review and evaluate each application received based on the criteria set forth below and in accordance with the Office of Environment, Safety and Health Merit Review System developed as required under DOE Financial Assistance Regulations, 10 CFR part 600.

(c) DOE shall select evaluators on the basis of their professional qualifications and expertise. To ensure credible and inclusive peer review of applications, every effort will be made to select evaluators apart from DOE employees and contractors. Evaluators shall be required to comply with all applicable DOE rules or directives concerning the use of outside evaluators.

(d) DOE shall evaluate new and renewal applications based on the following criteria that are listed in descending order of importance:

(1) The scientific and technical merit of the proposed research;

(2) The appropriateness of the proposed method or approach;

(3) Competency of research personnel and adequacy of proposed resources;

(4) Reasonableness and appropriateness of the proposed budget; and

(5) Other appropriate factors consistent with the purpose of this part established and set forth in a Notice of Availability or in a specific solicitation.

(e) DOE shall also consider as part of the evaluation other available advice or information, as well as program policy factors, such as ensuring an appropriate balance among the program areas listed in § 602.5 of this part.

(f) In addition to the evaluation criteria set forth in paragraphs (d) and (e) of this section, DOE shall consider the recipient's performance under the existing award during the evaluation of a renewal application.

(g) Selection of applications for award will be based upon the findings of the technical evaluations (that will include peer reviews, as specified in the Office of Environment, Safety and Health Merit Review System), the importance and relevance of the proposal to the Office of Environment, Safety and Health's mission, and the availability of funds. Cost reasonableness and realism will also be considered.

(h) After the selection of an application, DOE may, if necessary, enter into negotiations with an applicant. Such negotiations are not a commitment that DOE will make an award.

§ 602.10 Additional Requirements.

(a) A recipient performing research or related activities involving the use of human subjects must comply with DOE regulations in 10 CFR part 745, "Protection of Human Subjects," and any additional provisions that may be included in the special terms and conditions of an award.

(b) A recipient performing research involving recombinant DNA molecules and/or organisms and viruses containing recombinant DNA molecules shall comply with the National Institutes of Health "Guidelines for Research Involving Recombinant DNA Molecules" (51 FR 16958, May 7, 1986), or such later revision of those guidelines as may be published in the Federal Register. (The guidelines are available from the Office of Recombinant DNA Activities, National Institutes of Health,

Building 31, room 4B11, Bethesda, MD 20892, or from the Office of Epidemiology and Health Surveillance, Health Communication and Coordination Division (EH–422), U.S. Department of Energy, Washington, DC 20585).

(c) A recipient performing research on warm-blooded animals shall comply with the Federal Laboratory Animal Welfare Act of 1966, as amended (7 U.S.C. 2131 et seq.) and the regulations promulgated thereunder by the Secretary of Agriculture at 9 CFR chapter I, subchapter A, pertaining to the care, handling, and treatment of warm-blooded animals held or used for research, teaching, or other activities supported by Federal awards. The recipient shall comply with the guidelines described in the Department of Health and Human Services Publication No. (NIH) 86–23, "Guide for the Care and Use of Laboratory Animals," or succeeding revised editions. (This Guide is available from the Office for Protection from Research Risks, Office of the Director, National Institutes of Health, Building 31, room 4B09, Bethesda, MD 20892, or from the Office of Epidemiology and Health Surveillance, Health Communication and Coordination Division (EH–422), U.S. Department of Energy, Washington, DC 20585).

§ 602.11 Funding.

(a) The project period during which DOE expects to provide support for an approved project under this part shall generally not exceed 3 years and may exceed 5 years only if DOE makes a renewal award or otherwise extends the award. The project period shall be specified on the Notice of Financial Assistance Grant (DOE Form 4600.1).

(b) Each budget period of an award under this part shall generally be 12 months and may be as much as 24 months, as DOE deems appropriate.

§ 602.12 Cost sharing.

Cost sharing is not required, nor will it be considered, as a criterion in the evaluation and selection process unless otherwise provided under § 602.9(d)(5).

§ 602.13 Limitation of DOE liability.

Awards made under this part are subject to the requirement that the maximum DOE obligation to the recipient is the amount shown in the Notice of Financial Assistance Award as the amount of DOE funds obligated. DOE shall not be obligated to make any additional, supplemental, continuation, renewal, or other award for the same or any other purpose.

§ 602.14 Fee.

(a) Notwithstanding 10 CFR part 600, a fee may be paid, in appropriate circumstances, to a recipient that is a small business concern, as qualified under the criteria and size standards of 13 CFR part 121, in order to permit the concern to participate in the Epidemiology and Other Health Studies Financial Assistance Program. Whether or not it is appropriate to pay a fee shall be determined by the contracting officer, who shall, at a minimum, apply the following guidelines:

(1) Whether the acceptance of an award will displace other work that the small business is currently engaged in or committed to assume in the near future; or

(2) Whether the acceptance of an award will, in the absence of paying a fee, cause substantial financial distress to the business. In evaluating financial distress, the contracting officer shall balance current displacement against reasonably future benefit to the company. (If the award will result in the beneficial expansion of the existing business base of the company, then no fee would generally be appropriate.) Fees shall not be paid to other entities except as a deviation from 10 CFR part 600, nor shall fees be paid under awards in support of conferences.

(b) To request a fee, a small business concern shall submit with its application a written self certification that it is a small business concern qualified under the criteria and size standards in 13 CFR part 121. In addition, the application must state the amount of fee requested for the entire project period and the basis for requesting the amount and must also state why payment of a fee by DOE would be appropriate.

(c) If the contracting officer determines that payment of a fee is appropriate under paragraph (a) of this section, the amount of fee shall be that determined to be reasonable by the contracting officer. The contracting officer shall, at a minimum, apply the following guidelines in determining the fee amount:

(1) The fee base shall include the estimated allowable cost of direct salaries and wages and allocable fringe benefits. This fee base shall exclude all other direct and indirect costs.

(2) The fee amount expressed as a percentage of the appropriate fee base pursuant to paragraph (c)(1) of this section, shall not exceed the percentage rate of fee that would result if a Federal agency contracted for the same amount of salaries, wages, and allocable fringe benefits under a cost reimbursement contract.

(3) Fee amounts, determined pursuant to paragraphs (c)(1) and (c)(2) of this section, shall be appropriately reduced when:

(i) Advance payments are provided; and/or

(ii) Title to property acquired with DOE funds vests in the recipient (10 CFR part 600).

(d) Notwithstanding 10 CFR part 600, any fee awarded shall be a fixed fee and shall be payable on an annual basis in proportion to the work completed, as determined by the contracting officer, upon satisfactory submission and acceptance by DOE of the progress report. If the project period is shortened due to termination, or the project period is not fully funded, the fee shall be reduced by an appropriate amount.

§ 602.15 Indirect cost limitations.

Awards issued under this part for conferences and scientific/technical meetings will not include payment for indirect costs.

§ 602.16 National security.

Activities under the Epidemiology and Other Health Studies Financial Assistance Program are not expected to involve classified information (i.e., Restricted Data, Formerly Restricted Data, National Security Information). However, if in the opinion of the recipient or DOE such involvement becomes expected prior to the closeout of the award, the recipient or DOE shall notify the other in writing immediately. If the recipient believes any information developed or acquired may be classified, the recipient shall not provide the potentially classified information to anyone, including DOE officials with whom the recipient normally communicates, except the Director of Classification, and shall protect such information as if it were classified until notified by DOE that a determination has been made that it does not require such handling. Correspondence that includes the specific information in question shall be sent by registered mail to the U.S. Department of Energy, Attn: Director of Classification, IS–50, Washington, DC 20585. If the information is determined to be classified, the recipient may wish to discontinue the project, in which case the recipient and DOE shall terminate the award by mutual agreement. If the award is to be terminated, all material deemed by DOE to be classified shall be forwarded to DOE in a manner specified by DOE for proper disposition. If the recipient and DOE wish to continue the award, even though classified information is involved, the recipient shall be requested to obtain both

personnel and facility security clearances through the Office of Safeguards and Security for Headquarters awards or from the cognizant field office Division of Safeguards and Security for awards obtained through DOE field organizations. Costs associated with handling and protecting any such classified information shall be negotiated at the time that the determination to proceed is made.

§ 602.17 Continuation funding and reporting requirements.

(a) A recipient shall periodically report to DOE on the project's progress in meeting the project objectives of the award. The following types of reports shall be used:

(1) *Progress reports.* After issuance of an initial award, recipients must submit a satisfactory progress report to receive a continuation award for the remainder of the project period. The original and two copies of the required report must be submitted to the Office of Environment, Safety and Health program manager 90 days prior to the anticipated continuation funding date. The report should include results of work to date and emphasize findings and their significance to the field, and any real or anticipated problems. The report also should contain the following information: On the first page, provide the project title, principal investigator/project director name, period of time the report covers, name and address of recipient organization, DOE award number, the amount of unexpended funds, if any, that are anticipated to be left at the end of the current budget period. If the amount exceeds 10 percent of the funds available for the budget period, provide information as to why the excess funds are anticipated to be available and how they will be used in the next budget period. The report should state whether the aims have changed from the original application, and if they have, provide revised aims. A completed budget page must be submitted with the continuation progress report when a change to anticipated future costs will exceed 25 percent of the original recommended future budget.

(2) *Notice of Energy Research and Development (R&D) Project.* A Notice of Energy R&D Project, DOE Form 1430.22, which summarizes the purpose and scope of the project, must be submitted in accordance with the Distribution and Schedule of Documents set forth in Appendix A to this part, Schedule of Renewal Applications and Reports. Copies of the form may be obtained from a DOE contracting office.

(3) *Special reports.* The recipient shall report the following events to DOE as soon after they occur as possible:

(i) Problems, delays, or adverse conditions that will materially affect the ability to attain project objectives or prevent the meeting of time schedules and goals. The report must describe remedial action that the recipient has taken or plans to take and any action DOE should take to alleviate the problems.

(ii) Favorable developments or events that enable meeting time schedules and goals sooner, or a lower cost than anticipated, or producing more beneficial results than originally projected.

(4) *Final report.* A final report covering the entire project must be submitted by the recipient within 90 days after the project period ends or the award is terminated. Satisfactory completion of an award will be contingent upon the receipt of this report. The final report shall follow the same outline as progress reports. Recipients will provide, as part of the final report, a description of records and data compiled during the project, along with a plan for its preservation or disposition (see § 602.19 of this part). All manuscripts prepared for publication should be appended to the final report.

(5) *Financial status report (FSR) (OMB No. 0348–0039).* The FSR is required within 90 days after completion of each budget period. For budget periods exceeding 12 months, an FSR is also required within 90 days after this first 12 months unless waived by the contracting officer.

(b) DOE may extend the deadline date for any report if the recipient submits a written request before the deadline, which adequately justifies an extension.

(c) A table summarizing the various types of reports, time for submission, and number of copies is set forth in Appendix A to this part. The schedule of reports shall be as prescribed in this table, unless the award document specifies otherwise. These reports shall be submitted by the recipient to the awarding office.

(d) DOE, or its authorized representatives, may make site visits, at any reasonable time, to review the project. DOE may provide such technical assistance as may be requested.

(e) Recipients may place performance reporting requirements on a subrecipient consistent with the provisions of this section.

§ 602.18 Dissemination of results.

(a) Recipients are encouraged to disseminate research results promptly. DOE reserves the right to utilize, and have others utilize to the extent it deems appropriate, the reports resulting from research awards.

(b) DOE may waive the technical reporting requirement of progress reports set forth in § 602.17, if the recipient submits to DOE a copy of its own report that is published or accepted for publication in a recognized scientific or technical journal and that satisfies the information requirements of the program.

(c) Recipients are urged to publish results through normal publication channels in accordance with the applicable provisions of 10 CFR part 600.

(d) The article shall include an acknowledgement that the project was supported, in whole or in part, by a DOE award, and specify the award number, but state that such support does not constitute an endorsement by DOE of the views expressed in the article.

§ 602.19 Records and data.

(a) In some cases, DOE will require submission of certain project records or data to facilitate mission-related activities. Recipients, therefore, must take adequate steps to ensure proper management, control, and preservation of all project records and data.

(b) Awardees must ensure that all project data is adequately documented. Documentation shall:

(1) Reference software used to compile, manage, and analyze data;

(2) Define all technical characteristics necessary for reading or processing the records;

(3) Define file and record content and codes;

(4) Describe update cycles or conditions and rules for adding or deleting information; and

(5) Detail instrument calibration effects, sampling and analysis, space and time coverage, quality control measures, data algorithms and reduction methods, and other activities relevant to data collection and assembly.

(c) Recipients agree to comply with designated DOE records and data management requirements, including providing electronic data in prescribed formats and retention of specified records and data for eventual transfer to the Comprehensive Epidemiologic Data Resource or to another repository, as directed by DOE. Recipients will provide, as part of the final report, a description of records and data compiled during the project along with

a plan for its preservation or disposition.

(d) Recipients agree to make project records and data available as soon as possible when requested by DOE.

APPENDIX A TO PART 602—SCHEDULE OF RENEWAL APPLICATIONS AND REPORTS

Type	When due	Number of copies for awarding office
1. Summary: 200 words on scope and purpose (Notice of Energy R&D Project).	Immediately after a grant is awarded and with each application for renewal.	3
2. Renewal	6 months before the budget period ends.	8
3. Progress Report.	90 days prior to the next budget period (or as part of a renewal application).	3
4. Other progress reports, brief topical reports, etc. (Designated when significant results develop or when work has direct programmatic impact).	As deemed appropriate by DOE or the recipient.	3
5. Reprints, Conference papers.	Same as 4. above.	3
6. Final report ..	Within 90 days after completion or termination of the project.	3
7. Financial Status Report (FSR).	Within 90 days after completion of the project period; for budget periods exceeding 12 months an FSR is also required within 90 days after the first 12-month period.	3

NOTE: Report types 5 and 6 require with submission two copies of DOE Form 1332.16, University-Type Contractor and Grantee Recommendations for Disposition of Scientific and Technical Document.

[FR Doc. 93-25492 Filed 10-15-93; 8:45 am]
BILLING CODE 6450-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-NM-80-AD]

Airworthiness Directives; Boeing Model 707/720 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 Boeing Model 707/720 series airplanes. This proposal would require certain structural inspections of older airplanes. This proposal is prompted by reports of incidents involving fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design service goal. The actions specified by the proposed AD are intended to prevent degradation of the structural capabilities of the affected airplanes. This proposal relates to the recommendations of the Airworthiness Assurance Task Force assigned to review Model 707/720 series airplanes, which indicate that, to assure long-term, continued operational safety, various structural inspections should be accomplished.

DATES: Comments must be received by December 13, 1993.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM-103, Attention: Rules Docket No. 93-NM-80, 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 Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Phil Forde, Aerospace Engineer, Airframe Branch, ANM-120S, FAA, Transport Airplane Directorate, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055-4056; telephone (206) 227-2771; fax (206) 227-1181.

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-80-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-80-AD, 1601 Lind Avenue, SW., Renton, Washington 98055-4056.

Discussion

In April 1988, a high-cycle Boeing Model 737 suffered major structural damage in flight. Investigation revealed that the airplane had numerous fatigue cracks and a great deal of corrosion.

This incident prompted the FAA to sponsor a conference on aging airplanes, which was attended by members of the aviation industry, other regulatory authorities, and the general public. The conferees agreed that, because of the huge increase in air travel, the relatively slow pace of new airplane production, and the apparent economic feasibility of operating older technology airplanes, operators will continue to fly older airplanes rather than retire them. Because of the problems revealed by the accident described above, the consensus

was that this aging fleet needed more attention and maintenance to ensure its continued operational safety.

The Air Transport Association (ATA) of America and the Aerospace Industries Association (AIA) of America committed to identifying and implementing procedures to ensure continuing structural airworthiness of aging transport category airplanes. An Airworthiness Assurance Task Force, with representatives from the aircraft operators, manufacturers, regulatory authorities, and other aviation representatives, was established in August 1988. The objective of the Task Force was to sponsor "Working Groups" to:

1. Select service bulletins, applicable to each airplane model in the transport fleet, to be recommended for mandatory modification of aging airplanes;
2. Develop corrosion-directed inspections and prevention programs;
3. Review the adequacy of each operator's structural maintenance program;
4. Review and update the Supplemental Structural Inspection Documents (SSID); and
5. Assess repair quality.

The Working Group assigned to review Boeing Model 707/720 series airplanes completed its work on Item 2. in July 1989 and developed a baseline program for controlling corrosion problems that may jeopardize the continued airworthiness of the Boeing Model 707/720 fleet. This program is contained in Boeing Document Number D6–54928, "Aging Airplane Corrosion Prevention and Control Program—Model 707/720," dated July 28, 1989. The FAA issued AD 90–25–07, Amendment 39–6788 (55 FR 49252, November 27, 1990), which requires implementation of a corrosion prevention and control program as outlined in that Boeing Document.

The Working Group completed a portion of its work on Item 1., above, in June 1989. The Working Group's proposal is contained in Boeing Document Number D6–54996, "Aging Airplane Service Bulletin Structural Modification Program—Models 707–100, –200, –300, –300B, –300C, –400 and 720/720B." The FAA issued AD 91–07–19, Amendment 39–6926 (55 FR 13073, March 29, 1991), which requires the installation of the structural modifications identified in that Boeing Document.

The action being proposed herein follows from the ongoing activities of the Working Group relative to Item 1. The Working Group has identified certain service difficulties that warrant mandatory inspections of the airplane. The Working Group considers that these service difficulties can be controlled safely in older airplanes by inspections and that because of the safety implications, the inspections should be mandatory to assure that all operators perform them. Typically, the addressed unsafe conditions have occurred infrequently on older airplanes, and the Working Group has a very high degree of confidence in the ability of an inspections program to detect the damage before it adversely affects safety.

The Working Group reviewed 300 service bulletins related to the long-term operation of the Model 707/720 series airplanes. Twenty-nine of these service bulletins were recommended to the FAA for mandatory inspection action to ensure the successful long-term operation of Model 707/720 series airplanes. The conditions addressed by these service bulletins, if not corrected, could result in degradation of the structural capabilities of the affected airplanes. The FAA has concurred with the Working Group's recommendations and has determined that AD action to mandate the inspections is warranted to assure the continued airworthiness of the Model 707/720 fleet.

The FAA has reviewed and approved Section 4 and Appendix A.4 of Boeing Document Number D6–54996, "Aging Airplane Service Bulletin Structural Modification and Inspection Program—Model 707/720," Revision D, dated January 23, 1992. These sections of the Document reference 9 service bulletins that describe inspections of the wings, 10 service bulletins that describe inspections of the fuselage, 2 service bulletins that describe inspections of the door, 6 service bulletins that describe inspections of the empennage, 1 service bulletin that describes inspections of the landing gear, and 1 service bulletin that describes inspections of the engine mount fittings.

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require inspections of certain structural components for cracks, corrosion, and other discrepancies, and repair or correction, if necessary. The actions would be required to be accomplished in accordance with the Boeing Document described previously.

There are approximately 416 Model 707/720 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 82 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 723 work hours 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 $3,260,730, or $39,765 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 "significant regulatory action" under Executive Order 12866; (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:

Boeing: Docket 93–NM–80–AD.

Applicability: Model 707/720 series airplanes, as listed in Section 4 and Appendix A.4 of Boeing Document D6–54996, "Aging Airplane Service Bulletin

Structural Modification and Inspection Program—Model 707/720," Revision D, dated January 23, 1992, certificated in any category.

Compliance: Required as indicated, unless accomplished previously. To prevent degradation of the structural capability of the airplane, accomplish the following:

(a) Accomplish the inspections specified in Section 4 and Appendix A.4 of Boeing Document Number D6–54996, "Aging Airplane Service Bulletin Structural Modification and Inspection Program—Model 707/720," Revision D, dated January 23, 1992, within the times specified in paragraph (b) of this AD, and thereafter at intervals not to exceed those specified in the Boeing Document for each inspection.

(b) The maximum initial inspection times for the inspections contained in Section 4 and Appendices A.4 of Boeing Document Number D6–54996, "Aging Airplane Service Bulletin Structural Modification and Inspection Program—Model 707/720," Revision D, dated January 23, 1992, shall be prior to the later of the times specified in either paragraph (b)(1) or (b)(2) of this AD:

(1) The threshold for inspection time for the inspection specified in the Boeing Document, measured as a total (flight cycles or time-in-service, as appropriate) accumulated on the airplane; or

(2) The phase-in period for the inspection specified in the Boeing Document, measured from a date 15 months after the effective date of this AD.

Note 1: For the purposes of this AD, the "phase-in period" is defined as the allowable period to accomplish the initial inspection when the required threshold specified in paragraph (b)(1) of this AD is imminent or has elapsed.

(c) If any discrepant condition identified in the service bulletins (that are specified in the Boeing Document) is found as a result of the inspections required by this AD, prior to further flight, accomplish the corresponding corrective action specified in the service bulletins.

(d) The terminating action for each inspection required by paragraph (a) of this AD consists of the accomplishment of the modification specified in the corresponding service bulletin.

(e) 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, Seattle Aircraft Certification Office (ACO), 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, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

(f) 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 October 12, 1993.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–25430 Filed 10–15–93; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

21 CFR Part 1304

Reporting on Psychotropic Substances

AGENCY: Drug Enforcement Administration (DEA), Justice.

ACTION: Notice of proposed rulemaking.

SUMMARY: The DEA proposes to amend its regulations to collect information from bulk and dosage from manufacturers of certain Schedule III, IV and V non-narcotic substances. This information is required to meet United States obligations under the Convention on Psychotropic Substances, 1971 and for law enforcement purposes. Bulk and dosage form manufacturers of Schedules I and II controlled substances, of narcotic controlled substances listed in Schedules III, IV and V, and of psychotropic controlled substances listed in Schedules III and IV who report to DEA through the Automation of Reports and Consolidated Orders System (ARCOS) will continue to report those substances under the ARCOS system.

DATES: Comments and objections must be submitted by December 17, 1993.

ADDRESSES: Comments and objections should be submitted in quintuplicate to the Director, Office of Division Control, Drug Enforcement Administration, Washington, DC 20537. Attention: Federal Register Representative/CCR.

FOR FURTHER INFORMATION CONTACT: Mr. G. Thomas Gitchel, Chief, Liaison and Policy Section, Office of Diversion Control, Washington, DC 20537, Telephone (202) 307–7297.

SUPPLEMENTARY INFORMATION: The United States is a Party to the Single Convention on Narcotic Drugs, 1961 and the Convention on Psychotropic Substances, 1971. These conventions require that the U.S. provide information to the United Nations regarding the manufacture, consumption, importation, exportation, inventories and estimates of legitimate medical and scientific need for substances controlled under the conventions. Also, the Controlled Substances Act (CSA) (21 U.S.C. 827(e)) requires manufacturers of controlled substances to submit reports to DEA to meet U.S. obligations under the Single Convention on Narcotic Drugs and the Convention on Psychotropic Substances. DEA currently collects this type of information for all substances in Schedules I and II and for narcotics in Schedules III, IV and V primarily through the ARCOS Systems. Additionally, ARCOS reporting for certain Schedule III and IV psychotropic substances in required pursuant to 21 CFR 1304.35.

The Economic and Social Council (ECOSOC) of the United Nations, due to increased concern over the international diversion of psychotropic substances in Schedules III and IV, adopted a resolution (1991/44) entitled "Prevention of Diversion from International Trade into Illicit Channels of Psychotropic Substances Listed in Schedules III and IV of the Convention on Psychotropic Substances, 1971." This resolution requested the collection and reporting of data on all psychotropic substances in Schedules III and IV of the Psychotropic Convention. In particular, it was requested that parties extend the system of assessments of annual medical and scientific requirements to include Schedules III and IV psychotropic substances. These assessments are to be communicated to the International Narcotics Control Board (INCB) on an annual basis for the purpose of providing international guidance for the manufacture and exportation of the psychotropic substances to prevent diversion.

Current ARCOS reporting requirements provide for the submission of reports on a quarterly basis. The information to meet the expanded reporting is needed only in summary form annually, and the current provisions of 21 CFR 1304.35 apply only to a limited number of Schedule III and IV substances. Thus, ARCOS reporting is inappropriate to this time for the additional information needed to fulfill the U.N. resolution. In addition, some manufacturers who will be required to report this information currently do not report to ARCOS and are not familiar with the requirements of that system. The simplified reporting for U.N. purposes would be the most feasible since the ARCOS System would need extensive modification to handle the anticipated volume, and there is a learning process for the manufacturers who do not currently report which would not be a factor under the simplified system. Therefore, to establish the minimum additional reporting, DEA proposes separate

reporting requirements from those required under ARCOS.

The Schedule III and IV psychotropics currently reported to ARCOS will continue to be reported under that system. The list of Schedule III substances in Section 1304.35 is being altered; glutethimide is being removed from the list as it is now a Schedule II substance; however, as such, it will continue to be reported to ARCOS.

Bulk and dosage form manufacturers of certain nonnarcotic substances in Schedules III, IV and V will submit specified data to DEA on an annual basis for U.N. reports. Such data will be reported as anhydrous base or acid and must be received by DEA no later than January 31 of the year following the year for which the data is submitted. The data is to be submitted on company letterhead and signed by a responsible official. It should be noted that 47 Schedule III, IV and V non-narcotic controlled substances are identified in this proposed rule, but approximately 20 of these are currently marketed in the U.S.

In addition to the above changes, all references in 21 CFR 1304.31, 1304.32, 1304.33, and current 1304.38 (to be changed to 1304.39) to the Drug Control Section are being changed to the Drug and Chemical Evaluation Section.

Pursuant to section 3(c)(3) and 3(e)(2)(C) of E.O. 12291, this proposed action has been submitted for review to the Office of Management and Budget, and approval of that office has been requested pursuant to the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. et seq.

This rule is not a major rule for purposes of Executive Order (E.O.) 12291 of February 17, 1981. The majority of manufacturers are not considered to be small entities whose interests are to be considered under the provisions of the Regulatory Flexibility Act, 5 U.S.C. 601 et seq. Therefore, the Director of the Office of Diversion Control has concluded that there will be no significant impact on small entities.

This action has been analyzed in accordance with the principles and criteria contained in E.O. 12612, and it has been determined that the proposed rule has no implications which would warrant the preparation of a Federalism Assessment.

List of Subjects in 21 CFR Part 1304

Drug traffic control, Reporting requirements.

For reasons set out above, 21 CFR part 1304 is proposed to be amended as follows:

PART 1304—[AMENDED]

1. The authority citation for part 1304 remains as follows:

Authority: 21 U.S.C. 821, 827, 871(b), 958, 965, unless otherwise noted.

2. Section 1304.34 is proposed to be revised to read as follows:

§ 1304.34 Reports generally.

(a) All reports required by §§ 1304.35, 1304.37 and 1304.38 shall be filed with the ARCOS Unit, P.O. Box 28293, Central Station, Washington, DC 20005, on DEA Form 333, or on media which contains the data required by DEA Form 333 and which is acceptable to the Administration.

(b) All reports required by Section 1304.36 shall be filed with the Drug and Chemical Evaluation Section, Drug Enforcement Administration, Washington, DC 20537, in the manner specified in § 1304.36(c).

(c) References to DEA Form 234 in §§ 1304.31 and 1304.32 shall be deemed to refer equally to DEA Form 333.

3. Section 1304.35 is proposed to be amended by revising paragraphs (a) and (c) to read as follows:

§ 1304.35 Reports from manufacturers of bulk materials or dosage units.

* * * * *

(a) Substances covered. Reports shall include data on each controlled substance listed in Schedules I and II, on each narcotic controlled substance listed in Schedules III, IV and V, and on each psychotropic controlled substance listed in Schedules III and IV as identified below:

Schedule III

(1) Benzphetamine;
(2) Cyclobarbital;
(3) Methyprylon; and
(4) Phendimetrazine.

Schedule IV

(1) Barbital;
(2) Diethylproprion (Amfepramone);
(3) Ethchlorvynol;
(4) Ethinamate;
(5) Lefetamine (SPA);
(6) Mazindol;
(7) Meprobamate;
(8) Methylphenobarbital;
(9) Phenobarbital;
(10) Phentermine; and
(11) Pipradrol.

Data shall be presented in such a manner as to identify the particular form, strength, and trade name, if any, of the product containing the controlled substance for which the report is being made. For this purpose, persons filing reports shall utilize the National Drug Code Number assigned to the product under the National Drug Code System of the Food and Drug Administration.

(b) * * *

(c) Inventories reported. Reports shall provide data on the stocks of each reported controlled substance on hand as of the close of business on December 31 of each year. These reports shall be filed no later than January 15 of the following year.

* * * * *

4. Sections 1304.36 through 1304.38 are proposed to be redesignated as §§ 1304.37 through 1304.39 respectively, and a new § 1304.36 is proposed to be added to read as follows:

§ 1304.36 Reports from manufacturers of non-narcotic bulk materials or dosage units listed in Schedules III, IV and V.

Reports required under this section are for the purpose of fulfilling certain United States obligations to the United Nations. Reports shall be filed no later than January 31 of the year following the calendar year for which the report is required. Data shall be reported in grams as anhydrous base or acid and not as salt. Manufacturers of both bulk material and dosage units must submit information required by paragraph (b).

Each person who is registered to manufacture controlled substances listed in Schedules III, IV or V in bulk or dosage form shall report as follows:

(a) Substances covered. Reports shall include data on each controlled substance listed in Schedules III, IV and V as identified below:

Schedule III

(1) Allobarbital;
(2) Butabarbital;
(3) Butalbital;
(4) Secbutabarbital; and
(5) Vinylbital

Schedule IV

(1) Alprazolam;
(2) Bromazepam;
(3) Camazepam;
(4) Cathine ((+)-norpseudoephedrine);
(5) Chlordiazepoxide;
(6) Clobazam;
(7) Clonazepam;
(8) Clorazepate;
(9) Clotiazepam;
(10) Cloxazolam;
(11) Delorazepam;
(12) Diazepam;
(13) Estazolam;
(14) Ethyl loflazepate;
(15) Fencamfamin;
(16) Fenproporex;
(17) Fludiazepam;
(18) Flunitrazepam;
(19) Flurazepam;
(20) Halazepam;
(21) Haloxazolam;
(22) Ketazolam;
(23) Loprazolam;
(24) Lorazepam;
(25) Lormetazepam;
(26) Medazepam;
(27) Mefenorex;

(28) Midazolam;
(29) Nimetrazepam;
(30) Nitrazepam;
(31) Nordiazepam;
(32) Oxazepam;
(33) Oxazolam;
(34) Pemoline;
(35) Pentazocine;
(36) Pinazepam;
(37) Prazepam;
(38) Temazepam;
(39) Tetrazepam; and
(40) Triazolam.

Schedule V

(1) Buprenorphine; and
(2) Pyrovalerone.

(b) Each person who is registered to manufacture controlled substances listed in paragraph (a) of this section in bulk or dosage form shall provide data on each substance for each calendar year to include the following information:

(1) Company
(2) Address
(3) Contact Person
(4) Telephone Number
(5) Type of Manufacturer (bulk or dosage form)
(6) Controlled Substance
(7) Schedule
(8) DEA Controlled Substance Number
(9) Beginning Inventory as of opening of business on January 1 (list separate figures on the following):
(i) In-process material (all forms)
(ii) Bulk controlled substance ready for transfer, conversion or sale
(iii) Finished dosage forms (in bulk and/or packaged)
(iv) Other materials (specify)
(10) Acquisitions during the calendar year (list separate figures on the following):
(i) Manufactured (bulk manufacturers only)
(ii) Domestic procurements (transfers/purchases)
(iii) Importations
(iv) Returns by customers for credit, salvage, rework, etc.
(v) Purchases from other bulk manufacturers
(vi) Other acquisitions (specify)
(11) Dispositions during the calendar year (list separate figures on the following):
(i) Domestic sales to:
(A) Dosage form and other manufacturers (specify type)
(B) Retail Level
(C) Researchers
(D) Distributors (wholesalers)
(E) Federal, state or county agencies
(ii) Transfers
(iii) Exportations
(iv) Used in chemical conversion to other drugs
(v) Losses
(vi) Authorized destructions
(vii) Returns to suppliers
(viii) Other dispositions (specify)
(12) Year-End Inventory as of close of business on December 31 (list separate figures on the following):
(i) In-process material (all forms)
(ii) Bulk controlled substance ready for transfer, conversion or sale
(iii) Finished dosage forms (in bulk and/or packaged)
(iv) Other materials (specify)
(13) Amount of material used during the calendar year for the production of dosage form products in Schedule III, IV, or V (list each item and amount separately).
(14) Amount of material used during the calendar year for the production of excluded, excepted or exempted preparations (list each item and amount separately).
(15) Amount of material used during the calendar year for the production of non-control substances (list each item and amount separately).

(c) Reports required under this section shall be submitted on company letterhead and signed by a responsbile, appropriate official.

§§ 1304.41–1304.33, 1304.39 [Amended]

5. In addition to the amendments set forth above, in 21 CFR 1304 remove the words "Drug Control Section" and add, in their place, the words "Drug and Chemical Evaluation Section" in the following places:

(a) Section 1304.31 (a);
(b) Section 1304.32 (a);
(c) Section 1304.33 (a); and
(d) Section 1304.39 (a).

Dated: September 22, 1993.

Gene R. Haislip,

Director, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 93–25469 Filed 10–15–93; 8:45 am]
BILLING CODE 4410–09–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[PS–16–93]

RIN 1545–AR50

Recapture of LIFO Benefits; Hearing Cancellation

AGENCY: Internal Revenue Service (IRS), Treasury.

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

SUMMARY: This document provides notice of cancellation of a public hearing on proposed regulations that describe the events that trigger the recapture of LIFO benefits under section 1363(d) of the Internal Revenue Code of 1986 (Code) when a C corporation elects to become an S corporation or merges into an S corporation in a tax-free reorganization.

DATES: The public hearing originally scheduled for Monday, October 25, 1993, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Carol Savage of the Regulations Unit, Assistant Chief Counsel (Corporate), (202) 622–8452 or (202) 622–7190 (not toll-free numbers).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations under section 1363(d) of the Internal Revenue Code. A notice of public hearing appearing in the **Federal Register** for Wednesday, August 18, 1993 (58 FR 43828), announced that the public hearing on the proposed regulations would be held on Monday, October 25, 1993, beginning at 10 a.m., in the Commissioner's Conference Room, room 3313, Internal Revenue Service Building, 1111 Constitution Avenue NW., Washington, DC.

The public hearing scheduled for Monday, October 25, 1993, has been cancelled.

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 93–25468 Filed 10–15–93; 8:45 am]
BILLING CODE 4830–01–U

Bureau of Alcohol, Tobacco, and Firearms

27 CFR Part 5

[Notice No. 782; Re: Notice No. 780; 91F009P]

RIN: 1512–AB22

Alteration of Class and Type: Vodka

AGENCY: Bureau of Alcohol, Tobacco, and Firearms (ATF), Department of the Treasury.

ACTION: Notice of proposed rulemaking; extension of comment period.

SUMMARY: This document extends the comment period for Notice No. 780, a notice of proposed rulemaking (NPRM) published in the **Federal Register** on September 1, 1993. Notice No. 780 solicited comments on a proposal by the Bureau of Alcohol, Tobacco and Firearms (ATF) to amend the regulations authorizing the use of a trace amount (defined as up to 300 milligrams per liter or 300 ppm) of citric acid in the production of vodka, without changing

its designation as vodka. Because citric acid is not an essential component of vodka, ATF proposes amending regulations which regulate the additions of substances to distilled spirits, rather than the regulations on the standard of identity of vodka. Under this proposal, vodka made with a concentration of citric acid greater than 300 ppm would be designated "flavored vodka" or labeled with a fanciful name. Recently, ATF received a request from the Distilled Spirits Council of the United States, Inc. (DISCUS) for an extension of the comment period in order to provide sufficient time for all interested parties to respond to the issues addressed in the NPRM.

DATES: Comments must be received on or before January 3, 1994.

ADDRESSES: Send written comments to: Chief, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 50221, Washington DC, 20091–0221, ATTEN: Notice No. . Comments not exceeding three pages may be submitted by facsimile transmission to (202) 927–8602.

FOR FURTHER INFORMATION CONTACT: David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue NW., Washington, DC. 20226, (202) 927–8230.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 1993, ATF published Notice No. 780 in the **Federal Register** (58 FR 46141) soliciting comments on a proposal to amend 27 CFR 5.23(a)(3)(ii) authorizing the use of a trace amount (defined as up to 300 milligrams per liter or 300 ppm) of citric acid in the production of vodka, without changing its designation as vodka. Because citric acid is not an essential component of vodka, ATF is proposing to amend 27 CFR 5.23 which regulates additions of substances to distilled spirits, rather than 27 CFR 5.22(a)(1) which is the standard of identity of vodka. Under this proposal, vodka made with a concentration of citric acid greater than 300 ppm would be designated "flavored vodka" or labeled with a fanciful name under 27 CFR part 5.

In Notice No. 780, ATF requested comments from all interested parties. ATF is particularly interested in comments concerning the sensory threshold citric acid levels of vodka (the level at which vodka would be without distinctive character, aroma, taste, or color to a majority of people.) In that regard, ATF is interested in comments concerning citric acid levels higher or lower than the proposed maximum level of 300 ppm. Also, ATF is interested in comments concerning the methodology and results of the studies conducted by Heublein and OS&E, as well as ATF's interpretation of the same.

The comment period for Notice No. 780 was scheduled to close on October 18, 1993. Recently, ATF received a request from DISCUS, a national trade association representing producers and marketers of distilled spirits sold in the United States, for an extension of the comment period. DISCUS feels that this extension "is necessary to permit, *inter alia*, the industry to undertake a critical analysis of the methodology employed by the Bureau, to conduct testing concerning the appropriateness of sensory threshold for citric acid, and to analyze and assess the results of any such testing." DISCUS further believes that "[t]he issues implicated in Notice No. 780 have major import to the industry generally and extend beyond the scope of the specific matters raised in the rulemaking."

In consideration of this request, ATF has determined that in addition to the 45 days already provided for in Notice No. 780, an extension of 75 days is appropriate. Therefore, the comment period for Notice No. 780 will be extended to January 3, 1994.

Drafting Information

The principal author of this document is David W. Brokaw, Wine and Beer Branch, Bureau of Alcohol, Tobacco, and Firearms.

Authority: This notice is issued under the authority in 27 U.S.C. 205.

Signed: October 14, 1993.

Daniel R. Black,

Acting Director.

[FR Doc. 93–25603 Filed 10–15–93; 8:45 am]

BILLING CODE 4810–31–U

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Missouri Permanent Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Missouri permanent regulatory program (hereinafter, the "Missouri program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of changes to provisions of the Missouri statutes pertaining to its alternative bonding system. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards, clarify ambiguities, improve operational efficiency, and at the State's own initiative to improve its program.

This document sets forth the times and locations that the Missouri program and proposed amendment to that program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., c.d.t., November 17, 1993. If requested, a public hearing on the proposed amendment will be held on November 12, 1993. Requests to present oral testimony at the hearing must be received by 4 p.m., c.d.t. on November 2, 1993.

ADDRESSES: Written comments should be mailed or hand delivered to Jerry R. Ennis at the address listed below.

Copies of the Missouri program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Kansas City Field Office.

Jerry R. Ennis, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 934 Wyandotte, Room 500, Kansas City, MO 64105, Telephone: (816) 374–6405.

Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102, Telephone: (314) 751–4041.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, telephone: (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Missouri program. General background information on the Missouri program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the

Missouri program can be found in the November 21, 1980, **Federal Register** (45 FR 77017). Subsequent actions concerning Missouri's program and program amendments can be found at 30 CFR 925.12, 925.15, and 925.16.

II. Proposed Amendment

By letter dated September 24, 1993, (Administrative Record No. MO–575) Missouri submitted a proposed amendment to its program pursuant to SMCRA. Missouri submitted the proposed amendment with the intent of satisfying the required program amendments at 30 CFR 925.16(g) and at its own initiative to improve its program.

The sections of the Revised Statutes of Missouri (RSMo) that are proposed for amendment are discussed briefly below:

(1) Section 444.805(8) Full Cost Bond

Missouri proposes to remove its definition of a full cost bond and the option of a permittee to not participate in the alternative bonding system.

(2) Section 444.805(16) Phase I Reclamation Bond

Missouri proposes to revise the definition of the Phase I reclamation bond to require that no less than 80-percent of the bond may be released upon successful completion of Phase I reclamation with the rest of the bond remaining in effect until Phase III liability is released.

(3) Section 444.830.1. Phase I Reclamation

Missouri proposes to revise this section to remove the option of a permittee to file a full cost bond and to require that the amount of the Phase I reclamation bond and the coal mine land reclamation fund be sufficient to assure the completion of the reclamation plan if the work had to be performed by the commission in event of forfeiture.

(4) Section 444.830.3. Alternative Bonding System

Missouri proposes to clarify that it may adopt an alternative bonding system that will achieve the objectives and purposes of the bonding program pursuant to this section and which is consistent with or pursuant to the purposes of P.L. 95–87, the Surface Mining Control and Reclamation Act.

(5) Section 444.875.1. Release of Performance Bond

Missouri proposes to add the requirement that at the time of final Phase III bond release submittal, the operator shall include evidence that an affidavit has been recorded with the recorder of deeds in the county where the mined land is located, generally describing the parcel or parcels of land where operations such as underground mining, auger mining, covering of slurry ponds, or other underground activities occurred which could impact or limit future use of that land. This requirement shall be applicable to mined land where Phase I reclamation was completed on or after September 1, 1992.

(6) Section 444.950.1. Bond Amounts

Missouri proposes to revise this section by removing the option for an operator to file a full cost bond and require that the Phase I bond be at a minimum $2,500 per permitted acre for every acre permitted and bonded on the effective date of this section, unless the Phase I reclamation bond has been released pursuant to section 444.875, except that it shall be a minimum of $10,000 per acre for the coal preparation area. The Phase I reclamation bond for areas other than coal preparation areas may be adjusted annually by the commission based upon calculations conducted by the director, but shall not be increased by more than $250 per year per acre or a maximum of $5,000 per acre. The Phase I bond for coal preparation areas may also be adjusted annually by the commission based upon calculation conducted by the director, but shall not be increased by more than $500 per year per acre or a maximum of $15,000 per acre. The changes shall be proposed by the commission through the normal rulemaking process. The calculations of the minimum Phase I reclamation amount required shall depend upon the reclamation requirements of the approve permits, and shall reflect the probable difficulty of reclamation giving consideration to such factors as site topography, geology, hydrology,and revegetation potential. In no case shall the Phase I reclamation bond be less than $10,000 per permit, except that for those operators with less than 1,000 bonded acres, the minimum bond shall be the equivalent of 20 acres of Phase I reclamation bond for each acre of open pit, as determined by the approved mining plan.

(7) Sections 444.950.2., 3., 4., 5., 6., 7., and 8. Review and Approval by the Missouri Joint Committee on Administrative Rules

Missouri proposes that no rule or portion of a rule promulgated under this chapter shall become effective until it has been approved by the joint committee on administrative rules in accordance with the procedures provided herein, and the delegation of the legislative authority to enact law by the adoption of such rules is dependent upon the power of the joint committee on administrative rules to review and suspend rules pending ratification by the Senate and the House of Representatives as provided herein.

Upon filing any proposed rule with the Secretary of State, the filing agency shall concurrently submit such proposed rule to the committee which may hold hearings upon any proposed rule or portion thereof at any time.

A final order of rulemaking shall not be filed with the Secretary of State until 30 days after such final order of rulemaking has been received by the committee. The committee may hold one or more hearings upon such final order of rulemaking during the 30 day period. If the committee does not disapprove such order of rulemaking within the 30 day period, the filing agency may file such order of rulemaking with the Secretary of State and the order of rulemaking shall be deemed approved.

The committee may, by majority vote of the members, suspend the order of rulemaking or portion thereof by action taken prior to the filing of the final order of rulemaking only for one or more of the following grounds: (1) An absence of statutory authority for the proposed rule; (2) an emergency relating to public health, safety, or welfare; (3) the proposed rule is in conflict with State law; or (4) a substantial change in circumstance since enactment of the law upon which the proposed rule is based.

If the committee disapproves any rule or portion thereof, the filing agency shall not file such disapproved portion of any rule with the Secretary of State and the Secretary of State shall not publish in the Missouri Register any final order of rulemaking containing the disapproved portion.

If the committee disapproves any rule or portion thereof, the committee shall report its findings to the Senate and the House of Representatives. No rule or portion thereof disapproved by the committee shall take effect so long as the Senate and the House of Representatives ratifies the act of the joint committee by resolution adopted in each house within 30 legislative days after such rule or portion thereof has been disapproved by the joint committee.

Upon adoption of a rule as provided herein, any such rule or portion thereof may be suspended or revoked by the general assembly either by bill or, pursuant to section 8, article IV, of the constitution, by concurrent resolution upon recommendation of the joint committee on administrative rules. The

committee shall be authorized to hold hearings and make recommendations pursuant to the provisions of section 536.037, RSMo. The Secretary of State shall publish in the Missouri Register, as soon as practicable, notice of the suspension or revocation.

(8) Section 444.950.10. Self Bond and Alternative Bond

Missouri proposes to clarify that it may accept a self bond for the phase I reclamation bond and adopt an alternative bonding system that will achieve the objectives and purposes of the bonding program pursuant to this section and which is consistent with or pursuant to the purposes of P.L. 95–87, the Surface Mining Control and Reclamation Act.

(9) Section 444.950.11. Release of Bond

Missouri proposes to require that at the completion of Phase I reclamation, the commission may release no less than 80 percent of the Phase I reclamation bond. The remaining Phase I reclamation bond shall remain in effect until Phase III liability is released. In the event of forfeiture, the total amount of the Phase I reclamation bond filed shall be available for the completion of all phases of reclamation.

(10) Section 444.960.1. Coal Mine Land Reclamation Fund

Missouri proposes to remove the option of an operator to not participate in the alternative bonding system by filing a full cost bond.

(11) Section 444.960.5. Assessments to the Fund

Missouri proposes to revise this section to require that assessments continue to be allocated to the 40-percent portion of the fund until enough moneys have accumulated to complete reclamation of those permits that have been revoked by the commission prior to September 1, 1988, rather than ending contributions arbitrarily on September 1, 1993. After that time all moneys will be assessed into the 60-percent fund. The moneys within the respective funds may be utilized by the commission on any aspect of reclamation rather than limiting the use of the 60-percent fund to Phase I reclamation.

(12) Section 444.965.1. and 3. Payment of Assessments

Missouri proposes to remove the option of an operator to not participate in the alternative bonding system by filing a full cost bond.

(13) Section 444.965.4. Rate of Assessment

Missouri proposes to clarify that if the assessment rate changes because the fund would exceed $7 million and then later the fund balance falls below $7 million, a lower rate of assessment cannot be utilized until enough money has accumulated in the 40-percent pool to complete reclamation on sites revoked prior to September 1, 1988, rather than the arbitrary date of September 1, 1993.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Missouri program.

Written Comments

Written comments should be specific, pertain only to the issue proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Kansas City Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under FOR FURTHER INFORMATION CONTACT by 4 p.m., c.d.t., November 2, 1993. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed under FOR FURTHER INFORMATION CONTACT. All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under ADDRESSES. A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

Compliance With the National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Executive Order 12866

This proposed rule is not considered a significant regulatory action under the criteria of section 3(f) of Executive Order 12866. Therefore, review by the Office of Management and Budget under section 6 of the Executive Order is not required prior to publication in the Federal Register.

Compliance With the Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Compliance With Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the requirements of 30 CFR parts 730, 731, and 732 have been met.

Compliance With the Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

V. List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 8, 1993.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 93–25410 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–05–M

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30 CFR Part 925

Missouri Permanent Regulatory Program

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

ACTION: Proposed rule; public comment period and opportunity for public hearing on proposed amendment.

SUMMARY: OSM is announcing the receipt of a proposed amendment to the Missouri permanent regulatory program (hereinafter, the "Missouri program") under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consists of changes to provisions of the Missouri statutes pertaining to civil penalties. The amendment is intended to revise the State program to be consistent with the corresponding Federal standards, clarify ambiguities, improve operational efficiency, and at the State's own initiative to improve its program.

This notice sets forth the times and locations that the Missouri program and proposed amendment to the program are available for public inspection, the comment period during which interested persons may submit written comments on the proposed amendment, and procedures that will be followed regarding the public hearing, if one is requested.

DATES: Written comments must be received by 4 p.m., c.d.t. November 17, 1993. If requested, a public hearing on the proposed amendment will be held on November 12, 1993. Requests to present oral testimony at the hearing must be received by 4 p.m., c.d.t. on November 2, 1993.

ADDRESSES: Written comments should be mailed or hand delivered to Jerry R. Ennis at the address listed below.

Copies of the Missouri program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Kansas City Field Office.

Jerry R. Ennis, Director, Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 934 Wyandotte, Room 500, Kansas City, MO 64105 Telephone: (816) 374–6405.

Missouri Department of Natural Resources, Land Reclamation Program, 205 Jefferson Street, P.O. Box 176, Jefferson City, MO 65102, Telephone: (314) 751–4041.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, telephone: (816) 374–6405.

SUPPLEMENTARY INFORMATION:

I. Background on the Missouri Program

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

II. Proposed Amendment

By letter dated September 24, 1993, (Administrative Record No. MO–576) Missouri submitted a proposed amendment to its program pursuant to SMCRA. Missouri submitted the proposed amendment with the intent of satisfying the required program amendment at 30 CFR 925.16(i) and at the States own initiative to improve its program.

The sections of the Revised Statues of Missouri (RSMo) that are proposed for amendment are discussed briefly below:

(1) Section 444.870.3. Contesting a Penalty

Missouri proposes to revise procedures for the operator to contest either the amount of the penalty or the fact of the violation rather than the notice.

(2) Section 444.870.5., 6., 7., and 8. Administrative Penalties

Missouri proposes to delete the old language at these sections and replace it to require that any person who willfully and knowingly violates a condition of a permit or fails or refuses to comply with any order issued under § 444.885 or § 444.900, or any order incorporated in a final decision issued by the commission, except an order incorporated in a decision issued under subsection 2 of this section shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 1 year or both.

Whenever a corporate permittee violates a condition of a permit or fails or refuses to comply with any order issued under § 444.885, or any order incorporated in a final decision issued by the commission except an order incorporated in a decision issued under subsection 2 of this section, any director, officer, or agent of such corporation who willfully and knowingly authorized, ordered, or carried out such violation, failure, or refusal shall be subject to the same administrative penalties, fines, and imprisonment that may be imposed upon a person under subsection 1 and 5 of this section.

Whoever knowingly makes any false statement, representation, or certification or knowingly fails to make any statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained shall, upon conviction, be punished by a fine of not more than $10,000, or by imprisonment for not more than 1 year, or both.

Any operator who fails to correct a violation for which a citation has been issued under subsection 1 of § 444.885 within the period permitted for its correction (which period shall not end until the entry of a final order by the

commission, in the case of any review proceedings under § 444.895 initiated by the operator wherein the commission orders, after an expedited hearing, the suspension of the abatement requirements of the citation after determining that the operator will suffer irreparable loss or damage from the application of those requirements, or until the entry of an order of the court, in the case of any review proceedings under § 444.900 initiated by the operator wherein the court orders the suspension of the abatement requirements of the citation) shall be assessed an administrative penalty by the commission of not less than $750, nor more than $5,000 for each day during which such failure or violation continues.

(3) Section 444.873.1., 2., 3., and 4. Administrative Penalties

Missouri proposes to remove these sections and replace these provisions at § 444.870.5.–8.

III. Public Comment Procedures

In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether the proposed amendment satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Missouri program.

Written Comments

Written comments should be specific, pertain only to the issue proposed in the this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Kansas City Field Office will not necessarily be considered in the final rulemaking or included in the administrative records.

Public Hearing

Persons wishing to testify at the public hearing should contact the person listed under "FOR FURTHER INFORMATION CONTACT" by 4 p.m., c.d.t. November 2, 1993. The location and time of the hearing will be arranged with those persons requesting the hearing. If no one requests an opportunity to testify at the public hearing, the hearing will not be held.

Filing of a written statement at the time of the hearing is requested as it will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSM officials to prepare adequate responses and appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to testify, and who wish to do so, will be heard following those who have been scheduled. The hearing will end after all persons scheduled to testify and persons present in the audience who wish to testify have been heard.

Public Meeting

If only one person requests an opportunity to testify at a hearing, a public meeting, rather than a public hearing, may be held. Persons wishing to meet with OSM representatives to discuss the proposed amendment may request a meeting at the OSM office listed under "FOR FURTHER INFORMATION CONTACT." All such meetings will be open to the public and, if possible, notices of meetings will be posted at the locations listed under "ADDRESSES." A written summary of each meeting will be made a part of the administrative record.

IV. Procedural Determinations

Executive Order 12866

This proposed rule is not considered a significant regulatory action under the criteria of section 3(f) of Executive Order 12866. Therefore, review by the Office of Management and Budget under section 6 of the Executive Order is not required prior to publication in the **Federal Register.**

Compliance With the National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA [30 U.S.C. 1292(d)] provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act, 42 U.S.C. 4332(2)(C).

Compliance With Executive Order No. 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 (Reduction of Regulatory Burden) for actions related to approval or conditional approval of State regulatory programs, actions, and program amendments. Therefore, preparation of a Regulatory Impact Analysis is not necessary and OMB regulatory review is not required.

Compliance With the Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal, which is the subject of this rule, is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Hence, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

Compliance With Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that, to the extent allowed by law, this rule meets the applicable standards of subsection (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 1255) and 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the requirements of 30 CFR Parts 730, 731, and 732 have been met.

Compliance With the Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act, 44 U.S.C. 3507 *et seq.*

List of Subjects in 30 CFR Part 925

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 8, 1993.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 93–25409 Filed 10–15–93; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Chapter I

[FRL–4790–5]

Open Meeting on the Definition of Solid Waste and Hazardous Waste Recycling

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meeting.

SUMMARY: The Environmental Protection Agency (EPA) is conducting a public meeting on revising the regulatory definition of solid waste under the Resource Conservation and Recovery Act (RCRA). The revisions are intended to simplify the regulations and to eliminate disincentives to recycling while maintaining full protection of human health and the environment. They are also intended to reduce any possible current underregulation of hazardous waste recycling.

DATES: The meeting will take place on October 27, 1993 from 9:30 a.m. to 6 p.m., and on October 28 1993 from 8:30 a.m. to 5 p.m.

ADDRESSES: The meeting will take place at the U.S. Chamber of Commerce building, 1615 H St. NW., Washington, DC 20062 (202) 659–6000.

FOR FURTHER INFORMATION CONTACT: For additional information on the meeting, please contact Sharon Brent of EPA's Office of Solid Waste at (202) 260–8104.

SUPPLEMENTARY INFORMATION: The Agency has selected sixteen individuals to provide technical and policy expertise at the meeting. These individuals will provide their opinions about the issues of hazardous waste recycling and how the federal solid waste rules affect such recycling. The individuals are:

Dorothy Kelly (Ciba-Geigy Corp.)
John Fognani (Gibson, Dunn, and Crutcher)
Harvey Alter (Chamber of Commerce)
Jeff Reamy (Phillips Petroleum Co.)
Jon Jewett (Solite Corp.)
Robert Wescott (Wesco Parts Cleaners)
Richard Fortuna (Hazardous Waste Treatment Council)
John Wittenborn (Collier, Rill, Shannon, and Scott)
William Collinson (General Motors Corp.)
Gerald Dumas (RSR Corp.)
Kevin Igli (Waste Management Inc.)
Karen Florini (Consultant)
David Lennett (Consultant)
Melinda Taylor (Consultant)
Roy Brower (State of Oregon)
Pat Matuseski (State of Minnesota)

EPA participants in the discussions will be James Berlow, Director of the Definition of Solid Waste Task Force, and Rich Vaille EPA Region IX. In addition, any interested member of the public may attend the meeting.

Dated: October 8, 1993.

Deborah Dalton,

Deputy Director, Consensus and Dispute Resolution Program.

[FR Doc. 93–25514 Filed 10–15–93; 8:45 am]

BILLING CODE 6560-60-M

40 CFR Parts 35 and 300

[FRL–4790–3]

National Oil and Hazardous Substances Pollution Contingency Plan; Cooperative Agreements and Superfund State Contracts for Superfund Response Actions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing largely technical revisions to four sections of the National Oil and Hazardous Substances Pollution Contingency Plan (NCP). EPA is also proposing conforming revisions to two sections of the administrative requirements for CERCLA-funded Cooperative Agreements and Superfund State Contracts for Superfund Response Actions.

The first NCP revision clarifies that EPA may acquire an interest in real estate in order to conduct a Superfund (Fund)-financed remedial action only if the State in which the interest is located agrees to accept transfer of that interest upon completion of the remedial action. The second revision clarifies that Federal agencies have discretionary authority over the expenditure of their funds when acting as an expert agency providing assistance in a cleanup. The third revision explains that EPA may extend the operational and functional period of a remedial action as necessary, and fund such extensions as part of the remedial action. The fourth revision clarifies that an On-scene Coordinator (OSC) may be authorized to coordinate and direct appropriate response action, not merely a removal action.

Finally, EPA is clarifying in the preamble to this proposed rule earlier NCP preamble statements concerning the administrative record for judicial review of response actions and preemption of State environmental law and enforcement actions; no rule language is being proposed concerning either of the clarifications.

DATES: Comments on the proposed rule must be submitted on or before November 17, 1993.

ADDRESSES: Written comments on the proposed rule should be submitted, in triplicate, to the Superfund Docket, located at the U.S. Environmental Protection Agency, 401 M Street, SW., room 2615 Mall, Washington, DC 20460. The record supporting this rulemaking is contained in the Superfund Docket and is available for inspection, by appointment only, between the hours of 9 a.m. and 4 p.m., Monday through Friday, excluding legal holidays. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Hugo Paul Fleischman, Office of Emergency and Remedial Response, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 (Mail Code—5203G), at (703) 603–8769, or the RCRA/Superfund Hotline at 1 800–424–9346 (in Arlington, Virginia at (703) 920–9810).

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Introduction

Pursuant to section 105(b) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA or Superfund), Public Law No. 96–510, as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), Public Law No. 99–499, the Environmental Protection Agency (EPA or the Agency) revised the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), largely in order to implement regulatory changes necessitated by SARA. 55 FR 8666–8865 (March 8, 1990), codified at 40 CFR part 300. In carrying out the revised NCP, EPA has identified several provisions that are capable of interpretations other than those intended by the Agency.

In order to avoid any confusion, and to better inform the public, EPA is today proposing clarifications to four sections of the NCP. EPA is also proposing conforming changes to two sections of 40 CFR part 35, subpart O (hereafter subpart O), the administrative requirements for CERCLA-funded

Cooperative Agreements and Superfund State Contracts. The Agency is suggesting changes to the language of the provisions in order to eliminate any potential ambiguity, to reaffirm the Agency's original intent in promulgating these sections, and in some cases, to have rule language that more closely comports with the language of CERCLA.

EPA is also clarifying several statements in prior NCP preambles concerning the administrative record provisions of the NCP and preemption of State environmental law and enforcement actions.

II. Discussion of Proposed Revisions

A. Property Acquisitions During Remedial Actions

1. NCP Section 300.510(f)

The first proposed NCP revision relates to the acquisition of, and acceptance of transfer of interests in, real estate in a Fund-financed remedial action. NCP § 300.510(f) provides that EPA may determine that an interest in real property must be acquired in order to conduct a response action. As a general rule, the State in which the property is located must agree to acquire and hold the necessary property interest, including any interest in acquired property that is needed to ensure the reliability of institutional controls restricting the use of that property. If it is necessary for the United States government to acquire the interest in property to permit implementation of the response, the State must accept transfer of the acquired interest on or before the completion of the response action.

Some members of the public appear to interpret this provision as authorizing EPA to require a State to acquire interests in real estate; this was not EPA's intent. CERCLA section 104(j)(2) makes clear that the President may acquire an interest in real estate needed to conduct a remedial action "only if, before an interest in real estate is acquired under this subsection, the State in which the interest is to be acquired is located assures the President * * * that the State will accept transfer of the interest following completion of the remedial action." The intent of NCP § 300.510(f) was to implement that section, and to make clear that the State's assurance to accept transfer of the interest in real estate is a necessary condition of EPA's acquiring it (consistent with CERCLA section 104(j)(2)), not that EPA could compel the State to acquire it.

The proposed rule has been drafted to more closely track the statutory language, in order to minimize any ambiguities. It restates the concept in CERCLA section 104(j)(1) that EPA may acquire an interest in real property to conduct any response action. It clarifies that a State is not required to acquire an interest in real estate, but that EPA may only acquire an interest in real estate in a Fund-financed remedial action if a State assures that it will accept transfer of such interest upon completion of the action, as provided in CERCLA section 104(j)(2). Proposed NCP § 300.510(f) would also delete, for purposes of simplicity, the specific example of a property interest "needed to ensure the reliability of institutional controls restricting the use of that property." This issue is already covered in other sections of the NCP. For instance, NCP § 300.510(c)(1) provides that a State must, in appropriate instances, as part of the assurances it gives for operation and maintenance (O&M) of a remedial action, assure that "any institutional controls implemented as part of the remedial action at a site are in place, reliable, and will remain in place after the initiation of O&M." In some cases, the maintenance of an interest in real estate may be necessary in order to ensure the reliability of such institutional controls. This deletion of the O&M institutional controls example from the current version of NCP § 300.510(f) is not substantive, and is merely intended to have the regulatory language more precisely track the statutory language.

There was also some confusion as to when the State would be required to accept the transfer of interest in real estate acquired in accordance with CERCLA sections 104(j)(1) and (2). The proposal clarifies that such transfer must occur "upon completion of the remedial action." This language is consistent with CERCLA section 104(j)(2). For purposes of the proposed paragraph, "completion of the remedial action" means the point at which O&M measures would be initiated if started in a timely fashion. For sites other than ground or surface-water sites, O&M would generally begin when the remedy has been constructed, is operational and functional, and has attained ROD objectives (e.g., the landfill and leachate collection system are built as called for in the ROD, are operational, and need only be maintained). For ground- and surface-water restoration remedies, O&M begins after up to 10 years of restoration measures. NCP § 300.435(f). The proposal, like the present rule, allows for earlier transfers if agreed to in writing by EPA and the State. See 55 FR 8779 (March 8, 1990). ("Completion of the remedial action," for purposes of CERCLA section 104(j), should not be confused with "construction completion," which occurs at an earlier point in the process. See 58 FR 12142, (March 2, 1993).)

States have an important role in determining when a Fund-financed remedial action is complete. They have the opportunity to concur in the determination that the remedy has been constructed in accordance with the Record of Decision, and that the start-up period (i.e., the "operational and functional" period) should begin. At the end of the start-up period, the State and EPA will conduct a joint inspection of the site prior to EPA's decision to accept or reject the remedial action report.

Finally, to help the public identify all sections of the regulations relevant to this subject, the proposed rule also provides a cross-reference to 40 CFR part 35, subpart O, § 35.6110(b)(2), for information on Indian tribal assurances for property acquisitions. For the foregoing reasons, the Agency is proposing to revise NCP § 300.510(f) to provide that EPA may determine that an interest in real property must be acquired in order to conduct a response action. However, as provided in CERCLA section 104(j)(2), EPA may acquire an interest in real estate in order to conduct a remedial action only if the State in which the interest to be acquired is located provides assurances, through a contract, cooperative agreement or otherwise, that the State will accept transfer of the interest upon completion of the remedial action. For purposes of this paragraph, "completion of the remedial action" is the point at which operation and maintenance (O&M) measures would be initiated. The State may accept a transfer of interest at an earlier point in time if agreed upon in writing by the State and EPA. Indian tribe assurances are to be provided as set out at 40 CFR part 35, subpart O, § 35.6110(b)(2).

2. Proposed Changes to Subpart O

Background. Uniform Federal administrative requirements for grants and cooperative agreements to State and local governments are set out at 40 CFR part 31. However, as provided in 40 CFR 31.4, part 31 authorizes EPA, among other things, to impose additional requirements in codified regulations where necessary to implement statutory provisions. Consistent with this authority, at 40 CFR part 35, subpart O, EPA has published rules which establish the administrative requirements for Superfund cooperative agreements with State and local governments. EPA is proposing to revise several sections of subpart O.

a. Section 35.6105(b)(5). Section 35.6105 of subpart O explains the State assurances that must be obtained before EPA may commence a Fund-financed remedial action. One of those assurances is the State's agreement to accept transfer of an interest in real estate upon completion of the remedial action. Section 35.6105(b)(5), which describes the assurance, provides that before a Cooperative Agreement for remedial action can be awarded, the State must provide EPA with written assurances as specified below. If EPA determines in the remedy selection process that an interest in real property must be acquired in order to conduct a response action, such acquisition may be funded under a Cooperative Agreement. If the State, or a political subdivision thereof, is unable to acquire the real property interest, the State must assure EPA that it will accept transfer of such interest, including any interest in real property that is acquired to ensure the reliability of institutional controls restricting the use of that property. The State must provide this assurance even if it intends to transfer this interest to a third party. (See § 35.6400 of this subpart for additional information on real property acquisition requirements.)

EPA proposes to revise this rule to more closely track statutory language in CERCLA section 104(j) concerning property and interests in real estate and to clarify that EPA may only acquire an interest in real estate if a State provides assurances that it will accept transfer of that interest upon completion of a Fund-financed remedial action.

The assurance for acceptance of transfer of an interest in real estate may be for the purpose of ensuring the reliability of institutional controls or for any other purpose necessary to effectuate the remedial action. For the reasons discussed above with respect to NCP § 300.510(f), the specific example of a property interest needed to ensure the reliability of institutional controls, has been omitted from proposed § 35.6105(b)(5). Thus, EPA proposes to revise § 35.6105(b)(5) to provide that if EPA determines in the remedy selection process that an interest in real property must be acquired in order to conduct a response action, such acquisition may be funded under a Cooperative Agreement. EPA may acquire an interest in real estate for the purpose of conducting a remedial action only if the State provides assurance that it will accept transfer of such interest in accordance with 40 CFR 300.510(f). The State must provide this assurance even if it intends to transfer this interest to a third party. (See § 35.6400 of this subpart for additional information on real property acquisition requirements.)

b. Section 35.6400(a)(2). Section 35.6400(a) sets out provisions for the acquisition of real property by a State or Indian tribe under a cooperative agreement with EPA, as part of a Fund-financed response action. Section 35.6400(a) presently provides that for property acquisitions under a cooperative agreement, an interest in real property may be acquired only with prior approval of EPA. If the recipient acquires real property in order to conduct the response, the recipient with jurisdiction over the real property, to the extent of its legal authority, must agree to acquire and hold the necessary real property interest. If it is necessary for the Federal Government to acquire the interest in real property to permit conduct of the response, the State or Indian Tribe, to the extent of its legal authority, must agree to accept transfer of the acquired interest on or before completion of the response action. States and Indian Tribes must follow the requirements in § § 35.6105(b) and 35.6110(b)(2), respectively, of this subpart.

EPA is proposing to revise § 35.6400(a)(1) to provide that where a cooperative agreement recipient acquires real property in order to conduct the response, the recipient must merely agree to hold (not "acquire") the necessary real property interest. This is more consistent with CERCLA section 104(j)(2), and may afford States and Indian tribes greater flexibility in managing real property at which a response action is needed.

EPA also proposes to amend § 35.6400(a)(2) to more closely reflect the language of CERCLA section 104(j). Specifically, the proposed change would clarify that the prerequisite of obtaining a State's real estate interest transfer and assurance applies only to Fund-financed remedial actions, not any Fund-financed response action. The revisions would also clarify the timing of such acceptance by referring to the proposed revision of NCP § 300.510(f), which would require acceptance of the transfer "upon completion of the remedial action."

EPA also proposes to clarify that the words "to the extent of its legal authority" in § 35.6400(a)(2) do not refer to States, because in any case, under CERCLA section 104(j)(2), EPA may not proceed with an acquisition of real estate as part of a Fund-financed remedial action unless the State provides the necessary assurance. If the State has no legal authority to provide such assurance, the action may not proceed. This proposed clarification would apply only to States. EPA recognizes that in some circumstances obtaining the real estate interest transfer assurance from an Indian tribe may not be possible. See 40 CFR 35.6110. For that reason, the words "to the extent of its legal authority" qualify the requirement of this assurance whenever it applies to Indian tribes. EPA will address on an individual basis the proper application of the CERCLA section 104(j) assurance in the extreme case when an Indian tribe lacks such authority. Therefore the revised § 35.6400 (a) would provide that for property acquisitions under a cooperative agreement an interest in real property may be acquired only with prior approval of EPA. If the recipient acquires real property in order to conduct the response, the recipient with jurisdiction over the property must agree to hold the necessary property interest. If it is necessary for the Federal Government to acquire the interest in real estate to permit conduct of a remedial action, the acquisition may be made only if the State, or Indian Tribe to the extent of its legal authority, provides assurance that it will accept transfer of the acquired interest in accordance with 40 CFR 300.510(f). States and Indian Tribes must follow the requirements in § § 35.6105(b)(5) and 35.6110(b)(2) respectively, of this subpart.

B. Federal Agency Participation in Response Actions—NCP Section 300.160(c)

EPA is also proposing to clarify NCP § 300.160(c), which relates to the participation of other Federal agencies in response actions. That section now states that response actions undertaken by participating agencies shall be carried out under existing programs and authorities when available. Federal agencies are to make resources available, expend funds, or participate in response to discharges and releases under their existing authority. Interagency agreements may be signed when necessary to ensure that Federal resources will be available for a timely response to a discharge or release. The ultimate decision as to the appropriateness of expending funds rests with the agency that is held accountable for such expenditures.

Several parties have apparently misread the final sentence quoted above to allow Federal agencies to decline to clean up Federal facilities which the agency owns or operates; such an interpretation was not intended. This provision was intended to describe authority for other Federal agencies to render assistance as a support agency

(e.g., to provide expert assistance), not where that agency is taking actions to clean up its own facility. (See 55 FR 8681, March 8, 1990.) Indeed, in response to a comment, the preamble to the 1990 NCP states, at 55 FR 8861:

> The commenter appears to misinterpret this section as applicable to situations when the Federal agency is itself a PRP (potentially responsible party). It is not.

In order to resolve any potential ambiguity on this point, EPA is proposing to revise the fourth sentence in § 300.160(c) to read:

> * * * timely response to a discharge of release. In cases where a Federal agency is asked to provide expert assistance for a response action, the ultimate decision as to the appropriateness of expending funds with respect to such assistance rests with the agency that is held accountable for such expenditures. Further funding for provisions of discharge of oil are described in § 300.335.

C. Extensions to the Operational and Functional Period—NCP Section 300.510(c)(2)

Clarification is also necessary of the EPA's ability to provide funding for extensions of the period of remedial response activities when a constructed remedy is tested to determine if it is "operational and functional" (O&F) (often referred to as the "shake-down period"). There are two NCP provisions at issue.

NCP § 300.435(f)(2) clearly sets out the authority for EPA to grant extensions to the O&F period. A remedy becomes "operational and functional" either one year after construction is complete, or when the remedy is determined concurrently by EPA and the State to be functioning properly and is performing as designed, whichever is earlier. EPA may grant extensions to the one-year period, as appropriate.

However, NCP § 300.510(c)(2) could be read to limit the Agency's ability to fund such extended O&F periods. After a joint EPA/State inspection of the implemented Fund-financed remedial action under § 300.515(g), EPA may share, for a period of up to one year, in the cost of the operation of the remedy to ensure that the remedy is operational and functional. In the case of restoration of ground or surface water, EPA shall share in the cost of the State's operation of ground- or surface-water restoration remedial actions as specified in § 300.435(f)(3).

NCP § 300.510(c)(2) was not meant to impose a limitation on the Agency's ability to fund extended O&F periods (note that there is no limitation in the statute on the Agency's ability to fund an O&F period greater than one year). Rather, the reference to the period "up to one year" was meant to relate back to NCP § 300.435(f)(2); however, the possibility for extensions was not specifically repeated. In order to avoid any ambiguity, the Agency is proposing to amend § 300.510(c)(2) to provide that after a joint EPA/State inspection of the implemented Fund-financed remedial action under § 300.515(g), EPA may share, for the period established in § 300.435(f)(2), in the cost of the operation of the remedy to ensure that the remedy is operational and functional. In the case of restoration of ground or surface water, EPA shall share in the cost of the State's operation of ground- or surface-water restoration remedial actions as specified in § 300.435(f)(3).

D. Definition of On-scene Coordinator

EPA also proposes to revise the definition of "On-scene Coordinator" (OSC) in NCP § 300.5 to make clear that the OSC may be authorized, in appropriate cases, to implement any necessary response action, not merely a removal action. Present rule language specifically references only the OSC's role in the implementation and management of "removal" actions. If this definition were construed to bar OSC's from managing remedial action projects, it would result in the need to assign both an OSC and a Remedial Project Manager (RPM) to sites where multiple types of response action are necessary. This would result in an inefficient duplication of resources. The Agency also believes that it is important to have the flexibility to assign one "site manager" to a site—either an OSC or an RPM and for the OSC and RPM to have the ability to supervise both removal and remedial actions, as circumstances warrant. (Cross-training of OSCs and RPMs may be needed to implement this idea.) Thus, the change being proposed today would further the goals of increased efficiency and flexibility, and would clarify the authority of OSCs to engage in all appropriate response activities. The definition of OSC, at 40 CFR 300.5, provides that OSC means the Federal official predesignated by EPA or the USCG to coordinate and direct Federal responses under subpart D, or the official designated by the lead agency to coordinate and direct removal actions under subpart E of the NCP.

EPA proposes to change the rule to read that OSC means the Federal official predesignated by EPA or the USCG to coordinate and direct Federal responses under subpart D, or the official designated by the lead agency to coordinate and direct removal or other response actions under subpart E of the NCP.

This proposed change would ensure that the definition of an OSC is parallel to that of an RPM. RPMs "coordinate, monitor, or direct remedial or other response actions under subpart E of the NCP." 40 CFR 300.5. OSCs would continue to be primarily charged with overseeing removal actions; however, in appropriate cases (e.g., where multiple actions are necessary), the OSC could also be authorized to oversee the remedial action activities.

E. Administrative Record Provisions

Some clarification is also necessary as to the meaning of NCP preamble statements concerning administrative record provisions. Specifically, there has been some confusion as to:

(1) Whether certain statements in the preamble to the NCP concerning the scope of judicial review were intended to constitute "rules,"; and

(2) Whether the definition of the administrative record promulgated in the NCP means that EPA may exclude all documents from the record which the Agency considered but did not rely on in making a response selection decision. Accordingly, EPA is making the following clarifications. (No associated changes in NCP rule language are considered to be necessary or appropriate, and EPA is not requesting comment on these clarifications.)

The administrative record regulations in the NCP, 40 CFR part 300, subpart I, simply set forth requirements for Agency compilation of records which form the basis of CERCLA response selection decisions. The Agency's preamble statement that judicial review of *any* response decision, whether secured administratively or judicially under CERCLA, would be limited to the administrative record, see 55 FR 8803 (March 8, 1990), accurately reflects the Agency's interpretation of the statute. See CERCLA section 113(j)(1). The Agency continues to believe this interpretation to be correct.

However, this preamble statement was not intended to itself constitute a rule, but rather was intended simply to respond to commenters who argued that records should not be compiled for response actions secured judicially. Thus, EPA was clarifying its interpretation of the statute, not seeking to issue a binding rule concerning the scope or standard of review for judicial review of section 106 administrative orders or for section 106 injunctive proceedings.

With respect to the second issue, the NCP defines the administrative record as the file containing the documents that "form the basis for the selection of a response action." 40 CFR 300.800. By

using this formulation of the definition of the record, EPA did not intend to exclude from the record all documents containing information which the Agency considered in choosing the response action but did not rely on. Rather, EPA intends that the "form the basis for the selection" language embody general principles of administrative law concerning compilation of administrative records for agency decisions. See 55 FR 8800 (March 8, 1990).

As a result, the record would include certain documents and information (*e.g.*, data submitted during the public comment period) which the Agency considered but rejected, and which do not support the final decision made by the Agency. As to other documents, EPA recognizes that section 113(j)(1) of CERCLA provides that "[o]therwise applicable principles of administrative law shall govern whether any supplemental materials may be considered by the court." See 55 FR 8807 (March 8, 1990).

F. Preemption—Clarification

The preamble to the 1990 NCP (55 FR 8666, at 8783 (March 8, 1990)) recognized that a State may proceed with a response action without EPA concurrence if the State uses its own funds or enforcement authorities. However, the preamble noted that a State enforcement action at a particular site could, in the future, be subject to possible "preemption" under CERCLA section 122(e)(6) (entitled "Inconsistent Response Actions"), i.e., in a case where there was also a Federal response action at the same site. Also, the preamble stated that State environmental laws are subject to "implied repeal" or "preemption" by on-site CERCLA response actions. 55 FR at 8742. Similar statements were made in the preamble to the 1985 NCP. See 50 FR 5861, 5865 (February 12, 1985) and 50 FR 47912, 47917–18 (November 20, 1985).

There has been some confusion as to whether preamble statements regarding preemption were meant to constitute a binding rule or regulation. This is to clarify that the preamble statements were not intended to constitute a rule or regulation, but rather were intended simply to set out EPA's position on the issues in response to comments. EPA's statements do not create any rights of any third parties involved with CERCLA cleanups.

III. Summary of Supporting Analyses

A. Regulatory Impact Analysis

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to make largely technical or editorial revisions to four sections of the NCP and two sections of subpart O is not major, as its effect, if promulgated, would largely be to clarify EPA's original intent under the 1990 NCP and make conforming changes to subpart O. There is no additional impact on the regulated community due to today's rule, and no new obligations will be imposed on any party. Therefore, this proposal is not a major regulation, and no Regulatory Impact Analysis is required.

B. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (i.e., small businesses, small organizations, and small governmental jurisdictions). EPA may certify, however, that the rule will not have a significant economic impact on a substantial number of entities.

These proposed revisions, if promulgated, will not have a significant economic impact on small entities since their effect would be largely to clarify EPA's original intent under the 1990 NCP. There is no additional impact on the regulated community due to today's proposed rule, and no new obligations would be imposed on any party. Accordingly, EPA hereby certifies that this proposed regulation, if promulgated, will not have a significant economic impact on a substantial number of small entities. This proposed regulation, therefore, does not require a Regulatory Flexibility Analysis.

C. Paperwork Reduction Act

There are no information collection requirements imposed by this proposed rule.

List of Subjects

40 CFR Part 35

Environmental protection, Accounting, Administrative practice and procedures, Financial administration, Grant programs (Cooperative Agreements and Superfund State Contracts), Government procurement requirements, Property requirements, Reporting and recordkeeping requirements, Superfund.

40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Hazardous substances, Incorporation by reference, Intergovernmental relations, Natural resources, Occupational safety and health, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: October 7, 1993.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, it is proposed that 40 CFR parts 35 and 300 be amended as follows:

PART 35—STATE AND LOCAL ASSISTANCE

1. The authority citation for part 35 continues to read as follows:

Authority: 42 U.S.C. 9601 *et seq.*

2. Section 35.6105 of subpart O is amended by revising paragraph (b)(5) to read as follows:

§ 35.6105 State-lead remedial Cooperative Agreements.

* * * * *

(b) * * *

(5) *Real property acquisition.* If EPA determines in the remedy selection process that an interest in real property must be acquired in order to conduct a response action, such acquisition may be funded under a Cooperative Agreement. EPA may acquire an interest in real estate for the purpose of conducting a remedial action only if the State provides assurance that it will accept transfer of such interest in accordance with 40 CFR 300.510(f). The State must provide this assurance even if it intends to transfer this interest to a third party. (See § 35.6400 of this subpart for additional information on real property acquisition requirements.)

* * * * *

3. Section 35.6400 of subpart O is amended by revising paragraphs (a)(1) and (2) to read as follows:

§ 35.6400 Acquisition and transfer of interest.

(a) * * *

(1) If the recipient acquires real property in order to conduct the response, the recipient with jurisdiction over the property must agree to hold the necessary property interest.

(2) If it is necessary for the Federal Government to acquire the interest in real estate to permit conduct of a remedial action, the acquisition may be made only if the State, or Indian Tribe to the extent of its legal authority, provides assurance that it will accept

transfer of the acquired interest in accordance with 40 CFR 300.510(f). States and Indian Tribes must follow the requirements in §§ 35.6105(b)(5) and 35.6110(b)(2) respectively, of this subpart.

* * * * *

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN02

1. The authority citation for part 300 continues to read as follows:

Authority: 42 U.S.C. 9601–9657, 33 U.S.C. 1321(c)(2); E.O. 11735, 38 FR 21243; E.O. 12580, 52 FR 2923.

2. Section 300.5 of subpart B is amended by revising the definition for "On-scene Coordinator (OSC)" to read as follows:

§ 300.5 Definitions.

* * * * *

On-scene Coordinator (OSC) means the Federal official predesignated by EPA or the U.S.C.G to coordinate and direct Federal responses under subpart D, or the official designated by the lead agency to coordinate and direct removal or other response actions under subpart E of the NCP.

* * * * *

3. Section 300.160 of subpart B is amended by revising paragraph (c) to read as follows:

§ 300.160 Documentation and cost recovery.

* * * * *

(c) Response actions undertaken by the participating agencies shall be carried out under existing programs and authorities when available. Federal agencies are to make resources available, expend funds, or participate in response to discharges and releases under their existing authority. Interagency agreements may be signed when necessary to ensure that the Federal resources will be available for a timely response to a discharge or release. In cases where a Federal agency is asked to provide expert assistance for a response action, the ultimate decision as to the appropriateness of expending funds with respect to such assistance rests with the agency that is held accountable for such expenditures. Further funding provisions for discharges of oil are described in § 300.335.

* * * * *

4. Section 300.510 of subpart F is amended by revising paragraphs (c)(2) and (f) to read as follows:

§ 300.510 State assurances.

* * * * *

(c)(1)* * *

(2) After a joint EPA/State inspection of the implemented Fund-financed remedial action under § 300.515(g), EPA may share, for the period established in § 300.435(f)(2), in the cost of the operation of the remedy to ensure that the remedy is operational and functional. In the case of restoration of ground or surface water, EPA shall share in the cost of the State's operation of ground- or surface-water restoration remedial actions as specified in § 300.435(f)(3).

* * * * *

(f) EPA may determine that an interest in real property must be acquired in order to conduct a response action. However, as provided in CERCLA section 104(j)(2), EPA may acquire an interest in real estate in order to conduct a remedial action only if the State in which the interest to be acquired is located provides assurances, through a contract, cooperative agreement or otherwise, that the State will accept transfer of the interest upon completion of the remedial action. For purposes of this paragraph, "completion of the remedial action" is the point at which operation and maintenance (O&M) measures would be initiated. The State may accept a transfer of interest at an earlier point in time if agreed upon in writing by the State and EPA. Indian tribe assurances are to be provided as set out at 40 CFR part 35, subpart O, § 35.6110(b)(2).

[FR Doc. 93–25484 Filed 10–15–93; 8:45 am]
BILLING CODE 6560–50–F

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40 CFR Part 52

[TX–21–1–5737; FRL–4787–9]

Clean Air Act Approval and Promulgation of Title I, Section 182(d)(1)(B), Employee Commute Options/Employer Trip Reduction Program for Texas

AGENCY: Environmental Protection Agency (EPA)

ACTION: Notice of proposed rulemaking.

SUMMARY: In this proposal, the EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the State of Texas for the purpose of establishing an Employee Commute Options (ECO)/Employer Trip Reduction (ETR) Program. Pursuant to section 182(d)(1)(B) of the Clean Air Act (CAA), as amended in 1990, the SIP was submitted by Texas to satisfy the statutory mandate that an ECO/ETR Program be established for employers with 100 or more employees, such that compliance plans developed by such employers are designed to convincingly demonstrate an increase in the average passenger occupancy (APO) of their employees who commute to work during the peak period, by no less than 25% above the average vehicle occupancy (AVO) of the nonattainment area. The rationale for the approval is set forth in this document; additional information is available at the addresses indicated in the **ADDRESSES** section.

DATES: Comments on this proposed action must be received in writing on or before November 17, 1993.

ADDRESSES: Written comments on this action should be addressed to Mr. Thomas H. Diggs, Chief, Planning Section, at the EPA Region 6 Office listed below. Copies of the documents relevant to this proposed action are available for public inspection during normal business hours at the following locations. The interested persons wanting to examine these documents should make an appointment with the appropriate office at least 24 hours before the visiting day.

U.S. Environmental Protection Agency, Region 6, Air Programs Branch (6T-A), 1445 Ross Avenue, Dallas, Texas 75202–2733.

U.S. Environmental Protection Agency, Jerry Kurtzweg, ANR–443, 401 M Street, SW., Washington, DC 20460.

Texas Natural Resource Conservation Commission, 12124 Park 35 Circle, Austin, Texas 78753.

FOR FURTHER INFORMATION CONTACT: Ms. Leila Yim Surratt, Planning Section (6T-AP), Air Programs Branch, U.S. EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, telephone (214) 655–7231.

SUPPLEMENTARY INFORMATION:

I. Background

Implementation of the provisions of the CAA will require employers with 100 or more employees in the Houston-Galveston ozone nonattainment area to participate in a trip reduction program. The concerns that lead to the inclusion of this ECO/ETR provision in the CAA are that more people are driving than ever before, and they are driving longer distances. The increase in the number of drivers, and the increase in the number of vehicle miles traveled, currently offset a large part of the emissions reductions achieved through the production and sale of vehicles that operate more cleanly. It is widely accepted that shortly after the year 2000, without limits on increased travel, the increased emissions caused by more vehicles being driven more miles under more congested conditions will outweigh the fact that each new vehicle

pollutes less, resulting in an overall increase in emissions from mobile sources. The ECO/ETR provision outlines the requirements for a program designed to minimize the use of single occupancy vehicles in order to gain emissions reductions beyond what can be and will be obtained via stricter tailpipe and fuel standards.

Section 182(d)(1)(B) requires that employers submit their compliance plans to the State two years after the SIP is submitted to the EPA, such that compliance plans developed by such employers are designed to convincingly demonstrate an increase in the APO of their employees who commute to work during the peak period by no less than 25% above the AVO of the nonattainment area. These compliance plans must "convincingly demonstrate" that the employers will meet the target not later than four years after the SIP is submitted. The target APO is no less than 25% above the AVO for the nonattainment area. Where there are important differences in terms of commute patterns, land use, or AVO, the States may establish different zones within the nonattainment area for purposes of calculation of the AVO.

Section 110(k) of the CAA contains provisions governing the EPA's review of SIP submittals. The EPA can take one of three actions on ECO/ETR Program SIP submittals. If the submittal satisfactorily addresses all of the required ECO/ETR Program elements, the EPA shall grant full approval. If the submittal contains approvable commitments to implement all required ECO/ETR program elements, but the State does not yet have all of the necessary regulatory authority to do so, the EPA may grant conditional approval. Finally, if the submittal fails to adequately address one or more of the mandatory ECO/ETR program elements, the EPA shall issue a disapproval.

The State of Texas has submitted a SIP revision to the EPA in order to satisfy the requirements of section 182(d)(1)(B). In order to gain approval, the State submittal must contain each of the following ECO/ETR program elements: (1) The AVO for each nonattainment area or for each zone if the area is divided into zones; (2) the target APO which is no less than 25% above the AVO(s); (3) an ECO program that includes a process for compliance demonstration; and (4) enforcement procedures to ensure submission and implementation of compliance plans by subject employers. The EPA issued guidance on December 17, 1992, interpreting various aspects of the statutory requirements (Employee Commute Options Guidance, December 1992).

II. Analysis

The following items are the basis for approval of the Texas SIP revision. Please refer to the EPA's Technical Support Document and the Texas SIP submittal for additional information.

A. The Average Vehicle Occupancy

Section 182(d)(1)(B) requires that the State determine the AVO at the time the SIP revision is submitted. The State has met this requirement by contracting with the Houston-Galveston Area Council (H-GAC), the metropolitan planning organization for the eight-county Houston-Galveston ozone nonattainment area, to determine the AVO. Based on a telephone survey of 5,000 households conducted during the spring of 1992, the H-GAC determined the regional AVO to be 1.17. The survey response rate was 78 percent. The EPA concludes that this survey accurately represents the Houston-Galveston ozone nonattainment area AVO.

B. The Target APO

Section 182(d)(1)(B) indicates that the target APO must be not less than 25% above the AVO for the nonattainment area. An approvable SIP revision for this program must include the target APO. The State has met this requirement by establishing one zone with a current AVO of 1.17. This zone has been divided into two areas with different target APOs which together average to an APO of 1.46 for the nonattainment area as a whole (weighted average based on the number of affected employees in each area). The target APO for employers in Harris County, plus adjacent urbanized areas such as The Woodlands, Sugarland, and South Shore Harbor, is 1.47. The target APO for the remaining portions of the nonattainment area is 1.41. A detailed delineation of the two areas is included in the State submittal and the EPA's Technical Support Document.

C. ECO Program

State or local law must establish ECO/ETR requirements for employers with 100 or more employees at a work site within severe and extreme ozone nonattainment areas and serious carbon monoxide areas. In the ECO Guidance issued December 1992, the EPA states that automatic coverage of employers of 100 or more should be included in the law. In addition, States should develop procedures for notifying subject employers regarding the ECO/ETR requirements.

States and/or local laws must require that initial compliance plans "convincingly demonstrate" prospective compliance. Approval of the SIP revision depends on the ability of the State/local regulations to ensure that the CAA requirement that initial compliance plans "convincingly demonstrate" compliance will be met. This demonstration can take on any of four forms or any combination of these.

One option is for the State to include in the SIP, evidence that agency resources are available for the effective plan-by-plan review of employer-selected measures to ensure the high quality of compliance plans, and that plans that are not convincing will be rejected.

A second option is for the regulations in the SIP to contain a convincing minimum set of measures that all employers must implement. These measures will be subject to review and approval by the EPA as adequate when the SIP is processed.

A third option is for the regulations in the SIP to provide that failure by the employer to meet the target APO will result in implementation of a regulation-specified, multi-measure contingency plan. This plan will be reviewed by the EPA for adequacy when the SIP is processed.

A fourth option is for the regulations in the SIP to include for employers who fail to meet the target APO financial penalties and/or compliance incentives that are large enough to result in a significant prospective incentive for the employer to design and implement an effective initial compliance plan of its own.

As explained more fully in the EPA's Technical Support Document, the State of Texas has met these requirements by requiring affected employers to submit a detailed initial compliance plan on a submission schedule, depending on the employer's size, between May 15, 1994, and November 15, 1994. In addition, the Texas ECO/ETR regulation includes significant potential financial penalties for employers who fail to meet the applicable target APO. The regulation states that failure to attain the applicable target APO may be considered a violation and may subject the violator to up to $10,000 in administrative penalties and up to $25,000 in civil penalties per violation. The EPA believes that these penalties are clearly large enough to result in a significant prospective incentive for employers to design and implement effective initial compliance plans of their own.

D. Enforcement Procedures

States and local jurisdictions need to include in their ECO/ETR regulations penalties and/or compliance incentives for an employer who fails to submit a compliance plan or an employer who fails to implement an approved compliance plan according to the compliance plan's implementation schedule. Penalties should be severe enough to provide an adequate incentive for employers to comply and be no less than the expected cost of compliance. The State has met this requirement by including significant potential financial penalties for employers who fail to submit a compliance plan, or implement the compliance plan or plan incentives. The regulation states that failure to submit a compliance plan by the appropriate deadline, implement the compliance plan or plan incentives, or failure to achieve the applicable target APO may be considered a violation and may subject the violator to up to $10,000 in administrative penalties and up to $25,000 in civil penalties per violation. In formulating an enforcement policy under this regulation, the State may consider any good faith effort made by the employer to achieve compliance.

E. Conformity to EPA Guidance

The State of Texas submitted to the EPA their ECO/ETR SIP in advance of the EPA's release of the final ECO guidance document in December 1992. As discussed above, the State's ECO/ETR SIP conforms with the EPA guidance in all significant areas. The State's program, however, does provide a minor exclusion which is inconsistent with the EPA guidance. The State's definition of "employee" excludes part-time employees who work Saturday and/or Sunday, which is inconsistent with the definition of employee outlined in the EPA guidance. The EPA believes that this difference does not warrant disapproval of the State's ECO/ETR program because the overall integrity of the program is maintained. The EPA believes that Texas should not be penalized for moving ahead to submit its ECO/ETR SIP by the CAA mandated deadline, in advance of the EPA's final ECO guidance.

F. Procedural Background

The CAA requires States to observe certain procedural requirements in developing implementation plans and plan revisions for submission to the EPA. Section 110(a)(2) of the CAA provides that each implementation plan submitted by a State must be adopted after reasonable notice and public hearing.[1] Section 110(l) of the CAA similarly provides that each revision to an implementation plan submitted by a State under the CAA must be adopted by such State after reasonable notice and public hearing. Public notice on the proposed ECO/ETR regulation was published in the Houston ozone nonattainment area in accordance with the State of Texas's public notice requirements. The State held a public hearing on the proposed regulations on June 30, 1992. Following the public hearing, the ECO/ETR regulation was adopted by the State on October 16, 1992. The ECO/ETR regulation was submitted through the Governor to the EPA on November 13, 1992, as a proposed revision to the SIP.

III. Proposed Rulemaking Action

In this action, the EPA is proposing to approve the SIP revision submitted by the State of Texas. The State of Texas has submitted a SIP revision implementing each of the ECO/ETR program elements required by section 182(d)(1)(B) of the CAA. Affected employers with 100 or more employees at a work site are required to submit compliance plans to the Texas Natural Resource Conservation Commission on a submission schedule, depending on the employer's size, between May 15, 1994, and November 15, 1994. Compliance with applicable target APO is required two years following the appropriate compliance plan submission deadline. The EPA is therefore proposing to approve this submittal.

Proposed Action

The EPA proposes to approve the SIP revision submitted by the State of Texas. All required SIP items have been adequately addressed as discussed in this **Federal Register** document.

The EPA has reviewed this request for revision of the federally approved SIP for conformance with the provisions of the CAA enacted on November 15, 1990. The EPA has determined that this action conforms with those requirements. Based on the above evaluation, the EPA proposes to approve the ECO/ETR SIP for the Houston-Galveston ozone nonattainment area.

Request for Public Comments

The EPA requests comments on all aspects of this proposal, including the EPA's proposal to approve the ECO/ETR SIP for the Houston-Galveston ozone nonattainment area, as meeting the requirements of section 182(d)(1)(B) of the CAA regarding EGO/ETR programs. As indicated at the outset of this notice, the EPA will consider any comments received by November 17, 1993.

Regulatory Process

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

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

Executive Order 12291

This action has been classified as a Table Two action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225). On January 6, 1989, the Office of Management and Budget (OMB) waived Tables Two and Three SIP revisions (54 FR 2222) from the requirements of section 3 of Executive Order 12291 for a period of two years. The EPA has submitted a request for a permanent waiver for Table Two and Three SIP revisions. OMB has agreed to continue the temporary waiver until such time as it rules on the EPA's request.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Ozone.

Authority: 42 U.S.C. 7401–7671q.

[1] Also section 172(c)(7) of the CAA requires that plan provisions for nonattainment areas meet the applicable provisions of section 110(a)(2).

Dated: September 24, 1993.

A. Stanley Meiburg,

Acting Regional Administrator (6A).

[FR Doc. 93-25482 Filed 10-15-93; 8:45 am]

BILLING CODE 6560-60-F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 76

[MM Docket No. 93-260; DA 93-1156]

Cable Television Service; List of Major Television Markets

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission invites comments on its proposal, initiated by a request filed by Marion T.V., Inc. to amend the Commission's Rules to change the designation of the Indianapolis-Bloomington, Indiana television market to include the community of Marion, Indiana. This action is taken to test the proposal for market hyphenation through the record established based on comments filed by interested parties.

DATES: Comments are due on or before November 4, 1993, and reply comments are due on or before November 19, 1993.

ADDRESSES: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Alan E. Aronowitz, Mass Media Bureau, Policy and Rules Division, (202) 632-7792.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 93-260, adopted September 21, 1993, and released October 7, 1993. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Center (room 239), 1919 M Street, NW., Washington, DC 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Washington, DC 20037.

Synopsis of the Notice of Proposed Rule Making

1. The Commission, in response to a Petition for Rulemaking filed by Marion T.V., Inc., licensee of WMCC-TV, Channel 23, Marion, Indiana, proposed to amend § 76.51 of the Rules to change the designation of the Indianapolis-Bloomington, Indiana television market to include the community of Marion, Indiana.

2. In evaluating past requests for hyphenation of a market, the Commission has considered the following factors as relevant to its examination:

(1) The distance between the existing designated communities and the community proposed to be added to the designation;

(2) Whether cable carriage, if afforded to the subject station, would extend to areas beyond its Grade B signal coverage area;

(3) The presence of a clear showing of a particularized need by the station requesting the change of market designation; and

(4) An indication of benefit to the public from the proposed change.

Each of these factors helps the Commission to evaluate individual market conditions consistent "with the underlying competitive purpose of the market hyphenation rule to delineate areas where stations can and do, both actually and logically, compete."

3. Based on the facts presented, the Commission believes that a sufficient case for redesignation of the subject market has been set forth so that this proposal should be tested through the rulemaking process, including the comments of interested parties. It appears from the information before us that Station WMCC-TV and stations licensed to communities in the Indianapolis-Bloomington television market do compete for audiences and advertisers throughout much of the proposed combined market area, and that evidence has been presented tending to demonstrate commonality between the proposed community to be added to a market designation and the market as a whole. Moreover, Petitioner's proposal appears to be consistent with the Commission's policies regarding redesignation of a hyphenated television market.

Initial Regulatory Flexibility Analysis

4. The Commission certifies that the Regulatory Flexibility Act of 1980 does not apply to this rulemaking proceeding because if the proposed rule amendment is promulgated, there will not be a significant economic impact on a substantial number of small business entities, as defined by section 601(3) of the Regulatory Flexibility Act. A few television licensees will be affected by the proposed rule amendment. The Secretary shall send a copy of this Notice of Proposed Rule Making, including the certification, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act. Public Law No. 96-354, 94 Stat. 1164, 5 U.S.C. 601 *et seq.* (1981).

Ex Parte

5. This is a non-restricted notice and comment rulemaking proceeding. *Ex parte* presentations are permitted, provided they are disclosed as provided in the Commission's Rules. See generally 47 CFR 1.1202, 1.1203 and 1.1206(a).

Comment Dates

6. Pursuant to applicable procedures set forth in §§ 1.415 and 1.419 of the Commission's Rules, interested parties may file comments on or before November 4, 1993, and reply comments on or before November 19, 1993. All relevant and timely comments will be considered before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and four copies of all comment, reply comments, and supporting comments. If participants want each Commissioner to receive a personal copy of their comments, an original plus nine copies must be filed. Comments and reply comments should be sent to the Office of the Secretary, Federal Communications Commission, Washington, DC 20554. Comments and reply comments will be available for public inspection during regular business hours in the FCC Reference Center (room 239) of the Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

7. Accordingly, this action is taken by the Chief, Mass Media Bureau, pursuant to authority delegated by § 0.283 of the Commission's Rules.

List of Subjects in 47 CFR Part 76

Cable television.

Federal Communications Commission.

Roy J. Stewart,

Chief, Mass Media Bureau.

[FR Doc. 93-25408 Filed 10-15-93; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018-AC01

Endangered and Threatened Wildlife and Plants; Proposed Threatened Status for the Cherokee Darter and Proposed Endangered Status for the Etowah Darter

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The Fish and Wildlife Service (Service) proposes to list two fish, the Cherokee Darter (*Etheostoma* (*Ulocentra*) sp.) and Etowah darter (*Etheostoma etowae*), as threatened and endangered, respectively, under the Endangered Species Act (Act) of 1973, as amended. The Cherokee and Etowah darters are recently discovered species of fish that are endemic to the Etowah River system in north Georgia. The Cherokee darter is now known from approximately 20 small tributary systems of the Etowah River, but healthy populations are known from only a few sites. The Etowah darter is known from the upper Etowah River mainstem and two tributary systems. Impoundments and deteriorating water and benthic habitat quality resulting from siltation, agricultural runoff, other pollutants, poor land use practices, increased urbanization, and waste discharges have resulted in the restriction and fragmentation of these species' current ranges. These factors continue to impact the species and their habitat. Comments and information are sought from the public on this proposal.

DATES: Comments from all interested parties must be received by December 17, 1993. Public hearing requests must be received by December 2, 1993.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Field Supervisor, U.S. Fish and Wildlife Service, Jacksonville Field Office, 3100 University Boulevard, South, Suite 120, Jacksonville, Florida 32216. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Robert S. Butler at the above address (904/232–2580).

SUPPLEMENTARY INFORMATION:

Background

The Etowah River is one of three major upper Coosa River system tributaries, the others being the Conasauga and Oostanaula rivers. The Etowah joins the Oostanaula River in Rome, Georgia, to form the Coosa River. The Coosa River itself is the major eastern tributary of the Mobile Basin that empties into the Gulf of Mexico in southwest Alabama. The Etowah River system drains portions of the Blue Ridge, Piedmont, and Valley and Ridge physiographic provinces. All streams in the drainage are upland in nature and characterized by high gradients and rocky substrates. Land use patterns of the Etowah system are largely of a rural agrarian economy, with scattered municipalities, including the encroaching Atlanta metropolitan area.

The diversity of the aquatic fauna is commensurate with the diversity of physiographic provinces comprising the basin. Many of the aquatic organisms reported from the Etowah system are rare. Records of federally protected species are known for an endangered fish (amber darter, *Percina antesella*), four endangered mussels (upland combshell, *Epioblasma metastriata*; southern clubshell, *Pleurobema decisum*; ovate clubshell, *P. perovatum;* and triangular kidneyshell, *Ptychobranchus greeni*), and a threatened mussel (Alabama moccasinshell, *Medionidus acutissimus*). In addition, several Category 2 candidate species from the Service's animal notice of review published in the **Federal Register** of November 21, 1991 (56 FR 58804) are also known from the Etowah River system. These include a mussel (Tennessee heelsplitter, *Lasmigona holstonia*), five fishes (rock darter, *Etheostoma rupestre;* freckled darter, *Percina lenticula*; bronze darter, *P. palmaris*; lined chub, *Hybopsis lineapunctata*; and frecklebelly madtom, *Noturus munitus*), and at least two aquatic snails (coldwater elimia, *Elimia gerhardti*; and rough hornsnail, *Pleurocera foremani*). It is estimated that 35 of the potentially 50 freshwater mussel species that once inhabited the Etowah River system have been extirpated (Burkhead *et al.* 1992). The Etowah River system at one time contained a significant portion of the aquatic biodiversity of the upper Mobile Basin.

A small percid fish, the Cherokee darter is subcylindrical in shape, and has a relatively blunt snout with a subterminal mouth. The body shade is white to pale yellow. The side of adults is pigmented with usually eight small dark olive-black blotches which develop into vertically elongate, slightly oblique bars in breeding adults, especially in males. The back usually has eight small dark saddles and intervening pale areas. The Cherokee darter has proven to be distinct from the Coosa darter, *E. coosae*, a species with which it was previously confused, by peak nuptial males never having five discrete color bands in the spinous dorsal fin.

Cherokee darters inhabit small-sized to medium-sized warm-water creeks with moderate gradient and predominately rocky bottoms. It is usually found in shallow water in sections of reduced current, typically in runs above and below riffles and at the ecotones of riffles and backwaters. The Cherokee darter is associated with large gravel, cobble, and small boulder substrates, and is uncommonly or rarely found over bedrock, fine gravel, or sand. It is most abundant in stream sections with relatively clear water and clean substrates (little silt deposition). The Cherokee darter is intolerant of heavy to moderate silt deposition. The Cherokee darter, like other members of the subgenus *Ulocentra*, is intolerant of impoundment.

The Cherokee darter is endemic to the Etowah River system in north Georgia, where it is primarily restricted to streams draining the Piedmont physiographic province, and to a lesser extent, the Blue Ridge physiographic province. The Cherokee darter occurs in about 20 small to moderately large tributary systems of the middle and upper Etowah River system. However, only a few sites contain healthy populations of this species. The largest populations occur in northern tributaries upstream of Allatoona Reservoir. Populations are smaller in tributaries draining the southern portion of the system. The southern tributary systems tend to drain areas exhibiting less relief and are generally much more degraded. Cherokee darter populations are found primarily above Allatoona Reservoir. Downstream of Allatoona Dam, populations are restricted to two tributary systems.

The Cherokee darter exhibits a disjunct and discontinuous distributional pattern, indicating fragmentation and isolation of populations. The placement of Allatoona Reservoir in the middle Etowah River system has caused much of the fragmentation of this species' populations. One major tributary system in the upper Etowah system, Amicalola Creek, apparently naturally lacks populations of Cherokee darters, but contains a relatively close relative and also a narrow endemic, the holiday darter, *E. brevirostrum*. The Cherokee darter is allopatric (i.e., the ranges of the species do not overlap) with the other two *Ulocentra* species in the watershed, the holiday darter and Coosa darter. A formal description of the Cherokee darter is being prepared by Bauer *et al.* (in prep.).

The Etowah darter is a small-sized percid fish that is moderately compressed laterally, and has a moderately pointed snout with a terminal, obliquely angled mouth. The body ground shade is brown or grayish-olive. The side is usually pigmented with 13 or 14 small dark blotches just below the lateral line. The breast in nuptial males is dark greenish-blue. The

Etowah darter has proven distinct from the greenbreast darter, *E. jordani*, a species with which it has previously been confused, by the absence of red marks on the sides and anal fins of male specimens.

The Etowah darter inhabits warm and cool, medium and large creeks or small rivers that have moderate or high gradient and rocky bottoms. It is found in relatively shallow riffles, with large gravel, cobble, and small boulder substrates. The Etowah darter is typically associated with the swiftest portions of shallow riffles, but occasionally adults are taken at the tails of riffles. Sites having the greatest abundance of Etowah darters have clearer water and relatively little silt in the riffles. The Etowah darter, like other members of the subgenus *Nothonotus*, shuns pool habitats and is intolerant of stream impoundment.

The Etowah darter is endemic to the upper Etowah River system in north Georgia, where it is restricted to the upper Etowah River mainstem, and two tributaries, Long Swamp and Amicalola Creeks. These streams drain both the Blue Ridge and Piedmont physiographic provinces. This distribution suggests habitat specialization; all streams inhabited by this species are geographically adjacent in the most upland portion of the river system. For a fish of moderate to large creeks or small rivers, the Etowah darter has one of the most restricted distributions in the southeast (Lee *et al.* 1980). The Etowah darter has been formally described by Wood and Mayden (1993).

The Cherokee darter appeared as a category 2 species in the Service's notice of review for animal candidates published in the **Federal Register** of January 6, 1989 (54 FR 554) and November 21, 1991 (56 FR 58804). Category 2 species are taxa under review for listing, but for which conclusive data on biological vulnerability and threat(s) are not currently available to support proposed rules.

The Service funded a status survey in fiscal year 1990 to better determine the status of the recently discovered Cherokee darter. After field work had commenced, another undescribed fish was discovered in the Etowah River system, the Etowah darter. The survey was modified to address the population status of both these undescribed darters. A final report was received on March 30, 1993 (Burkhead 1993), providing sufficient information on biological vulnerability and threats to support classification of these fishes as category 1 candidates and to support a proposed rule to classify the Cherokee darter as threatened and the Etowah darter as endangered.

On April 6, 1993, the Service notified potentially affected Federal and State agencies by mail that a status review was being conducted for the Cherokee darter and Etowah darter. Two comments were received concerning this notification. The U.S. Forest Service stated that it was unlikely Forest Service lands harbored suitable habitat for the two darter species. They also noted that future Forest Service activities in the Etowah River watershed were expected to decrease, and that it was unlikely these activities would produce any noticeable siltation effects on downstream populations of the Cherokee darter and Etowah darter. The Environmental Protection Agency commented on locating specific watersheds having high cumulative non-point source stream impacts for potential restoration work. This information would be useful in the recovery of the Cherokee darter and Etowah darter. Neither agency had objections to the potential listing of these species.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to the Cherokee darter (*Etheostoma* (*Ulocentra*) sp.) and the Etowah darter (*Etheostoma etowae*) are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* The Cherokee darter and Etowah darter are both endemic to the Etowah River system in north Georgia (Burkhead 1993). These species have been rendered vulnerable to extinction by significant loss of habitat within their restricted range in the Etowah River system. The primary causes of habitat loss in the Etowah River system result from impoundments, siltation, point source and nonpoint source pollution which includes, but is not limited to, municipal and industrial waste discharges, agricultural runoff from crop monoculture and poultry farms, poultry processing plants, and silvicultural activities. Much non-agricultural and non-silvicultural habitat degradation in the watershed can be attributed to increased urbanization in the Atlanta metropolitan area. All such forms of habitat degradation and pollution disrupt the aquatic ecosystem, particularly impacting benthic (bottom) habitat. Certain pollutants may be particularly harmful in cumulative concentrations or if synergistic interactions with other pollutants or chemicals occur.

Impoundments have destroyed a significant portion of the free-flowing stream habitat in which the Cherokee darter and Etowah darter live. Preimpoundment records from areas now flooded by the 4,800 hectare (11,856 acre) Allatoona Reservoir exist in museum collections. Based on museum records, at least five populations of the Cherokee darter were extirpated by the inundation of Allatoona Reservoir, which was completed in 1955. Other undocumented Cherokee darter populations were likely destroyed by the filling of Allatoona Reservoir as well. It is possible that some mainstem Etowah River populations of the Etowah darter were also destroyed by Allatoona Reservoir. The lower portions of some of the tributary systems that harbor populations of the Cherokee darter are inundated by Allatoona Reservoir, isolating these populations from other populations in adjacent tributaries. These tributaries include Butler, Shoal, and Stamp Creeks.

Besides Allatoona Reservoir, numerous small impoundments and ponds are scattered throughout the range of the Cherokee darter and Etowah darter. Impoundments directly destroy stream habitat by converting free-flowing streams to artificial lakes and ponds and by causing population isolation. Furthermore, small impoundments are numerous enough in the Etowah system to have a negative effect on both these species by causing population fragmentation and isolation, thereby blocking genetic interchange. Impoundments also alter the thermal regimen of the stream sections immediately below the dam and can cause community shifts favoring centrarchid fishes (Brim 1991), potential predators on both Cherokee darters and Etowah darters. The Yellow Creek population of the Cherokee darter is directly threatened by a proposed water supply impoundment planned by the Cherokee County government.

Erosion from poor land use practices cause extensive topsoil erosion and subsequent siltation of stream bottoms. Siltation sources include timber clearcutting, clearing of riparian vegetation, and those construction, mining, and agricultural practices that allow exposed earth to enter streams.

Light to moderate levels of siltation are ubiquitous in many streams of the Etowah River system that have populations of the Cherokee darter and Etowah darter. Siltation problems are severe in many tributaries that have or probably had populations of the Cherokee darter, including Allatoona Creek, the Little River system, Settingdown Creek, Pumpkinvine Creek, and in portions of Shoal Creek (Cherokee County), Sharp Mountain Creek, Long Swamp Creek, and Raccoon Creek. Siltation and dust from marble quarries in Pickens County are also major problems in Long Swamp Creek, the only known site where the Cherokee darter and Etowah Darter are found together. A rock quarry has been proposed for Stamp Creek in Bartow County. If permitted, this quarry may have an adverse effect on the Stamp Creek Cherokee darter population.

The extreme isolation or absence of populations of the Cherokee darter in Settingdown, Allatoona, and Raccoon Creeks and the Little River also strongly suggests localized extirpation of populations. These intermediate streams probably once supported populations of the fish. Much of the Little River system is heavily affected by large silt and bed loads; the remaining fish fauna is depauperate and at many sites dominated by species tolerant of degraded habitats.

The Cherokee darter and Etowah darter are obligate benthic species living, foraging, and spawning on the stream bottom. Hence, their well-being is directly tied to benthic habitat quality. Negative effects of silt on benthic fishes were summarized by Burkhead and Jenkins (1991). Silt reduces or destroys habitat heterogeneity and primary productivity, increases fish egg and larval mortality, abrades organisms, and alters, degrades, and entombs macrobenthic communities. The geological strata drained by the Etowah River, particularly in the middle and upper portion of the system, contain micaceous schist. The erosion of this substrata adds an extremely abrasive mica component to the silt which renders this silt even more noxious to benthic organisms. Current state and Federal regulations preventing silt from entering streams are lacking, inadequate, or not rigorously enforced.

The current rate of development in the counties surrounding Atlanta is very high. The most rapid development appears to be in Cobb and Fulton counties, but it is also high in Cherokee County. These areas are in the heart of the Cherokee darter's current range. The effects of urbanization may be seen as far away as Dawson County, where the majority of Etowah darter populations, as well as some Cherokee darter populations, are known. One of the principal concerns to the continued existence of the Cherokee darter and Etowah darter is the trend of converting farmland into localized subdivisions in areas relatively remote from Atlanta. Associated with increased development and land clearing is increased siltation from erosion, accelerated runoff, and transport of pollutants into the Etowah River system.

The tributaries harboring the Cherokee darter and Etowah darter are crossed by numerous road and railroad bridges. These stream crossings are potential sites for accidents which could spill toxic material into streams. Spills of toxic chemicals at such crossings could cause catastrophic fish kills and local extirpation of these species. The high number of bridge crossings over Cherokee darter and Etowah darter streams increases the probability that such an accident will occur in the future.

Attending the urbanization associated with the growth of the Atlanta metropolitan area is a proposed bypass which would circumnavigate Atlanta to the northwest, connecting Interstate 75 with Georgia State Route 371. The bypass would cross several Cherokee darter streams in portions of Forsyth, Cherokee, and Bartow Counties. Bridge construction sites would be potential sources of sedimentation to Cherokee darter habitat.

It has been reported that 75 percent of Georgia's landfills will reach capacity in five years (*The Atlanta Journal/The Atlanta Constitution*, February 23, 1992). Several landfill sites have been proposed within the range of the Cherokee darter, and one proposed site occurs between two Cherokee darter streams: Riggins and Edward Creeks, Cherokee County. While modern landfills are designed to contain runoff, some landfills may not retain complete barrier integrity over time.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* In general, small species of fish, such as the Cherokee darter and Etowah darter, which are not utilized for either sport or bait purposes, are unknown to the general public. Therefore, take of these species by the general public has not been a problem. However, vandalism could pose a problem, especially if the specific inhabited reaches were to be revealed, such as through the designation of critical habitat. Most of the stream reaches inhabited by these fish are extremely short and could easily be lost through the act of vandals using readily available toxic chemicals. Although scientific collecting is not presently identified as a threat, take by private and institutional collectors could pose a threat, if left unregulated. Federal protection of these species would help to minimize illegal or inappropriate take.

C. *Disease or predation.* Predation upon the Cherokee darter and Etowah darter undoubtedly occurs. However, there is no evidence to suggest that predation threatens these species, except possibly in altered stream reaches immediately below dams.

D. *The inadequacy of existing regulatory mechanisms.* The Official Code of Georgia Annotated 27–2–12 prohibits the taking of these fish without a state collecting permit. Federal listing would provide protection under Section 9 of the Act by requiring Federal permits for taking the Cherokee darter and Etowah darter. Additional protection could be gained under Section 7 of the Act by requiring Federal agencies to consult with the Service when projects they fund, authorize, or conduct may affect these species.

E. *Other natural or manmade factors affecting its continued existence.* The range of the Cherokee darter has been fragmented, and a significant portion of the middle Etowah River system has been permanently altered by Allatoona Reservoir. Many of the streams inhabited by the Cherokee darter and Etowah darter exhibit moderate to heavy degradation from poor land use practices and small impoundments. These strong negative forces have caused local extirpation of both Cherokee darter and Etowah darter populations and have induced range fragmentation and subsequent isolation of the Cherokee darter into small populations. Genetic diversity has subsequently been lost due to these population losses. The genetic diversity of all populations may be needed to provide the species enough genetic variability to adapt to environmental change and thus assure long-term viability. The restricted distribution of both the Cherokee darter and Etowah darter also makes populations vulnerable to extirpation from catastrophic events, such as an accidental toxic chemical spill. Range fragmentation and loss of genetic diversity, independently and in concert, clearly threaten the continued existence of these species.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by both darters in determining to propose these

rules. Based on these evaluations, the preferred action is to propose the Cherokee darter and Etowah darter as threatened and endangered species, respectively. The Cherokee darter is now known from approximately 20 tributary systems of the Etowah River, but healthy populations are known from just a few sites. The Etowah darter is known from only the upper Etowah River mainstem and two tributary systems. Both species are restricted to the Etowah River system in north Georgia. These fish and their benthic habitat have been, and continue to be, impacted by range reduction, isolation by impoundment, and general habitat destruction. Despite its wider distribution and greater number of known populations, the Cherokee darter appears to have more of its habitat threatened by these factors, which have already resulted in a higher level of population fragmentation and isolation relative to the Etowah darter. The restricted distribution of these two species also makes localized populations susceptible to catastrophic events. Because of these factors, endangered appears the most appropriate status for the Etowah darter and threatened appears most appropriate for the Cherokee darter.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that, to the maximum extent prudent and determinable, the Secretary propose critical habitat at the time a species is proposed to be endangered or threatened. The Service's regulations (50 CFR 424.12(a)(1)) state that designation of critical habitat is not prudent when one or both of the following situations exist: (1) The species is threatened by taking or other activity and the identification of critical habitat can be expected to increase the degree of threat to the species or (2) such designation of critical habitat would not be beneficial to the species. The Service finds that designation of critical habitat is not prudent for these species. Such a determination would result in no known benefit to these species, and designation of critical habitat could further threaten them.

Section 7(a)(2) and regulations codified at 50 CFR part 402 require Federal agencies to ensure, in consultation with and with the assistance of the Service, that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of listed species or destroy or adversely modify their critical habitat, if designated. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in the destruction or adverse modification of proposed critical habitat. (See "Available Conservation Measures" section for a further discussion of Section 7.) As part of the development of this proposed rule, Federal and State agencies were notified of the fishes' general distribution, and they were requested to provide data on proposed Federal actions that might adversely affect the two species.

Should any future projects be proposed in areas inhabited by these fish, the involved Federal agency will already have the general distributional data needed to determine if the species may be impacted by their action; and if needed more specific distributional information would be provided.

Regulations promulgated for implementing section 7, referenced above, provide for both a jeopardy standard, based on listing alone, and for a destruction or adverse modification standard, in cases where critical habitat has been designated. The Cherokee and Etowah darters occupy very restricted stream reaches. Any significant adverse modification or destruction of their habitat would likely jeopardize their continued existence. Under these conditions the two standards are essentially equivalent. Therefore, no additional protection for the species would accrue from critical habitat designation that would not also accrue from listing these species. Once listed, the Service believes that protection of their habitat can be accomplished through the section 7 jeopardy standard, and through section 9 prohibitions against take.

These two fish are very rare. Therefore, taking for scientific purposes and private collections could pose a threat to their continued existence if site-specific information were released to the general public. The publication of critical habitat maps in the **Federal Register** and local newspapers and other publicity accompanying critical habitat designation could increase the collection threat and also increase the potential for vandalism during the often controversial critical habitat designation process. The potential for future habitat disruption within one or both these species' ranges resulting from the rapidly expanding Atlanta metropolitan area makes designation of critical habitat potentially more contentious and controversial, increasing the possibility for vandalism to occur. The locations of these species' populations have consequently been described only in general terms in this proposed rule. Any existing precise locality data would be available to appropriate Federal, State, and local governmental agencies from the Service office described in the **ADDRESSES** section; from the Service's Brunswick Field Office, Federal Building, room 334, 801 Gloucester Street, Brunswick, Georgia 31520; and from the Georgia Department of Natural Resources, and Georgia Natural Heritage Program.

Available Conservation Measures

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

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Federal involvement is expected to include the Environmental Protection Agency through the Clean Water Act's provisions for pesticide registration and waste management actions. The Corps of Engineers will consider these species in project planning and operation, and during the permit review process. The Federal Highway Administration will consider impacts of federally funded bridge and road construction projects when known habitat may be impacted.

Continuing urban development within the Etowah River system may involve the Farmers Home Administration and their loan programs. The Soil Conservation Service will consider the species during project planning and under their farmer's assistance programs. The Forest Service will consider downstream impacts to habitat of the Etowah darter when planning or implementing silvicultural, recreational, or other programs in the headwaters of Amicalola Creek and the extreme upper portion of the Etowah River mainstem occurring in the Chattahoochee National Forest.

The Act and implementing regulations found at 50 CFR 17.21 for endangered species, and 17.21 and 17.31 for threatened species set forth a series of general prohibitions and exceptions that apply to all endangered and threatened wildlife. These prohibitions, in part, make it illegal for any person subject to jurisdiction of the United States to take (includes harass, harm, pursue, hunt, shoot, wound, kill, trap, or collect; or attempt any of these), import or export, ship in interstate commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered or threatened wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22, 17.23, and 17.32. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. For threatened species, there are also permits for zoological exhibition, educational purposes, or special purposes consistent with the purpose of the Act. In some instances, permits may be issued for a specified time to relieve undue economic hardship that would be suffered if such relief were not available. Since these species are not in trade, such permit requests are not expected.

Public Comments Solicited

The Service intends that any final action resulting from these proposals will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning these proposed rules are hereby solicited. Comments particularly are sought concerning:

(1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to the species;

(2) The location of any additional populations of the species and the reasons why any habitat should or should not be determined to be critical habitat as provided by Section 4 of the Act.;

(3) Additional information concerning the range, distribution, and population size of the species; and

(4) Current or planned activities in the subject areas and their possible impacts on the species.

Final promulgation of the regulations on these species will take into consideration the comments and any additional information received by the Service, and such communication may lead to final regulations that differ from these proposals.

The Act provides for a public hearing on this proposal, if requested. Requests must be received within 45 days of the date of publication of these proposals. Such requests must be made in writing and should be addressed to the Field Supervisor (see **ADDRESSES** section of this rule).

National Environmental Policy Act

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

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Author

The primary author of this proposed rule is Robert S. Butler, U.S. Fish and Wildlife Service, Jacksonville Field Office, 3100 University Boulevard, South, Suite 120, Jacksonville, Florida 32216 (904/232–2580).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Proposed Regulations Promulgation

Accordingly, the Service proposes to amend part 17, subchapter B, chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. § 17.11(h) is amended by adding the following, in alphabetical order under "FISHES", to the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
FISHES							
•	•	•	•	•	•	•	•
Darter, Cherokee	*Etheostoma (Ulocentra)* sp..	U.S.A. (GA)	Entire	T		NA	
•	•	•	•	•	•	•	•
Darter, Etowah	*Etheostoma etowae*	U.S.A. (GA)	Entire	E		NA	
•	•	•	•	•	•		•

Dated: September 24, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–25435 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–55–P

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Public Hearings and Extension of Comment Period on Proposed Endangered Status and Critical Habitat Designation for the Southwestern Willow Flycatcher

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; notice of public hearings and extension of comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) gives notice that six public hearings will be held, and the comment period extended, regarding the proposed rule to list the southwestern willow flycatcher (*Empidonax traillii extimus*) as an endangered species, with critical habitat. These hearings and extension of the comment period will allow all interested parties to submit oral or written comments on the proposal.

DATES: Six public hearings have been scheduled, from 6 p.m. to 9 p.m. for the following dates and locations:

(1) Monday, November 1, 1993, in Albuquerque, New Mexico.

(2) Tuesday, November 2, 1993, in Las Cruces, New Mexico.

(3) Monday, November 8, 1993, in Tucson, Arizona.

(4) Tuesday, November 9, 1993, in Flagstaff, Arizona.

(5) Monday, November 15, 1993, in Lake Isabella, California.

(6) Tuesday, November 16, 1993, in San Diego, California.

The comment period for this proposal, which was scheduled to close on October 21, 1993, is extended and now closes on November 30, 1993.

ADDRESSES: The addresses for the public hearings are:

(1) November 1, 1993, at the Indian Pueblo Cultural Center, 2410 12th Street NW, Albuquerque, New Mexico.

(2) November 2, 1993, at the Corbett Auditorium on the New Mexico State University campus, Las Cruces, New Mexico.

(3) November 8, 1993, at the Social Sciences Auditorium on the University of Arizona campus, Tucson, Arizona.

(4) November 9, 1993, at the Flagstaff High School Auditorium, 400 West Elm, Flagstaff, Arizona.

(5) November 15, 1993, at the Kern River Valley Senior Citizen's Center, 6104 Lake Isabella Road, Lake Isabella, California.

(6) November 16, 1993, at the San Diego Concourse, Convention and Performing Arts Center, 202 C Street MS #57, San Diego, California.

Written comments and material should be sent to the State Supervisor, Arizona Ecological Services Field Office, U.S. Fish and Wildlife Service, 3616 West Thomas Road, suite 6, Phoenix, Arizona 85019. Comments and materials received will be available for public inspection by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Tom Gatz or Timothy Tibbitts, at the above address, telephone (602) 379–4720.

SUPPLEMENTARY INFORMATION:

Background

The southwestern willow flycatcher *(Empidonax traillii extimus)* is a small passerine bird which nests in riparian habitats along rivers, streams, or other wetlands, where dense growths of willow, cottonwood, arrowweed, buttonbush, tamarisk, or other shrubs and trees are present. Its breeding range includes southern California, Arizona, New Mexico, extreme southern portions of Nevada and Utah, and western Texas. It may also breed in southwestern Colorado and extreme northwestern Mexico. The southwestern willow flycatcher has experienced extensive loss and modification of its habitat, and is also endangered by other factors, including brood parasitism by cowbirds (*Molothrus* sp.). A proposed rule to list this species as endangered with critical habitat was published in the **Federal Register** on July 23, 1993 (58 FR 39495).

Pursuant to 50 CFR 424.16(c)(2), the Service may extend or reopen a comment period upon finding that there is good cause to do so. The Service has determined that good cause exists, in that allowing the full participation of the affected public in the species listing process will allow the Service to consider the best scientific and commercial data available in making a final determination on the proposed action.

Section 4(b)(5)(E) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), requires that a public hearing be held if requested within 45 days of the publication of a proposed rule. Anticipating such requests, the Service announced in the proposed rule that three public hearings would be held, one each in the States of California, Arizona and New Mexico. In response to additional requests, the Service is holding three additional hearings. The six public hearings will be held on the dates and at the addresses described above.

Those parties wishing to make statements for the record should bring a copy of their statements to present to the Service at the start of the hearing. Oral statements may be limited in length, if the number of parties present at each hearing necessitates such a limitation. There are, however, no limits to the length of written comments or materials presented at the hearings or mailed to the Service. To facilitate the uninhibited exchange of information, cameras and videotape recorders will not be allowed within the public hearing rooms. The comment period on the proposed rule originally closed October 21, 1993. To accommodate the public hearings, and to provide

opportunity for comments following the hearings, the Service is extending the comment period until November 30, 1993. Written comments should be submitted to the Service office in the ADDRESSES section.

Author

The primary author of this notice is Timothy J. Tibbitts (see ADDRESSES).

Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1361–1407; 16 U.S.C. 1531–1543; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

John G. Rogers,

Regional Director.

[FR Doc. 93–25570 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–55–P

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50 CFR Part 32

RIN 1018–AB25

Addition of Eight National Wildlife Refuges to the List of Open Areas for Hunting, Three to the List for Sport Fishing and Pertinent Refuge-Specific Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of extension of comment period.

SUMMARY: With this notice, the Fish and Wildlife Service extends the comment period referred to in a proposed rulemaking for refuge hunting and fishing openings published at 58 FR 48732 on September 17, 1993. The comment period is hereby extended by an additional 20 days to end on October 25, 1993.

DATES: Comments must be received on or before October 25, 1993.

ADDRESSES: Address comments to: Assistant Director—Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street, NW., Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Duncan L. Brown, U.S. Fish and Wildlife Service, Division of Refuges, MS 670 ARLSQ, 1849 C Street, NW., Washington, DC 20240; Telephone: 703–358–1744.

SUPPLEMENTARY INFORMATION: All hunting/fishing opening documents are maintained and are available for review at the Arlington Square office of the U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, 670 ARLSQ, Arlington, VA 22203.

Dated: October 13, 1993.

Richard N. Smith,

Acting Director.

[FR Doc. 93–25460 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 222 and 227

[Docket No. 930779–3179; I.D. 062993A]

Endangered and Threatened Species; Screening of Water Diversions To Protect Sacramento River Winter-run Chinook Salmon

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

ACTION: Advance notice of proposed rulemaking.

SUMMARY: NMFS is considering proposing regulations that would establish screening requirements for water diversions from the Sacramento River and Delta to protect threatened winter-run chinook salmon. There are over 2,000 unscreened diversions along the River and Delta, and NMFS is concerned that these unscreened diversions may cause substantial losses of juvenile winter-run chinook salmon.

DATES: Comments should be received by December 17, 1993.

ADDRESSES: Comments should be sent to Gary Matlock, Acting Regional Director, NMFS, Southwest Region, 501 West Ocean Blvd., suite 4200, Long Beach, CA 90802–4213.

FOR FURTHER INFORMATION CONTACT: James H. Lecky, Protected Species Division, Southwest Region, NMFS, (310) 980–4015 or Margaret C. Lorenz, Office of Protected Resources, NMFS, (301) 713–2322.

SUPPLEMENTARY INFORMATION: The threatened winter-run chinook salmon is a unique population of chinook salmon in the Sacramento River that is distinguishable from other chinook runs based on the timing of its upstream migration and spawning season. Annual estimates of the spawning run size made by the California Department of Fish and Game (CDFG) at the Red Bluff Diversion Dam show a dramatic decline in the average run size from 84,000 fish in the years 1967–1969 to about 2,000 for the years 1982 to 1984. After a further decline in the run size to less than 1,000 fish, NMFS listed the species as threatened under the Endangered Species Act (ESA) on November 5, 1990 (55 FR 46515), and has proposed to reclassify the species as endangered (57 FR 27416, June 19, 1992).

According to a 1987 report to the California Advisory Committee on Salmon and Steelhead, there are more than 300 separate irrigation, industrial, and municipal water supply diversions along the Sacramento River between Redding and Sacramento, California, that divert nearly 1.2 million acre-feet of water annually from April through October. These unscreened diversions may be causing significant losses of juvenile winter-run chinook since juveniles rear in the Sacramento River during a significant portion of the normal (i.e., July through November) irrigation season. In addition, the possible flooding of rice fields during the winter months, or non-irrigation season, is presently under consideration. This diversion activity would serve to expose juvenile winter-run chinook salmon to unscreened diversions for an even period than currently exists. According to the Resources Agency of the State of California, an estimated 10 million juvenile salmonids are lost to unscreened diversions annually.

In an unpublished examination of the possible impacts of local agricultural diversions in the Delta on striped bass and chinook salmon for the California Department of Water Resources, Randall Brown (1983) found that there were about 1,800 small diversions in the Delta. The Department estimated that the average size of the intakes for these pumps and siphons was 10–12 inches with low average flows. These diversions, combined with local precipitation and levee seepage, result in a total Delta annual consumptive water use of about 1.65 million acre-feet. However, the magnitude of these diversions, and the extent to which these diversions cause significant losses of juvenile chinook salmon has not been adequately studied.

NMFS and other agencies have already undertaken a number of actions, including screen design and installation, to reduce the impact on winter-run chinook salmon from major diversions in the Sacramento River and Delta. The U.S. Bureau of Reclamation completed the Tehama-Colusa Canal fish-screen facilities in 1990 to eliminate fish entrainment into the Tehama-Colusa and Corning irrigation canals and to reduce predation at the Red Bluff Diversion Dam. In response to an enforcement action taken by NMFS pursuant to violations of the

Endangered Species Act (ESA), the Anderson-Cottonwood Irrigation District installed three water-intake screens on the previously unscreened Churn Creek Pump Station in 1992. In August 1991, the Dept. of Justice, at the request of NMFS, obtained a Federal court order to enjoin the Glenn-Colusa Irrigation District (GCID) from operating its Hamilton City diversion facility in violation of the ESA. This action eventually resulted in a court order that restricts the District's operations to minimize impacts on juvenile winter-run chinook salmon during their peak outmigration season. Because of the court order, GCID agreed to: (1) Pursue a long-term screening solution that implements the best available proven technology to protect juvenile winter-run chinook salmon from entrainment and predation at the diversion facility and (2) operate the facility on an interim basis to meet specific screen approach velocity (i.e., average approach velocity of 0.33 cubic feet per second along the screen face) and bypass flow criteria.

In February 1993, NMFS issued an ESA section 7 biological opinion to the U.S. Bureau of Reclamation and the California Department of Water Resources that addresses the effects of long-term Central Valley Project and State Water Project operations on the winter-run chinook salmon. The opinion and incidental take statement identifies protective measures that require the Bureau to limit the diversion of juvenile winter-run chinook salmon from the Sacramento River into the central and southern Delta which minimizes juvenile losses that occur at the Federal and State export pumping facilities in the southern Delta. In addition, the Bureau is implementing a pilot screening program that may advance the technology and acceptance of screening and other fish deterrent devices in the Sacramento River. Funds from the Drought Act of 1991 will be used for the installation of a number of fish screening devices for diversion facilities on the Sacramento River for the purpose of demonstrating their effectiveness. The Bureau has contacted 125 Sacramento River water diverters having water rights settlement contracts with the United States to inform them of the pilot screening program and encourage their participation in screening selected diversions. Also, the Bureau plans to conduct screening workshops for all interested Sacramento River diverters. Various screen designers, fabricators, and vendors will be invited to discuss fish screen technology and present their products and services.

NMFS is now beginning to consider whether it should propose regulations that would establish screening requirements for water diversions from the Sacramento River and Delta to protect threatened winter-run chinook salmon. Therefore, in addition to comments on whether it should propose regulations, NMFS is requesting specific information and comments from Federal and State agencies and private individuals or organizations on the following: (1) The numbers, types, and sizes of unscreened and screened diversions in the Sacramento River and Delta; (2) the magnitude of losses of winter-run chinook salmon and other fish species caused by unscreened diversions in the Sacramento River and Delta; (3) the feasibility of installing positive-barrier screens or other fish-deterrent devices to reduce these losses; (4) the estimated costs of screen design, installation, maintenance and evaluation; (5) the availability of funding mechanisms for screen design, installation, maintenance, and evaluation; and (6) the availability and feasibility of alternative management options that may reduce losses from unscreened diversions such as seasonal pumping restrictions, monitoring requirements, or alternative water supplies.

Dated: October 12, 1993.

Gary Matlock,

Acting Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 93–25429 Filed 10–15–93; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 58, No. 199
Monday, October 18, 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.

ACTION

Members of Performance Review Board

AGENCY: ACTION.

ACTION: List of performance review board members.

SUMMARY: ACTION publishes the revised list of positions which comprise the Performance Review Board established by ACTION under the Civil Service Reform Act.

FOR FURTHER INFORMATION CONTACT: Phyllis D. Beaulieu, Director of Personnel, ACTION, 1100 Vermont Avenue, NW., room 5101, Washington, DC 20525, (202) 606–5263.

SUPPLEMENTARY INFORMATION: The Civil Service Reform Act of 1978 (CSRA) requires that each agency establish one or more Performance Review Boards to review and evaluate the initial appraisal of a senior executive's performance and to make recommendations to the appointing authority concerning the performance of the senior executive and to make recommendations for bonuses.

The incumbents of the following positions will serve as members of the ACTION Performance Review Board.

1. Associate Director for Management and Budget—Chairman
2. Deputy Assistant Secretary for Administration, Department of Transportation
3. Commissioner, Federal Property Asset Management Service, General Services Administration
4. Associate Director, Office of Policy, Research and Evaluation

Issued in Washington, DC, on October 7, 1993.

Gary Kowalczyk,

Acting Director.

[FR Doc. 93–25490 Filed 10–15–93; 8:45 am]

BILLING CODE 6050–28–M

DEPARTMENT OF AGRICULTURE

Food Safety and Inspection Service

[Docket No. 93–023N]

Conference on the Meat and Poultry Regulatory Program of the Future

Notice is hereby given that a Conference on the Meat and Poultry Regulatory Program of the Future will be held on Tuesday, November 9, 1993, 8:30 a.m. to 5 p.m., and Wednesday, November 10, 1993, 8:30 a.m. to 4 p.m., at the Renaissance Hotel, located near Dulles International Airport, 13869 Park Center Road, Herndon, Virginia.

Participants at the Conference are representatives of Food Safety and Inspection Service constituents, such as the meat and poultry industry, academia, professional organizations, and consumer groups. The purpose of the Conference is to obtain additional information on issues of importance to the general public prior to developing the meat and poultry regulatory program of the future.

The Conference is open the public on a space-available basis. Interested persons may contact Jen Darling at (703) 218–2688, for additional information regarding the Conference.

Done at Washington, DC, on: October 13, 1993.

H. Russell Cross,

Administrator, Food Safety and Inspection Service.

[FR Doc. 93–25467 Filed 10–15–93; 8:45 am]

BILLING CODE 3410–DM–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–815]

Gray Portland Cement and Clinker From Japan; Amendment of Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration/ Department of Commerce.

ACTION: Notice of amendment of final results of antidumping duty administrative review.

SUMMARY: On September 20, 1993, the Department of Commerce published in the **Federal Register** (58 FR 48826) the final results of its administrative review of the antidumping duty order on gray portland cement and clinker from Japan (56 FR 21658; May 10, 1991). The review covered one manufacturer/ exporter of this merchandise, Onoda Cement Company, Ltd. (Onoda), and the period October 31, 1990 through April 30, 1992. Based on the correction of ministerial errors, we have changed the margin for Onoda from 13.60 percent to 18.30 percent.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: David Genovese or Pamela Woods, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On September 20, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 48826) the final results of our administrative review of the antidumping duty order on gray portland cement and clinker from Japan (56 FR 21658; May 10, 1991). After publication of the final results, the Department received comments from the Ad Hoc Committee of Southern California Producers of Gray Portland Cement (the petitioner) and Onoda regarding ministerial errors in the computer programs used to calculate the final margin.

Amended Final Results of Review

Based on comments submitted by petitioner we corrected three ministerial errors for these amended final results. First, in our final calculations the Department did not deduct the full amount of indirect selling expenses and freight for channels 2, 4, 6, and 9 sales when calculating exporter's sales price (ESP). Second, we erred when calculating the total value of U.S. sales which resulted in an overstated total value which in turn understated the final margin. Third, we inadvertently deducted the full amount of Onoda's service station operating costs as a direct expense from foreign market value (FMV) in all purchase price transactions. This expense should have been included in the pool of home market indirect expenses.

Based on comments submitted by respondent we corrected one additional error: The Department incorrectly defined the amount of the difference-in-merchandise for ESP sales of Type II cement.

As a result of our correction of the aforementioned ministerial errors, we have determined that a weighted-average margin of 18.30 percent exists for Onoda.

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. Individual differences between USP and FMV may vary from the percentage stated above. The Department will issue appraisement instructions directly to Customs.

Furthermore, the following deposit requirements will be effective upon publication of this notice of amended final results of administrative review for all shipments of gray portland cement and clinker from Japan entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Tariff Act of 1930, as amended, and will remain in effect until the final results of the next administrative review:

(1) The cash deposit rate for Onoda will be 18.30 percent;

(2) For previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in this review or the original less-than-fair-value (LTFV) investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) The cash deposit rate for any future entries from all other manufacturers or exporters, who are not covered in this or prior administrative reviews and who are unrelated to the reviewed firms or any previously reviewed firm, will be 63.73 percent. This rate is the "all others" rate established by the Department in the original LTFV investigation (56 FR 12156).

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published pursuant to 19 CFR 353.28.

Dated: October 7, 1993.

Barbara R. Stafford,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–25507 Filed 10–15–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–807]

Initiation of Anticircumvention Inquiry on Antidumping Duty Order on Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Japan

AGENCY: International Trade Administration, Import Administration, Department of Commerce.

ACTION: Notice of initiation of anticircumvention inquiry.

SUMMARY: On the basis of a petition filed with the Department of Commerce by Brecoflex Corporation, we are initiating an anticircumvention inquiry to determine whether a producer of polyurethane timing belts from Mexico is circumventing the antidumping duty order on industrial belts and components and parts thereof, whether cured or uncured, from Japan, issued June 14, 1989, (54 FR 25314), as corrected August 4, 1989, (54 FR 32104).

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Wendy Frankel at (202) 482–5253 or Kimberley Huffman at (202) 482–0780, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

On June 9, 1992, the Department received a petition filed by Brecoflex Corporation (Brecoflex), requesting that the Department conduct an investigation to determine whether imports of certain industrial belts or components or parts by Mectrol Corporation (Mectrol), are circumventing the antidumping duty order on industrial belts from Japan, in accordance with section 781(b) of the Tariff Act of 1930, as amended (the Act). 19 U.S.C. 1677j(b). Brecoflex alleges that Mectrol is circumventing the antidumping duty order on industrial belts by importing subject belting into Mexico for assembly into finished belts before importation into the United States. On August 13, 1992, Mectrol filed a response to Brecoflex's circumvention allegations. On November 16, 1992, Brecoflex provided additional information in support of its petition in response to a request by the Department. On November 23, 1992, Mectrol filed comments in response to Brecoflex's November 16, 1992, submission.

Scope of Order

The products covered by the order subject to this anticircumvention inquiry are industrial belts or components or parts thereof, whether cured or uncured, from Japan as defined in the Department's antidumping duty order on industrial belts from Japan (54 FR 25314, June 14, 1989), as corrected August 4, 1989 (54 FR 32104).

Initiation of Anticircumvention Proceeding

Section 781(b)(1) of the Act authorizes the Department to include merchandise assembled or completed in a foreign country within the scope of an existing antidumping duty order if: (A) The merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of an antidumping duty order; (B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which (i) is subject to an order or finding, or (ii) is produced in the foreign country with respect to which such order or finding applies; (C) the difference between the value of such imported merchandise and the value of the merchandise as described (in section B above) is small; and (D) the Department of Commerce determines that action is appropriate to prevent evasion of the order. In reaching a determination on whether to include the product within the scope of an existing antidumping duty order, section 781(b)(2) of the Act directs the Department to consider such factors as:

(1) The pattern of trade, (2) whether the manufacturer or exporter of the product is related to the person who uses the merchandise to assemble or complete in the foreign country the product that is subsequently imported into the United States, and (3) whether imports into the foreign country of the merchandise have increased after issuance of the order or finding.

Based upon the allegations and evidence provided by Brecoflex and additional evidence contained in Mectrol's submissions, and in accordance with section 781(b) of the Act and 19 CFR 353.29(b) and (f), we are initiating an anticircumvention inquiry on the antidumping duty order on industrial belts from Japan (case number A–588–807). (See Analysis section of October 1, 1993 Memorandum).

We intend to notify the International Trade Commission (ITC) in the event of an affirmative preliminary determination of circumvention, in accordance with 19 CFR 353.29(d)(7).

The Department will not order the suspension of liquidation at this time. However, in accordance with 19 CFR 353.29(j)(2), the Department will instruct the U.S. Customs Service to suspend liquidation in the event of an affirmative preliminary determination of circumvention.

This notice is issued pursuant to section 781(b) of the Act (19 U.S.C. 1677j(b)).

Dated: October 1, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–25506 Filed 10–15–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–559–802]

Industrial Belts and Components and Parts Thereof, Whether Cured or Uncured, From Singapore; Termination of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: In response to a request from Mitsuboshi Belting (Singapore) Pte., Ltd., hereafter MBS, the Department of Commerce initiated, on July 22, 1992, an administrative review of the antidumping duty order on industrial belts from Singapore for the period June 1, 1991 through May 31, 1992. On October 20, 1992, the Department received a timely request from MBS to withdraw from this administrative review. The Department received no other requests for review from other interested parties, and, therefore, the Department is terminating this administrative review.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Charles Vannatta in the Office of Antidumping Compliance; International Trade Administration; U.S. Department of Commerce; Washington, DC 20230; telephone number (202) 482–5253.

SUPPLEMENTARY INFORMATION:

Background

On June 14, 1989, the Department published in the **Federal Register** (54 FR 25315) the antidumping duty order on industrial belts from Singapore. The order was subsequently amended on August 4, 1989 (54 FR 32104). After receiving a timely request for review from MBS, the Department initiated, on July 22, 1992, an administrative review for the period June 1, 1991 through May 31, 1992 (57 FR 32521). Subsequently on October 20, 1992, the Department received a timely request from MBS for withdrawal from this administrative review. Because there were no other requests for review from other interested parties, the Department is terminating this administrative review in accordance with 19 CFR 353.22(a)(5).

This termination notice is in accordance with 19 CFR 353.22(a)(5).

Dated: October 4, 1993.

Holly A. Kuga,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–25510 Filed 10–15–93; 8:45 am]

BILLING CODE 3510–DS–M

[A–588–813]

Light-Scattering Instruments and Parts Thereof From Japan; Notice of Final Results

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative reviews: Light-scattering instruments and parts thereof from Japan.

SUMMARY: On August 9, 1993, the Department of Commerce published the preliminary results of the administrative reviews of the antidumping duty order on light-scattering instruments and parts thereof from Japan. The reviews cover one manufacturer/exporter of the merchandise to the United States, Otsuka Electronics, Ltd., and the periods November 15, 1990 through October 31, 1991, and November 1, 1991 through October 31, 1992. We gave interested parties an opportunity to comment on the preliminary results. We received no comments. Based on our analysis, the final results remain unchanged from those presented in the preliminary results.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Rebecca Trainor or Maureen Flannery, Office of Antidumping Compliance, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–4733.

SUPPLEMENTARY INFORMATION:

Background

On August 9, 1993, the Department of Commerce (the Department) published in the **Federal Register** (58 FR 42293) the preliminary results of the first and second administrative reviews of the antidumping duty order on light-scattering instruments (LSIs) and parts thereof from Japan (55 FR 48144, November 19, 1990). The Department has now completed the reviews in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Reviews

These reviews cover imports of LSIs and parts thereof from Japan. The Department defines such merchandise as LSIs and the parts thereof from Japan, specified below, that have classical measurement capabilities, whether or not also capable of dynamic measurements. Classical measurement (also known as static measurement) capability usually means the ability to measure absolutely (i.e., without reference to molecular standards) the weight and size of macromolecules and submicron particles in solution, as well as certain molecular interaction parameters, such as the so-called second viral coefficient. (An instrument that uses single-angle instead of multi-angle measurement can only measure molecular weight and the second viral coefficient.) Dynamic measurement (also known as quasi-elastic measurement) capability refers to the ability to measure the diffusion coefficient of molecules or particles in suspension and deduce therefrom features of their size and size distribution. LSIs subject to these reviews employ laser light and may use either the single-angle or multi-angle technique.

The following parts are included in the scope of these administrative reviews when they are manufactured according to specifications and operational requirements for use only in an LSI as defined in the preceding paragraph: Scanning photomultiplier assemblies, immersion baths (to provide temperature stability and/or refractive index matching), sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches. LSIs subject to these reviews may be sold inclusive or exclusive of accessories such as personal computers, cathode ray tube displays, software, or printers. LSIs are currently classifiable under Harmonized Tariff Schedule (HTS) subheading 9027.30.40. LSI parts are currently classifiable under HTS subheading 9027.90.40. HTS subheadings are provided for convenience and U.S. Customs Service purposes. The written product description remains dispositive. Different items with the same name as subject parts may enter under subheading 9027.90.40. To avoid the unintended suspension of liquidation of non-subject parts, those items entered under subheading 9027.90.40 and generally known as scanning photomultiplier assemblies, immersion baths, sample-containing structures, electronic signal-processing boards, molecular characterization software, preamplifier/discriminator circuitry, and optical benches must be accompanied by an importer's declaration to the Customs Service to the effect that they are not manufactured for use in a subject LSI.

These reviews cover entries of the subject merchandise exported by Otsuka Electronics, Ltd. (Otsuka) and entered during the periods November 15, 1990 through October 31, 1991, and November 1, 1991 through October 31, 1992.

Final Results of Reviews

We gave interested parties an opportunity to comment on the preliminary results of these reviews. We received no comments. We determine that Otsuka had no exports of the subject merchandise, entered into the United States and sold to unrelated parties during the first administrative review period, November 15, 1990 through October 31, 1991. Otsuka exported one subject LSI during this period to a related party in the United States. The related party has not sold the LSI. We will include this unit in a future review if it is ever sold. We further determine that two high speed correlation calculation boards, exported by Otsuka and entered during the period of review, are not covered by the scope of the order.

Because Otsuka failed to respond in a timely manner to our antidumping request for information in the second administrative review, we are using the best information available (BIA), in accordance with section 776(c) of the Act, for that period. In determining what to use as BIA, the Department follows a two-tiered methodology whereby the Department assigns lower margins to those respondents who cooperate in a review, and margins based on more adverse assumptions for those respondents who do not cooperate in the review, or who significantly impede these proceedings. In the case of non-cooperative respondents, we use as BIA the higher of (1) the highest of the rates found for any firm for the same class or kind of merchandise in the less than fair value (LTFV) investigation or prior administrative reviews; or (2) the highest calculated rate in this review for the class or kind of merchandise for any firm. There were no other firms involved in the LTFV investigation or in this review. We have therefore used as BIA Otsuka's rate from the final determination in the LTFV investigation.

We have determined that the following dumping margins exist for the periods November 15, 1990 through October 31, 1991, and November 1, 1991 through October 31, 1992:

Manufacturer/exporter	Period of review	Margin (percent)
Otsuka Electronics, Ltd.	11/15/90–10/31/91	[1] 129.71
Otsuka Electronics, Ltd.	11/01/91–10/31/92	[2] 129.71

[1] No entries during this period; margin used is from the investigation.
[2] BIA rate; margin used is from the investigation.

Parties to the proceeding may request disclosure within 5 days of the date of publication of this notice. The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of this notice of final results of review for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act:

(1) The cash deposit rate for Otsuka will be 129.71 percent, the rate established in the final results of the administrative review for the 1991–1992 period;

(2) For previously reviewed or investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period;

(3) If the exporter is not a firm covered in these reviews, a prior review, or the original LTFV investigation, but the manufacturer is, the cash deposit rate shall be the rate established for the most recent period for the manufacturer of the merchandise; and

(4) If neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be the "all others rate" from the LTFV investigation.

On May 25, 1993, the Court of International Trade in *Floral Trade Council* v. *United States*, Slip Op. 93–79, and *Federal-Mogul Corporation and the Torrington Company* v. *United States*, Slip Op. 93–83, decided that once an "all others" rate is established for a company, it can only be changed through an administrative review. The Department has determined that in order to implement these decisions, it is appropriate to reinstate the original "all others" rate from the LTFV investigation (or that rate as amended for correction for clerical errors or as a result of litigation) in proceedings governed by antidumping duty orders for the purposes of establishing cash deposits in all current and future administrative reviews. In proceedings governed by antidumping findings, unless we are able to ascertain the "all others" rate from the Treasury LTFV investigation, the Department has determined that it is appropriate to adopt the "new shipper" rate established in the first final results of administrative review published by the Department (or that rate as amended for correction of clerical error or as a result of litigation) as the "all others" rate for the purposes of establishing cash deposits in all current and future administrative reviews.

Because this proceeding is governed by an antidumping duty order, the "all others" rate for the purposes of this review will be 129.71 percent, the "all other" rate established in the final determination in the LTFV investigation (55 FR 34952, August 27, 1990).

These deposit requirements will be effective upon publication of this notice for all shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or

after the publication date. These deposit requirements, when imposed, shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as a reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Notification to Interested Parties

This notice also serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 353.34(d). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

These administrative reviews and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and section 353.22 of the Department's regulations.

Dated: October 1, 1993.

Joseph A. Spetrini

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-25505 Filed 10-15-93; 8:45 am]

BILLING CODE 3510-DS-P

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

BACKGROUND: Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with § 353.22 or § 355.22 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

OPPORTUNITY TO REQUEST A REVIEW: Not later than October 31, 1993, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October for the following periods:

Antidumping duty proceedings	Period
Italy:	
Pressure Sensitive Plastic Tape (A-475-059)	10/01/92-09/30/93
Japan:	
Steel Wire Rope (A-588-045)	10/01/92-09/30/93
Tapered Roller Bearings, 4 Inches or Less in Outside Diameter and Certain Components Thereof (A-588-054)	10/01/92-09/30/93
Tapered Roller Bearings, and Parts Thereof, Finished and Unfinished, Over 4 Inches (A-588-604)	10/01/92-09/30/93
Malaysia:	
Extruded Rubber Thread (A-557-805)	04/02/92-09/30/93
The People's Republic of China:	
Barium Chloride (A-570-007)	10/01/92-09/30/93
Shop Towels of Cotton (A-570-003)	10/01/92-09/30/93
Yugoslavia:	
Industrial Nitrocellulose (A-479-801)	10/01/92-09/30/93
Countervailing Duty Proceedings	
Argentina:	
Leather (C-357-803)	01/01/92-12/31/92
Brazil:	
Certain Agricultural Tillage Tools (C-351-406)	01/01/92-12/31/92
India:	
Certain Iron-Metal Castings (C-533-063)	01/01/92-12/31/92
Iran:	
Roasted In-Shell Pistachios (C-507-601)	01/01/92-12/31/92
New Zealand:	
Certain Steel Wire Nails (C-614-701)	01/01/92-12/31/92
Sweden:	
Certain Carbon Steel Products (C-401-401)	01/01/92-12/31/92
Thailand:	
Certain Steel Wire Nails (C-549-701)	01/01/92-12/31/92

In accordance with § 353.22(a) and 355.22(a) of the Commerce regulations, as interested party may request in writing that the Secretary conduct an administrative review. For antidumping reviews, the interested party must specify for which individual producers or resellers covered by an antidumping finding or order it is requesting a review, and the requesting party must state why the person desires the Secretary to review those particular producers or resellers. If the interested party intends for the Secretary to review sales of merchandise by a reseller (or a producer if that producer also resells merchandise from other suppliers) which was produced in more than one country of origin, and each country of origin is subject to a separate order, then the interested party must state specifically which reseller(s) and which countries of origin for each reseller the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping Compliance, Attention: Pamela Woods,

in room 3069–A of the main Commerce Building. Further, in accordance with § 353.31(g) or § 355.31 of the Commerce Regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review", for requests received by October 31, 1993.

If the Department does not receive, by October 31, 1993, a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute, but is published as a service to the international trading community.

Dated: October 8, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–25511 Filed 10–15–93; 8:45 am]

BILLING CODE 3510–DS–M

Initiation of Antidumping and Countervailing Duty Administrative Reviews; Recision of Initiation

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews.

SUMMARY: The Department of Commerce has received requests to conduct administrative reviews of various antidumping and countervailing duty orders, findings and suspension agreements with September anniversary dates. In accordance with the Commerce Regulations, we are initiating those administrative reviews.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Holly A. Kuga, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230, telephone: (202) 482–2104.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) has received timely requests, in accordance with §§ 353.22(a) and 355.22(a) of the Department's regulations, for administrative reviews of various antidumping and countervailing duty orders, findings, and suspension agreements with September anniversary dates.

Initiation of Reviews

In accordance with §§ 353.22(c) and 355.22(c) of the Department's regulations, we are initiating administrative reviews of the following antidumping and countervailing duty orders, findings, and suspension agreements. We intend to issue the final results of these reviews not later than September 30, 1994.

Antidumping duty proceedings and firms	Period to be reviewed
Argentina:	
Silicon Metal A–357–804	
Electrometalurgica Andina Silarsa, S.A	9/1/92–8/31/93
Canada:	
Replacement Parts for Self-Propelled Bituminous Paving Equipment A–122–057	
Road Machinery Division of Ingersoll-Rand, Inc	9/1/92–8/31/93
Pure Magnesium A–122–814	
Norsk Hydro Canada, Inc	[1] 2/20/92–7/31/93
Japan:	
Electroluminescent High Information Content Flat Panel Displays and Display Glass Therefor A–588–817	
Sharp Corporation, Sharp Electronics Corporation	9/1/92–8/31/93
The People's Republic of China:	
Chrome Plated Lug Nuts A–570–808	
China National Machinery & Equipment Import & Export Corp., Nantong Branch; China National Automotive Industry I/E; China National Machinery & Equipment Corporation, Jiangsu Co., Ltd. China National Automobile Import & Export Corp., Yangzhou Branch; Lu Dong Grease Gun Factory; Ningbo Knives & Scissors Factory; Shanghai Automobile Import & Export Corp.; Tianjin Automotive Import & Export Co	9/1/92–8/31/93
Taiwan:	
Chrome Plated Lug Nuts A–583–810	
Buxton International; Chu Fong Metallic Industrial Corporation; Everspring Plastic Corp.; Gourmet Equipment (Taiwan) Corp.; Kuang Hong Industries Co., Ltd.; San Chien Electric Industrial Works, Ltd.; Transcend International Co	9/1/92–8/31/93
United Kingdom:	
Certain Forged Steel Crankshafts A–412–602	
United Engineering & Forging	9/1/92–8/31/93
Countervailing Duty Proceedings	
New Zealand:	
Lamb Meat C–614–503	4/1/92–3/31/93

[1] This case was listed in the September 30, 1993, initiation notice showing the review period as 11/20/91–7/31/93. The correct review period is 2/20/92–7/31/93.

Recision of Initiation

The Department rescinds its initiation of the countervailing duty administrative review for the following case:

Thailand:	
Certain Apparel C–549–401	1/1/92–12/31/92

Interested parties must submit applications for administrative protective orders in accordance with §§ 353.34(b) and 355.34(b) of the Department's regulations.

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 353.22(c)(1) and 355.22(c)(1) (1993).

Dated: October 8, 1993.

Roland L. MacDonald,

Acting Deputy Assistant Secretary for Compliance.

[FR Doc. 93–25512 Filed 10–15–93; 8:45 am]

BILLING CODE 3510–DS–M

Export Trade Certificate of Review

ACTION: Notice of issuance of an amended Export Trade Certificate of Review, Application No. 92–2A001.

SUMMARY: The Department of Commerce has issued an amendment to the Export Trade Certificate of Review granted to the Aerospace Industries Association of America, Inc. ("AIA") on April 10, 1992. Notice of issuance of the Certificate was published in the Federal Register on April 17, 1992 (57 FR 13707).

FOR FURTHER INFORMATION CONTACT: Jude Kearney, Deputy Assistant Secretary for Service Industries and Finance, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. The regulations implementing Title III are found at 15 CFR part 325 (1993). The Office of Export Trading Company Affairs is issuing this notice pursuant to 15 CFR 325.6(b), which requires the Department of Commerce to publish a summary of a Certificate in the Federal Register. Under section 305(a) of the Act and 15 CFR 325.11(a), any person aggrieved by the Secretary's determination may, within 30 days of the date of this notice, bring an action in any appropriate district court of the United States to set aside the determination on the ground that the determination is erroneous.

Description of Amended Certificate

Export Trade Certificate of Review No. 92–00001 was issued to the Aerospace Industries Association of America, Inc. ("AIA") on April 10, 1992 (57 FR 13707, April 17, 1992), and previously amended on September 8, 1992 (57 FR 41920, September 14, 1992).

AIA's Export Trade Certificate of Review has been amended to add the following additional companies as "Members" within the meaning of § 325.21 of the Regulations (15 CFR. 325.2(l)): CTA Incorporated, Rockville, MD; Digital Equipment Corporation, Marlboro, MA; Dupont Company, Wilmington, DE; Edwards Aerospace, Inc., Irving, TX (Controlling Entity: Edwards Technology, Inc., Irving, TX); Loral Vought Systems Corporation, Dallas, TX (Controlling Entity: Loral Corporation, New York, NY); Reflectone, Inc., Tampa, FL; and Vought Aircraft Company, Dallas, TX.

A copy of the amended certificate will be kept in the International Trade Administration's Freedom of Information Records Inspection Facility, Room 4102, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Effective Date: August 11, 1993.

Dated: October 12, 1993.

Friedrich R. Crupe,

Acting Director, Office of Export Trading Company Affairs.

[FR Doc. 93–25513 Filed 10–15–93; 8:45 am]

BILLING CODE 3510–DR–P

United States-Canada Free-Trade Agreement, Article 1904 Binational Panel Review; Notice of Decision of Panel

AGENCY: United States-Canada Free-Trade Agreement, Binational Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of Binational Panel under U.S.-Canada Free Trade Agreement.

SUMMARY: By a decision dated September 28, 1993, a Binational Panel affirmed the final determination on remand made by The Deputy Minister for National Revenue (Customs and Excise), regarding Certain Machine Tufted Carpeting Originating in or Exported from the United States of America (Secretariat File No. CDA–92–1904–01). A copy of the complete panel decision is available from the Binational Secretariat.

FOR FURTHER INFORMATION CONTACT: James R. Holbein, United States Secretary, Binational Secretariat, suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the United States-Canada Free-Trade Agreement ("Agreement") establishes a mechanism to replace domestic judicial review of final determinations in antidumping and countervailing duty cases involving imports from the other country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1989, the Government of the United States and the Government of Canada established Rules of Procedure for Article 1904 Binational Panel Reviews ("Rules"). These Rules were published in the the Federal Register on December 30, 1988 (53 FR 53212). The Rules were amended by Amendments to the Rules of Procedure for Article 1904 Binational Panel Reviews, published in the Federal Register on December 27, 1989 (54 FR 53165). The Rules were further amended and a consolidated version of the amended Rules was published in the Federal Register on June 15, 1992 (57 FR 26698). The panel review in this matter was conducted in accordance with these Rules.

BACKGROUND: On April 29, 1992, a Request for Panel Review of the final determination of dumping made by the Deputy Minister for National Revenue (Customs and Excise) was filed by Wundweave Carpets Inc. with the Canadian Section of the Binational Secretariat pursuant to Article 1904 of the United States Canada Free Trade Agreement. The panel rendered a decision on May 19, 1993 (Canada Gazette, Part I, Vol. 127, No. 23), which affirmed in part and remanded in part the investigating authority's final determination.

On June 30, 1993, the investigating authority filed its Determination on Remand. The Carpet and Rug Institute and Shaw Industries Inc. requested review of the Determination on Remand, under Rule 75 of the Rules.

The panel rendered a decision on remand on September 28, 1993, which affirmed the investigating authority's determination on remand.

Dated: October 13, 1993.

James R. Holbein,

United States Secretary, FTA Binational Secretariat.

[FR Doc. 93-25508 Filed 10-15-93; 8:45 am]

BILLING CODE 3510-GT-M

National Institute of Standards and Technology, Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5 pm in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 93-065. *Applicant:* National Institute of Standards and Technology, Gaithersburg, MD 20899. *Instrument:* Differential Vacuum System for Mass Spectrometer. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* See notice at 58 FR 36397, July 7, 1993.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* This is a compatible accessory for an instrument previously imported for the use of the applicant. The instrument and accessory were made by the same manufacturer. The National Institutes of Health advises in its memorandum dated September 10, 1993 that the accessory is pertinent to the intended uses and that it knows of no comparable domestic accessory.

We know of no domestic accessory which can be readily adapted to the previously imported instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93-25503 Filed 10-15-93; 8:45 am]

BILLING CODE 3510-DS-F

St. Jude Children's Research Hospital, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 93-067. *Applicant:* St. Jude Children's Research Hospital, Memphis, TN 38105. *Instrument:* Microscope micromanipulator. *Manufacturer:* Singer Instrument Company, United Kingdom. *Intended Use:* See notice at 58 FR 36397, July 7, 1993. *Reasons:* The foreign instrument provides a microprocessor controlled microscope/micromanipulator with 16 K byte memory and a search range of 4 to 999 µm.

Docket Number: 93-069. *Applicant:* Rutgers University, New Brunswick, NJ 08903. *Instrument:* 3D Ecoscope System. *Manufacturer:* Institut für Meereskunde, Germany. *Intended Use:* See notice at 58 FR 36397, July 7, 1993. *Reasons:* The foreign instrument provides: (1) Operation from a remotely controlled vehicle, (2) video helmet control, (3) deployment to 350 bar pressures and (4) a 20 x 28 mm imaging field.

Docket Number: 93-070. *Applicant:* Iowa State University, Ames, IA 50011. *Instrument:* Mass Spectrometer, Model OPTIMA. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* See notice at 58 FR 39790, July 26, 1993. *Reasons:* The foreign instrument provides an absolute sensitivity of 1100 molecules CO_2 per mass 44 ion and an internal precision of 0.01 per mil for 5 bar µl samples of CO_2.

Docket Number: 93-072. *Applicant:* Horn Point Environmental Laboratory, Cambridge, MD 21613. *Instrument:* OM 780 Model 781 Oxygen Meter, MC 100 Microcell and SI 130 1302 Oxygen Electrode. *Manufacturer:* Strathkelvin Instruments, United Kingdom. *Intended Use:* See notice at 58 FR 39791, July 26, 1993. *Reasons:* The foreign instrument provides: (1) small (50 µl) sample volume capability, (2) sensitivity of 0.01 mg O_2 per liter and (3) no stirring requirement.

Docket Number: 93-075. *Applicant:* Department of Commerce, NOAA, Charleston, SC 29412. *Instrument:* Mass Spectrometer, Model API III. *Manufacturer:* PE Sciex, Canada. *Intended Use:* See notice at 58 FR 42940, August 12, 1993. *Reasons:* The foreign instrument provides: (1) a triple quadrupole mass spectrometer, (2) atmospheric pressure ionization and (3) liquid sample flow rates from 0.1 to 200 µl per minute.

The National Institutes of Health advises in its memoranda dated September 10, 1993, that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93-25504 Filed 10-15-93; 8:45 am]

BILLING CODE 3510-DS-F

University of Colorado at Boulder, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 a.m. and 5 p.m. in room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 93-059. *Applicant:* University of Colorado at Boulder, Boulder, CO 80309-0334. *Instrument:* Portable Chlorophyll Fluorometer and Accessories, Model PAM-2000. *Manufacturer:* Heinz Walz GmbH, Germany. *Intended Use:* See notice at 58 FR 34030, June 23, 1993. *Reasons:* The foreign instrument provides: (1) High intensity light pulses (6000 µ mol photons), (2) light and detector modulated at 600 Hz or 20 kHz and (3) a 735 nm red light source.

Docket Number: 93–060. *Applicant:* Tulane University, New Orleans, LA 70118. *Instrument:* Coaxial Nanosecond Flashlamp, Model 5000F. *Manufacturer:* IBH Consultants Ltd., United Kingdom. *Intended Use:* See notice at 58 FR 34567, June 28, 1993. *Reasons:* The foreign instrument provides 1 to 10 ns light pulse duration and 10 to 50 kHz repetition rate.

Docket Number: 93–061. *Applicant:* University of Wisconsin-Madison, Madison, WI 53706–1490. *Instrument:* ICP Mass Spectrometer, Model PlasmaQuad PQ2+. *Manufacturer:* VG Elemental, United Kingdom. *Intended Use:* See notice at 58 FR 34567, June 28, 1993. *Reasons:* The foreign instrument provides: (1) A sensitivity rating of 1.0 x 10^{-6} at low mass and 5.0 x 10^{-7} for high mass and (2) MS/MS capability for selectivity.

Docket Number: 92–186R. *Applicant:* University of Arkansas, Fayetteville, AR 72701. *Instrument:* Rapid Kinetics Spectrometer Accessory, Model RX.1000. *Manufacturer:* Applied Photophysics Ltd., United Kingdom. *Intended Use:* See notice at 58 FR 7547, February 8, 1993. *Reasons:* The foreign instrument provides accurate sample temperature control to ±0.2°C.

The National Institutes of Health advises in its memoranda dated August 19, 1993, that (1) the capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purpose and (2) they know of no domestic instrument or apparatus of equivalent scientific value for the intended use of each instrument.

We know of no other instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 93–25502 Filed 10–15–93; 8:45 am]

BILLING CODE 3510–DS–F

National Oceanic and Atmospheric Administration

Marine Mammals

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

ACTION: Issuance of Public Display Permit No. 874.

SUMMARY: On Thursday, August 12, 1993, notice was published in the **Federal Register** (58 FR 42947) that an application (P95A) had been filed by Chaffee Zoological Gardens, 894 West Belmont Ave., Fresno, California 93728. A public display permit was requested to obtain the permanent care and custody of two California sea lions (*Zalophus californianus*) and one harbor seal (*Phoca vitulina*) from captive stock.

Notice is hereby given that on October 8, 1993, as authorized by the provisions of the Marine Mammal Protection Act, the NMFS issued a permit for the above activities subject to the special conditions set forth therein.

The permit is available for review by appointment in the following offices:

Permits Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, SSMC3, Silver Spring, MD 20910, (301) 713–2289;

Director, Southwest Region, NMFS, NOAA, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802 (310) 980–4016; and

Director, Northwest Region, NMFS, NOAA, 7600 Sand Point Way, NE, BIN C15700, Seattle, WA 98115 (206) 526–6150.

Dated: October 8, 1993.

William W. Fox, Jr., Ph.D.

Director, Office of Protected Resources National Marine Fisheries Services.

[FR Doc. 93–25431 Filed 10–15–93; 8:45 am]

BILLING CODE 3570–22–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Medical and Dental Reimbursement Rates for Fiscal Year 1994

Notice is hereby given that the Acting Chief Financial Officer in a September 29, 1993, memorandum, established the following reimbursement rates for inpatient and outpatient medical and dental care to be provided during FY 1994.

INPATIENT, OUTPATIENT AND OTHER RATES AND CHARGES

Per inpatient day	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
I. Inpatient, and Outpatient Rates:			
A. Burn Center	$1,724	$2,768	$2,946
B. Inpatient Other Than Burn Center: [1] [2]			
Medical Care Services	325	727	772
Surgical Care Services	453	1,012	1,067
Obstetrical and Gynecological Care	426	952	1,006
Pediatric Care	327	730	775
Orthopedic Care	408	911	963
Psychiatric Care and Substance Abuse	196	438	472
Medical Intensive Care and Coronary Care	717	1,601	1,680
Surgical Intensive Care	781	1,745	1,830
Neonatal Intensive Care	455	1,016	1,072
Organ and Bone Marrow Transplant	645	1,440	1,513
Same Day Surgery	177	396	420
II. Per Outpatient Visit: [2]			
A. Medical Treatment Facilities	47	[2] 94	99
B. PRIMUS/NAVCARE	N/A	N/A	[3] 61
III. Other Rates and Charges:			
A. Hyperbaric Services:			
1–60 minutes	82	165	175
61–120 minutes	160	321	337
121–180 minutes	237	476	498
181–240 minutes	315	632	660
(NOTE: Charges may be prorated based on usage)			
B. Military Dependents	.....	9.30	.....

INPATIENT, OUTPATIENT AND OTHER RATES AND CHARGES—Continued

Per inpatient day	International military education and training (IMET)	Interagency other Federal agency sponsored patients	Other
C. Per FAA Air Traffic Controller Examination	N/A	94	N/A

Notes on reimbursable rates:

[1] Daily percentages are applied to both inpatient and outpatient services provided when billing third party payers (such as insurance companies). Pursuant to the provisions of 10 U.S.C. 1095, the inpatient daily percentages are 55 percent hospital, 5 percent physician, 40 percent ancillary. The outpatient daily percentages are 57 percent hospital, 10 percent physicians and 33 percent ancillary.

[2] DoD civilian employees located in overseas areas shall be rendered a bill when services are performed. Payment is due 60 days from the date of the bill.

[3] Charges for PRIMUS/NAVCARE and high cost medications/services requested by external providers (Physicians, Dentists, etc.) are only relevant to the Third Party Collection Program. Third party payers (such as insurance companies) shall be billed for high cost services in those instances in which dependents who have medical insurance, seen by providers external to a Military Medical Treatment Facility (MTF), obtain the prescribed service or medication from an MTF. Eligible beneficiaries (dependents with medical insurance) are not personally liable for this cost and shall not be billed by the MTF. The standard cost of high cost medications includes the cost of the drugs and dispensing services.

Generic (trade) name	Strength	Total dispensed quantity[2]	Standard cost
D. High Cost Medications Requested By External Providers:[1]			
Acyclovir (Zovirax)	800 mg	100	$286
Acyclovir oint	15 g	6 Tubes	161
Aminoglutethamide (Cytadren)	250 mg	360	376
Amiodarone (Cardarone)	200 mg	180	218
Amlodipine (Norvasc)	2.5 mg	270	248
Amlodipine (Norvasc)	.5 mg	270	252
Astemizole (Hismanal)	50 mg	90	109
2Auranofin (Ridaura)	3 mg	180	153
Betoxolol (Betoptic)	.25%	3 bottles	114
Bromocriptine	2.5 mg	270	454
Buspirone (Buspar)	5 mg	270	121
Buspirone (Buspar)	10 mg	270	208
Calcitonin (Calcimar)	200 IU	8 vials	179
Captopril (Capoten)	25 mg	270	134
Captopril (Capoten)	50 mg	270	221
Captopril (Capoten)	100 mg	270	333
Carbenicillin	382 mg	40	103
Caridopa/Levodopa CR (Sinemet CR)		270	291
Caridopa/Levodopa (Sinemet 25/100)	25/100	360	184
Caridopa/Levodopa (Sinemet 25/250)	25/250	360	235
Chemstrip BG II		360	271
Cholestyramine powder		6 cans	151
Cholestyramine powder light		6 cans	129
Cimetidine	400 mg	180	146
Cimetidine	300 mg	360	164
Cimetidine syrup		3 bottles	150
Clemastine (Tavist)	2.68 mg	270	183
Clomipramine (Anafranil)	50 mg	360	292
Clomipramine (Anafranil)	25 mg	360	210
Colestipol	5 mg packets	360 pkt	274
Cromolyn inhaler		4 bottles	183
Cromolyn soln (nebulizer)		360 amp	204
Cyclophosphamide	25 mg	360	360
Cyclophosphamide	50 mg	360	681
Cyclosporine	100 mg	60	257
Cyclosporine	100 mg/ml sol	3 bottles	639
Danazol (Danocrine)	200 mg	180	320
Demeclycycline	150 mg	60	145
Desmopressin nasal soln (DDAVP)		20 ml	367
Desmopressin nasal spray		20 ml	328
Diclofenac (Voltaren)	75 mg	180	150
Diclofenac (Voltaren)	50 mg	270	187
Didanosine	150 mg	180	357
Didanosine (Videx)	25 mg	360	124
Didanosine (Videx)	100 mg	360	475
Diflucan	100 mg	30	182
Diflucan	200 mg	30	298
Diflunisal (Dolobid)	500 mg	180	173
Diltiazem 60 mg (Cardizem)	60 mg	270	130
Diltiazem CD (Cardizem CD)	240 mg	90	135
Diltiazem CD (Cardizem CD)	300 mg	90	174

Generic (trade) name	Strength	Total dispensed quantity [2]	Standard cost
Diltiazem SR	120 mg	180	144
Diltiazem SR	60 mg	180	111
Diltiazem (Cardizem)	120 mg	360	315
Divalproax (Depakote)	250 mg	360	146
Elase ointment		6 tubes	157
Enalapril	5 mg	180	127
Enalapril	20 mg	180	190
Enalapril	10 mg	180	134
Epoetin Alfa 2000		24	478
Apoetin Alfa 3000		24	727
Epoetin Alfa 4000		24	979
Estramustine (Emcyt)	150 mg	150	361
Ethambutol	400 mg	180	177
Ethosuximide	250 mg	360	167
Etidronate Disodium	400 mg	90	164
Etidronate Disodium (Didronel)	200 mg	270	492
Etoposide (VePesid)	50 mg	25	619
Exactech		90 days	450
Famotidine (Pepcid)	20 mg	180	152
Fentanyl patch	100 mcg	10	245
Fentanyl patch	75 mcg	10	203
Fluconazole (Diflucan)	200 mg	30	298
Fluconazole (Diflucan)	100 mg	30	182
Fluconazole (Diflucan)	50 mg	30	116
Fluoxetine (Prozac)	20 mg	60	102
Flurbiprofen (Ansaid)	100 mg	90	150
Flutamide (Eulexin)	125 mg	540	597
Gemfibrozil (Lopid)	600 mg	180	160
Glipizide	10 mg	180	177
Hemofil M		30 days	6,816
Hydroxychloroquine	200 mg	180	178
Hydroxyurea (Hydrea)	500 mg	270	308
Interferon (Intron A)	3 mu	12	287
Isotretinoin (Accutane)	10 mg	60	133
Isotretinoin (Accutane)	20 mg	60	158
Isotretinoin (Accutane)	40 mg	60	182
Itraconazole (Sporonox)	10 mg	30	127
Leucovorin	5 mg	100	166
Leuprolide (Lupron)	7.5 mg	1	387
Leuprolide (Lupron)	3.75 mg	1	278
Lisinopril	10 mg	180	112
Lisinopril (Prinivil)	5 mg	180	112
Lomustine	40 mg	20	182
Lomustine	100 mg	20	400
Lovastatin (Mevacor)	20 mg	180	265
Lovastatin (Mevacor)	40 mg	180	492
Loxapine (Loxitane)	50 mg	180	138
Lypressin spray (Diapid)		4 bottles	116
Megestrol (Megace)	20 mg	360	120
Megestrol (Megace)	40 mg	360	228
Melphalan (Alkeran)	2 mg	350	410
Mesalamine enema (Rowasa)	500 mg	90	158
Metaproterenol neb soln	0.6%	100	105
Methazolamide	50 mg	270	166
Methotrexate	2.5 mg	180	170
Methysergide Maleate	2 mg	180	182
Mexiletine (Mexitil)	200 mg	270	156
Mexiletine (Mexitil)	250 mg	270	185
Mexiletine (Mexitil)	150 mg	270	131
Misoprostol	200 mcg	360	197
Naproxen	500 mg	180	176
Naproxen	375 mg	270	216
Naproxen	250 mg	270	168
Nicotine Transdermal System	21 mg	30	100
Nifedipine	60 mg XL	90	151
Nifedipine	90 mg XL	90	181
Nortriptyline HCL	25 mg	90	107
Olsalazine (Dipentim)	250 mg	360	149
Omperazole (Prilosec)	20 mg	90	268
One Touch Test Strips		360	171
Pancrelipase MT16		540	313
Pancrelipase (Pancrease)		540	119

Generic (trade) name	Strength	Total dispensed quantity [2]	Standard cost
Penicillamine	250 mg	360	260
Perphenazine	2 mg	360	111
Pravastin Sodium (Pravachol)	10 mg	90	125
Pravastin Sodium (Pravachol)	20 mg	90	132
Probucol (Lorelco)	250 mg	360	184
Procarbazine (Matulane)	50 mg	360	204
Procyclidine (Kemadrin)	5 mg	360	113
Pyrazinamide	500 mg	360	430
Ranitidine	150 mg	180	152
Rifampin with INH		180	493
Selegeline (Eldepryl)	5 mg	180	416
Somatrem (Protropin)	5 mg	4	770
Somatropin (Humatrope)		6	1,126
Sucalfate (Carafate)	1 GM	360	183
Sulindac	150 mg	360	112
Sulindac	200 mg	360	139
Tamoxifen (Nolvadex)	10 mg	180	207
Terfenadine (Seldane)		180	124
Ticlopidine (Ticlid)	250 mg	180	219
Tocainide (Tonocard)	400 mg	270	181
Tocainide (Tonocard)	600 mg	270	231
Tracer BG Strips		360	252
Ursidiol (Actigall)	300 mg	90	145
Verapamil SR 240 (Calan SR)		180	100
Zalcitabine (Hivid)	.75 mg	270	542
Zidovudine (Retrovir)	100 mg	450	598

Notes on reimbursable rates:

[1] Charges for PRIMUS/NAVCARE and high cost medications/services requested by external providers (Physicians, Dentists, etc.) are only relevant to the Third Party Collection Program. Third party payers (such as insurance companies) shall be billed for high cost services in those instances in which dependents who have medical insurance, seen by providers external to a Military Medical Treatment Facility (MTF), obtain the prescribed service or medication from a MTF. Eligible beneficiaries (dependents with medical insurance) are not personally liable for this cost and shall not be billed by the MTF. The standard cost of high cost medications includes the cost of the drugs and dispensing services.

[2] All quantities shown are tablets unless otherwise stated. The third party charge is only for the strengths and the dosage cited. Charges will vary if the strengths and the dosage are changed. The method of computing standard costs to be charged for high costs medications, over $100.00, and those medications costing less than $100.00 is the same, i.e., actual cost to the pharmacy, plus a 30 percent dispensing costs. The medications in this schedule shown are the most common high cost medications dispensed.

Service provided	Cost of service
E. High Cost Services Requested by External Provider: [1]	
X-Ray Ribs (all), per side	$113
X-Ray Hips, Bilateral	114
Upper Gastrointestinal (G.I.) study with contrast	143
Hysterosalpingogram	126
Mammogram, Bilateral or with localization	129
Ultrasound, per study	116
Ultrasound—complete abdomen or with biopsy	198
Computerized Axial Tomography (CAT) scan head/brain without contrast	193
Computerized Axial Tomography (CAT) scan head/brain with contrast	218
Computerized Axial Tomography (CAT) scan head/brain with and without contrast, or post fossa and IAM/IACS	307
Computerized Axial Tomography (CAT) scan chest	339
Computerized Axial Tomography (CAT) scan abdomen, per study	169
Computerized Axial Tomography (CAT) scan extremity without contrast	197
Computerized Axial Tomography (CAT) scan extremity with contrast	226
Computerized Axial Tomography (CAT) scan with and without contrast	393
Magnetic Resonance Imaging (MRI) without contrast	279
Magnetic Resonance Imaging (MRI) with contrast brain	481
Magnetic Resonance Imaging (MRI) spine (all) chest and abdomen without contrast	229
Magnetic Resonance Imaging (MRI) spine (all) with contrast	507
Magnetic Resonance Imaging (MRI) extremities without contrast	360
Magnetic Resonance Imaging (MRI) extremities with and without contrast	279

Note on reimbursable rates:

[1] Charges for PRIMUS/NAVCARE and high cost medications/services requested by external providers (Physicians, Dentists, etc.) are only relevant to the Third Party Collection Program. Third party payers (such as insurance companies) shall be billed for high cost services in those instances in which dependents who have medical insurance, seen by providers external to a Military Medical Treatment Facility (MTF), obtain the prescribed service or medication from an MTF. Eligible beneficiaries (dependents with medical insurance) are not personally liable for this cost and shall not be billed by the MTF. The standard cost of high cost medications includes the cost of the drugs and dispensing services.

Cosmetic surgery procedure [1]	International classification diseases (ICD–9)	Common procedure terminology (CPT) [2]	Fiscal year 1994 charge	Full reimbursement
F. Elective Cosmetic Surgery Procedures and Rates:				
Mammaplasty	85.50	19325	Surgical Care Services or	$1,067
	85.32	19324	Same Day Surgery	420
	85.31	19318		
Mastopexy	85.60	19316	Surgical Care Services or	1,067
			Same Day Surgery	420
Facial Rhytidectomy	86.82	15824	Surgical Care Services or	1,067
	86.22		Same Day Surgery	420
Blepharoplasty	08.70	15820	Surgical Care Services or	1,067
	08.44	15821	Same Day Surgery	420
		15822		
		15823		
Mentoplasty (Augumentation Reduction)	76.68	21208	Surgical Care Services or	1,067
	76.67	21209	Same Day Surgery	420
Abdominoplasty	86.83	15831	Surgical Care Services or	1,067
			Same Day Surgery	420
Lipectomy, suction per region [3]	86.83	15876	Surgical Care Services or	1,067
		15877	Same Day Surgery	420
		15878		
		15879		
Rhinoplasty	21.87	30400	Surgical Care Services or	1,067
	21.86	30410	Same Day Surgery	420
Scar revisions beyond CHAMPUS	86.84	1578	Surgical Care Services or	1,067
			Same Day Surgery	420
Mandibular or Maxillary Repositioning	76.41	21194	Surgical Care Services or	1,067
			Same Day Surgery	420
Minor Skin Lesions [4]	86.30	1578	Surgical Care Services or	1,067
			Same Day Surgery	420
Dermabrasion	86.25	15780	Surgical Care Services or	1,067
			Same Day Surgery	420
Hair Restoration	86.64	15775	Surgical Care Services or	1,067
			Same Day Surgery	420
Removing Tatoos	86.25	15780	Surgical Care Services or	1,067
			Same Day Surgery	420
Chemical Peel	86.24	15790	Surgical Care Services or	1,067
			Same Day Surgery	420
Arm/Thigh Dermolipectomy	86.83	1583	Surgical Care Services or	1,067
			Same Day Surgery	420
Brow Lift	86.3	15839	Surgical Care Services or	1,067
			Same Day Surgery	420

Notes of reimbursable rates:

[1] Cosmetic surgery rates will be charged dependents of active duty members, retirees, and their dependents and survivors. The patient shall be charged the rate as specified in the FY 1994 reimbursable rates for an episode of care. The charges for elective cosmetic surgery at the full reimbursement rate (designated as the Other rate). The patient will be responsible for both the cost of the implant(s) and prescribed rates.

NOTE: The implants and procedures used for the augmentation mammaplasty are in compliance with Federal Drug Administration guidelines.

[2] The attending physician is to complete the common procedure terminology code to indicate the appropriate procedure following during cosmetic surgery.

[3] Each regional lipectomy will carry a separate charge. Regions include head and neck, abdomen, flanks, and hips.

[4] These procedures are inclusive in the minor skin lesions. However, CHAMPUS separates them as noted here. All charges are for the entire treatment regardless of the number of visits required.

G. Immunizations: $18.

Inpatient rate	Items included
H. Clinical Services by Type of Service/Care Provided:	
Medical Care Services	Internal Medicine, Cardiology, Dermatology, Endocrinology, Gastroenterology, Hematology, Nephrology, Neurology, Oncology, Pulmonary and Upper Respiratory Disease, Rheumatology, Physical Medicine, Clinical Immunology, HIV–III Acquired Immune Deficiency Syndrome (AIDS), Infectious Disease, Allergy, and Medical Care not elsewhere classified. Includes Family Practice Medical Care.
Surgical Care Services	General Surgery, Cardiovascular and Thoracic Surgery, Neurosurgery, Ophthalmology, Oral Surgery, Otorhinolaryngology, Pediatric Surgery, Plastic Surgery, Proctology, Urology, Peripheral Vascular Surgery, Trauma Center, Head and Neck Surgery, and Surgical Care not elsewhere classified. Includes Family Practice Surgical Care.
Obstetrical and Gynecological Care.	Includes Family Practice Obstetrics and Gynecology.
Pediatric Care	Pediatrics, Nursery, Adolescent Pediatrics and Pediatric Care not elsewhere classified. Includes Family Practice Pediatric and Nursery Care.
Orthopedic Care	Orthopedics, Podiatry, and Hand Surgery. Includes Family Practice Orthopedic Care.

Inpatient rate	Items included
Psychiatric Care and Substance Abuse Rehabilitation.	Includes Family Practice Psychiatric Care.
Medical Intensive Care/Coronary Care.	Self-Explanatory.
Surgical Intensive Care	Self-Explanatory.
Neonatal Intensive	Self-Explanatory.
Organ and Bone Marrow Transplants.	Self-Explanatory.
Same Day Surgery	Self-Explanatory.

Dated: October 12, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–25405 Filed 10–15–93; 8:45 am]

BILLING CODE 5000–04–M

Defense Logistics Agency

Privacy Act of 1974; Computer Matching Program Between the National Science Foundation and the Defense Manpower Data Center of the Department of Defense.

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, Department of Defense.

ACTION: Proposed computer matching program between the National Science Foundation and the Defense Manpower Data Center of the Department of Defense (DoD).

SUMMARY: DMDC, as the matching agency under the Privacy Act of 1974, as amended, (5 U.S.C. 552a), is hereby giving constructive notice in lieu of direct notice to the record subjects of a proposed computer matching program between the National Science Foundation (NSF) and DMDC that their records are being matched by computer. The record subjects are delinquent debtors of the National Science Foundation, who are current or former Federal employees or military members receiving Federal salary or benefit payments and indebted and delinquent in their payment of debts owed to the United States Government under certain programs administered by the National Science Foundation so as to permit the National Science Foundation to pursue and collect the debt by voluntary repayment or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

DATES: This proposed action will become effective November 17, 1993, and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis Highway, Arlington, VA 22202–4502. Telephone (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the National Science Foundation and DMDC have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to exchange personal data between the agencies for debt collection from defaulters of obligations held by the National Science Foundation under the Debt Collection Act of 1982. The match will yield the identity and location of the debtors within the Federal government so that the Foundation can pursue recoupment of the debt by voluntary payment or by administrative or salary offset procedures. Computer matching appeared to be the most efficient and effective manner to accomplish this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between the National Science Foundation and DMDC is available to the public upon request. Requests should be submitted to the address caption above or to the Debt Management Officer, National Science Foundation, 1800 G Street, NW, Washington, DC 20550.

Set forth below is a public notice of the establishment of the computer matching program required by paragraph (e)(12) of the Privacy Act.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on October 6, 1993, to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated June 25, 1993 (58 FR 36075, July 2, 1993). This matching program is subject to review by OMB and Congress and shall not become effective until that review period of 30 days has elapsed.

Dated: October 12, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Computer Matching Program Between the National Science Foundation, and the Defense Manpower Data Center of the Department of Defense for Debt Collection

A. *Participating agencies:* Participants in this computer matching program are the National Science Foundation (NSF) and the Defense Manpower Data Center (DMDC), Department of Defense (DoD). The National Science Foundation is the source agency, i.e., the agency disclosing the records for the purpose of the match. DMDC is the specific recipient or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the match:* The purpose of the match is to identify and locate the Foundation's delinquent debtors who are current or former Federal employees or military members receiving any Federal salary or benefit payments and indebted and delinquent in their repayment of debts owed to the United States Government under certain programs administered by the National Science Foundation so as to permit the Foundation to pursue and collect the debt by voluntary repayments or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

C. *Authority for conducting the match:* The legal authority for conducting the matching program is

contained in the Debt Collection Act of 1982 (Pub. L. 97–365), 31 U.S.C. Chapter 37, Subchapter I (General) and Subchapter II (Claims of the United States Government), 31 U.S.C. 3711 Collection and Compromise, 31 U.S.C. 3716 Administrative Offset, 5 U.S.C. 5514 Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 136, Assistant Secretaries of Defense, Appointment Powers and Duties; section 206 of Executive Order 11222; 4 CFR Ch. II, Federal Claims Collection Standards (General Accounting Office - Department of Justice); 5 CFR 550.1101 – 550.1108, Collection by Offset from Indebted Government Employees (OPM); 45 CFR part 607 (NSF).

D. *Records to be matched:* The systems of records maintained by the respective agencies under the Privacy Act of 1974, as amended, 5 U.S.C. 552a, from which records will be disclosed for the purpose of this computer match are as follows:

1. The National Science Foundation will use the record systems identified as NSF-57, entitled 'Delinquent Debtors' File,' last published in the **Federal Register** June 18, 1993, at 58 FR 33673.

2. DMDC will use the record system identified as S322.11 DMDC, entitled 'Federal Creditor Agency Debt Collection Data Base,' last published in the **Federal Register** on February 22, 1993, at 58 FR 10875.

The categories of records in the NSF record system are delinquent debtors. The categories of records in the DoD system consists of employment records of active and retired military members, including the Reserve and Guard, and the OPM government-wide Federal active and retired civilian records. Both record systems contain an appropriate routine use disclosure provision required by the Privacy Act permitting the disclosure of the affected personal information between the National Science Foundation and DoD. The routine uses are compatible with the purpose for collecting the information and establishing and maintaining the record systems.

E. *Description of computer matching program:* A magnetic computer tape provided by the Foundation will contain data elements of the debtor's name, SSN, internal account number and total amount owed on approximately 50 delinquent debtors. The DMDC computer database file contains approximately 10 million records of active duty and retired military members, including the Reserve and the Guard, and the OPM government-wide Federal civilian records of current and retired Federal employees. DMDC will match the SSN on the Foundation's tape by computer against the DMDC database. Matching records, hits based on SSNs, will produce data elements of the individual's name, SSN, service or agency, and current work or home address.

F. *Individual notice and opportunity to contest:* Due process procedures will be provided by the Foundation to those individuals matched (hits) consisting of the Foundation's verification of debt; 30–day written notice to the debtor explaining the debtor's rights; provision for debtor to examine and copy the agency's documentation of the debt; provision for debtor to seek the Foundation's review of the debt (or in the case of the salary offset provision, opportunity for a hearing before an individual who is not under the supervision or control of the agency); and opportunity for the individual to enter into a written agreement satisfactory to the Foundation for repayment. Only when all of the steps have been taken will the Foundation disclose, pursuant to a routine use, to effect an administrative or salary offset. Unless the individual notifies the Foundation otherwise within 30 days from the date of the notice, the Foundation will conclude that the data provided to the individual is correct and will take the next necessary action to recoup the debt. Failure to respond to the notice will be construed as to the correctness of the notice and justification for taking the next step to collect the debt under the law.

G. *Inclusive dates of the matching program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If no objections are raised by either, and the mandatory 30 day public notice period for comment has expired for this **Federal Register** notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective and the respective agencies may begin the exchange of data 30 days after the date of this published notice at a mutually agreeable time and will be repeated on an annual basis, unless OMB or the National Science Foundation request a match twice a year. Under no circumstances shall the matching program be implemented before this 30 day public notice period for comment has elapsed as this time period cannot be waived. By agreement between the National Science Foundation and DoD, the matching program will be in effect and continue for 18 months with an option to extend for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

H. *Address for receipt of public comments or inquiries:* Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis Highway, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 93–25406 Filed 10–14–93; 8:45 am]
BILLING CODE 5000–04–F

DEPARTMENT OF EDUCATION

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Executive Committee of the National Assessment Governing Board. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act. This document is intended to notify the general public of their opportunity to attend.

DATES: October 22, 1993.

TIME: 11 a.m. (e.t.).

LOCATION: National Assessment Governing Board, suite 825, 800 North Capitol Street NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, suite 825, 800 North Capitol Street NW., Washington, DC 20002–4233, Telephone: (202) 357–6938.

SUPPLEMENTARY INFORMATION: The National Assessment Governing Board is established under section 406(i) of the General Education Provisions Act (GEPA) as amended by section 3403 of the National Assessment of Educational Progress Improvement Act (NAEP Improvement Act), title III–C of the Augustus F. Hawkins—Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (Pub. L. 100–297), (20 U.S.C. 1221e–1).

The Board is established to formulate policy guidelines for the National Assessment of Educational Progress. The Board is responsible for selecting subject areas to be assessed, developing assessment objectives, identifying appropriate achievement goals for each grade and subject tested, and establishing standards and procedures for interstate and national comparisons.

The Executive Committee of the National Assessment Governing Board will meet October 22, 1993 from 11 a.m. until 12:30 p.m. Because this is a teleconference meeting, facilities will be provided so the public will have access to the Committee's deliberations. The agenda includes review and approval of the November 18–20, 1993 meeting agenda; discussions on the NAEP reauthorization, orientation of new board members, and the 1994 NAEP budget.

Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, suite 825, 800 North Capitol Street, NW., Washington, DC, from 8:30 a.m. to 5 p.m.

Dated: October 13, 1993.

Roy Truby,

Executive Director, National Assessment Governing Board.

[FR Doc. 93–25485 Filed 10–15–93; 8:45 am]

BILLING CODE 4000–01–M

National Education Commission on Time and Learning

Hearing

AGENCY: National Education Commission on Time and Learning, Education.

ACTION: Notice of Hearing.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming Hearing of the National Education Commission on Time and Learning. This notice also describes the functions of the Commission. Notice of this Hearing is required under Section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIME: October 29, 1993—9 a.m.–3:30 p.m.

ADDRESSES:

Thomas Jefferson High School for Science and Technology—School Conference Room, 6560 Braddock Road, Alexandria, VA

and

Chapel Square Center, Technology Services—Fairfax County, 4414 Holborn Street, Annandale, VA.

FOR FURTHER INFORMATION CONTACT: Julia Anna Anderson, Deputy Executive Director, 1255 22nd Street, NW., Suite 502, Washington, DC 20202–7591. Telephone: (202) 653–5063.

SUPPLEMENTARY INFORMATION: The National Education Commission on Time and Learning is established under section 102 of the Education Council Act of 1991 (20 U.S.C. 1221–1). The Commission is established to examine the quality and adequacy of the study and learning time of elementary and secondary students in the United States, including issues regarding the length of the school day and year, how time is being used for academic subjects, the use of incentives, how time is used outside of school, the extent and role of homework, year-round professional opportunities for teachers, the use of school facilities for extended learning programs, if appropriate a model for adopting a longer day or year, suggested changes for state laws and regulations, and an analysis and estimate of the additional costs.

The Hearing of the Commission is open to the public. The proposed agenda includes: A site visit to Chapel Square Center, in Annandale, VA. The Coordinator of Technology Services at Chapel Square will discuss the instructional technology services that are offered to the schools of Fairfax County. The Commissioners will also tour Thomas Jefferson High School and hear testimony from the Principal, students, teachers and a parent.

Records are kept of all Commission proceedings, and are available for public inspection at the Office of the Commission at 1255 22nd Street, NW., Suite 502, Washington, DC 20202–7591 from the hours of 9 a.m. to 5:30 p.m.

Dated: October 12, 1993.

John Hodge Jones,

Chairman, National Education Commission on Time and Learning.

[FR Doc. 93–25407 Filed 10–15–93; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Guidelines for Voluntary Reporting of Greenhouse Gas Emissions and Reductions, and Carbon Sequestration; Meeting

AGENCY: Office of Policy, and Program Evaluation, DOE.

ACTION: Notice of public meeting.

SUMMARY: A public workshop and meeting on cross-cutting institutional issues in the development of a voluntary reporting program for greenhouse gas emissions, reductions and carbon sequestration will be held by the DOE Office of Policy, Planning and Program Evaluation. The workshop is intended to facilitate preparation of the guidelines for the reporting program.

DATES AND ADDRESSES: The workshop will be held November 2–3, 1993, at the DuPont Plaza Hotel, 1500 New Hampshire Avenue NW. (Dupont Circle), Washington, DC 20036. The workshop will begin 8:30 a.m. each day, adjourning at 5 p.m. on November 2nd, and at 12:30 p.m. on November 3rd.

FOR FURTHER INFORMATION CONTACT: To obtain more information on the workshop, call Ms. Debbie Stowell at (202) 586–7767. To request a copy of the Institutional Options Identification Document, call (202) 646–7896.

SUPPLEMENTARY INFORMATION: On July 27, 1993, DOE requested comment on the initial developmental stage of the guidelines for voluntary reporting, under section 1605(b) of the Energy Policy Act of 1992, of greenhouse gas emissions and their reductions, and carbon fixation (58 FR 40116). For a more detailed discussion of issues in the development of the guidelines, the reader is referred to the discussion in the July 27 notice.

As part of the guideline development process, DOE will host a series of public workshops and meetings. The workshop announced here will address the institutional issues relevant across all potential reporting sectors. The workshop, and the associated Options Identification Document prepared for the meeting, will be organized around four topics:

1. Who may report, including issues of de minimis levels of reportable emissions reductions, avoidance of duplicative reporting, and reductions achieved outside of the U.S.;

2. Methods of determining baselines and reference cases from which reductions would be measured;

3. Issues of data quality and the relationship of the 1605(b) reporting program to other relevant Federal, state, and local programs, including Federal recognition programs; and

4. Reporting reasons for emissions reductions; confidentiality of data; and certification of data by reporting entities.

For each of these topics, a panel of invited participants will address issues and options identified in the Institutional Options Identification Document, and discuss these with other workshop participants. There will be opportunity for brief oral statements from the public on the issues under consideration during each day's session.

The goal of the workshop is to develop the fullest information on alternative options, not to reach any consensus of opinion nor to make collective recommendations. Workshops on additional topics will be announced in the **Federal Register.**

Issued in Washington, DC on October 13, 1993.

Abraham E. Haspel,

Deputy Assistant Secretary for Economic and Environmental Policy, Office of Policy, Planning and Program Evaluation.

[FR Doc. 93–25491 Filed 10–15–93; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. QF92–91–003]

Tenaska Washington Partners, L.P.; Application for Commission Recertification of Qualifying Status of a Cogeneration Facility

October 12, 1993.

On October 1, 1993, Tenaska Washington Partners, L.P. of, 407 North 117th Street, Omaha Nebraska 68154, submitted for filing an application for recertification of a facility as a qualifying cogeneration facility pursuant to § 292.207(b) of the Commission's Regulations. The instant request for recertification is due to changes in the ownership structure of the facility. No determination has been made that the submittal constitutes a complete filing.

According to the applicant the topping-cycle cogeneration facility to be located at the BP Oil Company Refinery in Ferndale, Washington was previously certified as a qualifying cogeneration facility, *Tenaska Washington Partners, L.P.*, 59 FERC ¶ 62,235 (1992).

Any person desiring to be heard or objecting to the granting of qualifying status should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed within 30 days after the date of publication of this notice in the **Federal Register** and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–25424 Filed 10–15–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. CP94–11–000]

Algonquin Gas Transmission Co.; Notice of Request Under Blanket Authorization

October 12, 1993.

Take notice that on October 7, 1993, Algonquin Gas Transmission Company (Algonquin), 1284 Soldiers Field Road, Boston, Massachusetts 02135, filed a prior notice request with the Commission in Docket No. CP93–11–000 pursuant to section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to reallocate 10,000 MMBtu equivalent of natural gas from one delivery point to another delivery point for Boston Gas Company (Boston Gas) under Algonquin's blanket certificate issued in Docket No. CP87–317–000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

Algonquin proposes to reduce its maximum daily delivery obligation (MDDO) to Boston Gas by 10,000 MMBtu equivalent of natural gas at the Everett, Massachusetts, delivery point and increase the MDDO by 10,000 MMBtu equivalent at the Polaroid delivery point in Waltham, Massachusetts. Algonquin would continue to perform its delivery service to Boston Gas under its FERC Rate Schedule FTP. Algonquin states that its proposed reallocation of natural gas deliveries would not change its maximum daily transportation quantity and no additional facilities would be required to serve Boston Gas.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, 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 section 157.205 of the Regulations under the NGA (18 CFR 157.205) a protest to the request. If no protest is filed within the allowed time, 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 NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 93–25417 Filed 10–15–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER89–401–016]

Citizens Power & Light Corporation; Filing

October 12, 1993.

Take notice that on August 30, 1993, Citizens Power & Light Corporation (Citizens) filed certain information as required by ordering paragraph (M) of the Commission's August 8, 1989 order in this proceeding, 48 FERC ¶ 61,210 (1989). Copies of Citizens' informational filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–25421 Filed 10–15–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–507–000]

Florida Power & Light Co.; Filing

October 12, 1993.

Take notice that on September 30, 1993, Florida Power & Light Company (FPL) responded to the June 23, 1993, letter from the Director, Division of Applications, and tendered for filing Period I and Period II cost support data and prepared direct testimony of FPL witnesses.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–25422 Filed 10–15–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. ER93–725–000]

Florida Power & Light Co.; Filing

October 12, 1993.

Take notice that on September 30, 1993, Florida Power & Light Company (FP&L) tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 27, 1993. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 93–25423 Filed 10–15–93; 8:45 am]

BILLING CODE 6717–01–M

Office of Arms Control and Nonproliferation

Proposed Subsequent Arrangement

Pursuant to section 131 of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2160), notice is hereby given of a proposed "subsequent arrangement" under the Additional Agreement for Cooperation between the Government of the United States of America and the European Atomic Energy Community (EURATOM) concerning Peaceful Uses of Atomic Energy, as amended, and the Agreement for Cooperation between the Government of the United States of America and the Government of Hungary concerning Peaceful Uses of Nuclear Energy.

The subsequent arrangement to be carried out under the above-mentioned agreements involves approval of the following retransfer: RTD/HU(EU)–1, for the transfer of 0.8 milligrams of uranium enriched to 97.65 percent in the isotope uranium-235, 0.25 milligrams of plutonium-240, and 0.3 milligrams of plutonium-242 from Belgium to Hungary for use in mass spectrometry.

In accordance with section 131 of the Atomic Energy Act of 1954, as amended, it has been determined that this subsequent arrangement will not be inimical to the common defense and security.

This subsequent arrangement will take effect no sooner than fifteen days after the date of publication of this notice.

Issued in Washington, DC, on October 7, 1993.

Salvador N. Ceja,

Acting Director, Office of Nonproliferation Policy, Office of Arms Control and Nonproliferation.

[FR Doc. 93–25413 Filed 10–15–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4789–5]

1994 and 1995 Nominations for Essential Use Exemptions for Halons 1211, 1301, and 2402

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: Through this notice, the U.S. Environmental Protection Agency is publishing the results of its February 12, 1993 request for nominations for 1994 halon "essential use" exemptions from the January 1, 1994 production and import phase-out under the Montreal Protocol on Substances That Deplete the Ozone Layer, published in a previous **Federal Register** notice (58 FR 6788; February 12, 1993). EPA notes that already produced halons may be recycled and used without the need for an essential use exemption under the Montreal Protocol or the Clean Air Act.

EPA is also requesting halon nominations for consideration at the Sixth Meeting of the Parties in 1994 for exemptions to the production and import phase-out for 1995. Nominations for essential use exemptions for other Class I substances were requested in a previous notice (58 FR 29410; May 20, 1993).

Finally, through the notice, EPA is notifying the public of the formation of two halon banking mechanisms. The Halon Recycling Corporation has incorporated and is officially open for business after receiving a Business Review Clearance from the Department of Justice. The Defense Logistics Agency is also forming a reserve of ozone-depleting substances for mission critical uses, and is accepting recycled Halon 1301 from the public.

DATES: Nominations for essential use exemptions for halon that are to be considered at the Sixth Meeting of the Parties (to be held as early as June and no later than November, 1994) must be submitted to EPA no later than December 17, 1993 in order for the U.S. government to complete its review in time to submit its nominations six months prior to a June 1994 meeting.

ADDRESSES: Nominations should be sent to: Karen Metchis, Program Manager, Essential Use Exemptions, Mail Stop 6205J, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Karen Metchis, Substitutes Analysis and Review Branch, Stratospheric Protection Division (6205J), Office of Atmospheric Programs, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460; Phone (202) 233–9193; FAX (202) 233–9579. General information may be obtained for the Stratospheric Ozone Hotline at 1–800–296–1996 or (202) 775–6677.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Background—Fourth Meeting of the Parties to the Protocol

At the Fourth Meeting of the Parties to the Montreal Protocol in Copenhagen on November 23–25, 1992, the Parties agreed to accelerate the phase-out schedules for certain controlled substances, including halons. With respect to halons, the Parties agreed to the phase out by January 1, 1994. The Parties also rendered decisions and resolutions on a variety of other matters, including the adoption of essential use criteria, recovery and recycling of controlled substances, and international halon bank management.

II. Essential Use Exemptions for Halons

The Parties to the Montreal Protocol agreed at the 1992 meeting in Copenhagen to allow for an exemption of essential uses of controlled substances, including halons, from the phase out of production and importation (referred to as "consumption" by the Parties). Language regarding essential uses was added to the Protocol provisions in Article 2 governing the control measures and the specific criteria and review process were detailed in Decision IV/25 of the Fourth Meeting of the Protocol. The Parties recognized the importance of including such an exemption because of the accelerated phaseout dates for these chemicals. Each year, Parties may make nominations for production of controlled substances for essential uses. These nominations can be for production in any year after the substance's phaseout date and can be for

more than one calendar year. For example, a nomination could be submitted in 1994 for a decision in 1995 to allow production of CFCs beginning in 1997 and continuing for three years. The Parties could choose to grant production for one or more years but each approved or pending application is annually reviewed by the Technology and Economic Assessment Panel and its Technical Options Committees and each prior decision by the Parties can be reconsidered and modified by the Parties at their annual meeting.

Because halons are the first compounds to be phased out, the Parties will first consider nominations at their Fifth Meeting, scheduled for November 17–19, 1993, for exemption in 1994 and later. The Parties will consider nominations for all Class I substances, including halons, at the Sixth Meeting of the Parties, which may be held as early as June 1994 for exemptions for production of halons in 1995 and later, and for production of all Class I substances in 1996 and later. All Class I substances will be considered at subsequent meetings for exemptions thereafter. Exemptions cover a specific time period, and do not provide for the indefinite continued use of Class I substances.

In cases where companies have essential uses still requiring halons, but where adequate supplies of halons are currently available, nominations need not be made at this time. Nominations for these uses may be made at a later date for consideration at subsequent meetings of the Parties.

The Parties set out criteria to apply in identifying essential uses and established a process for the Parties to decide which uses would qualify under this provision. Decision IV/25 states that a use of a controlled substance should qualify as "essential" only if "it is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects)" and "there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health". In addition, the Parties agreed "that production and consumption, if any, of a controlled substance, for essential uses should be permitted only if: All economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances."

Any essential use exemptions would also have to comply with the provisions of the Clean Air Act (CAA). Section 604 authorizes the granting of specific exemptions from the phaseout schedules contained in the Clean Air Act, for certain halons used for aviation safety (section 604(d)), national security (section 604(f)), and fire suppression and explosion prevention (section 604(g)). To the extent that an accelerated phaseout schedule is adopted under the Montreal Protocol, EPA could provide exemptions for uses not specified in the CAA, so long as these exemptions do not exceed amounts allowed in the schedule contained in section 604(a). However, since section 604(b) specifies the phaseout date for Class I substances as 2000, that section effectively limits the authority of EPA to provide essential use exemptions for periods after the CAA's termination date of 2000 for halons, other than for the specific exemptions authorized by section 604 (d), (f), and (g).

In accordance with the essential use decision taken by the Parties to the Montreal Protocol in Copenhagen, governments that are Parties must submit nominations for essential uses to the United Nations Environment Programme's Secretariat for the Montreal Protocol. For halon essential uses, these nominations must be submitted at least six months before the meeting at which the Parties will make a decision on whether to approve the essential use, e.g., by December 1, 1993 if the Sixth Meeting of the Parties is held as early as June 1994. Thus, the first step in the process to qualify a use as essential under the Protocol is for the user to notify EPA of its candidate use and for EPA to evaluate that use for consistency with the criteria adopted by the Parties in Copenhagen. EPA will review the candidate for exemption and will work with other interested Federal agencies to determine whether or not it should be submitted to the Ozone Secretariat for further consideration. Nominations submitted to the Ozone Secretariat by Parties will then be directed to UNEP's Montreal Protocol Technology and Economic Assessment Panel and its Technical Options Committees which will review such submissions and prepare recommendations to the Parties for exemptions. The Panel will review these nominations to determine whether the eligibility criteria have been satisfied and examine the expected duration of the essential use, emission controls for the essential use application, sources of already produced controlled substances that could be made available to meet the essential use, and the steps necessary to ensure that alternatives and substitutes are available as soon as possible for the proposed essential use. The Parties also instructed the Technical Panel to consider the environmental acceptability, health effects, economic feasibility, availability and regulatory status of alternatives and substitutes.

The Technical Panel must submit its recommendation on the nominated uses to the Parties at least three months before the Parties meet to designate essential uses. The Panel is currently working under the assumption that it may be necessary to submit recommendations to the Parties for exemptions for halons production by March 1, 1994. If a halon user determines that other alternatives are not feasible and that sources of future supply do not exist, the user should prepare and submit to EPA an essential use application as described below.

III. Formation of Halon Banks

The need for essential use exemptions for halon will largely depend on the success of programs to reallocate those halons stored in existing systems where alternatives exist to applications where alternatives are not yet feasible. To help fulfill requirements for ongoing supplies of halon, the Halon Recycling Corporation (HRC) has been established as a non-profit organization that provides services to the general public. HRC applied for and received an expedited Business Review Clearance from the U.S. Department of Justice and is now in operation. In addition, the Department of Defense (DoD) has commissioned the Defense Logistics Agency (DLA) to manage a reserve of ozone-depleting substances (ODS) for mission critical uses. DoD has inventoried the supplies held by each of the military services and is recalling all nonessential controlled substances for storage in the reserve. Only applications recognized as mission critical may obtain and use substances from this DLA ODS reserve. DLA is attempting to supplement its reserve by buying additional supplies, and is attempting to purchase recycled ODSs where possible.

EPA urges all halon users to act quickly to assess their current use of halons and to determine if alternative approaches to fire protection are feasible. EPA encourages users to transfer any unneeded halon to a banking program such as HRC or DLA.

The Parties to the Protocol consider the recovery, reclamation and reuse of halon to be integral to the successful phase-out of halon production, and consequently adopted Decisions IV/24 regarding Recovery, Reclamation and

Recycling of Controlled Substances and IV/26 regarding International Halon Bank Management. In this context, the U.S. and other signatories to the Protocol must develop means of effectively controlling halon emissions and recovering halons for use in critical applications. The formation of both the HRC and the DLA reserve are the first efforts in the U.S. to respond to this national mandate.

HRC has been established by members of the Halon Alternatives Research Corporation (HARC). HARC commissioned a study on the concept of halon banking, and determined that large quantities of halon are stored in systems throughout the U.S. Historically, 45% of the world's halon 1301 and 35% of halon 1211 has been used in the U.S. Given the availability of suitable alternatives for most applications, the study anticipates that much of this reserve (or "bank") will be available for redeployment to critical applications.

HRC is not a physical bank but will act as an information network to assist both buyers and sellers of recycled halon, and will provide a "critical use" assessment service. HRC has created a tiered certification system involving two special "critical use review" services. To be a 'certified' critical user, a potential buyer of halon submits documentation for review by an independent review committee. To be established as a 'registered' user, a potential buyer completes a self-evaluation checklist. Organizations disposing of unwanted halon and wishing to ensure that their recycled halon is responsibly managed are likely to use HRC's services to identify 'critical users' as potential recipients. HRC will be funded by nominal listing fees from sellers, application fees from potential buyers, and a brokerage fee on successful transactions. The terms of all contracts are between the buyer and seller only, and HRC will not participate in negotiating price or other terms of the trade.

Interested parties may call EPA's Stratospheric Ozone Hotline (1–800–296–1996) or (202) 775–6677 for information about halon banking; HRC may be contacted directly at 1–800–258–1283 or (202) 223–6166; and DLA may be contacted at (804) 279–3865.

IV. Announcement Regarding Nominations for 1994

On February 12, 1993, EPA issued a **Federal Register** notice requesting nominations for essential use exemptions to be considered at the Fifth Meeting of the Parties. Initially, eighteen applications were received. These came from users in the following general categories: Power generation control rooms (fossil fuel and nuclear), petroleum production (offshore platforms and refineries), air transport, explosion protection, and telecommunications. After consultation with EPA, one application was denied based on insufficient information and all but four of the others withdrew after considering the need to prove that there are insufficient quantities of recycled halon available to meet their needs. Several applicants withdrew, understanding that they could reapply in future years if efforts to locate stocks of recycled halon fail.

To meet the tight deadline, the United States supported the four remaining applicants and issued a tentative nomination to the Protocol Secretariat, while continuing to work with these applicants to resolve issues concerning their nomination. EPA, together with the applicants, determined that halon supplies are adequate for 1994 and consequently these nominations were withdrawn. The text of the original U.S. nomination letter and the revision issued by the U.S. State Department are available in the Air Docket number A–93–39.

Acting upon the recommendation made by the Technology and Economics Assessment Panel and the unanimous recommendation of the Halon Technical Options Committee, the Open-Ended Working Group of the Parties to the Montreal Protocol, agreed at its August, 1993 meeting to forward to the 5th Meeting of the Parties a recommendation that no halon essential uses be granted for 1994. Specifically, they recommended that the Parties decide that:

> No level of production or consumption is necessary to satisfy essential uses of halon in developed countries for the year 1994 since there are technically and economically feasible alternatives and substitutes for most applications, and since halon is available in sufficient quantity and quality from existing stocks of banked and recycled halon.

Based on these findings and recommendations, EPA commends U.S. companies and government agencies for their foresight and leadership in taking action to avoid the need for nominations for essential uses at this time.

V. Request for Nominations for 1995

Through this Notice, EPA requests applications for essential use exemptions for halons for 1995. Eligible applications will be nominated to the Secretariat at the Sixth Meeting of the Parties. Applications for essential use exemptions for halon should be submitted to EPA no later than sixty days after date of publication of this notice, to allow time for a review of the information before the deadline for submitting nominations to the Secretariat.

This request is for applications that may be nominated for consideration at the Sixth Meeting of the Parties to be held as early as June and no later than November, 1994. As described earlier, national governments must submit nominations for halon essential uses to the Secretariat at least six months before the meeting of the Parties at which the decision will be taken on whether to approve the essential use, and the Technology and Economic Assessment Panel must submit its report to the Parties at least three months before that meeting. (Nominations for exemptions for other Class I substances are being considered on a different time schedule, in accordance with the criteria set forth by the Parties at the Fourth Meeting. As described in a previous **Federal Register** notice (58 FR 29410; May 20, 1993), nominations for other Class I substances must be made nine months before the meeting of the Parties.) In addition, essential use exemptions for halons will first be considered at the Fifth Meeting of the Parties to be held on November 17–19, 1993, while the other Class I substances will first be considered at the Sixth Meeting of the Parties. As requests for essential use nominations for halons have been previously considered, EPA expects that less review time will be needed to evaluate this round of requests.

The Technology and Economic Assessment Panel is currently working under the assumption that it may need to submit recommendations for halons by March, 1994. Therefore, the U.S. must submit its nomination by December, 1993.

As described previously, the Parties set out criteria to apply in identifying essential uses and established a process for the Parties to decide on what uses would qualify under this provision. Decision IV/25 states that a controlled substance should qualify as "essential" only if "it is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects)" and "there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health". In addition, the Parties agreed "that production and consumption, if any, of a controlled substance, for essential uses should be permitted only if: All economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled

substance; and the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances." When submitting a nomination to the Secretariat, the U.S. must be able to demonstrate that the proposed applicants meet these criteria. The burden of proof is on the nominating country, and applications failing to prove that these criteria have been met will be rejected by the Parties. Thus, it is incumbent upon applicants to ensure that all applications are supported by complete and detailed documentation to allow EPA to determine whether to submit the applications as nominations, and to allow EPA to present a strong and credible case before the Parties and the recommending Panel.

All requests for nominations submitted to EPA must present the following information. EPA will not forward incomplete or inadequate nominations to the Montreal Protocol Secretariat for consideration, and therefore recommends that applicants make every effort to provide the requested information.

(1) Description of the specific use of the controlled substance, as well as annual projected amount required;

(2) The expected time period for which this exemption is required;

(3) An itemization of the estimated quantity needed due to leakage, accidental discharge, and actual fires;

(4) Inventory of your halon supply and description of past and future efforts to redeploy halon from noncritical applications to critical uses;

(5) Demonstration that steps have been taken to secure existing stocks of the chemicals, either from a bank or from recovery sources, and that necessary quantities of appropriate quality are not available for this use;

(6) Steps taken to reduce leakage and accidental discharge of halon systems;

(7) Demonstration that continued use of halon in that application is necessary for health and safety reasons or is critical to the functioning of society;

(8) Demonstration that no alternatives are technically or economically available;

(9) Description of the steps taken to date to find alternatives;

(10) Description of future steps to be taken to find alternatives;

(11) Consistency with CAA provisions on essential uses.

All nominations should be sent to: Karen Metchis, Program Manager, Essential Use Exemptions, Mail Stop 6205J, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, FAX: (202) 233–9579, Phone: (202) 233–9193.

EPA will work with submitters, other interested federal agencies, and outside experts to review this information and forward nominations to the Protocol's Secretariat for consideration as appropriate and consistent with any CAA limitations.

Dated: October 4, 1993.

Michael Shapiro,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 93–25480 Filed 10–15–93; 8:45 am]

BILLING CODE 6560–60–P

[FRL–4789–9]

Notice of Open Meeting of the International Committee of the Environmental Financial Advisory Board on November 19, 1993

The Environmental Protection Agency's (EPA) Environmental Financial Advisory Board (EFAB) will hold an open meeting of its International Committee on November 19, 1993 from 9 a.m. to 5 p.m. The meeting will be held at EPA headquarters in room 3 of the Washington Information Center. EPA headquarters is located at 401 M Street SW., Washington DC.

EFAB is chartered to provide authoritative analysis and advice to the EPA Administrator on environmental finance issues. This meeting is intended to gather background information on initiatives for financing environmental facilities in the U.S./Mexican border region. Invited speakers will make presentations from 10 a.m. to approximately 2 p.m.

In addition, the Agency has asked EFAB's International Committee to review financing approaches for the clean-up of hazardous waste sites along the U.S./Mexican border. Brief oral testimony will be taken from approximately 2:15 p.m. to 4:30 p.m. Anyone wishing to testify should call Eugene Pontillo at (202) 260–6044, prior to November 12, 1993. Written comments on hazardous waste financing options are encouraged. Please mail all comments to EPA, Office of the Comptroller, Resource Management Division (MAIL CODE 3304), Environmental Financial Advisory Board, 401 M Street SW., Washington, DC 20460.

The meeting will be open to the public, but seating is limited. For further information, please contact Eugene Pontillo at (202) 260–6044, or Joanne Lynch at (202) 260–1459.

Dated: October 12, 1993.

David E. Osterman,

Acting Director, Resource Management Division.

[FR Doc. 93–25481 Filed 10–15–93; 8:45 am]

BILLING CODE 6560–50–M

[FRL–4790–4]

Gulf of Mexico Program Citizens Advisory Committee Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting of the Citizens Advisory Committee of the Gulf of Mexico Program.

SUMMARY: The gulf of Mexico Program's Citizens Advisory Committee will hold a meeting on November 3–5, 1993 at the Radisson Airport Hotel in New Orleans, Louisiana.

FOR FURTHER INFORMATION CONTACT: Dr. Douglas Lipka, Acting Director, Gulf of Mexico Program Office, Building 1103, John C. Stennis Space Center, Stennis Space Center, MS 39529–6000, at (601) 688–3726.

SUPPLEMENTARY INFORMATION: A Meeting of the Citizens Advisory Committee of the Gulf of Mexico Program will be held on November 3–5, 1993, at the Radisson Airport Hotel in New Orleans, Louisiana. The Citizens Advisory Committee will meet in conjunction with Gulf of Mexico Program Issue committees from 8 a.m. to 5 p.m., November 3rd, 4th and 5th. The meeting is open to the public.

Martha G. Prothro,

Acting Assistant Administrator, Office of Water.

[FR Doc. 93–25483 Filed 10–15–93; 8:45 am]

BILLING CODE 6560–50–M

[OPP–00368; FRL–4740–3]

State FIFRA Issues Research and Evaluation Group (SFIREG); Working Committees on Enforcement & Certification and Registration & Classification; Meetings

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The State FIFRA Issues Research and Evaluation Group (SFIREG) Working Committees on Registration & Classification and Enforcement & Certification will hold a 3-day meeting, beginning on October 18, 1993, and ending on October 20, 1993. This notice announces the location and times for the meeting and sets forth tentative agenda topics.

DATES: The SFIREG Working Committee on Registration & Classification will meet on Monday, October 18, 1993 from 8:30 a.m. to 5 p.m. On Tuesday, October 19, 1993, the two SFIREG Working Committees will meet together in joint session for the entire day starting at 8:30 a.m. and adjourning at approximately 5 p.m. The SFIREG Working Committee on Certification & Enforcement will meet on Wednesday, October 20, 1993 from 8:30 a.m. to approximately 5 p.m.

ADDRESSES: The meetings will be held at: The Concourse Hotel, One West Dayton St., Madison, Wisconsin 53703 (608) 257–6000.

FOR FURTHER INFORMATION CONTACT: By Mail: Shirley M. Howard, Office of Pesticide Programs (7506C), Environmental Protection Agency, 401 M St., SW, Washington, DC 20460. Office location and telephone number: Rm. 1109, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703) 305–7371.

SUPPLEMENTARY INFORMATION: The tentative agenda of the SFIREG Working Committee on Registration & Classification includes the following:

1. Update on Special Local Needs.
2. Discussion of Criteria for Using Section 18 for Reduced Risk Pesticides.
3. Update on Label Coding.
4. Status of EPA's Food Safety Proposal.
5. Other topics as appropriate.

The Agenda for the joint session of the SFIREG Working Committees on Registration & Classification and Certification & Enforcement will include:

1. Update on Product Labeling for the Federal Worker Protection Standard.
2. Status Report on EPA's Exempting Products under Section 25(b).
3. Discussion of the Use of Home Remedies by Commercial Applicators.
4. Status of MSDS as Labeling; a continued discussion and report by OCM on dialogue with OSHA.
5. Other Topics as appropriate.

The agenda for the SFIREG Working Committee on Certification & Enforcement includes the following:

1. Update on Indoor Pesticide Exposure Issue Paper.
2. Update on Multiple Chemical Sensitivity Statutes or Regulations in other States.
3. Status of Cyanazine Risk Mitigation Proposal.
4. Status of Atrazine Compliance Strategy.
5. Update on OCM & OE Reorganization.
6. EPA Registration of the Termiticide Bifenthrin Issue Paper.
7. Other topics as appropriate.

List of Subjects

Enviornmental protection.

Dated: October 7, 1993.

Douglas D. Campt,

Director, Office of Pesticide Programs.

[FR Doc. 93–25466 Filed 10–15–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–51823; FRL–4647–7]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 99 such PMNs and provides a summary of each.

P 93–1101, September 1, 1993.

P 93–1102, 93–1103, 93–1104, 93–1105, September 2, 1993.

P 93–1106, 93–1107, September 5, 1993.

P 93–1108, 93–1109, 93–1110, 93–1111, 93–1112, 93–1113, 93–1114, September 6, 1993.

P 93–1115, 93–1116, September 7, 1993.

P 93–1117, 93–1118, 93–1119, 93–1120, September 8, 1993.

P 93–1121, 93–1122, 93–1123, 93–1124, 93–1125, 93–1126, 93–1127, September 11, 1993.

P 93–1129, September 22, 1993.

P 93–1130, 93–1131, 93–1132, 93–1133, 93–1134, 93–1135, 93–1136, 93–1137, 93–1138, 93–1139, 93–1140, 93–1141, 93–1142, 93–1143, 93–1144, 93–1145, 93–1146, September 12, 1993.

P 93–1147, 93–1148, 93–1149, 93–1150, 93–1151, 93–1152, 93–1153, 93–1154, 93–1155, 93–1156, 93–1157, 93–1158, 93–1159, 93–1160, 93–1161, 93–1162, 93–1163, 93–1164, September 13, 1993.

P 93–1165, September 14, 1993.

P 93–1166, 93–1167, September 15, 1993.

P 93–1168, 93–1169, 93–1170, 93–1171, 93–1172, 93–1173, 93–1174, September 18, 1993.

P 93–1175, September 19, 1993.

P 93–1176, September 29, 1993.

P 93–1177, 93–1178, September 19, 1993.

P 93–1179, 93–1180, September 20, 1993.

P 93–1181, 93–1182, 93–1183, 93–1184, 93–1185, 93–1186, September 21, 1993.

P 93–1187, September 22, 1993.

P 93–1188, September 29, 1993.

P 93–1189, 93–1190, 93–1191, 93–1192, 93–1193, 93–1194, 93–1195, 93–1196, September 23, 1993.

P 93–1197, 93–1198, September 19, 1993.

P 93–1199, October 6, 1993.

P 93–1200, September 23, 1993.

Written comments by:

P 93–1101, August 1, 1993.

P 93–1102, 93–1103, 93–1104, 93–105, August 2, 1993.

P 93–1106, 93–1107, August 5, 1993.

P 93–1108, 93–1109, 93–1110, 93–1111, August 6, 1993.

P 93–1112, 93–1113, 93–1114, August 7, 1993.

P 93–1115, 93–1116, 93–1117, August 7, 1993.

P 93–1118, 93–1119, 93–1120, August 9, 1993.

P 93–1121, 93–1122, 93–1123, 93–1124, 93–1125, 93–1126, 93–1127, August 12, 1993.

P 93–1129, August 23, 1993.

P 93–1130, 93–1131, 93–1132, 93–1133, 93–1134, 93–1135, 93–1136, 93–1137, 93–1138, 93–1139, 93–1140, 93–1141, 93–1142, 93–1143, 93–1144, 93–1145, 93–1146, August 13, 1993.

P 93–1147, 93–1148, 93–1149, 93–1150, 93–1151, 93–1152, 93–1153, 93–1154, 93–1155, 93–1156, 93–1157, 93–1158, 93–1159, 93–1160, 93–1161, 93–1162, 93–1163, 93–1164, August 14, 1993.

P 93–1165, August 15, 1993.

P 93–1166, 93–1167, August 16, 1993.

P 93–1168, 93–1169, 93–1170, 93–1171, 93–1172, 93–1173, 93–1174, August 19, 1993.

P 93–1175, August 20, 1993.

P 93–1176, August 30, 1993.

P 93–1177, 93–1178, August 20, 1993.

P 93–1179, 93–1180, August 21, 1993.

P 93–1181, 93–1182, 93–1183, 93–1184, 93–1185, 93–1186. August 22, 1993.

P 93–1187, August 23, 1993.

P 93–1188, August 30, 1993.

P 93–1189, 93–1190, 93–1191, 93–1192, 93–1193, 93–1194, 93–1195, 93–1196, August 24, 1993.

P 93–1197, 93–1198, August 20, 1993.

P 93–1199, September 6, 1993.

P 93–1200, August 24, 1993.

ADDRESSES: Written comments, identified by the document control number "[OPPTS–51823]" and the specific PMN number should be sent to: Document Control Office, (7407), Office of Pollution Prevention and Toxics,

Environmental Protection Agency, 401 M St., SW., Rm. ETG–099, Washington, DC, 20460, (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460, (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center (NCIC), ETG–102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 93–1101

Importer. Gallard-Schesinger Industries, Inc.

Chemical. (S) Parial orthophospate esters of ethane diol and pentaerythritol (2,2 dimethyl 1,3 propane diol) alternatively; phosphoric acid partial esters with ethane diol and pentaerythritol.

Use/Import. (S) Paper industry, polymers wooden panels and cloth/metallic substrates. Import range: 400,000 kg/yr.

P 93–1102

Manufacturer. Confidential.

Chemical. (G) Polyurethane prepolymer.

Use/Production. (G) Destructive use polyurethane intermediate. Prod. range: Confidential.

P 93–1103

Manufacturer. Confidential.

Chemical. (G) Polyurethane prepolymer.

Use/Production. (G) Destructive use polyurethane intermediate. Prod. range: Confidential.

P 93–1104

Importer. Confidential.

Chemical. (G) Alkyl hydroxybenzoate.

Use/Import. (G) Plasticizer. Import range: Confidential.

P 93–1105

Manufacturer. Confidential.

Chemical. (G) Modified acrylic polymer.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 93–1106

Manufacturer. Confidential.

Chemical. (G) Polyester resin.

Use/Production. (S) Spray applied coatings. Prod. range: 120,000– 240,000 kg/yr.

P 93–1107

Manufacturer. Confidential.

Chemical. (G) Poltester resin.

Use/Production. (S) Spray applied coatings. Prod. range: Prod. 120,000–240,000 kg/yr.

P 93–1108

Importer. Confidential.

Chemical. (G) Polyester polyether modified polyurethane with basic groups.

Use/Import. (G) Additives, open, nondispersive use. Import range: Confidential.

P 93–1109

Manufacturer. Ashland Chemical, Inc.

Chemical. (G) Styrene-acrylic copolymer.

Use/Production. (G) Open, nondispersive use. Prod. range: Confidential.

P 93–1110

Manufacturer. Confidential.

Chemical. (G) Blocked isocyanate.

Use/Production. (G) Body sealer. Prod. range: Confidential.

P 93–1111

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Bis(monosubstituted benzimidazolone).

Use/Production. (S) Colorant for plastic. Prod. range: Confidential.

P 93–1112

Manufacturer. Confidential.

Chemical. (G) Silicones and silicones,diMe,epoxyalkyl terminated.

Use/Production. (G) Industrial coating. Prod. range: Confidential.

P 93–1113

Manufacturer. Confidential.

Chemical. (G) Dimethylhydrogen stopped polysilicones resin.

Use/Production. (G) Silicone resin intermediate. Prod. range: Confidential.

P 93–1114

Manufacturer. Confidential.

Chemical. (G) Epoxy stopped polysiloxane resin.

Use/Production. (G) Industrial coating. Prod. range: Confidential.

P 93–1115

Importer. Hoechst Celanes Corporation.

Chemical. (G) Setaines, dimethyl (polyfluoro-hydro-alkyl).

Use/Import. (S) Aqueous film forming foams for fire fighting. Import range: Confidential.

P 93–1116

Importer. Hoechst Celanese Corporation.

Chemical. (G) Betaines, dimethyl (polyfluoro-hydro-alkyl).

Use/Import. (S) Aqueous film forming foams for fire fighting. Import range: Confidential.

P 93–1117

Importer. Confidential.

Chemical. (S) 1.3-bis(1-isocyanate-1-methyl) benzene; 2-oxapropanone polymer with 2,2'-oxybis(ethanol).

Use/Import. (G) Urethane prepolymer further reacted to create 3-dimensional decorative ornament articles. Prod range: Confidential.

P 93–1118

Manufacturer. Confidential.

Chemical. (G) Phenolic-modified alkyd resin.

Use/Production. (S) Clear and pigmented air-dry finishes and baking. Prod. range: Confidential.

P 93–1119

Manufacturer. Confidential.

Chemical. (G) Organotin lithum compound.

Use/Production. (G) Catalyst. Prod. range: Confidential.

P 93–1120

Manufacturer. Elf Atochem North America, Inc.

Chemical. (S) An esterification reaction product of reactants.

Use/Production. (S) Stabilizer for flexible PVC application. Prod. range: Confidential.

P 93–1121

Manufacturer. Confidential.

Chemical. (G) 2-propanoic acid, 2-methyl-2 hydroxyethyl ester, polymer with oxirane and disocyanate.

Use/Production. (G) Polymer component for specialty industrial coatings. Prod. range: Confidential.

P 93–1122

Manufacturer. Confidential.

Chemical. (G) Poly (acrylonitrile-co-styrene).

Use/Production. (S) Polyurethane foam. Prod. range: Confidential.

P 93–1123

Manufacturer. Confidential.

Chemical. (G) Reaction product of an aromatic tetracarylic acid and an aliphatic ester with an aromatic diamine.

Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 93–1124

Manufacturer. Confidential.

Chemical. (G) Reaction product of a mixture of aromatic dianhydrides and aliohatic esters with aromatic diamines.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 93–1125
Manufacturer. Confidential.
Chemical. (G) Reaction product of an aromatic tetracarboxylic acid and aliphatic ester with an aromatic diamine.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 93–1126
Manufacturer. Confidential.
Chemical. (G) Water reducible polyester.
Use/Production. (G) Thermoset coating binder. Prod. range: Confidential.

P 93–1127
Manufacturer. Confidential.
Chemical. (G) Isocyanate reaction products.
Use/Production. (G) Open, nondispersive. Prod. range: Confidential.

P 93–1129
Manufacturer. H. B. Fuller Company.
Chemical. (G) Triethylamine salt of a polyether, polyurethane polymer.
Use/Production. (S) Coating. Prod. range: Confidential.

P 93–1130
Manufacturer. Confidential.
Chemical. (G) 2*H*-Pyran-4-ol, tetrahydro-alkyl-disubstituted.
Use/Production. (S) Site-limited intermediate. Prod. range: Confidential.

P 93–1131
Manufacturer. EMS-American Trilon, Inc.
Chemical. (S) Copolyamide (nylon copolymer), polycondensated from azelaic acid, adipic acid, isophthalic acid withhexametyhylene diamine.
Use/Production. (G) Laminated fiber for food packaging. Prod. range: Confidential.

P 93–1132
Importer. Confidential.
Chemical. (G) Substituted naphthalene sulfonic acid, alkali salt.
Use/Import. (S) Reactive dye for textile. Import range: Confidential.

P 93–1133
Manufacturer. Confidential.
Chemical. (G) Modified styrenated acrylate methacrylate polymer.
Use/Production. (G) Component of spray applied coating. Prod. range: 15,000–45,000 kg/yr.

P 93–1134
Manufacturer. Confidential.
Chemical. (G) Modified styrenated acrylate methacrylate polymer.
Use/Production. (G) Component of spray applied coating. Prod. range: 15,000–45,000 kg/yr.

P 93–1135
Manufacturer. Confidential.
Chemical. (G) Modified styrenated acrylate methacrylate polymer.
Use/Production. (G) Component of spray applied coating. Prod. range: 15,000–45,000 kg/yr.

P 93–1136
Manufacturer. Confidential.
Chemical. (G) Modified styrenated acrylate methacrylate polymer.
Use/Production. (G) Component of spray applied coating. Prod. range: 15,000–45,000 kg/yr.

P 93–1137
Manufacturer. Confidential.
Chemical. (G) Modified styrenated acrylate methylate polymer.
Use/Production. (G) Component of spray applied coating. Prod. range: 15,000–45,000 kg/yr.

P 93–1138
Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Copolyester.
Use/Production. (G) Extrudable packaging resin. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 15 g/kg (rat).

P 93–1139
Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Coplyester.
Use/Production. (G) Extrudable packaging resin. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 15 g/kg (rat).

P 93–1140
Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Copolyester.
Use/Production. (G) Extrudable packaging resin. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 15 g/kg (rat).

P 93–1141
Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Copolyester.
Use/Production. (G) Extrudable packaging resin. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 15 g/kg (rat).

P 93–1142
Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Copolyester.
Use/Production. (G) Extrudable packaging resin. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 15 g/kg (rat).

P 93–1143
Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Copolyester.
Use/Production. (G) Extrudable packaging resin. Prod. range: Confidential.

P 93–1144
Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Copolyester.
Use/Production. (G) Extrudable packaging resin. Prod. range: Confidential.

P 93–1145
Manufacturer. E. I. du Pont de Nemours & Company, Inc.
Chemical. (G) Copolyester.
Use/Production. (G) Extrudable packaging resin. Prod. range: Confidential.

P 93–1146
Manufacturer. E.I. du Pont de Nemours & Company.
Chemical. (G) Copolyester.
Use/Production. (G) Extrudable packaging resin. Prod. range: Confidential.

P 93–1147
Manufacturer. Confidential.
Chemical. (G) Fatty acids, C_{18}-unsaturated, dimers, polymers with ethylenediamine, a dibasic acid and a monobasic acid.
Use/Production. (G) Hot melt surface coating. Prod. range: Confidential.

P 93–1148
Manufacturer. Confidential.
Chemical. (G) Fatty acid, C_{18}-unsaturated, dimers with ethylenediamine.
Use/Production. (G) Hot melt surface coating. Prod. range: Confidential.

P 93–1149
Manufacturer. Confidential.
Chemical. (G) Fatty acids, C_{18}-unsaturated, dimers, polymers with.
Use/Production. (G) Hot melt surface coating. Prod. range: Confidential.

P 93–1150
Manufacturer. Confidential.
Chemical. (G) Fatty acids, C_{18}-unsaturated, dimers, polymers with

ethylenediamines, diamines, a dibasicacid and a momobasic acid.
Use/Production. (G) Hot melt surface coating. Prod. range: Confidential.

P 93–1151

Manufacturer. Confidential.
Chemical. (G) Fatty acids, C_{18}-unsaturated, dimers, polymers with diamines and a dibasic acid.
Use/Production. (S) Hot melt adhesives. Prod. range: Confidential.

P 93–1152

Manufacturer. Confidential.
Chemical. (G) Fatty acids, C_{18}-unsaturated, dimers, polymers with diamines and a dibasic acid.
Use/Production. (S) Hot melt adhesives. Prod. range: Confidential.

P 93–1153

Manufacturer. Confidential.
Chemical. (G) Fatty acids, C_{18}-unsaturated, dimers, polymers with diamines and a dibasic acid.
Use/Production. (S) Hot melt adhesives. Prod. range: Confidential.

P 93–1154

Manufacturer. Confidential.
Chemical. (G) Fatty acids, C_{18}-unsaturated, dimers, polymers with diamines and a dibasic acid.
Use/Production. (S) Hot melt adhesives. Prod. range: Confidential.

P 93–1155

Manufacturer. Confidential.
Chemical. (G) Fatty acids, C_{18}-unsaturated, dimers, polymers with diamines and a dibasic acid.
Use/Production. (S) Hot melt adhesives. Prod. range: Confidential.

P 93–1156

Manufacturer. Confidential.
Chemical. (G) Fatty acids, C_{18}-unsaturated, dimers, polymers with diamines and a dibasic acid.
Use/Production. (S) Hot melt adhesives. Prod. range: Confidential.diamines and a dibasic acid.

P 93–1157

Manufacturer. Confidential.
Chemical. (G) Fatty acids, C_{18}-unsaturated, dimers, polymers with diamines and a dibasic acid.
Use/Production. (S) Hot melt adhesives. Prod. range: Confidential.

P 93–1158

Manufacturer. Confidential.
Chemical. (G) Fatty acids, C_{18}-unsaturated, dimers, polymers with diamines and a dibasic acid.
Use/Production. (S) Hot melt adhesives. Prod. range: Confidential.

P 93–1159

Manufacturer. The Dow Chemical Company.
Chemical. (G) Polymeric isocyanate reaction product.
Use/Production. (G) Manufacture of molded polyurethane articles. Prod. range: Confidential.

P 93–1160

Manufacturer. The Dow Chemical Company.
Chemical. (G) Polymeric isocyanate reaction product.
Use/Production. (G) Manufacture of molded polyurethane articles. Prod. range: Confidential.

P 93–1161

Manufacturer. The Dow Chemical Company.
Chemical. (G) Polymeric isocyanate reaction product.
Use/Production. (G) Manufacture of molded polyurethane articles. Prod. range: Confidential.

P 93–1162

Manufacturer. The Dow Chemical Company.
Chemical. (G) Polymeric isocyanate reaction product.
Use/Production. (G) Manufacture of molded polyurethane articles. Prod. range: Confidential.

P 93–1163

Manufacturer. The Dow Chemical Company.
Chemical. (G) Polymeric isocyanate reaction product.
Use/Production. (G) Manufacture of molded polyurethane articles. Prod. range: Confidential.

P 93–1164

Manufacturer. Confidential.
Chemical. (G) Siloxane polymer.
Use/Production. (G) Chemical for LSI manufacture. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 5,000 mg/kg (rat). Eye irritation: Moderate (rabbit). Skin irritation: Negligible (rabbit).

P 93–1165

Manufacturer. Minnesota Mining and Manufacturing Company.
Chemical. (G) Crosslinked isoctyl acrylate polymer.
Toxicity Data. Acute oral: LD50 > 5,000 mg/kg (rat). Eye irritation: Moderate (rabbit). Skin irritation: Negligible (rabbit).

P 93–1166

Manufacturer. Confidential.
Chemical. (G) Alkylsulfonium salt.
Use/Production. (G) Chemical intermediate. Prod. range: Confidential.

P 93–1167

Importer. Confidential.
Chemical. (G) Math-acrylate functional phosphate resin.
Use/Import. (G) Industrial coating for open nondispersive use. Import range: Confidential.

P 93–1168

Manufacturer. Confidential.
Chemical. (G) Brominated aromatic compound.
Use/Production. (S) Flame retardant. Prod. range: Confidential.

P 93–1169

Manufacturer. Boulder Scientific Company.
Chemical. (G) Derivative of bis(cyclopentadienyl) zirconium dichloride.
Use/Production. (G) Catalyst. Prod. range: Confidential.

P 93–1170

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Substituted polyolefin.+
Use/Production. (G) Open- dispersive use. Prod. range: Confidential.

P 93–1171

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Substituted polyolefin.
Use/Production. (G) Open- dispersive use. Prod. range: Confidential.

P 93–1172

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Substituted polyolefin.
Use/Production. (G) Coatings open dispersive use adhesives. Prod. range: Confidential.

P 93–1173

Manufacturer. E. I. du Pont de Nomours and Company, Inc.
Chemical. (G) Substituted polyolefin.
Use/Production. (G) Coatings open-dispersive use adhesives. Prod. range: Confidential.

P 93–1174

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Substituted polyolefin.
Use/Production. (G) Coatings open-dispersive use adhesives. Prod. range: Confidential.

P 93–1175

Manufacturer. E. I. du Pont de Nemours and Company, Inc.
Chemical. (G) Isophthalate ester.
Use/Production. (G) Polyester intermediate. Prod. range: Confidential.

P 93–1176

Manufacturer. Confidential.

Chemical. (G) Polyalphaolefins.
Use/Production. (G) Functional fluid. Prod. range: Confidential.

P 93–1177

Manufacturer. Confidential.
Chemical. (G) Polyalphaolefins.
Use/Production. (G) Functional fluid. Prod. range: Confidential.

P 93–1178

Manufacturer. Confidential.
Chemical. (G) Polyalphaolefins.
Use/Production. (G) Functional fluid. Prod. range: Confidential.

P 93–1179

Manufacturer. DSM Engineering plastics Inc.
Chemical. (S) Imino-1,4 butanediylimino (1.6-diazo-1,6-hexanediyl)-1 iino-6 oxo hexanedily-copolymer.
Use/Production. (S) Raw material for PA46 monofilament and mulitfilament. Prod. range: Confidential.

P 93–1180

Manufacturer. BASF Corporation.
Chemical. (G) Polyacrylate, sodium salt.
Use/Production. (S) Thickening agent. Prod. range: Confidential.

P 93–1181

Manufacturer. Estron Chemical, Inc.
Chemical. (G) Acrylic copolymer.
Use/Production. (S) Additive for industrial coatings to improve surface appearances. Prod. range: Confidential.

P 93–1182

Manufacturer. Estron Chemicals, Inc.
Chemical. (G) Acrylic copolymer.
Use/Production. (S) Additive for industrial coatings to improve surface appearances. Prod. range: Confidential.

P 93–1183

Manufacturer. BASF Corporation.
Chemical. (G) Substituted quinoline.
Use/Production. (G) Pesticide intermediate for manufacture use. Prod. range: Confidential.

P 93–1184

Manufacturer. BASF Corporation.
Chemical. (G) Substituted quinoline.
Use/Production. (G) Pesticide intermediate for manufacture use. Prod. range: Confidential.

P 93–1185

Manufacturer. Locite Corporation.
Chemical. (G) Substituted, aliphatic terminated poly(dimethylsiloxane).
Use/Production. (S) A main component in silicone adhesive and sealant formulations. Prod. range: 2,000–10,000 kg/yr.

P 93–1183

Manufacturer. BASF Corporation.

P 93–1187

Manufacturer. IBC Advanced Technologies, Inc.
Chemical. (S) 1-(2(2-Hydroxyethoxy)ethoxy)-3-(2-propenyloxy)-2-propanol.
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1188

Manufacturer. IBC Advanced Technologies, Inc.
Chemical. (S) 1-(2-proopenyloxy)methyl) 3,6,9-trioxaundecane-1,11-diol./Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1189

Manufacturer. IBC Advanced Technologies, Inc.
Chemical. (S) 2,2'-((1-((2-Propenyloxy)methyl)-1,2-methanediyl)bis(oxy)bis-ethanol.
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1190

Manufacturer. IBC Advanced Technologies, Inc.
Chemical. (S) 4-(2-Propenyloxy)methyl)-3,6,9-trioxaundecane-1,11-diol.
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1191

Manufacturer. IBC Advanced Technologies, Inc.
Chemical. (S) 7-(2-Propenyloxy)methyl)-3,6,9,12-tetraoxatetradecane.
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1192

Manufacturer. IBC Advanced Technologies, Inc.
Chemical. (S) 7-(2-Propenyloxy)methyl-3,6,9,12-tetradecane-1,14-diol.
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1193

Manufacturer. IBC Advanced Technologies, Inc.
Chemical. (S) 1,2-Ethanediol bis(4-methylbenzenesulfonate).
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1194

Manufacturer. IBC Advanced Technologies, Inc.
Chemical. (S) 2,2-Oxybis-ethaned bis(4-methyl(benzensulfonate.
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1195

Manufacturer. IBC Advanced Technologies Inc.
Chemical. (S) 3,6-Dioxaoctane-1,8-diol bis(4-methylbenzenesulfonate 2,2'(1,2-ethanediyl-bis(oxy)-bis-ethanol bis(4-methylbenzenesulfonate.
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1196

Manufacturer. IBC Advanced Technologies, Inc.
Chemical. (S) 3,6,9-Trioxaundecane-1,11-diol bis(4-methylbenzenesulfonate): or 2,2'-(oxybis-2,2-(ethanediyloxy)bis-ethanol bis-ethanol bis(4-methylbenzenesulfonate).
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1197

Manufacturer. Confidential.
Chemical. (G) Polyalphaolefins.
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1198

Manufacturer. Confidential.
Chemical. (S) 3-(2-propenyloxy)-1,2-propanediol bis(4-methybenzenesulfonate).
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1199

Manufacturer. IBC Advanced Technologies, Inc.
Chemical. (S) 1-(2-(((4-methylphenyl)sulfonyl)oxy)-3-(2-propenyloxy)-2-propanol 4-methylbenzenesulfonate.
Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

P 93–1200

Manufacturer. IBC Advanced Technologies, Inc..
Chemical. (S) 1-(2-Propenyloxy)methyl-3,6-dioxaoctane-1,8-diol bis(4-methylphenyl)sulfonyl)oxy)ethoxy) ethoxy)-3-(2-propenyloxy)-2-propanol 4-methylbenzenesulfonate.

Use/Production. (S) An intermediate for the production of substituted crown ethers. Prod. range: 2,000–4,000 kg/yr.

List of Subjects

Environmental protection, Premanufacture notification.

Dated: October 8, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–25465 Filed 10–15–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–51825; FRL–4647–9]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of 62 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 93–1268, 93–1269, 93–1270, 93–1271, 93–1272, 93–1273, 93–1274, 93–1275, 93–1276, 93–1277, 93–1278, 93–1279, 93–1280, 93–1281, 93–1282, 93–1283, 93–1284, 93–1285, 93–1286, 93–1287, 93–1288, 93–1289, 93–1290, 93–1291, 93–1292, 93–1293, 93–1294, 93–1295, 93–1296, 93–1297, 93–1298, 93–1299, 93–1300, 93–1301, 93–1302, 93–1303, 93–1304, 93–1305, 93–1306, October 13, 1993.

P 93–1307, October 16, 1993.

P 93–1308, October 13, 1993.

P 93–1309, October 14, 1993.

P 93–1310, 93–1311, 93–1313, 93–1314, 93–1315, October 17, 1993.

P 93–1316, October 18, 1993.

P 93–1317, October 17, 1993.

P 93–1318, 93–1319, 93–1320, 93–1321, 93–1322, 93–1323, 93–1324, 93–1325, October 18, 1993.

P 93–1326, 93–1327, 93–1328, 93–1329, 93–1330, October 19, 1993.

Written comments by:

P 93–1268, 93–1269, 93–1270, 93–1271, 93–1272, 93–1273, 93–1274, 93–1275, 93–1276, 93–1277, 93–1278, 93–1279, 93–1280, 93–1281, 93–1282, 93–1283, 93–1284, 93–1285, 93–1286, 93–1287, 93–1288, 93–1289, 93–1290, 93–1291, 93–1292, 93–1293, 93–1294, 93–1295, 93–1296, 93–1297, 93–1298, 93–1299, 93–1300, 93–1301, 93–1302, 93–1303, 93–1304, 93–1305, 93–1306, September 13, 1993.

P 93–1307, September 16, 1993.

P 93–1308, September 13, 1993.

P 93–1309, September 14, 1993.

P 93–1310, 93–1311, 93–1313, 93–1314, 93–1315, September 17, 1993.

P 93–1316, September 18, 1993.

P 93–1317, September 17, 1993.

P 93–1318, 93–1319, 93–1320, 93–1321, 93–1322, 93–1323, 93–1324, 93–1325, September 18, 1993.

P 93–1326, 93–1327, 93–1328, 93–1330, September 19, 1993.

ADDRESSES: Written comments, identified by the document control number "[OPPTS–51825]" and the specific PMN number should be sent to: Document Control Office Center (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG–099, Washington, DC 20460 (202) 260–3532.

FOR FURTHER INFORMATION CONTACT: Susan Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center, (NCIC) ETG–102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

P 93–1268

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane polyol.

Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1269

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane polyol.

Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1270

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane polyol.

Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1271

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane polyol.

Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1272

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane polyol.

Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1273

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane polyol.

Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1274

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane polyols.

Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1275

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane polyols.

Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1276

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane poloyol.

Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1277

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane polyols.

Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1278

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane polyols.

Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1279

Manufacturer. Confidential.

Chemical. (G) Amine functional polyurethane polyols.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1280
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1281
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1282
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1283
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1284
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1285
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1286
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1287
Manufacturer. Confidential.
Chemical. (G) Amine functional Polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1288
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1289
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1290
Manufacturer. Confidential.
Chemical. (G) Amine functiona polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1291
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethsne polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1292
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1293
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1294
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1295
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1296
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1297
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1298
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1299
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1300
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1301
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) . Prod. range: Confidential.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1302
Manufacturer. Confidential.
Chemical. (G) Amine functional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1303
Manufacturer. Confidential.
Chemical. (G) Amine fuctional polyurethane polyol.
Use/Production. (G) Component of coating with open use. Prod. range: Confidential.

P 93–1304
Manufacturer. Confidential.
Chemical. (G) Acrylic polymer.
Use/Production. (G) Open nondispersive use. Prod. range: Confidential.
Toxicity Data. Acute oral: LD50 > 5.0 g/kg (rat). Acute dermal: LD50 > 5.0 g/kg (rabbit). Eye irritation: Slight (rabbit). Skin irritation: Negligible (rabbit).

P 93–1305
Manufacturer. Confidential.
Chemical. (G) Acrylic polymer.

Use/Production. (G) Open nondispersive use. Prod. range: Confidential.

Toxicity Data. Acute oral: LD50 > 5.0 g/kg (rat). Acute dermal: LD50 > 5.0 g/kg (rabbit). Eye irritation: Slight (rabbit). Skin irritation: Negligible (rabbit).

P 93–1306

Manufacturer. Confidential.

Chemical. (S) The esterification product of tall oil fatty acids, oleic acid, 9,11) and 10,12 conjugated fatty acids, benzoic acids, phthalic anhydride, trimelliticanhydride, trimethypropane and neopentyl glycol.

Use/Production. (S) Fatty acid-modified polyester in used in a pigmented protective coating (paint) intended for metal. Prod. range: 110,000–227,000 kg/yr.

P 93–1307

Manufacturer. Olin Corporation.

Chemical. (S) Carbamic acid, butyl-2-propynyl ester.

Use/Production. (S) Isolated chemical intermediate. Prod. range: Confidential.

P 93–1308

Manufacturer. Amoco Chemical Company.

Chemical. (G) Dialkyl ether.

Use/Production. (G) Polymerization aid. Prod. range: Confidential.

P 93–1309

Importer. Ciba-Geigy Corporation.

Chemical. (G) Quaternary ammonium iodle.

Use/Import. (S) Catalyst for epoxides for can coating and coil coating formulations. Import range: Confidential.

Toxicity Data. Acute oral: LD50 > 1,000 mg/kg (rat).

P 93–1310

Manufacturer. Confidential.

Chemical. (G) Boronated, ethoxylated Alcohol.

Use/Production. (G) Gear oil additive. Prod. range: Confidential.

P 93–1311

Manufacturer. Boulder Scienific Company.

Chemical. (G) Derivative-of cyclopentadien.

Use/Production. (S) An isolated intermediate to be with metals to manufacture metallocenes. Prod. range: Confidential.

P 93–1313

Manufacturer. Confidential.

Chemical. (G) Alkoxylated tetracrylate.

Use/Production. (S) Wood coatings, inks, electronics and over print varnishes. Prod. range: Confidential.

P 93–1314

Manufacturer. Confidential.

Chemical. (G) Substituted phenyl azo alkyl phenol.

Use/Production. (G) Petroleum additive. Prod. range: Confidential.

Toxicity Data. Acute oral: LD50 2,030 mg/kg (rat). Eye irritation: None (rabbit). Skin irritation: Slight (rabbit). Mutagenicity: Negative.

P 93–1315

Manufacturer. PPG Industries, Inc.

Chemical. (S) Fatty acids, coco, 2-sulfoethyl ester, ammonium salt.

Use/Production. (G) Reducing surface tension in products for the construction industry. Prod. range: Confidential.

P 93–1316

Importer. Albright And Wilson America.

Chemical. (G) Carboxyalkylidene phosphonic acids, (sodium salts).

Use/Import. (G) Corrosion inhibitor. Import range: Confidential.

Toxicity Data. Acute oral: LD50 > 5,000 mg/kg (rat). Acute dermal: LD50 > 2,000 mg/kg (rat). Acute Static: LC50 48h 1.8 mng/l (daphnia magna). Eye irritation: Slight (rabbit). Skin irritation: Negligible (rabbit). Mutagenicity: Negative. Skin sensitization: Positive (guinea pig).

P 93–1317

Manufacturer. Color-Chem International Corporation.

Chemical. (S) Benzo(imn)diperimidino(2,1-bis 2T1',1)(3,8) phenanthroline-10,21-dione.

Use/Production. (S) Colorant for thermoplastic. Prod. range: Confidential.

P 93–1318

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester resin.

Use/Production. (G) Hybrid foam. Prod. range: Confidential.

P 93–1319

Manufacturer. Confidential.

Chemical. (G) Poly (carboxylic acid), monoethanolamine salt.

Use/Production. (G) Scale inhibitor for water based solutions. Prod. range: 500–1.500 kg/yr.

P 93–1320

Manufacturer. Confidential.

Chemical. (G) Poly (carboxylic acid), mixed sodium, monoethanolamine salt.

Use/Production. (G) Scale inhibitor for water based solutions. Prod. range: 500–1,500 kg/yr.

P 93–1321

Manufacturer. Confidential.

Chemical. (G) Poly (carboxylic acid), mixed potassium, monoethanolamine salt.

Use/Production. (G) Scale inhibitor for water based solutions. Prod. range: 500–1,500 kg/yr.

P 93–1322

Manufacturer. Confidential.

Chemical. (G) Poly (carboxylic acid), ammonium, monoethanolamine salt.

Use/Production. (G) Scale inhibitor for water based solutions. Prod. range: Confidential.

P 93–1323

Manufacturer. Confidential.

Chemical. (G) Poly (carboxylic acid), mixed sodium, momoethanolamine salt.

Use/Production. (G) Scale inhibitor for water based solutions. Prod. range: Confidential.

P 93–1324

Manufacturer. Confidential.

Chemical. (G) Poly (carboxylic acid), mixed potassium, ammonium, monoethanolamine salt.

Use/Production. (G) Scale inhibitor for water based solutions. Prod. range: Confidential.

P 93–1325

Manufacturer. Henkel Corporation.

Chemical. (G) Polyamide resin.

Use/Production. (S) Hot melt adhesive. Prod. range: 5,000–25,000 kg/yr.

P 93–1326

Manufacturer. Hoechst Celanese Corporation.

Chemical. (G) Polymer of polyimine, aminofunctional methacrylamide and diallylquarternary ammonium chloride.

Use/Production. (G) Dye fixative. Prod. range: Confidential.

Toxicity Data. Acute oral: LD50 2,000 mg/kg (rat). Eye irritation: None (rabbit). Skin irritation: Negligible (rabbit).

P 93–1327

Manufacturer. BASF Corporation.

Chemical. (G) Alkoxylated melamine.

Use/Production. (S) Fiber modifier. Prod. range: Confidential.

P 93–1328

Manufacturer. Henkel Corporation.

Chemical. (S) Fatty acids, C_{18}-unsaturated, hydrogenated, dimers, polymers with C18 unsaturated, amiss dimers and ethylenediamine.

Use/Production. (S) Hot melt adhesive. Prod. range: 15,000–50,000 kg/yr.

P 93–1329

Manufacturer. Confidential.

Chemical. (G) Acrylate copolymer, salt.

Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

P 93–1330

Manufacturer. Confidential.

Chemical. (G) Acrylate copolymer, salt.

Use/Production. (G) Coatings and printing inks for paper, metals and plastics. Prod. range: Confidential.

List of Subjects

Environmental protection, Premanufacture notification.

Dated: October 8, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–25476 Filed 10–15–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59325A; FRL–4738–7]

Certain Chemicals; Approval of a Test Marketing Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces EPA's approval of an application for test marketing exemption (TME) under section 5(h)(1) of the Toxic Substances Control Act (TSCA) and 40 CFR 720.38. EPA has designated this application as TME–93–21. The test marketing conditions are described below.

EFFECTIVE DATES: October 7, 1993.

FOR FURTHER INFORMATION CONTACT: Shirley Howard, New Chemicals Branch, Chemical Control Division (7405), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–611, 401 M St., SW., Washington, DC, 20460, (202) 260–3780.

SUPPLEMENTARY INFORMATION: Section 5(h)(1) of TSCA authorizes EPA to exempt persons from premanufacture notification (PMN) requirements and permit them to manufacture or import new chemical substances for test marketing purposes if the Agency finds that the manufacture, processing, distribution in commerce, use and disposal of the substances for test marketing purposes will not present an unreasonable risk of injury to health or the environment. EPA may impose restrictions on test marketing activities and may modify or revoke a test marketing exemption upon receipt of new information which casts significant doubt on its finding that the test marketing activity will not present an unreasonable risk of injury.

EPA hereby approves TME–93–21. EPA had determined that test marketing of the new chemical substance described below, under the conditions set out in the TME application, and for the time period and restrictions specified below, will not present an unreasonable risk of injury to health or the environment. Production volume, use, and the number of customers must not exceed that specified in the application. All other conditions and restrictions described in the application and in this notice must be met.

The following additional restrictions apply to TME–93–21:

1. A bill of lading accompanying each shipment must state that the use of the substance is restricted to that approved in the TME.

2. During manufacturing, processing, and use of the substance at any site controlled by the Company, any person under the control of the Company, including employees and contractors, who may be dermally exposed to the substance shall use:

a. Gloves determined by the Company to be impervious to the substance under the conditions of exposure, including the duration of exposure. The Company shall make this determination either by testing the gloves under the conditions of exposure or by evaluating the specifications provided by the manufacturer of the gloves. Testing or evaluation of specifications shall include consideration of permeability, penetration, and potential chemical and mechanical degradation by the PMN substance and associated chemical substances;

b. Clothing which covers any other exposed areas of the arms, legs, and torso; and

c. Chemical safety goggles or equivalent eye protection.

3. During manufacturing, processing, and use of the substance at any site controlled by the company, the TME substance will not be released to the surface waters of the U.S.

4. The applicant shall maintain the following records until 5 years after the date they are created, and shall make them available for inspection or copying in accordance with section 11 of TSCA:

a. Records of the quantity of the TME substance produced and the date of manufacture.

b. Records of dates of the shipments to each customer and the quantities supplied in each shipment.

c. Copies of the labels affixed to containers of the substance or formulations containing the substance.

d. Copies of the bill of lading that accompanies each shipment of the substance.

e. Copies of any determination under paragraph 2.a. above that the protective gloves used by the Company are impervious to the substance.

T–93–21

Date of Receipt: July 29, 1993.

Notice of Receipt: September 17, 1993 (58 FR 48653).

Applicant: Unocal Corporation.

Chemical: (G) Sodium Tetrathiocarbonate.

Use: Oil well additive.

Production Volume: Confidential.

Number of Customers: Confidential.

Test Marketing Period: One year approval.

Risk Assessment: Human health concerns includes developmental, neurotoxicity, reproductive, mutagenicity and oncogenicity based on the potential of the hydrolysis product. EPA expects that, to mitigate human health exposure to workers who may be exposed to the substance during manufacturing, processing, and use, workers will wear adequate protective clothing which covers any exposed parts of the body, impervius gloves, and chemical safety goggles or equivalent eye protection. EPA identified concerns for aquatic organisms based on releases of the PMN substance and subseqent hydrolysis product to surface waters during manufacturing. However, based on the test market activities as described in the notice application and subsequent letters to the Agency describing the manufacturing process, EPA has determined that the PMN substance will not be released to surface waters and consequently will not present an unreasonable risk of injury to the aquatic environment.

The Agency reserves the right to rescind approval or modify the conditions and restrictions of an exemption should any new information come to its attention which casts significant doubt on its finding that the test marketing activities will not present an unreasonable risk of injury to health or the environment.

List of Subjects

Environmental protection, Test marketing exemption.

Dated: October 7, 1993.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–25477 Filed 10–15–93; 8:45 am]

BILLING CODE 6560–50–F

[OPPTS–59973; FRL–4650–4]

Certain Chemicals; Premanufacture Notices

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. Notices for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of 4 such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 93–200, September 7, 1993.

Y 93–201, September 13, 1993.

Y 93–202, 93–203, September 23, 1993.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–545, 401 M St., SW., Washington, DC, 20460 (202) 554–1404, TDD (202) 554–0551.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the nonconfidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete nonconfidential document is available in the TSCA Nonconfidential Information Center, (NCIC) ETG–102 at the above address between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

Y 93–200

Manufacturer. Confidential.

Chemical. (G) Unsaturated polyester.

Use/Production. (S) Peroxide-cured polyester products for mild corrosion-resistant. Prod. range: Confidential.

Y 93–201

Manufacturer. Confidential.

Chemical. (G) Water-reducible alkyd resin.

Use/Production. (S) Air-dry or baking corrosion resistant coatings for under-the hood automotive parts. Prod. range: Confidential.

Y 93–202

Importer. Mitsui Petrochemicals(America), Ltd.

Chemical. (G) Alpha-olefin-diene terpolymer.

Use/Import. (G) Parts of automobile. Import range: Confidential.

Y 93–203

Importer. Mitsui Petrochemicals(America), Ltd.

Chemical. (G) Alpha-Olefin-diene terpolymer.

Use/Import. (G) Parts of automobile. Import range: Confidential.

List of Subjects

Environmental protection.

Dated: October 8, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 93–25478 Filed 10–15–93; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL MEDIATION AND CONCILIATION SERVICE

Agency Form Under Review by the Office of Management and Budget

AGENCY: Federal Mediation and Conciliation Service.

ACTION: Notice of Form F–7 submitted for extension and review to the Office of Management and Budget.

The Federal Mediation and Conciliation Service (FMCS) has submitted to the Office of Management and Budget (OMB) a request for review of FMCS Form F–7, Notice To Mediation Agencies. The request seeks OMB approval to extend the expiration date of Form F–7, from January 1, 1994 to January 31, 1996. The request was submitted pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35). FMCS has also requested and received a 3-month extension for its current F–7 form for the period of September 30, 1993 to December 31, 1993.

Information pertaining to the request is as follows:

Agency: Federal Mediation and Conciliation Service.

Title: Notice To Mediation Agencies.

Form Number: Agency—Form F–7; OMB No. 3076–0004.

Type of Request: Extension of Expiration date of a currently approved collection without any change in the substance or method of collection.

Affected Public: Private sector employers and labor unions.

Frequency: Once per collective bargaining dispute.

Respondents Obligation: Required pursuant to 29 U.S.C. 158(d)(3).

OMB Desk Officer: Angela Antonelli, (202) 395–6880. Copies of the request for review may be obtained from Eileen B. Hoffman, General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, NW., room 712, Washington, DC 20427, (202) 653–5305.

Written comments pertaining to the request should be sent to Angela Antonelli, Assistant Branch Chief, room 3001, New Executive Office Building, Washington, DC 20503.

Dated: October 12, 1993.

Brian Flores,

Acting Director.

BILLING CODE 6372–01–M

FMCS Form F-7
Revised 6/93

NOTICE TO MEDIATION AGENCIES

Form Approved
OMB No. 3076-0004
Expires 1/31/96

MAIL TO: NOTICE PROCESSING UNIT
FEDERAL MEDIATION AND CONCILIATION SERVICE
2100 K STREET, N.W.
WASHINGTON, D.C. 20427

AND

THE STATE OR TERRITORIAL MEDIATION AGENCY

You are hereby notified that written notice of proposed termination or modification of the existing collective bargaining contract was served upon the other party to this contract and that no agreement has been reached.

(1) IF THIS IS A HEALTH CARE INDUSTRY NOTICE PLEASE INDICATE (MARK "X")

☐ INITIAL CONTRACT ☐ EXISTING CONTRACT

(2) (MARK "X") AND GIVE DATE(S): MO, DAY, YR.

☐ CONTRACT REOPENER: (GIVE TWO DATES) — REOPEN DATE / EXPIRATION DATE

☐ CONTRACT EXPIRATION: — EXPIRATION DATE

NAME OF EMPLOYER OR EMPLOYER ASSOCIATION/ORGANIZATION (IF MORE THAN ONE, SUBMIT NAMES AND ADDRESSES ON AN ATTACHED LIST)

(3)

ADDRESS OF EMPLOYER/ASSOCIATION — NO. STREET / CITY / STATE / ZIP

(4)

EMPLOYER OFFICIAL TO CONTACT (NAME AND TITLE) (5)

(AREA CODE) PHONE NUMBER (6)

(AREA CODE) FAX NUMBER

NAME OF INTERNATIONAL UNION OR PARENT BODY

(7)

NAME AND NO. OF LOCAL (IF NOT A LOCAL, GIVE NAME AND NUMBER, IF ANY, OF THE UNION ORGANIZATION INVOLVED IN THE NEGOTIATIONS)

(8)

ADDRESS OF LOCAL UNION — NO. STREET / CITY / STATE / ZIP

(9)

UNION OFFICIAL TO CONTACT (NAME AND TITLE) (10)

(AREA CODE) PHONE NUMBER (11)

(AREA CODE) FAX NUMBER

(COMPLETE FOR ALL NOTICES SUBMITTED)

A. LOCATION OF AFFECTED ESTABLISHMENT — CITY / STATE / ZIP

B. LOCATION OF NEGOTIATIONS (COMPLETE ONLY IF DIFFERENT FROM 12A) — CITY / STATE / ZIP

(12)

TOTAL NUMBER EMPLOYEED AT AFFECTED LOCATION(S) (13)

NUMBER OF EMPLOYEES COVERED BY CONTRACT (14)

INDUSTRY AND TYPE OF ESTABLISHMENT (e.g., STEEL INDUSTRY - FACTORY; FOOD INDUSTRY - RETAIL CHAIN STORE; EDUCATION - PRIVATE COLLEGE; ELECTRICAL INDUSTRY - PUBLIC UTILITY)

(15)

PRINCIPAL PRODUCT OR SERVICE (16)

THIS NOTICE IS FILED ON BEHALF OF (MARK "X") (17) ☐ UNION ☐ EMPLOYER

TYPE OF NEGOTIATIONS (MARK "X")

☐ SINGLE ESTABLISHMENT
☐ MULTI-PLANT
☐ AREA OR INDUSTRY WIDE
(18) ☐ OTHER (SPECIFY) _____

TYPE OF EMPLOYEES COVERED BY CONTRACT (MARK "X" ALL THAT APPLY)

☐ PROFESSIONAL/TECHNICAL
☐ PRODUCTION/MAINTENANCE
☐ CLERICAL
(19) ☐ OTHER (SPECIFY) _____

NAME AND TITLE OF OFFICIAL FILING NOTICE (20)

SIGNATURE (21) DATE

PAPERWORK REDUCTION ACT NOTICE: The estimated burden associated with this collection of information is 30 minutes per respondent. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to Office of General Counsel, Federal Mediation and Conciliation Service, 2100 K Street, N.W., Washington, D.C. 20427 or the Paperwork Reduction Project 3076-0003, Office of Management and Budget, Washington, D.C. 20503.

[FR Doc. 93-25418 Filed 10-15-93; 8:45 am]
BILLING CODE 6372-01-C

GENERAL SERVICES ADMINISTRATION

Information Resources Management Service; Federal Telecommunications Standards

ACTION: Notice of adoption of standard.

SUMMARY: The purpose of this notice is to announce the adoption of a Federal Telecommunications Standard (FED–STD). FED–STD 1045A, "Telecommunications: HF Radio Automatic Link Establishment" is approved and will be published.

FOR FURTHER INFORMATION CONTACT: Mr. Robert T. Adair, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, telephone (303) 497–3723.

SUPPLEMENTARY INFORMATION:

1. The General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of GSA designated the National Communications System (NCS) as the responsible agent for the development of telecommunications standards for NCS interoperability and the non-computer communication interface.

2. On December 26, 1991, a notice was published in the **Federal Register** (56 FR 248) that a proposed FED–STD 1045A entitled "Telecommunications: HF Radio Automatic Link Establishment" was being proposed for federal use and that comments were requested.

3. The justification package as approved by the Deputy Assistant Secretary of Defense (Defense-wide C3), Office of the Assistant Secretary of Defense was presented to GSA by NCS with a recommendation for adoption of the standard. These data are a part of the public record and are available for inspection and copying at the Office of Technology and Standards, National Communications System, Washington, DC 20305–2010.

4. A copy of the standard is provided as an attachment to this notice. Interested parties may purchase the standard from GSA, acting as agent for the Superintendent of Documents. Copies are for sale at the GSA Federal Supply Service Bureau (FSSB), Specifications Section, suite 8100, 490 East L'Enfant Plaza, SW. Washington, DC 20407; telephone (202) 755–0325.

Dated: September 8, 1993.

G. Martin Wagner,

Acting Commissioner.

FED–STD 1045A

Federal Standard Telecommunications: HF Radio Automatic Link Establishment

1. *Scope.* The terms and accompanying definitions contained in this standard are drawn from authoritative non-Government sources such as the International Telecommunication Union, the International Organization for Standardization, the Telecommunications Industry Association, and the American National Standards Institute, as well as from numerous authoritative U.S. Government publications. The Federal Telecommunications Standards Committee (FTSC) HF Radio Standards Development Working Group (SDWG) developed a family of High Frequency Automatic Link Establishment (ALE) specifications that defines the necessary technical parameters for automatic link establishment for HF radio connections. Federal Standard 1045A is one of the family of standards to be used in conjunction with the interoperability criteria for HF radio automatic operation.

1.1. *Applicability.* All Federal departments and agencies shall use Federal Standard 1045A as the authoritative source of definitions for terms used in the preparation of all telecommunications documentation. The use of this standard by all Federal departments and agencies is mandatory.

1.2. *Purpose.* The purpose of this standard is to improve the Federal Acquisition process by providing Federal departments and agencies with a comprehensive, authoritative source for automatic link establishment in HF radio.

2. *Requirements and Applicable Documents.* The HF radio terms and definitions constitute this standard, and are to be applied to the design and procurement of ALE automated radio equipment. There are a family of Federal Telecommunications Standards and proposed HF radio automatic link establishment standards that may be applicable to implementation of this standard and these are listed in the standard.

3. *Use.* All Federal departments and agencies shall use this standard in the design and procurement of ALE automated radio equipment. Only after determining that a requirement is not included in this document may other sources be used.

4. *Effective Date.* The use of this approved standard by U.S. Government departments and agencies is mandatory, effective 180 days following the publication date of this standard.

5. *Changes.* When a Federal department or agency considers that this standard does not provide for its essential needs, a statement citing inadequacies shall be sent in duplicate to the General Services Administration (KMR), Washington, DC 20405, in accordance with the provisions of the Federal Information Resources Management Regulation, Subpart 201–20.3. The General Services Administration will determine the appropriate action to be taken and will notify the agency.

Federal departments and agencies are encouraged to submit updates and corrections to this standard, which will be considered for the next revision of this standard. The General Services Administration has delegated the compilation of suggested changes to the National Communications System whose address is given below.

Office of the Manager, National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

[FR Doc. 93–25464 Filed 10–15–93; 8:45 am]

BILLING CODE 6820–25–M

Information Resources Management Service, Federal Telecommunications Standards

ACTION: Notice of adoption of standard.

SUMMARY: The purpose of this notice is to announce the adoption of a Federal Telecommunications Standard (FED–STD). FED–STD 1046, "Telecommunications: HF Radio Automatic Networking, Section 1: Basic Networking—Automatic Link Establishment Controller" is approved and will be published.

FOR FURTHER INFORMATION CONTACT: Mr. Robert T. Adair, Institute for Telecommunication Sciences, National Telecommunications and Information Administration, telephone (303) 497–3723.

SUPPLEMENTARY INFORMATION: 1. The General Services Administration (GSA) is responsible, under the provisions of the Federal Property and Administrative Services Act of 1949, as amended, for the Federal Standardization Program. On August 14, 1972, the Administrator of GSA designated the National Communications System (NCS) as the responsible agent for the development of telecommunications standards for NCS interoperability and the non-computer communication interface.

2. On December 26, 1991, a notice was published in the **Federal Register** (56 FR 248) that a proposed FED–STD 1046 entitled "Telecommunications: HF Radio Automatic Networking, Section 1: Basic Networking—Automatic Link Establishment Controller" was being proposed for Federal use and that comments were requested.

3. The justification package as approved by the Deputy Assistant Secretary of Defense (Defense-wide C3), Office of the Assistant Secretary of Defense was presented to GSA by NCS with a recommendation for adoption of the standard. These data are a part of the public record and are available for inspection and copying at the Office of Technology and Standards, National

Communications System, Washington, DC 20305–2010.

4. A copy of the standard is provided as an attachment to this notice. Interested parties may purchase the standard from GSA, acting as agent for the Superintendent of Documents. Copies are for sale at the GSA Federal Supply Service Bureau (FSSB), Specifications Section, suite 8100, 490 East L'Enfant Plaza, SW., Washington, DC 20407; telephone (202) 755–0325.

Dated: September 13, 1993.

G. Martin Wagner,

Acting Commissioner.

FED–STD 1046

Federal Standard Telecommunications: HF Radio Automatic Networking Section 1: Basic Networking—Automatic Link Establishment Controller

1. *Scope.* The terms and accompanying definitions contained in this standard are drawn from authoritative non-Government sources such as the International Telecommunication Union, the International Organization for Standardization, the Telecommunications Industry Association, and the American National Standards Institute, as well as from numerous authoritative U.S. Government publications. The Federal Telecommunications Standards Committee (FTSC) HF Radio Standards Development Working Group (SDWG) developed a family of High Frequency Automatic Link Establishment (ALE) specifications that defines the necessary technical parameters for automatic link establishment for HF radio connections. Federal Standard 1046/1 is one of the family of standards to be used in conjunction with the interoperability criteria for HF radio automatic operation.

1.1. *Applicability.* All Federal departments and agencies shall use Federal Standard 1046/1 as the authoritative source of definitions for terms used in the preparation of all telecommunications documentation. The use of this standard by all Federal departments and agencies is mandatory.

1.2. *Purpose.* The purpose of this standard is to improve the Federal acquisition process by providing Federal departments and agencies with a comprehensive, authoritative source for details of basic automatic networking operations in HF radio.

2. *Requirements and Applicable Documents.* The HF radio terms and definitions constitute this standard, and are to be applied to the design and procurement of ALE automated radio equipment for basic automated networking. There are a family of Federal Telecommunications Standards and proposed HF radio automatic link establishment standards that may be applicable to implementation of this standard and these are listed in the standard.

3. *Use.* All Federal departments and agencies shall use this standard in the design and procurement of ALE automated radio equipment. Only after determining that a requirement is not included in this document may other sources be used.

4. *Effective Date.* The use of this approved standard by U.S. Government departments and agencies is mandatory, effective 180 days following the publication date of this standard.

5. *Changes.* When a Federal department or agency considers that this standard does not provide for its essential needs, a statement citing inadequacies shall be sent in duplicate to the General Services Administration (KMR), Washington, DC 20405, in accordance with the provisions of the Federal Information Resources Management Regulation, Subpart 201–20.3. The General Resources Management Regulation, Subpart 201–20.3. The General Services Administration will determine the appropriate action to be taken and will notify the agency. Federal departments and agencies are encouraged to submit updates and corrections to this standard, which will be considered for the next revision of this standard. The General Services Administration has delegated the compilation of suggested changes to the National Communications System whose address is given below: Office of the Manager, National Communications System, Office of Technology and Standards, Washington, DC 20305–2010.

[FR Doc. 93–25463 Filed 10–15–93; 8:45 am]

BILLING CODE 6820–25–M

Change In Solicitation Procedures Under the Small Business Competitiveness Demonstration Program

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Notice.

SUMMARY: Title VII of the "Business Opportunity Development Act of 1988" (Public Law 100–656) established the Small Business Competitiveness Demonstration Program and designated nine (9) agencies, including GSA, to conduct the program over a four (4) year period from January 1, 1989 to December 31, 1992. The Small Business Opportunity Enhancement Act of 1992 (Public Law 102–366) extended the demonstration program until September 1996 and made certain changes in the procedures for operation of the demonstration program. The law designated four (4) industry groups for testing whether the competitive capabilities of the specified industry groups will enable them to successfully compete on an unrestricted basis. The four (4) industry groups are: construction (except dredging); architectural and engineering (A&E) services (including surveying and mapping); refuse systems and related services (limited to trash/garbage collection); and non-nuclear ship repair. Under the program, when a participating agency misses its small business participation goal, restricted competition is reinstituted only for those contracting activities that failed to attain the goal. The small business goal is 40 percent of the total contract dollars awarded for construction, trash/garbage collection services, and non-nuclear ship repair and 35 percent of the total contract dollars awarded for architect-engineer services. This notice announces modifications to GSA's solicitation practices under the demonstration program based on a review of the agency's performance during the period from July 1, 1992 to June 30, 1993. Modifications to solicitation practices are outlined in the Supplementary information section below and apply to solicitations issued on or after October 1, 1993.

EFFECTIVE DATE: October 1, 1993.

FOR FURTHER INFORMATION CONTACT: Ida Ustad, Office of GSA Acquisition Policy (202) 501–1224.

SUPPLEMENTARY INFORMATION: Procurements of construction or trash/garbage collection with an estimated value of $25,000 or less will be reserved for emerging small business concerns in accordance with the procedures outlined in the interim policy directive issued by the Office of Federal Procurement Policy (58 FR 13513, March 11, 1993).

Procurements of construction or trash/garbage collection with an estimated value that exceeds $25,000 by GSA contracting activities will be made in accordance with the following procedures:

Construction Services in Groups 15, 16, and 17

Pocurements for all construction services (except solicitations issued by GSA contracting activities in Regions 2, 3, 5, 9, and the National Capital Region for services in SIC Group 15; contracting activities in Regions 2, 5, and 9 in SIC 1794; and contracting activities in Region 3, 5, and 6 in SIC 1796) will be conducted on an unrestricted basis.

Procurements for construction services in SIC Group 15 issued by GSA contracting activities in Regions 2, 3, 5, 9 and the National Capital Region; in SIC 1794 issued by contracting activities in Regions 2, 5, and 9; in SIC 1796 in contracting activities in Regions 3, 5, and 6 will be set aside for small business when there is a reasonable expectation of obtaining competition for two or more small businesses. If no expectation exists, the procurements will be conducted on an unrestricted basis.

Region 2 encompasses the states of Connecticut, Maine, Vermont, New

Hampshire, Massachusetts, Rhode Island, New Jersey, New York, Puerto Rico, and Virgin Islands.

Region 3 encompasses the states of Pennsylvania, Delaware, West Virginia, Maryland (except Montgomery and Prince Georges counties) and Virginia (except the city of Alexandria and the counties of Arlington, Fairfax, Loudoun and Prince William).

Region 5 encompasses the states of Illinois, Indiana, Ohio, Michigan, Minnesota, and Wisconsin.

Region 6 encompasses the states of Kansas, Missouri, Iowa, and Nebraska.

Region 9 encompasses the states of Arizona, California, Hawaii, and Nevada.

The National Capital Region encompasses the District of Columbia, Montgomery and Prince Georges counties in Maryland and the city of Alexandria and the counties of Arlington, Fairfax, Loudoun and Prince William in Virginia.

Trash/Garbage Collection Services in PSC S205

Procurements for trash/garbage collection services in PSC S205 will be conducted on an unrestricted basis.

Architect-Engineer Services (all PSC Codes Under the Demonstration Program)

Procurements for all architect-engineer services (except solicitations issued by contracting activities in GSA Central Office and Regions 2, 3, 4, 5, and 6) shall be conducted on an unrestricted basis.

Procurements for architect-engineer services issued by GSA contracting activities in GSA Central Office and Regions 2, 3, 4, 5, and 6 will be set aside for small business when there is a reasonable expectation of obtaining competition from two or more small businesses. If no expectation exists, the procurement will be conducted on an unrestricted basis.

Central Office is located in Washington, DC. Region 2 encompasses the states of Connecticut, Maine, Vermont, New Hampshire, Massachusetts, Rhode Island, New Jersey, New York, Puerto Rico, and Virgin Islands. Region 3 encompasses the states of Pennsylvania, Delaware, West Virginia, Maryland (except Montgomery and Prince Georges counties) and Virginia (except the city of Alexandria and the counties of Arlington, Fairfax, Loudoun and Prince William). Region 4 encompasses the states of Alabama, Florida, Georgia, Kentucky, North Carolina, South Carolina, Mississippi, and Tennessee. Region 5 encompasses the states of Illinois, Indiana, Ohio, Michigan, Minnesota, and Wisconsin. Region 6 encompasses the states of Iowa, Kansas, Missouri, and Nebraska.

Non-Nuclear Ship Repair

GSA does not procure non-nuclear ship repairs.

Dated: September 27, 1993.

Richard H. Hopf, III,

Associate Administrator for Acquisition Policy.

[FR Doc. 93–25426 Filed 10–15–93; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency For Toxic Substances and Disease Registry

[ATSDR–75]

Availability of Draft Toxicological Profiles

AGENCY: Agency for Toxic Substances and Disease Registry (ATSDR), Public Health Service (PHS), Department of Health and Human Services (HHS).

ACTION: Notice of availability.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9604(i)(3)] directs the Administrator of ATSDR to prepare toxicological profiles of priority hazardous substances and to revise and republish each toxicological profile as necessary. This notice announces the availability of 6 updated drafts and 5 new draft toxicological profiles prepared by ATSDR for review and comment. The original final versions of the profiles being updated were released on June 13, 1991.

DATES: To ensure consideration, comments on these draft toxicological profiles must be received on or before February 21, 1994. Comments received after the close of the public comment period will be considered at the discretion of ATSDR based upon what is deemed to be in the best interest of the general public.

ADDRESSES: Requests for copies of the draft toxicological profiles or comments regarding the draft toxicological profiles should be sent to the attention of Susie Tucker, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333.

Requests for the draft toxicological profiles must be in writing. Please specify the profiled hazardous substance(s) you wish to receive. ATSDR reserves the right to provide only one copy of each profile requested, free of charge. In case of extended distribution delays, requestors will be notified.

Written comments and other data submitted in response to this notice and the draft toxicological profiles should bear the docket control number ATSDR–75. Send one copy of all comments and three copies of all supporting documents to the Division of Toxicology at the above address by the end of the comment period. All written comments and draft profiles will be available for public inspection at the ATSDR, Building 4, Executive Park Drive, Atlanta, Georgia (not a mailing address), from 8 a.m. until 4:30 p.m., Monday through Friday, except for legal holidays. Because all public comments regarding ATSDR toxicological profiles are available for public inspection, no confidential business information should be submitted in response to this notice.

FOR FURTHER INFORMATION CONTACT: Ms. Susie Tucker, Division of Toxicology, Agency for Toxic Substances and Disease Registry, Mailstop E–29, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone (404) 639–6300.

SUPPLEMENTARY INFORMATION: The Superfund Amendments and Reauthorization Act (SARA) (Pub. L. 99–499) amends the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) (42 U.S.C. 9601 et seq.) by establishing certain responsibilities for the ATSDR and the Environmental Protection Agency (EPA) with regard to hazardous substances which are most commonly found at facilities on the CERCLA National Priorities List (NPL). Among these statutory provisions is that the Administrator of ATSDR prepare toxicological profiles for substances included on the priority lists of hazardous substances. These lists identified the 275 hazardous substances which both Agencies determined pose the most significant potential threat to human health. The lists were published in the **Federal Register** on April 17, 1987 (52 FR 12866); October 20, 1988, (53 FR 41280); October 26, 1989 (54 FR 43615); October 17, 1990 (55 FR 42067); October 17, 1991 (55 FR 52166); and October 28, 1992 (57 FR 48801). CERCLA also requires ATSDR to assure the initiation of a research program to fill data needs associated with the substances.

Section 104(i)(3) of CERCLA [42 U.S.C. 9604(i)(3)] outlines the content of these profiles. Each profile is required to include an examination, summary and interpretation of available toxicological information and epidemiologic evaluations. This information and data are to be used to ascertain the levels of significant human exposure for the substance and the associated health effects. The profiles must also include a determination of whether adequate information on the health effects of each substance is available or in the process of development. When adequate information is not available, ATSDR, in cooperation with the National Toxicology Program (NTP), is required to assure the initiation of a program of research designed to determine these health effects.

Although key studies for each of the substances were considered during the profile development process, this **Federal Register** notice seeks to solicit any additional studies, particularly unpublished data and ongoing studies, which will be evaluated for possible addition to the profiles now or in the future.

The following draft toxicological profiles are expected to be available to the public on or about October 17, 1993.

Document and hazardous substance	CAS No.
1. Asbestos (Update)	1332–21–4
Actinolite	13768–00–8
Amosite	12172–73–5
Anthophyllite	17968–78–9
Chrysotile	12001–29–5
Crocidolite	12001–28–4
Tremolite	14567–73–8
2. Benzidine (Update)	92–87–5
3. Dinitrocresols	12167–18–9
4,6-Dinitro-O-cresol	534–52–1
Dinitro-O-cresol	1335–85–9
	497–56–3
Dinitro-P-cresol	609–93–8
	63989–82–2
Dinitro-M-cresol	616–73–9
4. Dinitrophenols:	
2,4-Dinitrophenol	51–28–5
2,6-Dinitrophenol	573–56–8
2,5-Dinitrophenol	329–71–5
2,3-Dinitrophenol	66–56–8
3,5-Dinitrophenol	586–11–8
3,4-Dinitrophenol	577–71–5
5. Disulfoton	298–04–4
6. Mirex	2385–85–5
Chlordecone	143–50–0
7. Naphthalene (Update)	91–20–3
2-Methylnaphthalene	91–57–6
1-Methylnaphthalene	90–12–0
8. Polycyclic Aromatic Hydrocarbons (PAHs) (Update):	
Acenaphthene	83–32–9
Acenaphthylene	208–96–8
Anthracene	120–12–7
Benzo(a)anthracene	56–55–3
Benzo(a)pyrene	50–32–8
Benzo(e)pyrene	192–97–2
Benzo(b)fluoranthene	205–99–2
Benzo(j)fluoranthene	205–82–3
Benzo(k)fluoranthene	207–08–9
Benzo(g,h,i)perylene	191–24–2
Chrysene	218–01–9
Dibenzo(a,h)anthracene	53–70–3
Fluoranthene	206–44–0
Fluorene	86–73–7
Indeno(1,2,3-cd)pyrene	193–39–5
Phenanthrene	85–01–8
Pyrene	129–00–0
9. Polybrominated biphenyls (PBBs)	
Hexabromobiphenyls	67774–32–7
	59536–65–1
	36355–01–8
Octabromobiphenyls	612288–13–9
Decabromobiphenyls	13654–09–6
	39282–95–6
10. 1,1,1-Trichloroethane (Update)	71–55–6
11. Xylenes (Update)	1330–20–7

All profiles issued as "Drafts for Public Comment" represent the agency's best efforts to provide important toxicological information on priority hazardous substances in compliance with the substantive and procedural requirements of Section 104(i)(3) of CERCLA, as amended. As in the past, we are seeking public comments and additional information which may be used to supplement these profiles. ATSDR remains committed to providing a public comment period for these documents as a means to best serve public health and our clients.

Dated: October 12, 1993.

Walter R. Dowdle,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 93–25427 Filed 10–15–93; 8:45 am]

BILLING CODE 4160–70–P

Centers for Disease Control and Prevention

Screening of New and Experimental Compounds for Anti-Tuberculosis Activity

AGENCY: Centers for Disease Control and Prevention (CDC), Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The Centers for Disease Control and Prevention (CDC), National Center for Infectious Diseases (NCID), Division of Bacterial and Mycotic Diseases (DBMD), Emerging Bacterial and Mycotic Disease Branch (EBMDB), desires to screen new and experimental compounds for anti-tuberculosis activity using a rapid luciferase-based microdilution plate assay developed by CDC. Pharmaceutical and chemical manufacturers and others with anti-infectives that may be effective against *Mycobacterium spp.* are invited to provide their compounds to CDC for screening. Respondents will be notified of results of the screen when data are available.

This service will be provided without charge to all respondents with potential anti-tuberculosis compounds. Although every effort will be made to screen compounds from all respondents, CDC reserves the right to refuse to accept any compounds and cannot guarantee that all compounds accepted will be screened.

Compounds will be accepted under a Materials Transfer Agreement which will address the basic issues of liability, control of the compounds and related data, protection of respondent's intellectual property rights, etc. CDC does not intend to claim any intellectual property rights to compounds screened.

FOR FURTHER INFORMATION CONTACT: Technical: Robert C. Good, Ph.D., Division of Bacterial and Mycotic Diseases, Emerging Bacterial and Mycotic Disease Branch, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop C–09, Atlanta, GA 30333, telephone (404) 639–3052.

Business: Greg Jones, Technology Transfer Representative, National Center for Infectious Diseases, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop C–19, Atlanta, GA 30333, telephone (404) 639–2434.

SUPPLEMENTARY INFORMATION: Tuberculosis, a disease thought to be in decline, has reversed a trend of many years and is now one of the major health problems of the United States as well as the world. A further complication is emergence of drug-resistant strains of Mycobacterium tuberculosis and the susceptibility of HIV infected persons to the disease. The limited number of drugs available for the treatment of tuberculosis is a major hindrance to design of effective therapeutic regimens containing three to five antimycobacterial drugs.

CDC's rapid luciferase-based microdilution plate assay can screen new and experimental compounds for anti-tuberculosis activity in significantly less time than conventional screening methods. Within the overall effort to combat drug-resistant tuberculosis, this screening offer is intended to expedite the identification of additional compounds which are effective against tuberculosis. Identification of additional

compounds can ultimately lead to the development of new therapeutic regimens.

Dated: October 12, 1993.

Robert L. Foster,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93–25428 Filed 10–15–93; 8:45 am]

BILLING CODE 4160–18–P

National Institutes of Health

National Heart, Lung, and Blood Institute; Meeting of Blood Diseases and Resources Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Blood Diseases and Resources Advisory Committee, National Heart, Lung, and Blood Institute, November 3–4, 1993, Federal Building, room B1–19, 7550 Wisconsin Avenue, Bethesda, Maryland 20814.

The entire meeting will be open to the public on November 3, from 1 p.m. to 5 p.m. and on November 4, from 9 a.m. to adjournment, to discuss the status of the Blood Diseases and Resources program needs and opportunities. Attendance by the public will be limited to space available.

Ms. Terry Long, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and roster of the Committee members.

Individuals who plan to attend and need special assistance, such as sign language interpretations or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dr. Fann Harding, Assistant to the Director, Division of Blood Diseases and Resources, National Heart, Lung, and Blood Institute, Federal Building, room 5A08, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–1817, will furnish substantive program information.

(Catalog of Federal Domestic Assistant Program No. 93.839, Blood Diseases and Resources Research, National Institutes of Health)

Dated: October 8, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–25496 Filed 10–15–93; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of Pulmonary Diseases Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Pulmonary Diseases Advisory Committee, National Heart, Lung, and Blood Institute, November 2–3, 1993, at the National Institutes of Health, Building 31, C Wing, Conference Room 7, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 8:30 a.m. to 5 p.m. on Tuesday, November 2 and on Wednesday, November 3 from 9 a.m. to adjournment. The Committee will discuss scientific program needs and develop recommendations for future research directions. Attendance by the public will be limited to space available.

Ms. Terry Long, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A–21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the Committee members.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dr. Suzanne S. Hurd, Executive Secretary of the Committee, Westwood Building, room 6A16, National Institutes of Health, Bethesda, Maryland 20892, (301) 594–7430, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.838, Lung Diseases Research, National Institutes of Health)

Dated: October 8, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–25495 Filed 10–15–93; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of the Cardiology Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, November 3–4, 1993, Building 31C, Conference room 6, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public on November 3 from 11 a.m. to 5 p.m. and on November 4 from 8:30 a.m. to adjournment. Attendance by the public will be limited to space available. Topics for discussion will include a review of the research programs relevant to the Cardiology area and consideration of future needs and opportunities.

Terry Long, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, room 4A21, Building 31, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of the committee members.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Michael J. Horan, M.D., Sc.M., Director, Division of Heart and Vascular Diseases; National Heart, Lung, and Blood Institute; Room 416, Federal Building, Bethesda, Maryland 20892, (301) 496–2553, will furnish substantive program information upon request.

(Catalog of Federal Domestic Assistance Program No. 93.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: October 8, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–25494 Filed 10–15–93; 8:45 am]

BILLING CODE 4140–01–M

National Heart, Lung, and Blood Institute; Meeting of the Clinical Applications and Prevention Advisory Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, National Heart, Lung, and Blood Institute, National Institutes of Health, on November 3–4, 1993. The meeting will be held in Conference Room 10, Building 31, 9000 Rockville Pike, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 11 a.m. to recess on November 3 and 8:30 a.m. to adjournment on November 4 to discuss new initiatives, program policies, and issues. Attendance by the public will be limited to space available.

Terry Long, Chief, Communications and Public Information Branch, National Heart, Lung, and Blood Institute, Building 31, room 4A21, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–4236, will provide a summary of the meeting and a roster of committee members upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary in advance of the meeting.

Dr. Lawrence Friedman, Director, Division of Epidemiology and Clinical Applications, Federal Building, room 212, Bethesda, Maryland 20892, (301) 496–2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 93.837, Heart and Vascular Diseases Research, National Institutes of Health)

Dated: October 8, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–25493 Filed 10–15–93; 8:45 am]

BILLING CODE 4140–01–M

National Cancer Institute; Meeting of the Cancer Education Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Cancer Education Review Committee, National Cancer Institute, National Institutes of Health, on November 3, 1993, at The Georgetown Inn in the Lafayette Room, 1310 Wisconsin Avenue, NW., Washington, DC 20007.

This meeting will be open to the public from 8:30 a.m. to 9 a.m, to review administrative details. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public from approximately 9 a.m. to adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Carole Frank, Committee Management Officer, National Cancer Institute, 6130 Executive Boulevard, Room 630E, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meeting and rosters of committee members, upon request.

Dr. Neal B. West, Scientific Review Administrator, Cancer Education Review Committee, National Cancer Institute, Executive Plaza North Building, Room 611D, National Institutes of Health, Bethesda, Maryland 20892 (301/402–2785) will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Dr. Neal B. West in advance of the meeting.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control)

Dated: October 9, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–25497 Filed 10–15–93; 8:45 am]

BILLING CODE 4140–01–M

Public Health Service

National Toxicology Program (NTP) Board of Scientific Counselors; Meeting

Pursuant to Public Law 92–463, notice is hereby given of the next meeting of the NTP Board of Scientific Counselors' Technical Report Review Subcommittee on November 16 and 17, 1993, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 8 a.m. on November 16 and 8:30 a.m. on November 17 and is open to the public. The primary agenda topic is the peer review of draft Technical Reports of long-term toxicology and carcinogenesis studies and one short-term toxicity study from the National Toxicology Program.

The entire first day, November 16, will be devoted to the presentation of a comprehensive mixture of research projects on ozone resulting from the collaboration between the NIEHS and the Health Effects Institute and will culminate with peer review of the NTP draft Technical Report of Toxicology and carcinogenesis studies on ozone (program attached). The ozone study is an expanded effort that includes a two-year study, a 30-month study, and a co-carcinogenicity study.

Tentatively scheduled to be peer reviewed on November 17 are draft Technical Reports of three long-term studies on four chemicals and the short-term toxicity report on isoprene. The reports to be reviewed on November 16 and 17 are listed alphabetically, along with supporting information, in the attached table. The order of review is given in the far right column of the table. Copies of the draft Reports may be obtained, as available, from: Central Data Management, MD A0–01, P.O. Box 12233, Research Triangle Park, NC 27709 (919/541–3419).

There will also be a report on the Workshop on Diet for F344 Rats in Long-Term Studies, with recommendations.

Persons wanting to make a formal presentation regarding a particular Technical Report must notify the Executive Secretary by telephone, by fax, or by mail, no later than November 9, 1993, and provide a written copy in advance of the meeting so copies can be made and distributed to all Panel members and staff and made available at the meeting for attendees. Oral presentations should supplement and not just repeat the written statement. Presentations should be limited to no more than five minutes.

The program would welcome receiving toxicology and carcinogenesis information from completed, ongoing, or planned studies by others, as well as current production data, human exposures information, and use patterns on any of the studies listed in this announcement. Please contact Central Data Management at the address given above, and they will relay the information to the appropriate staff scientist.

The Executive Secretary, Dr. Larry G. Hart, P.O. Box 12233, Research Triangle Park, North Carolina, 27709 (telephone 919/541–3971; fax 919/541–2260) will furnish final agenda, a roster of Subcommittee members, and other program information prior to the meeting. Summary minutes subsequent to the meeting will be available upon request.

If you plan to attend the November 16 (Ozone) meeting, we request that you let us know (name and affiliation) by November 8 by either fax or mail, since seating is limited to space available.

Dated: October 6, 1993.

Richard A. Griesemer,

Deputy Director, National Toxicology Program.

NIP/HEI Collaborative Ozone Studies

November 16, 1993 Final Program

Chairpersons:

Gary A. Boorman (National Institute of Environmental Health Sciences, NIP)

Debra A. Kaden (HEI)

8:00 a.m. Welcome Kenneth Olden (NIEHS), Joseph Brain (Harvard

School of Public Health, HEI Research Committee)
8:10 a.m. Overview Gary Boorman (NIEHS, NTP), Debra A. Kaden (HEI)
8:25 a.m. Exposure and Monitoring of Ozone Studies John Decker (Battelle Pacific Northwest Laboratories)

Pulmonary Function

8:40 a.m. Respiratory function alterations following chronic ozone inhalation* Jack Harkema (Lovelace Biomedical and Environmental Research Institute)
9:00 a.m. Mechanical and pharmacological properties of airways isolated from ozone-exposed rats* John Szarek (Marshall University School of Medicine)
9:20 a.m. Discussion of pulmonary function studies

Biochemical Markers

9:35 a.m. Lung collagen content and crosslinking in Fischer 344 rats chronically exposed to ozone* Jerold A. Last (California Primate Research Center)
9:55 a.m. Coffee break
10:20 a.m. Effects of chronic ozone inhalation on complex carbohydrates of lung connective tissue Bhandaru Radhakrishnamurthy (Tulane University School of Public Health and Tropical Medicine)*
10:40 a.m. Extracellular matrix expression in ozone-exposed lungs William C. Parks (Jewish Hospital at Washington University)*
11:00 a.m. Evaluation of 8-hydroxydeoxyguanosine in ozone-exposed rodents Gary Hatch (Health Effects Research Laboratory, U.S. EPA), Dan Marsman (NIEHS)
11:20 a.m. Discussion of pulmonary biochemistry studies
11:30 a.m. Lunch

Respiratory Structure and Morphometry

12:15 p.m. Ozone-induced nonneoplastic lesions at 20, 24, and 30 month exposure Paul W. Mellick (Battelle Pacific Northwest Laboratories)
12:30 p.m. Effects of chronic ozone exposure on the nasal mucocilliary apparatus in the rat* Jack Harkema (Lovelace Biomedical and Environmental Research Institute)
12:50 p.m. Health effects of chronic ozone inhalation: Changes in trachiobronchiolar epithelium and antioxidant enzyme studies* Charles Plopper (University of California, Davis)
1:05 p.m. Morphometric analysis of structural alterations in rat lungs chronically exposed to ozone* Ling-Yi Chang (Duke University Medical School)
1:25 p.m. Health effects of chronic ozone inhalation: Morphometric studies* Kent E. Pinkerton (University of California, Davis)
1:40 p.m. Discussion of structural alterations

Biostatistics

1:55 p.m. The NIP/HEI Collaborative Ozone Project: A combined analysis* Louise Ryan (Harvard School of Public Health, Dana-Farber Cancer Institute)

Other Ozone Studies

2:15 p.m. Proliferative lesions and cell proliferation in ozone-exposed mice Ronald Herbert (NIEHS), Rick Hailey (NIEHS)
2:35 p.m. Molecular analysis of neoplastic lesions following ozone exposure Robert Sills (NIEHS), Lily Hong (NIEHS), Arnold Greenwell (NIEHS), Teddy Devereaux (NIEHS)
2:55 p.m. Discussion
3:10 p.m. Break

NIP Ozone Technical Report

3:30 p.m. Presentation of the NIP ozone technical report Gary A. Boorman (NIEHS, NIP)
3:45 p.m. Discussion and Review of the NIP technical report by the Technical Reports Review Subcommittee Discussion
4:30 p.m. General discussion of all ozone-related projects
5:30 p.m. Adjourn

Summary Data for NTP Long-Term Toxicology & Carcinogenesis Technical Reports and Short-Term Toxicity Study Technical Reports Scheduled for Peer Review at the Board of Scientific Counselors' Meeting of the Technical Reports Review

[Subcommittee, November 16–17, 1993, Research Triangle, Park, NC]

Chemical CAS No.	Report No.	Primary uses	Exposure levels	Study laboratory	Review order
Long-Term Toxicology & Carcinogenesis Studies:					
1-Amino-2,4-Dibromoanthraquinone 81–49–2.	TR–383	In manufacture of dyes	Oral in Feed (Feed): Mason R: 0,.2,.5,1.0,2.0, M: 0,1.0,2.0 %/50 Per Group.	4	.....
O-Benzyl-P-Chlorophenol 120–32–1 ..	TR–444	Germicide in disinfectant solutions and soap.	Skin Paint (Mice) (Acetone): Acetone Control, DMBA/DMBA, DMBA/Acetone, DMBA/TPA, DMBA/BCP (1,10,30 mg/ml), TPA/TPA, BCP(100)/TPA, BCP/BCP, BCP (10)/BCP(1,10,30).	Battelle-Co	2
Diethyl Phthalate 84–66–2	TR–429	In manufacture of celluloid, cosmetics, varnishes, and dopes. Plasticizer for cellulose ester plastics. Insecticide sprays.	Skin Paint Acetone): R: 0, 100,300 M: 0,7.5,15,30 ul/100 ul Solution/50 Per Group.	Hazleton Labs, Rockville, Gov't Services, Inc.	3

* The HEI studies have recently been completed and are currently being evaluated by the Institute Health Review Committee.

SUMMARY DATA FOR NTP LONG-TERM TOXICOLOGY & CARCINOGENESIS TECHNICAL REPORTS AND SHORT-TERM TOXICITY STUDY TECHNICAL REPORTS SCHEDULED FOR PEER REVIEW AT THE BOARD OF SCIENTIFIC COUNSELORS' MEETING OF THE TECHNICAL REPORTS REVIEW—Continued

[Subcommittee, November 16–17, 1993, Research Triangle, Park, NC]

Chemical CAS No.	Report No.	Primary uses	Exposure levels	Study laboratory	Review order
Diethyl Phthalate/Dimethyl Phthalate	TR–429	Diethyl: celluloid manufacture, cosmetics, varnishes, dopes, insecticidal soaps, plasticizer. DIMETHYL: insecticides, plasticizer, solvent, dye carrier, rocket fuel.	Skin Paint (Mice) (Neat): 100 ul (Promoter) Neat Chemical On Uninitiated and DMBA Initiated Skin.	Hazleton Labs, Rockville, Gov't Services, Inc..	3
Ozone 10028–15–6	TR–440	Pollution control, waste treatment, chemical synthesis, sterilization where residuals of other chemicals would be objectionable, odor control, bleaching waxes, clay, textiles, paper pulp, oils, control of algae, mold, and bacteria.	Inhalation (Air): R&M: 0, 0.12, 0.5, or 1.0 ppm/ 103 weeks (50/Sex/Species/Group).	Battelle-NW	1
Ozone 10028–15–6	TR–440	Pollution control, waste treatment, chemical synthesis, sterilization where residuals of other chemicals would be objectionable, odor control, bleaching waxes, clay, textiles, paper pulp, oils, control of algae, mold, and bacteria.	Inhalation (Air): R&M: 0, 0.5, or 1.0 ppm /130 weeks (50/Sex/Species/Group).	Battelle-NW	1
Ozone/NNK Ozonnnkcomb	TR–440	Byproduct of tobacco smoke.	Inhalation (Air): Male Rats Only: 0, 0.5 ppm Ozone with 0, 0.1, 1.0 mg/kg NNK By S.C. Injection (20 Weeks Only).	Battelle-NW	1
Short-Term Toxicity Study: Isoprene 78–79–5	TOX–31	Monomer and comonomer for elastomers, prepared from turpentine, petroleum products (Merck 1989).	Inhalation: R&M: 0,70,220,700,2200,7000 ppm.	Battelle-NW	5

[FR Doc. 93–25344 Filed 10–15–93; 8:45 am]
BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–940–4210–06; CACA 17429]

Opening of Lands in Proposed Withdrawal; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The temporary 2-year segregation of the proposed withdrawal of 3,682.72 acres of public lands in Imperial County to protect valuable sand and gravel resources, and mineral material sites, expired on May 22, 1993, by operation of law. The public lands became open to the operation of the public land laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. The public lands remain segregated from location and entry under the public mining laws pursuant to previous segregations of record. The public lands have been and remain open to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable laws.

EFFECTIVE DATE: May 24, 1993.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office (CA–943.1), 2800 Cottage Way, Room E–2845, Sacramento, California 95825; telephone number 916–978–4820.

SUPPLEMENTARY INFORMATION: The Notice of Proposed Withdrawal was published in the **Federal Register** May 21, 1991 (56 FR 23300). The Bureau of Land Management (BLM) proposed to withdraw 3,682.72 acres of public land in Imperial County to protect valuable sand and gravel resources, and mineral material sites. The notice segregated the public lands from location under the public land laws and location and entry under the United States mining laws, subject to valid existing rights. The 2-year segregation expired on May 22, 1993, pursuant to 43 CFR 2310.2–1(d). The lands remained open to operation under the mineral leasing laws. The withdrawal application will continue to be processed unless it is canceled or denied.

At 10 a.m. on May 24, 1993, the public lands described in the aforementioned **Federal Register** notice were returned to being open to the operation of the public land laws generally, subject to valid existing

rights, the provision of existing withdrawals, other segregations of record, and the requirement of applicable law. All valid applications received at or prior to 10 a.m. on May 24, 1993 were considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

The public lands described in the aforementioned **Federal Register** notice remain segregated from location and entry under the United States mining laws pursuant to the following classifications made under the Classification and Multiple Use Act of September 19, 1964 (43 U.S.C. 1411–18): (a) CARI 702, published in the **Federal Register,** December 13, 1967 (32 FR 17863) and as amended on September 13, 1990 (55 FR 37777); and (b) CARI 1390, published in the **Federal Register,** August 13, 1970 (35 FR 12855) and as amended on January 7, 1985 (50 FR 895) and on September 13, 1990 (55 FR 37777). The public lands have been and remain open to the operation of the mineral leasing laws, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

Since the lands covered under this proposed withdrawal are still being considered for withdrawal by BLM, new withdrawal applications and further segregations may have encumbered these lands prior to the effective date of this notice. Therefore, all locators are responsible for ensuring that the lands opened under this notice are free of other withdrawal applications and that the requirements of applicable law are met.

Dated: October 8, 1993.

Nancy J. Alex,

Chief, Lands Section.

[FR Doc. 93–25425 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–40–M

[NV–930–4210–05; N–51824, N–51400]

Realty Action: Lease/Purchase for Recreation and Public Purposes

AGENCY: Bureau of Land Management, Interior.

ACTION: Modifying R&PP NORA to change the lessee name and purpose.

SUMMARY: The following described public land in Las Vegas, Clark County, Nevada has been examined and found suitable for lease/purchase for recreational or public purposes under the provisions of the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.) The City of Las Vegas proposes to lease/purchase these lands for expansion of their R&PP lease. They plan to construct a Metro Police Northwest Substation.

Mount Diablo Meridian, Nevada

T. 20 S., R. 60 E.
Sec. 22, W½W½NE¼NW¼SE¼,
Containing 2.500 acres, more or less.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Dr., Las Vegas, Nevada.

Publication of this NORA in the **Federal Register** will modify Recreation and Public Purposes classification, N–51400, to allow the City of Las Vegas to develop the above described lands. Final determination on lease/purchase will await completion of an environmental analysis.

For a period of 45 days from the date of publication of this notice in the **Federal Register,** interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director.

Dated: October 6, 1993.

Gary Ryan,

Acting District Manager, Las Vegas, NV.

[FR Doc. 93–25438 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–HC–M

[NV–930–4210–06; N–57922]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Nevada

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Department of the Air Force proposes to withdraw 3,972.04 acres of public land in Lincoln County, Nevada. This notice closes the land for up to 2 years from settlement, sale, location and entry under the general land laws, including the United States mining laws. The land will remain open to leasing under the mineral leasing laws.

DATE: Comments and requests for a public meeting should be received on or before January 17, 1994.

ADDRESS: Comments and meeting requests should be sent to the Nevada State Director, BLM, P.O. Box 12000, Reno, Nevada 89520.

FOR FURTHER INFORMATION CONTACT: Vienna Wolder, BLM Nevada State Office, 702–785–6526.

SUPPLEMENTARY INFORMATION: The Department of Air Force has filed an application to withdraw the following described public land from settlement, sale, location and entry under the public land laws, including the mining laws, subject to valid existing rights:

Mount Diablo Meridian

T. 6 S., R. 56 E., unsurveyed,
Secs. 25 and 26.
T. 7 S., R. 56 E., unsurveyed,
Sec. 1;
Sec. 13, W½;
Sec. 24, NW¼.
T. 6 S., R. 57 E.,
Sec. 30, lots 1 through 4, E½W½;
Sec. 31, lots 1 through 4, E½W½, E½.
T. 7 S., R. 57 E.,
Sec. 6, lots 1 through 7, S½NE¼, SE¼NW¼, E½SW¼, SE¼.

The area aggregates 3,972.04 acres in Lincoln County.

The purpose of the withdrawal is to ensure the public safety and the safe and secure operation of activities in the Nellis Air Force Range Complex.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the undersigned officer within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR part 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register,** the lands will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period by the BLM authorized officer are any temporary uses which will not interfere with the purpose of the withdrawal.

The temporary segregation of the lands in connection with this withdrawal application shall not affect the administrative jurisdiction over the lands, and the segregation shall not have

the effect of authorizing any use of the lands.

Robert G. Steele,

Deputy State Director, Operations.

[FR Doc. 93–25670 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–HC–M

National Park Service

Buffalo National River, AR

AGENCY: National Park Service, Interior.

ACTION: Designation of 24,464 Acres of Potential Wilderness, Buffalo National River, Arkansas.

Public Law Number 95–625, approved November 10, 1978, designated 10,529 acres of Buffalo National River as wilderness and further identified an additional 25,471 acres as potential wilderness additions. These wilderness designations apply to portions of Buffalo National River as depicted on a map entitled "Wilderness Plan, Buffalo National River, Arkansas," numbered 173–20, 036–B and dated March 1975.

Section 403 of Public Law Number 95–625 provided the process whereby potential wilderness additions within Buffalo National River would convert to designated wilderness upon publication in the **Federal Register** of a notice by the Secretary that all uses of the land prohibited by the Wilderness Act (Pub. L. Number 88–577) have ceased.

The National Park Service has determined that all non-Federal interests and uses prohibited by the Wilderness Act have been eliminated on all potential wilderness additions within the park with the exception of those portions of tracts 66–104, 24–101, 24–103, 25–106, 25–107, 30–114, 32–111, 38–117, and 80–100 (an area of approximately 1,007 acres) which are within the boundaries of the Buffalo National River wilderness area. Tract numbers refer to National Park Service map number 173–30, segments 24, 25, 28, 30, 32, 66, and 80 are available at the following locations:

National Park Service, P.O. Box 37127, Washington, DC 20013–7127

National Park Service, Southwest Regional Office, P.O. Box 728, Santa Fe, New Mexico 87504–0728

Superintendent, Buffalo National River, P.O. Box 1173, Harrison, Arkansas 72602.

While these excluded tracts pose no significant threat to designated wilderness or the ability of the National Park Service to preserve wilderness values with designated wilderness, they will remain as potential wilderness additions until all uses conflicting provisions of the Wilderness Act have ceased.

In that all of the potential wilderness additions identified in Public Law Number 95–625, with the exception of the tracts identified above, now fully comply with the instructions contained in section 403 of the law, this notice hereby changes the status of 24,464 acres of the potential wilderness additions to designated wilderness. This acreage will, accordingly, be added as a component of the National Wilderness Preservation System and bring the total designated wilderness acreage within Buffalo National River to 34,993 acres. An acreage of 1,007 will remain as potential wilderness.

Dated: September 28, 1993.

Roger G. Kennedy,

Director, National Park Service.

[FR Doc. 93–25458 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–70–M

Denali South Slope Development Concept Plan and Draft Environmental Impact Statement, Denali National Park and Preserve, AK; Extension of Comment Period

AGENCY: National Park Service, Interior.

ACTION: Deadline for public comment period extended for Denali South Slope development concept plan and draft environmental impact statement, Denali National Park and Preserve.

SUMMARY: In response to public comment, the comment period for the Denali South Slope development concept plan and environmental impact statement has been extended to November 1, 1993. Additional public meetings have been scheduled at 7:30 p.m. on October 11th at the Alaska Public Lands Information Center, Fairbanks, Alaska; on October 12th at the Elementary School, Talkeetna, Alaska; on October 13th at the Elementary School, Trapper Creek, Alaska; and on October 14th at the Community Center, Cantwell, Alaska. Persons wishing to provide additional comments should address such comments to the Superintendent, Denali National Park and Preserve, Alaska 99755–0009.

FOR FURTHER INFORMATION CONTACT: Russ Berry, Superintendent, Denali National Park and Preserve, P.O. Box 9, Denali Park, Alaska 99755–0009. Phone (907) 683–2294.

Paul R. Anderson,

Acting Regional Director.

[FR Doc. 93–25488 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–70–P

General Management Plan, Lava Beds National Monument, CA; Notice of Intent To Prepare an Environmental Impact Statement

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service will prepare a General Management Plan/Environmental Impact Statement (GMP/EIS) for Lava Beds National Monument, California and initiate the scoping process for this document. This notice is in accordance with 40 CFR 1501.7 and 40 CFR 1508.22, of the regulations of the President's Council on Environmental Quality for the National Environmental Policy Act of 1969, Public Law 91–190.

BACKGROUND: The purpose of the GMP/EIS will be to state the management philosophy for the monument and provide strategies for addressing major issues facing the monument consistent with management objectives. Two types of strategies will be presented in the GMP: (1) Those required to properly manage cultural and natural resources; and (2) those required to provide for safe, accessible and appropriate use of those resources. Based on these strategies, the GMP will identify the programs, actions and support facilities needed for their implementation.

Persons wishing to comment or express concerns on the management issues and future management direction of Lava Beds National Monument should address these to the Superintendent, Lava Beds National Monument, P.O. Box 867, Tule Lake, CA 96134. The public scoping sessions will be scheduled as needed and notice given in the press. Questions regarding the plan and times of scoping sessions should be addressed to the superintendent either by mail to the above address, or by telephone at (916) 667–2282. Comment on the scoping of the proposed GMP/EIS should be received no later than December 15, 1993.

Public scoping sessions will be scheduled as needed and notice given in the press.

The responsible official is Stanley T. Albright, Regional Director, Western Region, National Park Service. The draft GMP/EIS is expected to be available for public review in mid-summer 1994, and the final GMP/EIS and Record of Decision completed in the spring of 1995.

Dated: October 1, 1993.

Stanley T. Albright,

Regional Director, Western Region.

[FR Doc. 93–25489 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–70–P

Golden Gate National Recreation Area and Point Reyes National Seashore Advisory Commission; Notice of Meetings

Notice is hereby given in accordance with the Federal Advisory Committee Act that meetings of the Golden Gate National Recreation Area (GGNRA) Advisory Commission will be held between October 21 and December 11, 1993 on the National Park Service Draft General Management Plan Amendment for the Presidio of San Francisco. The Advisory Commission was established by Public Law 92–589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service systems in Marin, San Francisco and San Mateo Counties.

A public meeting will be held on Thursday, October 21, 1993 at 7:30 p.m. at Cowell Theater, Fort Mason Center, Pier 2, Marina and Buchanan Streets in San Francisco, at which the National Park Service will present the Draft General Management Plan Amendment and Environmental Impact Statement for the Presidio. The presentation will include a description of the main elements of the National Park Service proposal for the future of the Presidio, and a description of the main features of the draft Environmental Impact Statement. In addition, an implementation document focusing on the economic and management aspects of the Presidio conversion, and a transportation planning summary will be also be described.

Other agenda items for the October 21, 1993, meeting include a public discussion of Army reuse proposals for the Presidio, and a briefing on several other issues of public concern affecting the Golden Gate National Recreation Area.

In November and December, the Advisory Commission will hold public hearings at five locations in the Bay Area to hear comments on issues and concerns relating to the Draft General Management Plan for the Presidio, and the accompanying draft EIS. The public is invited to provide comment at one of the locations listed below. The comment period on the Draft Plan will end on December 21, 1993.

Presidio General Management Plan Amendment/EIS Public Comment Meetings

San Francisco: Saturday, November 20, 9:30 a.m., at Roosevelt Middle School, 460 Arguello, Arguello at Geary Blvd., San Francisco;

Marin County: Tuesday, November 23, 7:30 p.m. at Board of Supervisors Chambers, room 322, Marin Civic Center, San Rafael;

Peninsula and South Bay: Tuesday, November 30, 7:30 p.m. at Palo Alto City Council Chambers, Palo Alto City Hall, 250 Hamilton Avenue, 1st Floor, Palo Alto (near Palo Alto CalTrain station);

East Bay: Thursday, December 2, 7:30 p.m. at the BART Board Room, 800 Madison St., Lake Merritt BART Station, Oakland;

San Francisco: Saturday, December 11, 9:30 a.m. at Marina Middle School, 3500 Fillmore, Corner of Chestnut St. and Fillmore St., San Francisco.

For purposes of public record keeping, these meetings will collectively constitute a single meeting. At each location a brief presentation of the Draft General Management Plan for the Presidio will be provided, followed by public comments. Public comments will be limited to three minutes per speaker, but written comments of any length will be accepted.

These public meetings are opened to all environmental, neighborhood, and community groups and individuals wishing to be involved in the planning process for the Presidio of San Francisco as a national park.

A profile summary of the draft General Management Plan Amendment will be mailed to those who have previously expressed interest in the Presidio planning process. Copies of the summary and other Presidio planning document can be obtained by writing to Presidio Information Center, P.O. Box 29022, Presidio of San Francisco, California 94129.

These meetings will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the public after approval by the full Advisory Commission. A transcript will be available after December 31, 1993. For copies of the minutes, contact the Staff Assistant, Golden Gate National Recreation Area, Building 201, Fort Mason, San Francisco, California 94123.

Dated: October 1, 1993.

Lewis S. Albert,

Acting Regional Director, Western Region.

[FR Doc. 93–25487 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–70–P

National Capital Region, Public Affairs; Notice of Public Meeting

The National Park Service is seeking public comments and suggestions on the planning of the 1993 Christmas Pageant of Peace, which opens December 9 on the Ellipse, south of the White House.

A public meeting will be held at the Park Service's National Capital Region Building in East Potomac Park at 1100 Ohio Drive, SW., Room 234, at 10 a.m., October 22, 1993.

Persons who would like to comment at the meeting should notify the National Park Service by October 15, by calling the Office of Public Affairs between 9 a.m. and 4 p.m., weekdays at (202) 619–7225. Persons who cannot attend the meeting may send written comments to Regional Director, National Capital Region, 1100 Ohio Drive, SW., Washington, DC 20242. Written comments will be accepted until November 5, 1993.

Dated: October 5, 1993.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 93–25459 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–70–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–624 (Final)]

Certain Helical Spring Lockwashers From the People's Republic of China

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured or threatened with material injury by reason of imports from the People's Republic of China of certain helical spring lockwashers, provided for in subheading 7318.21.00 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).[2]

Background

The Commission instituted this investigation effective April 27, 1993, following a preliminary determination by the Department of Commerce that imports of certain helical spring

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Newquist, Commissioner Rohr, and Commissioner Nuzum determine that an industry in the United States is threatened with material injury; Commissioner Brunsdale and Commissioner Crawford determine that an industry in the United States is materially injured; and Vice Chairman Watson dissents.

lockwashers from the People's Republic of China were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 3, 1993 (58 FR 26347). The hearing was held in Washington, DC, on May 13, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on October 8, 1993. The views of the Commission are contained in USITC Publication 2684 (October 1993), entitled "Certain Helical Spring Lockwashers From the People's Republic of China: Investigation No. 731–TA–624 (Final)."

Issued: October 12, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–25416 Filed 10–15–93; 8:45 am]

BILLING CODE 7020–02–P

[Investigation No. 731–TA–515 (Final)]

Portable Electric Typewriters From Singapore

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is materially injured by reason of imports from Singapore of portable electric typewriters, provided for in subheadings 8469.10.00 and 8469.21.00 of the Harmonized Tariff Schedule of the United States,[3] that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective February 8, 1993, following a preliminary determination by the Department of Commerce that imports of portable electric typewriters from Singapore were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 25, 1993 (58 F.R. 16205). The hearing was held in Washington, DC, on June 25, 1993, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on September 24, 1993. The views of the Commission are contained in USITC Publication 2681 (September 1993), entitled "Portable Electric Typewriters from Singapore: Investigation No. 731–TA–515 (Final)."

Issued: October 12, 1993.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 93–25452 Filed 10–15–93; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Chairman Newquist and Vice-Chairman Watson dissenting.

[3] For purposes of this investigation, portable electric typewriters are defined as machines that produce letters and characters in sequence directly on a piece of paper or other media from a keyboard input and meeting the following criteria. They must (1) be easily portable, with a handle and/or carrying case, or similar mechanism to facilitate their portability; (2) be electric, regardless of source of power; (3) be comprised of a single, integrated unit (e.g., not in two or more pieces); (4) have a keyboard embedded in the chassis or frame of the machine; (5) have a built-in printer; (6) have a platen (roller) to accommodate paper; and (7) only accommodate their own dedicated or captive software, if any.

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 32365]

Decatur Junction Railway Co.—Lease and Operation Exemption—Lines in Illinois

Decatur Junction Railway Co. (Decatur), a noncarrier, has filed a notice of exemption to lease and operate: (1) approximately 17 miles of rail line between milepost A 728.00 at Assumption, IL and milepost A 745.54 near Elwin, IL, owned by Central Illinois Shippers, Inc.; and (2) approximately 13 miles of rail line between milepost 14.22 at Cisco, IL and milepost 27.63 at Green's Switch, IL, owned by Cisco Cooperative Grain Company.[1] Decatur has acquired incidental trackage rights over lines of the Illinois Central Railroad between Decatur, IL and Elwin, IL, and between Decatur, IL and Green's Switch, IL, in order to connect the two lines. The parties expected to consummate the proposed transaction on or after October 3, 1993.

This transaction is related to a notice of exemption concurrently filed in Finance Docket No. 32367, Pioneer Railcorp.—Continuance in Control Exemption—Decatur Junction Railway Co., in which Pioneer Railcorp. (Pioneer) seeks to continue in control of Decatur and six other class III railroads upon Decatur becoming a class III rail carrier.[2]

Any comments must be filed with the Commission and served on: Robert J. Calhoun, Sullivan & Worcester, suite 1000, 1025 Connecticut Avenue, NW., Washington, DC 20036.

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: October 6, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–25500 Filed 10–15–93; 8:45 am]

BILLING CODE 7035–01–M

[1] These lines are presently being operated under contract by Indiana Hi-Rail Corporation (Indiana Hi-Rail). Decatur will commence operations in place of Indiana Hi-Rail without any break in service.

[2] Pioneer, a non-carrier holding company, owns 100 percent of the stock of Decatur. Pioneer also owns and controls the following nonconnecting shortline rail carriers: Wabash & Grand River Railway Co., Alabama Railroad Co., Fort Smith Railroad Co., Natchez Trace Railroad, West Jersey Railroad Co., and Alabama & Florida Railway Co. Control by Pioneer of these rail carriers was previously exempted in Finance Docket Nos. 31622, 31894, 31944, 32046, and 32178.

[Finance Docket No. 32367]

Pioneer Railcorp.—Continuance in Control Exemption—Decatur Junction Railway Co.

Pioneer Railcorp. (Pioneer), a noncarrier holding company, has filed a notice of exemption to continue in control of Decatur Junction Railway Co. (Decatur), upon Decatur becoming a class III shortline rail carrier.

Decatur, a noncarrier, has concurrently filed a notice of exemption in Finance Docket No. 32365, Decatur Junction Railway Co.—Lease and Operation Exemption—Lines in Illinois, to operate under lease approximately 17

miles of rail line owned by Central Illinois Shippers, Inc. and approximately 13 miles of rail line owned by Cisco Cooperative Grain Company, in the State of Illinois. Decatur has acquired incidental trackage rights over rail lines owned by Illinois Central Railroad in order to connect the two lines being leased and operated. Decatur expects that transaction to be consummated on or after October 3, 1993.

Pioneer owns and controls six other nonconnecting class III rail carriers: West Jersey Railroad Co., operating in New Jersey; Wabash & Grand River Railway Co., operating in Missouri; Fort Smith Railroad Co., operating in Arkansas; Alabama Railroad Co., operating in Alabama; Natchez Trace Railroad, operating in Mississippi and Tennessee; and Alabama & Florida Railway Co., operating in Alabama.

Pioneer states that: (1) the properties operated by these seven carriers 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 seven railroads with each other or any railroad in their corporate family; and (3) the transaction does not involve a class I carrier. Therefore, the transaction 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: Robert J. Calhoun, Sullivan & Worcester, suite 1000, 1025 Connecticut Avenue, NW., Washington, DC 20036.

Decided: October 6, 1993.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 93–25501 Filed 10–15–93; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree in United States v. General Foods Corp., et al.

In accordance with Department policy, notice is hereby given that on October 1, 1993, a proposed Consent Decree in *United States* v. *General Foods Corp., et al.*, was lodged in the United States District Court for the Western District of Michigan. Civil Action No. 1:90–CV–397.

The Complaint in this enforcement action was filed in May 1990 pursuant to Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607, for recovery of response costs incurred by the United States in responding to hazardous substances at the Verona Well Field site in Battle Creek, Michigan. Under the terms of the proposed Consent Decree, the settling defendants will pay the United States $5.2 million of the approximately $6.6 million in unreimbursed response costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, U.S. Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *General Foods Corp., et al.*, DOJ Ref. #90–11–3–626.

The proposed Consent Decree may be examined at the office of the United States Attorney, Western District of Michigan, 399 Federal Building, 110 Michigan, NW., Grand Rapids, Michigan, and at the offices of the U.S. Environmental Protection Agency, Region V, 77 West Jackson Blvd., Chicago, Illinois. Copies of the proposed Consent Decree may be obtained in person or by mail from the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, (202) 624–0892. In requesting a copy, please enclose a check in the amount of $6.25 (25 cents per page reproduction costs), payable to the "Consent Decree Library."

Lois J. Schiffer,

Acting Assistant Attorney General, Environment and Natural Resources Division.

[FR Doc. 93–25128 Filed 10–15–93; 8:45 am]

BILLING CODE 4410–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Change in Program Panel Meeting

AGENCY: National Endowment for the Humanities, NFAH.

The meeting of the Humanities Panel scheduled for October 28–29, 1993 and published in the **Federal Register** on September 28, 1993, at page 50572 has been changed to October 29, 1993. The meeting will review applications submitted to Humanities Projects in Media Program for the September 10, 1993 deadline.

David C. Fisher,

Advisory Committee, Management Officer.

[FR Doc. 93–25415 Filed 10–15–93; 8:45 am]

BILLING CODE 7536–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting of the Subcommittee on Thermal Hydraulic Phenomena

The ACRS Subcommittee on Thermal Hydraulic Phenomena will hold a meeting on October 28, 1993, in room P–110, 7920 Norfolk Avenue, Bethesda, MD.

The entire meeting will be open to public attendance, with the exception of portions that may be closed to discuss information deemed proprietary to the Westinghouse Electric Corporation (5 U.S.C. 552b(c)(4)).

The agenda for the subject meeting shall be as follows:

Thursday, October 28, 1993–8:30 a.m. until the conclusion of business.

The Subcommittee will review selected aspects of the NRC–RES–sponsored ROSA–V confirmatory test program being developed in support of the Westinghouse AP600 passive plant design certification effort. Specific review topics will include: Facility design modifications and additions, the test matrix, and instrumentation and controls. Also, the Subcommittee will discuss the status of the RES contract with Purdue University to perform integral thermal-hydraulic testing in support of the GE SBWR passive plant design. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be

present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC staff and its contractors, and other interested persons regarding this review.

Further information regarding topics to be discussed, the scheduling of sessions open to the public, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul Boehnert (telephone 301/492–8558) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual five days before the scheduled meeting to be advised of any changes in schedule, etc., that may have occurred.

Dated: October 8, 1993.

Sam Duraiswamy,

Chief, Nuclear Reactors Branch.

[FR Doc. 93–25444 Filed 10–15–93; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–33035; File No. SR–Amex–93–25]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the American Stock Exchange, Inc.; Relating to the Listing and Trading of Options on the North American Telecommunications Index

October 8, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 8, 1993, the American Stock Exchange, Inc. ("Amex" or "Exchange") filed with the Securities and Exchange Commission ("Commission" or "SEC") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Amex. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Amex proposes to trade standardized index options on the North American Telecommunications Index ("Index"), a new index developed by the Amex based on telecommunications industry stocks or American Depositary Receipts ("ADRs") thereon, which are traded on the Amex, New York Stock Exchange, Inc. ("NYSE"), or through the National Market System of the National Association of Securities Dealers, Inc. ("NASD") Automated Quotation ("NASDAQ") system ("NASDAQ/NMS"). In addition, the Amex proposes to amend Commentary .01 to Exchange Rule 901C to reflect that 90% of the Index's numerical index value will be accounted for by stocks that meet the current criteria and guidelines set forth in Exchange Rule 915. The text of the proposed rule change is available at the Office of the Secretary, Amex, and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

The Amex has developed a new industry-specific index called The North American Telecommunications Index, based entirely on shares of widely held telecommunications industry stocks or ADRs which are exchange or NASDAQ/NMS listed.[1] The Exchange intends to trade option contracts on this newly developed Index.

The Index contains the stocks of highly-capitalized companies in the North American telecommunications industry. Included in this group are companies in the U.S., Canada and Mexico which provide telephone, long distance, cellular phone, paging, or other telecommunications related services; which supply telecommunications equipment; or which otherwise are involved in the telecommunications industry.

Index Calculation

The Index is calculated using an "equal-dollar weighting" methodology designed to ensure that each of the component securities is represented in approximately an "equal" dollar amount in the Index. This method of calculation is important since even among the largest companies in the telecommunications industry there is a great disparity in market value. For example, although the stocks included in the Index represent many of the most highly capitalized companies in the telecommunications industry, AT&T currently represents over 24% of the aggregate market value of the Index. It has been the Exchange's experience that options on market value weighted indexes dominated by one component stock are less useful to investors, since the index will tend to represent the one component and not the industry as a whole.

The following is a description of how the equal-dollar weighted calculation method works. As of the market close on January 18, 1993, a portfolio of telecommunications stocks was established representing an investment of $66,667 in the stock (rounded to the nearest whole share) of each of the companies in the Index. The value of the Index equals the current market value (*i.e.*, based on U.S. primary market share) of the sum of the assigned number of shares of each of the stocks in the Index portfolio divided by the Index divisor. The Index divisor was initially determined to yield the benchmark value of 300.00 at the close of trading on January 18, 1993. each quarter thereafter, following the close of trading on the third Friday of January, April, July, and October, the Index portfolio will be adjusted by changing the number of whole shares of each component stock so that each company is again represented in "equal" dollar amounts. The Exchange has chosen to rebalance the Index following the close of trading on the quarterly expiration cycle because it allows an option contract to be held for up to three months without a change in the Index portfolio while at the same time, maintaining the equal-dollar weighting feature of the Index. If necessary, a divisor adjustment is made when the rebalancing occurs to ensure continuity of the Index's value. The newly adjusted portfolio then becomes the basis for the Index's value on the first trading day following the quarterly adjustment.

The Amex has had experience making regular quarterly adjustments to a

[1] The current component securities of the Index are stocks or ADRs of Ameritech Corp, ALLTEL Corp., BCE Inc., Bell Atlantic Corp., BellSouth Corp., Sprint Corp., GTE Corp., MCI Communications Corp., Northern Telecom Ltd., NYNEX Corp., Pacific Telesis Group, Southwestern Bell Corp., American Telephone and Telegraph Corp., Telefonos De Mexico (ADR), and US West Inc.

number of its indexes (such as the Biotechnology and Retail Indexes) and has not encountered investor confusion regarding the adjustments, since they are done on a regular and timely basis, with adequate notice given. An information circular is distributed to all Exchange members notifying them of the quarterly changes. This circular is also sent by facsimile to the Exchange's contacts at the major options firms, mailed to recipients of the Exchange's options related information circulars, and made available to subscribers of the Options News Network. In addition, the Exchange will include in its promotional and marketing materials for the Index a description of the equal-dollar weighting methodology. This procedure has been used effectively for the Biotechnology Index, another equal-dollar weighted index on which options trade on the Exchange.

As noted above, the number of shares of each component stock in the Index portfolio remain fixed between quarterly reviews except in the event of certain types of corporate actions such as the payment of a dividend (other than an ordinary cash dividend), stock distribution, stock split, reverse stock split, rights offering, distribution, reorganization, recapitalization, or similar event with respect to the component stocks. In a merger or consolidation of an issuer of a component stock, if the stock remains in the Index, the number of shares of that security in the portfolio may be adjusted, to the nearest whole share, to maintain the component's relative weight in the Index at the level immediately prior to the merger or consolidation. In the event of a stock replacement, the average dollar value of the remaining portfolio components will be calculated and that amount invested in the stock of the new component, to the nearest whole share. In all cases, the divisor will be adjusted, if necessary, to ensure Index continuity.

The Amex will calculate and maintain the Index, and pursuant to Exchange Rule 901C(b) may at any time or from time to time substitute stocks, or adjust the number of stocks included in the Index, based on changing conditions in the North American telecommunications industry. However, in the event the Exchange determines to increase the number of Index component stocks to greater than twenty or reduce the number of component stocks to fewer than ten, the Exchange will give prior written notice to the Commission. In selecting securities to be included in the Index, the Exchange will be guided by a number of factors including market value of outstanding shares and trading activity. The eligibility standards for Index components are described below.

Similar to other stock index values published by the Exchange, the value of the Index will be calculated continuously and disseminated every 15 seconds over the Consolidated Tape Association's Network B.

Expiration and Settlement

The proposed options on the Index will be European-style[2] and cash-settled. The Exchange's standard option trading hours from 9:30 a.m. to 4:10 p.m. (New York time) will apply. The options on The North American Telecommunications Index will expire on the Saturday ("Expiration Saturday") following the third Friday of the expiration month. The last trading day in an expiring series will normally be the second to last business day preceding Expiration Saturday (normally a Thursday), with trading to cease at the close of business on such day.

The Exchange plans to list options series with expirations in the three near-term calendar months and in the two additional calendar months in the January cycle. In addition, the Exchange proposes to list longer term option series having up to thirty-six months to expiration. In lieu of such long-term options on a full-value Index level, the Exchange also proposes to have the option of listing long-term, reduced-value put and call options based on one-tenth (1/10th) the Index's full value. In either event, the interval between expiration months for either a full-value or reduced-value long-term option would not be less than six months. The trading of any long-term options would be subject to the same rules which govern the trading of all the Exchange's index options, including sales practice rules, margin requirements and floor trading procedures and all options will have European-style exercise. Position limits on reduced-value long-term North American Telecommunications Index options would be ten times the position limits for regular (full value) Index options and would be aggregated on a ten for one basis with such options (for example, if the position limit for full value options is 8,000 contracts on the same side of the market, then the position limit for the reduced-value options will be 80,000 contracts on the same side of the market).

The Index value for purposes of settling the North American Telecommunications Index option will be calculated based upon the opening prices of the component securities pursuant to the normal opening procedures of the primary exchange where the securities are traded on the Friday before Expiration Saturday. In the case of securities traded through the NASDAQ system, the first reported sale price on the Friday before Expiration Saturday will be used. As trading begins in each of the Index's component securities, its opening sale price is captured for use in the calculation. Once all of the component stocks have opened, the Index settlement value is then determined. If any of the component stocks do not open for trading on the last trading day before Expiration Saturday, then the prior day's last sale price is used in the calculation.

Eligibility Standards for Index Components

Amex Rule 901C specifies the criteria for inclusion of stocks in an index on which options will be traded on the Exchange. In choosing among North America telecommunications industry stocks that meet the minimum criteria set forth in Rule 901C, the Exchange will focus only on stocks that are traded on either the NYSE, Amex (subject to the limitations of Rule 901C) or NASDAQ/NMS. In addition, the Exchange intends to select stocks that:

(1) Have a minimum market value (in U.S. dollars) of at least $75 million,[3] and

(2) Have an average monthly trading volume in U.S. markets over the previous six month period of not less than one million shares (or ADRs).

The Index currently has fifteen component securities (all fifteen of which are eligible for standardized options trading with fourteen of the fifteen currently the subject of standardized options trading).[4] However, to address concerns about the possibility of manipulation of an index containing a large percentage of stocks that do not meet the eligibility standards applicable to stocks eligible for standardized options trading, at each quarterly rebalancing, stocks that meet the then current criteria for standardized option trading set forth in Exchange Rule 915 will be required to account for at least 90% of the North American Telecommunications Index's numerical index value, and this

[2] European-style options can only be exercised during a specified period before the options expire.

[3] In the case of ADRs, this represents market value as measured by total world-wide shares outstanding.

[4] See supra note 1.

requirement will be reflected in Commentary .01 to Exchange Rule 901C.

Amex Rules Applicable to Stock Index Options

Amex Rules 900C through 980C will apply to the trading of option contracts based on the Index. These Rules cover issues such as surveillance, exercise prices, and position limits. Surveillance procedures currently used to monitor trading in each of the Exchange's other index options will also be used to monitor trading in options on the Index. The Exchange believes that the Index is deemed to be a Stock Index Option under Amex Rule 901C(a) and a Stock Index Industry Group under Amex Rule 900C(b)(1). With respect to Exchange Rule 903C(b), the Exchange proposed to list near-the-money (*i.e.*, within ten points above or below the current index value) options series on the Index at 2½ point strike (exercise) price intervals when the value of the Index is below 200 points. In addition, the Exchange expects that the review required by Exchange Rule 904C(c) will result in a position limit of 8,000 contracts with respect to options on this Index.

The Exchange believes that the proposed rule change is consistent with section 6(b) of the Act, in general, and section 6(b)(5), in particular, in that it is designed to prevent fraudulent and manipulative acts and practices and to promote just and equitable principles of trade.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Amex believes that the proposed rule change will not impose a burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents the Commission will:

(a) By order approve such proposed rule change, or

(b) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the Amex. All submissions should refer to File Number SR–AMEX–93–25 and should be submitted by November 8, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–25454 Filed 10–15–93; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–33037; International Series Release No. 590; File No. SR–NASD–93–50]

Self-Regulatory Organizations; National Association of Securities Dealers; Order Granting Accelerated Approval to Proposed Rule Change and Amendment No. 1 Thereto Relating to an Extension of the Nasdaq International Service Pilot Program

October 8, 1993.

I. Introduction

On September 1, 1993 the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("Commission" or "SEC") a proposed rule change pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1).[1] The proposed rule change would extend the Nasdaq International Service Pilot Program for two additional years, terminating October 11, 1995.

Notice of the filing of this proposal appeared in the **Federal Register** on September 17, 1993.[2] No comment letters were received. For the reasons discussed below, the Commission has determined to grant accelerated approval of the proposal.

II. Background

The existing pilot operation was authorized by the Commission's approval of File No. SR–NASD–90–33 on October 11, 1991;[3] the Service itself was launched on January 20, 1992. The Service supports an early trading session running from 3:30 a.m. to 9 a.m. E.T. on each U.S. business day ("European Session") that overlaps the business hours of the London financial markets. Participation in the Service is voluntary and is open to any authorized NASD member firm or its approved broker-dealer affiliate in the U.K. A member participates as a Service market maker either by staffing its trading facilities in the U.S. or the facilities of its approved affiliate during the European Session. At present, the universe of Service market makers consists of three approved affiliates of NASD members that quote continuous markets in various Nasdaq National Market securities during the European Session.

III. Description

The NASD is proposing to extend the pilot term, which expires on October 11, 1993, for two more years. During this period, the NASD plans to reevaluate the Service's operation and consider possible enhancements to broaden market maker participation. For example, the NASD will provide the variable opening feature—which enables a Service market maker to participate during specified segments rather than the entire European Session—in conjunction with implementing the new technology being developed for the Nasdaq Stock Market.[4] It is anticipated that this will occur during the second half of 1995.

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[5] 17 CFR 200.30(a)(12) (1992).

[1] On September 2, 1993, the NASD submitted Amendment No. 1 to the proposed rule change explaining the deferred implementation of the variable opening feature of the Service. *See infra* note 5 and accompanying text.

[2] Securities Exchange Act Release No. 32860 (September 10, 1993), 58 FR 48685.

[3] Securities Exchange Act Release No. 29812 (October 11, 1991), 56 FR 52082 ("initial approval order").

[4] The variable opening feature was approved in Securities Exchange Act Release No. 32471 (June 16, 1993), 58 FR 32471.

However, the NASD has not implemented this feature to date. The changes has been incorporated in the development of the technology migration for the Nasdaq Stock Market which encompasses a new communications network and hardware platform as well as the next generation of the Nasdaq workstation PC.[5]

IV. Discussion

The Commission believes that the proposed rule change is consistent with sections 11A(a)(1) (B) and (C) and 15A(b)(6) of the Act. Subsections (B) and (C) of section 11A(a)(1) set forth the Congressional goals of achieving more efficient and effective market operations, broader availability of information with respect to quotations for securities, and the execution of investor orders in the best market through the use of advanced data processing and communications techniques. Section 15A(b)(6) requires, among other things, that the NASD rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, and to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities.

The Commission continues to view the Service as a significant experiment in expanding potential opportunities for international trading via systems operated by the Nasdaq Stock Market, Inc. Accordingly, the Commission believes that this pilot operation warrants an extension to permit possible enhancements that will increase the Service's utility to the investment community.[6]

The Commission finds good cause for approving the proposed rule change prior to the 30th day after the date of publication of notice of filing thereof. The Commission believes that accelerated approval is appropriate to ensure the continuous operation of the Service, which is set to expire on October 11, 1993.

V. Conclusion

In view of the above, the Commission has concluded that the proposed rule change is consistent with sections 11A(a)(1) (B) and (C) and 15A(b)(6) of the Act and that it is appropriate to approve on an accelerated basis the two year extension of the Nasdaq International Service, terminating October 11, 1995.

It is therefore *Ordered*, pursuant to section 19(b)(2) of the Act, that the proposed rule change be, and is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority, 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–25456 Filed 10–15–93; 8:45 am]

BILLING CODE 8010–01–M

[5] *See supra* note 1.

[6] The NASD continues to be responsible for supplying the Commission with the statistical reports prescribed in the initial approval order at six month intervals. The supporting documentation, however, is no longer required, unless otherwise requested by the Commission.

[Release No. IC–19778; 812–8512]

Comstock Partners Strategy Fund, Inc., et al.; Notice of Application

October 12, 1993.

AGENCY: Securities and Exchange Commission (the "SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

APPLICANTS: Comstock Partners Strategy Fund, Inc., Comstock Partners, Inc., and Dreyfus Service Corporation.

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) of the Act from sections 18(f), 18(g), 18(i) of the Act.

SUMMARY OF APPLICATION: Applicants seek an order that would amend a prior order permitting the Fund to issue two classes of shares by modifying a condition.

FILING DATE: The application was filed on June 29, 1993 and amended on September 24, 1993. Applicants have agreed to file an additional amendment, the substance of which is incorporated herein, during the notice period.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders of 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 November 8, 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 may request notification of hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington, DC 20549. Applicants, 45 Broadway, New York, New York 10006.

FOR FURTHER INFORMATION CONTACT: Fran M. Pollack-Matz, Senior Attorney, at (202) 504–2801 or Robert A. Robertson, Branch Chief, at (202) 272–3030 (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 at the SEC's Public Reference Branch.

Applicants' Representations

1. Comstock Partners Strategy Fund, Inc. (the "Fund") originally commenced operations in May of 1988 as a non-diversified closed-end management investment company. At a special meeting of shareholders held on June 14, 1991, a majority of the Fund's outstanding shares voted to approve the conversion of the Fund to an open-end investment company. The Fund was converted to an open-end investment company on August 1, 1991.

2. Comstock Partners, Inc. (the "Investment Adviser") is the investment adviser for the Fund, and The Dreyfus Corporation is the sub-investment adviser for the Fund. Princeton Administrators is the administrator for the Fund, and Dreyfus Service Corporation (the "Distributor") serves as distributor of the Fund.

3. Pursuant to a previous SEC order (Investment Company Act Release No. 18828 (July 1, 1992)) (the "Order"), applicants created two classes of shares, Class A and Class O.[1] The Class A and Class O Shares are identical in all material respects, except that Class A shares are subject to the Fund's account maintenance plan established under rule 12b–1 ("Account Maintenance Plan"), and only the Class A Shares have voting rights with respect to matters pertaining to the Plan. Class O Shares are no longer issued by the Fund except in connection with the reinvestment of dividends and distributions on outstanding Class O Shares.

4. One of the Order's conditions provided that the information provided by the Fund for publication in any newspaper or similar listing of the Fund's net asset value of public offering price would present only information for the Class A shares and not the Class

[1] In the Order, the new class was referred to as Class B Shares and the original class was referred to as Class A Shares. Subsequent to the Order, the names of the classes were changed to Class A and Class O Shares, respectively. Any references herein to the specific classes will be to their current names.

O shares. Applicants believe that newspaper and similar listings of mutual fund information serve, among other things, to provide existing shareholders with valuable price and other information in order to make redemption and dividend reinvestment decisions. The condition has made it difficult for shareholders of the Class O shares to readily monitor their investments. In addition, because newspapers obtain information relating to quoted prices of securities and funds for publication from a central National Association of Securities Dealers Automated Quotation ("NASDAQ") database, the only practical way to satisfy the condition in the Order was for the Fund to stop furnishing information on Class O to the NASDAQ database. This prevented brokers from having ready access to this information because they obtain mutual fund information from the same database. Consequently, Class O shareholders were unable to obtain information on their shares from their brokers.

Applicants' Legal Analysis

Applicants request an exemptive order under section 6(c) of the Act that will amend the Order to eliminate the portion of condition 10 thereof that provides that the information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value or public offering price will present only information for the Class A shares. Applicants state that if the existing condition is modified, there should be no more potential shareholder confusion than is the case with any fund that publishes information with respect to multiple classes.

Applicants' Conditions

Applicants agree that the order of the SEC granting the requested relief shall be subject to the following conditions: [2]

1. Class O Shares and Class A Shares will represent interests in the same portfolio of investments in the Fund and be identical in all respects except as described below. The only differences between the Class O and Class A Shares will be as follows: (a) The Class O Shares and Class A Shares would have different class designations; (b) the Class A Shares would pay all Account Maintenance Fees payable under the Account Maintenance Plan; and (c) only the beneficial holders of Class A Shares would be entitled to vote on matters pertaining to the Account Maintenance Plan.

2. The directors of the Fund, including a majority of the independent directors, will approve the proposed arrangement. The minutes of the meetings of the directors of the Fund regarding the deliberations of the directors with respect to the approvals necessary to implement the proposed arrangement will reflect in detail the reasons for the directors' determination that the proposed arrangement is in the best interest of both the Fund and its shareholders.

3. On an ongoing basis, the directors of the Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor the Fund for the existence of any material conflicts between the interests of the two classes of shares. The directors, including a majority of the independent directors, shall take such action as is reasonably necessary to eliminate any such conflicts that may develop. The Investment Adviser and the Distributor will be responsible for reporting any potential or existing conflicts to the directors. If a conflict arises, the Investment Adviser and the Distributor at their own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. The directors of the Fund will receive quarterly and annual statements concerning expenditures pursuant to the Account Maintenance Plan, complying with paragraph (b)(3)(ii) of rule 12b–1, as it may be amended from time to time. In the statements, only expenditures properly attributable to the sale or servicing of Class A Shares will be used to justify any Account Maintenance Fees charged to the Class A Shares. Expenditures not related to the sale or servicing of Class A Shares will not be presented to the directors to justify any Account Maintenance Fees attributable to the Class A Shares. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent directors in the exercise of their fiduciary duties.

5. Dividends paid by the Fund with respect to each class of its shares, to the extent any dividends are paid, will be calculated in the same manner, at the same time, on the same day, and will be in the same amount, except that the Account Maintenance Fees relating to the Class A Shares will be borne exclusively by that class.

6. The methodology and procedures for calculating the net asset value and dividends and distributions of the two classes and the proper allocation of expenses between the two classes have been reviewed by an expert (the "Expert") who has rendered a report to the Fund, which has been provided to the staff of the Commission, that such methodology and procedures are adequate to ensure that such calculations and allocations will be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitute Expert, will monitor the manner in which the calculations and allocations are being made and, based upon such review, will render at least annually a report to the Fund that the calculations and allocations are being made properly. The reports of the Expert shall be filed as part of the periodic reports filed with the SEC pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert with respect to such reports, following request by the Fund (which the Fund agrees to provide), will be available for inspection by the SEC staff upon written request to the Fund for such work papers by a senior member of the Division of Investment Management, limited to the Director, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director, and any Regional Administrators or Associate and Assistant Administrators. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" [3] and the ongoing reports will be "reports on policies and procedures placed in operation and tests of operating effectiveness" as defined and described in SAS No. 70 of the AICPA, as it may be amended from time to time, or in similar auditing standards as may be adopted by the AICPA from time to time.

7. The applicants have adequate facilities in place in place to ensure implementation of the methodology and procedures for calculating the net asset value and dividends and distributions of the two classes of shares and the proper allocation of expenses between the two classes of shares and this representation will be concurred with by the Expert in the initial report referred to in condition 6 above and will be concurred with by the Expert, or an appropriate substitute Expert, on an ongoing basis at least annually in the ongoing reports referred to in condition 6 above. The applicants will take immediate corrective measures if this representation is not concurred in by

[2] These conditions are restated and amended from the original application. Certain actions agreed to be taken in the original application were taken prior to implementation of the two classes of shares.

[3] Because SAS No. 70 of the AICPA was not in effect at the time of the preparation of the initial report of the Expert, such initial report was prepared in accordance with SAS No. 44 of the AICPA.

the Expert or appropriate substitute Expert.

8. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the directors of the Fund with respect to the proposed arrangement will be set forth in guidelines which will be furnished to the directors.

9. The Fund will disclose the respective expenses, performance data, fees, and sales loads applicable to all classes of shares in its prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. The shareholder reports will contain, in the statement of assets and liabilities and statement of operations, information related to the Fund as a whole generally and not on a per class basis. The Fund's per share data, however, will be prepared on a per class basis with respect to all classes of shares of the Fund. Because Class O Shares will no longer be sold (except for the reinvestment of dividends and other distributions on Class O Shares) after the effectiveness of the N–1A Amendment if the exemptive order requested hereby is granted, any advertisement or sales literature used by the applicants relating in whole or in part to the period commencing with the sale of Class A Shares (other than the Fund's prospectus) will for such period be based upon only the expenses and/or performance data applicable to the Class A Shares. The information provided by applicants for publication in any newspaper or similar listing of the Fund's net asset value and public offering price will present each class of shares separately.

10. The applicants acknowledge that the grant of the requested exemptive order does not imply Commission approval, authorization, or acquiescence in any particular level of payments that the Fund may make pursuant to the Account Maintenance Plan in reliance on this exemptive order.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–25453 Filed 10–15–93; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–19777; 811–4903]

Shearson Lehman Brothers Multiple Opportunities Portfolio L.P.; Notice of Application for Deregistration

October 12, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

APPLICANT: Shearson Lehman Brothers Multiple Opportunities Portfolio L.P.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application was filed on July 7, 1993 and an amendment thereto was filed on September 15, 1993.

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 applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 8, 1993, and should be accompanied by proof of service on applicant, 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 notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicant, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Joseph G. Mari, Senior Special Counsel, (202) 272–3030, or Barry D. Miller, Senior Special Counsel, (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.

Applicant's Representations

1. Applicant is an open-end, non-diversified, management investment company formed as a limited partnership under Delaware law. On November 17, 1986, applicant registered as an investment company under the Act and filed a registration statement pursuant to section 8(b) of the Act. On that same date, applicant filed a registration statement pursuant to the Securities Act of 1933 registering an indefinite number of shares of partnership interest. Applicant's registration statement became effective on January 30, 1987 and applicant's initial public offering of its shares commenced shortly thereafter.

2. On January 7, 1992, the individual general partners of applicant, including the individual general partners who are not interested persons, unanimously approved an Agreement and Plan of Reorganization (the "Plan") providing for the transfer, on May 1, 1992, of all or substantially all the assets of applicant to Strategic Investors Portfolio ("Portfolio"), a portfolio of Shearson Lehman Brothers Equity Portfolio, in exchange for shares of the Portfolio. Portfolio is an affiliated management investment company organized as a Massachusetts business trust. The Plan also provided for the assumption by the Portfolio of certain stated liabilities of applicant. Applicant's reorganization with the Portfolio was effected pursuant to rule 17a–8 under the Act.

3. The individual general partners also approved the elimination of the contingent deferred sales charge and approved an exchange privilege with the following funds: Shearson Lehman Brothers Aggressive Growth Fund, Shearson Lehman Brothers Appreciation Fund, Shearson Lehman Brothers Fundamental Value Fund, Shearson Lehman Brothers Global Opportunities Fund, Shearson Lehman Brothers Small Capitalization Fund, Shearson Lehman Brothers 1990s Fund, and the Advisors Fund L.P. Additionally, the boards of each of the foregoing funds agreed to waive any applicable sales charges. In accordance with rule 22d–1, each of the foregoing funds printed a supplement to its prospectus which described the terms of the exchange privilege.

4. On or about March 25, 1992, proxy materials relating to the Plan were mailed to applicant's shareholders. On April 30, 1992, a majority of the shareholders of applicant approved the Plan.

5. On May 1, 1992, pursuant to the Plan, applicant transferred all, or substantially all, of its assets and certain of its identified liabilities to the Portfolio, in exchange for shares of the Portfolio and the assumption by the Portfolio of certain stated liabilities of applicant. Immediately thereafter, applicant liquidated and distributed *pro rata* to its shareholders of record on May 1, 1992, the shares it received from the Portfolio under the Plan. Each shareholder of applicant became a

shareholder of the Portfolio receiving shares of Portfolio having an aggregate net asset value equal to the aggregate net asset value of the shareholder's investment in applicant.

6. As of April 30, 1992, there were 457,773.237 shares of partnership interest of applicant outstanding, having a net asset value of $27,244,608 and a per share net asset value of $59.52. There are no other classes of securities of applicant outstanding. As of May 1, 1992, there were no shares of partnership interest outstanding.

7. Expenses related to the reorganization, consisting of accounting, printing, administrative and certain legal expenses, amounted to approximately $15,400. Applicant and Portfolio each bore $7,700 of those expenses.

8. To effect the dissolution of applicant as a Delaware limited partnership, a Certificate of Cancellation of Certificate of Limited Partnership will be filed on behalf of applicant with the Delaware Secretary of State.

9. At the time of filing the application, applicant had no assets or liabilities. Applicant has no shareholders and is not a party to any litigation or administrative proceeding. Applicant is not engaged in, and does not propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93–25455 Filed 10–15–93; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area #2662, Amendment #8]

Illinois; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended to give notice that, effective October 1, 1993, the incident period has been reopened for Alexander, Calhoun, Greene, Jackson, Jersey, Madison, Monroe, Morgan, Randolph, Scott, St. Clair, and Union Counties in the State of Illinois. The incident period for these counties is April 13, 1993 and continuing.

All other information remains the same, i.e., the termination date for filing applications for physical damage is November 15, 1993 and for economic injury the deadline is April 11, 1994.

The economic injury number for Illinois is 793200.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 5, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–25442 Filed 10–15–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2679]

Indiana; Declaration of Disaster Loan Area

The above-numbered Declaration is hereby amended, effective September 24, 1993, to include Morgan County in the State of Indiana as a disaster area as a result of damages caused by severe storms and flooding August 16–17, 1993.

In addition, applications for economic injury loans from small businesses located in the contiguous counties of Brown, Johnson, Marion, and Monroe in Indiana may be filed until the specified date at the previously designated location.

Any counties contiguous to the above-named primary county and not listed herein have been previously declared.

All other information remains the same, i.e., the termination date for filing applications for physical damage is November 9, 1993 and for economic injury the deadline is June 10, 1994.

The economic injury number for Indiana is 804600.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 5, 1993.

Bernard Kulik,

Assistant Administrator for Disaster Assistance.

[FR Doc. 93–25441 Filed 10–15–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area #2685]

Oregon; Declaration of Disaster Loan Area

Klamath County and the contiguous counties of Deschutes, Douglas, Jackson, Lake, and Lane in the State of Oregon constitute a disaster area as a result of damages caused by an earthquake which occurred on September 20, 1993. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 6, 1993 and for economic injury until the close of business on July 6, 1993 at the address listed below: U.S. Small Business Administration, Disaster Area 4 Office, P.O. Box 13795, Sacramento, CA 95853–4795, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 268502 and for economic injury the number is 806900.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 6, 1993.

Erskine B. Bowles,

Administrator.

[FR Doc. 93–25439 Filed 10–15–93; 8:45 am]

BILLING CODE 8025–01–M

[Declaration of Disaster Loan Area # 2686]

Texas; Declaration of Disaster Loan Area

Johnson County and the contiguous counties of Bosque, Ellis, Hill, Hood, Parker, Somervell, and Tarrant in the State of Texas constitute a disaster area as a result of damages caused by a tornado which occurred on September 13, 1993 in the City of Cleburne. Applications for loans for physical damage as a result of this disaster may be filed until the close of business on December 6, 1993 and for economic injury until the close of business on July 6, 1994 at the address listed below: U.S. Small Business Administration, Disaster Area 3 Office, 4400 Amon Carter Blvd., Suite 102, Ft. Worth, TX 76155, or other locally announced locations.

The interest rates are:

	Percent
For Physical Damage:	
Homeowners with credit available elsewhere	8.000
Homeowners without credit available elsewhere	4.000
Businesses with credit available elsewhere	8.000
Businesses and non-profit organizations without credit available elsewhere	4.000
Others (including non-profit organizations) with credit available elsewhere	7.625

	Percent
For Economic Injury:	
Businesses and small agricultural cooperatives without credit available elsewhere	4.000

The number assigned to this disaster for physical damage is 268612 and for economic injury the number is 807000.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: October 6, 1993.

Erskine B. Bowles,

Administrator.

[FR Doc. 93–25440 Filed 10–15–93; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

October 8, 1993.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue NW., Washington, DC 20220.

Office of Thrift Supervision

OMB Number: 1550–0005.

Form Number: OTS Forms 138, 138E, 138F, and 1393.

Type of Review: Extension.

Title: Application for Permission to Organize a Federal Association.

Description: The information provided by OTS Form No. 138, 138E and 138F is evaluated by the OTS to determine whether requests by organizing groups for permission to establish a new Federal association comply with applicable Federal laws and OTS regulations and policies.

Respondents: Businesses or other for-profit.

Estimated Number of Respondents: 10.

Estimated Burden Hours Per Respondent: 145 hours, 6 minutes.

Frequency of Response: Other (One-time basis only).

Estimated Total Reporting Burden: 1,451 hours.

Clearance Officer: Colleen Devine (202) 906–6025, Office of Thrift Supervision, 2nd Floor, 1700 G. Street, NW., Washington, DC 20552.

OMB Reviewer: Gary Waxman (202) 395–7340, Office of Management and Budget, room 3208, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 93–25457 Filed 10–15–93; 8:45 am]

BILLING CODE 4810–25–P

Sunshine Act Meetings

Federal Register
Vol. 58, No. 199
Monday, October 18, 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).

DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given of the Board's meeting described below. The Board will also conduct a public hearing pursuant to 42 U.S.C. 2286b and invites any interested persons or groups to present any comments, technical information, or data concerning current health or safety questions at the Los Alamos National Laboratory.

TIME AND DATE: 5:00 p.m., November 10, 1993—Department of Energy presentations; 7:00 p.m.—Opportunity for interested persons to present oral comments concerning the matters to be considered.

PLACE: The Los Alamos Civic Auditorium, 1400 Diamond Drive, Los Alamos, New Mexico 87544.

STATUS: Open. While the Government in the Sunshine Act does not require that the scheduled briefing be conducted in a meeting, the Board has determined that an open meeting in this specific case furthers the public interests underlying both the Sunshine Act and the Board's enabling legislation.

MATTERS TO BE CONSIDERED: The open public meeting and hearing are being held so as to provide the Board with the latest and best information on topics related to the adequate protection of public health and safety at the Los Alamos National Laboratory (LANL), and to receive from members of the public any pertinent comments they wish to make on health and safety issues at LANL. The Department of Energy (DOE) will take appropriate measures to safeguard any classified or controlled nuclear information it presents at this meeting. The public hearing portion is independently authorized by 42 U.S.C. 2286b.

FOR MORE INFORMATION CONTACT: Kenneth M. Pusateri, General Manager, Defense Nuclear Facilities Safety Board, 625 Indiana Avenue, NW., Suite 700, Washington, DC 20004, (202) 208–6400. This is not a toll free number.

SUPPLEMENTARY INFORMATION: Requests to speak at the hearing may be submitted in writing or by telephone. We ask that commentators describe the nature and scope of the oral presentation. Those who contact the Board prior to close of business on November 8, 1993, will be scheduled for time slots, beginning at approximately 7:00 p.m. The Board will post a schedule for those speakers who have contacted the Board before the hearing. The posting will be made at the entrance to the auditorium at the start of the 5:00 p.m. meeting.

Anyone who wishes to comment, provide technical information or data may do so in writing, either in lieu of, or in addition to making an oral presentation. The Board members may question presenters to the extent deemed appropriate. The Board will hold the record open until November 29, 1993, for the receipt of materials. A transcript of the meeting will be made available by the Board for inspection by the public at the Defense Nuclear Facilities Safety Board's Washington office and at the DOE's public reading room at LANL Community Reading Room, 1450 Central Avenue, Suite 101, Los Alamos, New Mexico 87544.

The Board specifically reserves its right to further schedule and otherwise regulate the course of the meeting and hearing, to recess, reconvene, postpone or adjourn the meeting, conduct further reviews, and otherwise exercise its power under the Atomic Energy Act of 1954, as amended.

Dated: October 13, 1993.

Kenneth M. Pusateri,

General Manager.

[FR Doc. 93–25660 Filed 10–14–93; 3:22 pm]

BILLING CODE 6820–KD–M

NATIONAL CREDIT UNION ADMINISTRATION

NOTICE OF PREVIOUSLY HELD EMERGENCY MEETING

TIME AND DATE: 5:54 p.m., Tuesday, October 12, 1993.

PLACE: Chairman's Office, 7th Floor, 1775 Duke Street, Alexandria, VA 22314–3428.

STATUS: Closed.

MATTER CONSIDERED:

1. Administrative Action under Sections 206 and 208 of the Federal Credit Union Act. Closed pursuant to exemptions (8), (9)(A)(ii), and (9)(B).

The Board voted unanimously that agency business required that a meeting be held with less than the usual seven days advance notice. Earlier announcement of this was not possible.

The Board voted unanimously to close the meeting under the exemptions listed above. Deputy General Counsel James Engel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6300.

Becky Baker,

Secretary of the Board.

[FR Doc. 93–25668 Filed 10–14–93; 8:59 am]

BILLING CODE 7535–01–M

TENNESSEE VALLEY AUTHORITY

[Meeting No. 1461]

TIME AND DATE: 10 a.m., October 20, 1993.

PLACE: Chattanooga Office Complex Auditorium, Chattanooga, TN.

STATUS: Open.

AGENDA: Approval of minutes of meeting held on September 30, 1993.

ACTION ITEMS:

New Business

A—Budget and Financing

A1. Adoption of the Tennessee Valley Authority Financial Statements, September 30, 1993.

A2. Retention of Net Power Proceeds and Nonpower Proceeds and Payments to the U.S. Treasury in March 1994, Pursuant to Section 26 of the TVA Act.

B—Purchase Awards

B1. Contract Extension and Release of Remaining Funds for I-Net Incorporated—Contract 93BYH–93383E.

E—Real Property Transactions

E1. Sale of Permanent Easement to the City of Cleveland, Tennessee, Affecting 0.12 Acre of East Cleveland 161–kV Substation property, Bradley County, Tennessee.

E2. Public Auction of Cross Mountain Coal Lease, Koppers Coal Reserves, Campbell County, Tennessee.

E3. Public Auction of Red Bird Coal Reserves Lease, Leslie County, Kentucky.

F—Unclassified

F1. Filing of Condemnation Cases.

INFORMATION ITEMS:

1. Base Compensation Awards for Employees on the Manager and Specialist and ET Salary Schedules and Revision to the Salary Structures for Manager and Specialist and Excluded Positions.

2. Amendments to the Terms and Conditions of the Voluntary Retirement Savings and Investment Plan.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Vice President, Governmental Relations, or a member of his staff can respond to requests for information about this meeting. Call (615) 632–6000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 479–4412.

Dated: October 13, 1993.

Edward S. Christenbury,

General Counsel and Secretary.

[FR Doc. 93–25583 Filed 10–14–93; 10:32 am]

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October 18, 1993

Part II

State Justice Institute

Final Grant Guideline; Notice

STATE JUSTICE INSTITUTE

Grant Guideline

AGENCY: State Justice Institute.
ACTION: Final grant guideline.

SUMMARY: This Guideline sets forth the administrative, programmatic, and financial requirements attendant to Fiscal Year 1994 State Justice Institute grants, cooperative agreements, and contracts.

EFFECTIVE DATE: October 18, 1993.

FOR FURTHER INFORMATION CONTACT: David I. Tevelin, Executive Director, or Richard Van Duizend, Deputy Director, State Justice Institute, 1650 King St. (Suite 600), Alexandria, VA 22314, (703) 684–6100.

SUPPLEMENTARY INFORMATION: Pursuant to the State Justice Institute Act of 1984, 42 U.S.C. 10701, et seq., as amended, the Institute is authorized to award grants, cooperative agreements, and contracts to State and local courts, nonprofit organizations, and others for the purpose of improving the administration of justice in the State courts of the United States. Approximately $11½ million is available for award in FY 1994.

Changes in the Final Guideline

On August 31, 1993, the Institute published its proposed FY 1994 Grant Guideline in the **Federal Register** for public comment. 58 FR 45976. Comment was specifically requested on two issues: (1) whether the Institute should raise the ceiling for accelerated grants from $40,000 to $50,000; and (2) whether SJI should clarify and revise its audit objectives.

Only two comments were received on the first issue, both suggesting that the ceiling be raised to $50,000. Absent a strong demonstration that the current limit is unduly restrictive, the Institute believes that the $40,000 limit still strikes the correct balance between applicants' interest in accelerated treatment for uncomplicated proposals and the Institute's need to adequately review the programmatic and budgetary aspects of funding requests. The limit is accordingly unchanged in the Final Guideline.

Only one comment was received on the audit issue. The American Institute of Certified Public Accountants (AICPA) recommended that the Guideline (1) eliminate certain audit objectives and (2) specify that grantee audits be conducted in accordance with Government Auditing Standards, rather than the AICPA standards referenced in the proposed Guideline. The final Guideline adopts these recommendations, which should result in greater clarity of SJI's audit standards and greater grantee compliance with applicable laws and regulations, without imposing significant new burdens on grantees. See section XI.J.

The Institute also received a comment from a State Court Administrator encouraging SJI to institute a "rapid response" technical assistance program for small grants up to $3,000. In light of the expedited treatment available under the Institute's technical assistance grant program, the variety of technical assistance services available from several SJI grantees, and the internal administrative burdens that would be occasioned by the proposed program, the Institute has declined to accept that recommendation.

A few technical changes and corrections of typographical and grammatical errors have also been made. The most substantive of the technical changes is to add to the list of "other factors" the Institute will consider in making grant awards, the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years. See sections II.B.2.b.i. and v., II.C.2., VI.C., and VIII.B.3.

Types of Grants Available and Funding Schedules

Since 1987, SJI has sought to develop a grant program that is responsive to the most pressing needs of the State courts. As a result, the Institute has initiated several different types of grant programs. The types of grants available in FY 1994 and the funding cycles for each program are provided below:

Project Grants. These grants are awarded to support education, research, demonstration and technical assistance projects to improve the administration of justice in the State courts. As provided in section V. of the Guideline, project grants, with limited exceptions, may not exceed $200,000 a year. Applicants must ordinarily submit a concept paper (see section VI.) and an application (see section VII.) in order to obtain a project grant.

As indicated in Section VI.C., the Board may make an "accelerated" project grant of less than $40,000 on the basis of the concept paper alone when the need for the project is clear and little additional information would be provided in an application.

The FY 1994 mailing deadline for project grant concept papers is December 1, 1993. Papers must be postmarked or bear other evidence of submission by that date. With two exceptions noted immediately below, the FY 1994 funding cycle will be substantially similar to the FY 1993 cycle: the Board will meet in early March, 1994 to invite formal applications based on the most promising concept papers; applications will be due in May; and awards will be approved by the Board in July.

The first exception to this schedule pertains to proposals to follow up on the National Conference on Family Violence and the Courts that was held in March, 1993. As announced in the Institute's FY 1993 Grant Guideline and the proposed FY 1994 Guideline, applicants interested in participating in this special round of funding were to submit concept papers proposing to implement State plans arising from the conference by October 8, 1993. The papers will be considered by the Board at its meeting in November, 1993. Invited applications will be reviewed at the Board's March, 1994 meeting. Followup proposals may also be submitted during the normal project grant funding cycle described above.

The second exception is for projects to follow up on the National Symposium on Court-Connected Dispute Resolution Research held October 15–16, 1993. Concept papers for these projects must be mailed by March 15, 1994. They will be reviewed at the Board's meeting in May, 1994. Applications based on the papers will be reviewed at the September, 1994 Board meeting.

Package Grants. This grant program, begun in FY 1993, permits applicants to submit one concept paper (or application) for a "package" of related grants rather than separate proposals for each related component of the package. Package grants of up to $750,000 per year may be awarded to support projects that address interrelated topics or the core elements of a multifaceted program, or that require the services of all or some of the same key staff persons. Package grants must enhance (not merely maintain) an applicant's services and must otherwise meet the Institute's grant criteria. The Board retains the discretion to support all, none, or selected portions of the proposed package. Package grant concept papers and applications will be considered on the same schedule as project grants.

In FY 1993, the Institute limited package grants to a one-year project period. The Board has eliminated that restriction in FY 1994. Package grants are, however, subject to the same limitations as project grants: Two years for new and continuation projects; three years for on-going support grants. See sections III.J., V.C. and D., VI.A. 2.b. and

3.b., VII.A.3., VII.C. and VII.D. for more information about package grants.

Technical Assistance Grants. Under this program, also begun in FY 1993, a State or local court may receive a grant of up to $30,000 to engage outside experts to provide technical assistance to diagnose, develop, and implement a response to a jurisdiction's problems. The Guideline allocates up to $600,000 in FY 1994 funds to support technical assistance grants, a $100,000 increase over the amount allocated in FY 1993.

In addition, technical assistance grants will be available in FY 1994 to enable court officials from one jurisdiction to observe and assess an innovative practice, program, or facility in another jurisdiction. In lieu of concept papers and formal applications, applicants for these grants may submit letters containing the information specified in section II.2.C. of the Guideline at any time during the fiscal year.

Curriculum Adaptation Grants. A grant of up to $20,000 may be awarded to a State or local court to replicate or modify a model training program developed with SJI funds. The Guideline allocates up to $350,000 for these grants in FY 1994, the same amount allocated in FY 1993. See section II.B.2.b.i.(b).

Like Technical Assistance grant applications, letters requesting Curriculum Adaptation grants may be submitted at any time during the fiscal year. However, in order to permit the Institute sufficient time to evaluate these proposals, letters must be submitted no later than 60 days before the projected date of the training program. See section II.B.2.b.i.(b).

Scholarships. The Guideline allocates up to $250,000 of FY 1994 funds for scholarships to enable judges and court managers to attend out-of-State education and training programs. See section II.B.2.b.v.

The Guideline establishes four deadlines for scholarship requests: November 1, 1993 for training programs beginning between February 1, 1994 and April 30, 1994; February 1, 1994 for programs beginning between May 1, 1994 and July 31, 1994; May 1, 1994 for programs beginning between August 1, 1994 and October 31, 1994; and September 1, 1994 for programs beginning between November 1, 1994 and January 31, 1995. This schedule has been adjusted from FY 1993 in order to distribute applications more evenly throughout the year.

In addition, the chief justice's concurrence form must be received by SJI no later than one week after the application deadline or the application will not be considered. See section II.B.2.b.v.

Renewal Grants. There are two types of renewal grants available from SJI: Continuation grants (see sections III.H., V.C. and D., and IX.A.) and on-going support grants (see sections III.I., V.C. and D., and IX.B.). Continuation grants are intended to support limited duration projects that involve the same type of activities as the original project. On-going support grants may be awarded for up to a three-year period to support national-scope projects that provide the State courts with critically needed services, programs, or products.

The Guideline establishes a target for renewal grants of no more than $3 million, a little more than 25% of the total amount available for grants in FY 1994. See section IX. Grantees should accordingly be aware that the award of a grant to support a project does not constitute a commitment to provide either continuation funding or on-going support.

An applicant for a continuation or on-going support grant must submit a letter notifying the Institute of its intent to seek such funding, no later than 120 days before the end of the current grant period. The Institute will then notify the applicant of the deadline for its renewal grant application. See section IX.

Special Interest Categories

The Guideline contains 13 Special Interest categories, i.e., those project areas that the Board has identified as being of particular importance to the State courts. Three new categories have been added this year: "Evaluation of Court-Connected Alternative Dispute Resolution" (section II.B.2.e.); "Facilitating the Appropriate Use of Intermediate Sanctions" (section II.B.2.i.); and "The Impact of Health Care-Related Issues on the State Courts" (section II.B.2.j.). Two categories in last year's Guideline have been eliminated ("Improving Communication and Coordination Among Courts" and "The Court-Related Needs of Elderly Persons and Persons With Disabilities"). The FY 1993 category "Application of Performance-Based Standards and Measures to the Courts" has been combined with the "Planning for the Future of the Courts" category. See section II.B.2.d.

Of particular note among other Special Interest categories is the "Family Violence in the Courts" category (section II.B.2.l.) which continues to invite proposals to implement the Battered Women's Testimony Act and the Judicial Training and Research for Child Custody Litigation Act enacted by Congress in 1992, and tentatively solicits proposals to implement the judicial education provisions of the pending Violence Against Women Act.

In addition, the Guideline announces two new national conferences: a National Symposium on the Implementation and Operation of Drug Courts and a National Symposium on Reducing Litigation Delay. See section II.B.2.b.iv. The Institute also reduces the aggregate amount to be allocated to projects addressing a critical need of a single State or local jurisdiction from $1,000,000 to $600,000. See section II.C.

Interagency Agreements

Persons interested in the SJI program should also be aware that the Institute has entered into a number of Interagency Agreements (IAA's) that will provide important benefits to the State courts in FY 1994. Current IAA's support the following projects this fiscal year:

Facilitating the Appropriate Use of Intermediate Sanctions. This agreement continues a joint program that SJI has conducted with the National Institute of Corrections (NIC) since FY 1989. The program helps State and local jurisdictions analyze their current sanctioning practices and encourages collaboration among judges and criminal justice system officials to develop a meaningful array of intermediate sanctions. Under the IAA in FY 1994, SJI will seek to expand the educational aspects of the program by supporting a national video conference, video tapes, and in-State and regional training programs. See section II.B.2.i. Subject to the availability of appropriations, the Board of Directors has allocated up to $200,000 to support the program in FY 1994. An additional amount up to $200,000 will be allocated in FY 1995, subject to the availability of appropriations.

NIC, in partnership with the Edna McConnell Clark Foundation, will seek to develop enhanced intermediate sanctions in several jurisdictions within selected States. For further information about this aspect of the program, readers should contact Phyllis Modley of the Community Corrections Division of NIC, at 320 First St., NW., Washington, DC 20534 ((202) 307–3995).

State-Federal Judicial Education Interchange. SJI, the Federal Judicial Center (FJC), and the SJI-funded Judicial Education Reference, Information and Technical Transfer (JERITT) project at Michigan State University have entered into a memorandum of understanding under which JERITT and the FJC will exchange selected State and Federal judicial education materials and

disseminate them to State and Federal judges and judicial educators. Materials will be transferred in hard copy versions (subject to their availability) and electronically.

Substance Abuse Case Management Education and Technical Assistance. Under this agreement, SJI and the Bureau of Justice Assistance (BJA) of the Department of Justice are providing $150,000 each to The American University to identify and assess case management methods through which courts may process substance abuse cases fairly and effectively, develop and test a curriculum for judges and court managers based on these methods, and provide technical assistance that would help those attending the training improve their ability to handle these cases.

Substance Abuse Treatment Training. The Center for Substance Abuse Treatment (CSAT) of the Department of Health and Human Services and SJI are supporting six regional training programs for State judges and legislators on alcohol and drug treatment. CSAT is providing approximately $1.1 million to support this program over a three-year period. Subject to the availability of appropriations, SJI is providing an additional $300,000 over the same period to enhance and expand the program.

Substance Abuse Conference State Plan Implementation. SJI and BJA are providing $208,000 ($108,000 from SJI; $100,000 from BJA) to the National Center for State Courts to provide technical assistance to the State teams that attended the November 1991 National Conference on Substance Abuse and the Courts.

Pro Se Modifications of Child Support Awards. SJI and the HHS Office of Child Support Enforcement of the Administration on Children and Families are supporting a pilot project to develop, demonstrate, and evaluate effective techniques that courts can use in proceedings to review and modify child support orders involving litigants not represented by counsel. This $70,000 project is being conducted by the American Bar Association Center for Children and the Law in two counties in South Carolina. The Institute is contributing $35,000 to support this project; OCSE/ACF is providing $25,000 plus $10,000 in in-kind services.

Examination of the Impact of Court, Prosecutor, and Defender Resources on Felony Cases. SJI and the National Institute of Justice are jointly supporting a study conducted by the National Center for State Courts that will examine the impact of court, prosecutor, and defender resources, case management procedures, and methods of interorganizational coordination on the pace and outcomes of felony adjudications in ten large urban jurisdictions. SJI and NIJ are equally sharing the $238,000 cost of the project.

Recommendations to Grant Writers

Over the past six years, Institute staff have reviewed approximately 2,400 concept papers and 1,200 applications. On the basis of those reviews, inquiries from applicants, and the views of the Board, the Institute offers the following recommendations to help potential applicants present workable, understandable proposals that can meet the funding criteria set forth in this Guideline.

The Institute suggests that applicants make certain that they address the questions and issues set forth below when preparing a concept paper or application. Concept papers and applications should, however, be presented in the formats specified in sections VI. and VII. of the Guideline, respectively.

1. *What is the subject or problem you wish to address?* Describe the subject or problem and how it affects the courts and the public. Discuss how your approach will improve the situation or advance the state of the art or knowledge, and explain why it is the most appropriate approach to take. When statistics or research findings are cited to support a statement or position, the source of the citation should be referenced in a footnote or a reference list.

2. *What do you want to do?* Explain the goal(s) of the project in simple, straightforward terms. The goals should describe the intended consequences or expected overall effect of the proposed project (e.g., to enable judges to sentence drug-abusing offenders more effectively, or to dispose of civil cases within 24 months), rather than the tasks or activities to be conducted (e.g., hold three training sessions, or install a new computer system).

To the greatest extent possible, an applicant should avoid a specialized vocabulary that is not readily understood by the general public. Technical jargon does not enhance a paper.

3. *How will you do it?* Describe the methodology carefully so that what you propose to do and how you would do it is clear. All proposed tasks should be set forth so that a reviewer can see a logical progression of tasks and relate those tasks directly to the accomplishment of the project's goal(s). When in doubt about whether to provide a more detailed explanation or to assume a particular level of knowledge or expertise on the part of the reviewers, err on the side of caution and provide the additional information. A description of project tasks also will help identify necessary budget items. All staff positions and project costs should relate directly to the tasks described. The Institute encourages applicants to attach letters of cooperation and support from the courts and related agencies that will be involved in or directly affected by the proposed project.

4. *How will you know it works?* Include an evaluation component that will determine whether the proposed training, procedure, service, or technology accomplished the objectives it was designed to meet. Concept papers and applications should describe the criteria that will be used to evaluate the project's effectiveness and identify program elements which will require further modification. The description in the application should include how the evaluation will be conducted, when it will occur during the project period, who will conduct it, and what specific measures will be used. In most instances, the evaluation should be conducted by persons not connected with the implementation of the procedure, training, service, or technique, or the administration of the project.

The Institute has also prepared a more thorough list of recommendations to grant writers regarding the development of project evaluation plans. Those recommendations are available from the Institute upon request.

5. *How will others find out about it?* Include a plan to disseminate the results of the training, research, or demonstration beyond the jurisdictions and individuals directly affected by the project. The plan should identify the specific methods which will be used to inform the field about the project, such as the publication of law review or journal articles, or the distribution of key materials. A statement that a report or research findings "will be made available to" the field is not sufficient. The specific means of distribution or dissemination as well as the types of recipients should be identified. Reproduction and dissemination costs are allowable budget items.

6. *What are the specific costs involved?* The budget in both concept papers and applications should be presented clearly. Major budget categories such as personnel, benefits, travel, supplies, equipment, and indirect costs should be identified separately. The components of "Other" or "Miscellaneous" items should be

specified in the application budget narrative, and should not include set-asides for undefined contingencies.

7. *What, if any, match is being offered?* Courts and other units of State and local government (not including publicly-supported institutions of higher education) are required by the State Justice Institute Act to contribute a match (cash, non-cash, or both) of not less than 50 percent of the grant funds requested from the Institute. All other applicants also are encouraged to provide a matching contribution to assist in meeting the costs of a project.

The match requirement works as follows: If, for example, the total cost of a project is anticipated to be $150,000, a State or local court or executive branch agency may request up to $100,000 from the Institute to implement the project. The remaining $50,000 (50% of the $100,000 requested from SJI) must be provided as match.

Cash match includes funds directly contributed to the project by the applicant, or by other public or private sources. It does not include income generated from tuition fees or the sale of project products. Non-cash match refers to in-kind contributions by the applicant, or other public or private sources. This includes, for example, the monetary value of time contributed by existing personnel or members of an advisory committee (but not the time spent by participants in an educational program attending program sessions). When match is offered, the nature of the match (cash or in-kind) should be explained and, at the application stage, the tasks and line items for which costs will be covered wholly or in part by match should be specified.

8. *Which of the two budget forms should be used?* Section VII.A.3. of the SJI Grant Guideline encourages use of the spreadsheet format of Form C1 if the funding request exceeds $100,000. Form C1 also works well for projects with discrete tasks, regardless of the dollar value of the project. Form C, the tabular format, is preferred for projects lacking a number of discrete tasks, or for projects requiring less than $100,000 of Institute funding. Generally, use the form that best lends itself to representing most accurately the budget estimates for the project.

9. *How much detail should be included in the budget narrative?* The budget narrative of an application should provide the basis for computing all project-related costs, as indicated in section VII.D. of the SJI Grant Guideline. To avoid common shortcomings of application budget narratives, include the following information:

- Personnel estimates that accurately provide the amount of time to be spent by personnel involved with the project and the total associated costs, including current salaries for the designated personnel (e.g., Project Director, 50% for one year, annual salary of $50,000 = $25,000). If salary costs are computed using an hourly or daily rate, the annual salary and number of hours or days in a work-year should be shown.
- Estimates for supplies and expenses supported by a complete description of the supplies to be used, nature and extent of printing to be done, anticipated telephone charges, and other common expenditures, with the basis for computing the estimates included (e.g., 100 reports × 75 pages each × .05/page = $375.00). Supply and expense estimates offered simply as "based on experience" are not sufficient.

In order to expedite Institute review of the budget, make a final comparison of the amounts listed in the budget narrative with those listed on the budget form. In the rush to complete all parts of the application on time, there may be many last-minute changes; unfortunately, when there are discrepancies between the budget narrative and the budget form or the amount listed on the application cover sheet, it is not possible for the Institute to verify the amount of the request. A final check of the numbers on the form against those in the narrative will preclude such confusion.

10. *What travel regulations apply to the budget estimates?* Transportation costs and per diem rates must comply with the policies of the applicant organization, and a copy of the applicant's travel policy should be submitted as an appendix to the application. If the applicant does not have a travel policy established in writing, then travel rates must be consistent with those established by the Institute or the Federal Government (a copy of the Institute's travel policy is available upon request). The budget narrative should state which regulations are in force for the project and should include the estimated fare, the number of persons traveling, the number of trips to be taken, and the length of stay. The estimated costs of travel, lodging, ground transportation, and other subsistence should be listed separately. When combined, the subtotals for these categories should equal the estimate listed on the budget form.

11. *May grant funds be used to purchase equipment?* Grant funds may be used to purchase or lease only that equipment which is essential to accomplishing the objectives of the project. The budget narrative must list such equipment and explain why the equipment is necessary. Written prior approval of the Institute is required when the amount of automated data processing equipment to be purchased or leased exceeds $10,000, or the software to be purchased exceeds $3,000.

12. *To what extent may indirect costs be included in the budget estimates?* It is the policy of the Institute that all costs should be budgeted directly; however, if an applicant has an indirect cost rate that has been approved by a Federal agency within the last two years, an indirect cost recovery estimate may be included in the budget. A copy of the approved rate agreement should be submitted as an appendix to the application.

If an applicant does not have an approved rate agreement, an indirect cost rate proposal should be prepared in accordance with section XI.H.4. of the Grant Guideline, based on the applicant's audited financial statements for the prior fiscal year. (Applicants lacking an audit must budget all project costs directly.) If an indirect cost rate proposal is to be submitted, the budget should reflect estimates based on that proposal. Obviously, this requires that the proposal be completed at the time of application so that the appropriate estimates may be included; however, grantees have until three months after the project start date to submit the indirect cost proposal to the Institute for approval. An indirect cost rate worksheet on computer diskette is available from the Institute upon request.

13. *Does the budget truly reflect all costs required to complete the project?* After preparing the program narrative portion of the application, applicants may find it helpful to list all the major tasks or activities required by the proposed project, including the preparation of products, and note the individual expenses, including personnel time, related to each. This will help to ensure that, for all tasks described in the application (e.g., development of a videotape, research site visits, distribution of a final report), the related costs appear in the budget and are explained correctly in the budget narrative.

Recommendations to Grantees

The Institute's staff works with grantees to help assure the smooth operation of the project and compliance with the SJI Guidelines. On the basis of monitoring more than 700 grants, the Institute staff offers the following suggestions to aid grantees in meeting

the administrative and substantive requirements of their grants.

1. *After the grant has been awarded, when are the first quarterly reports due?* Progress and financial status reports must be submitted within 30 days after the end of every calendar quarter—i.e. no later than January 30, April 30, July 30, and October 30—regardless of the project's start date. The reporting periods covered by each quarterly report end 30 days before the respective deadline for the report. When an award period begins December 1, for example, the first quarterly report describing project activities between December 1 and December 31 will be due on January 30. A financial status report should be submitted even if funds have not been obligated or expended.

Progress reports are intended as a way of documenting what has happened over the past three months, providing an opportunity to resolve any questions before they become problems, and making any necessary changes in the project time schedule, budget allocations, etc. Thus, the project report should describe project activities, their relationship to the approved timeline, any problems encountered and how they were resolved, and outline the tasks scheduled for the coming quarter. It is helpful to attach copies of relevant memos, draft products, or other requested information. Two copies of the progress report and attachments should be submitted to the Institute.

Additional quarterly program or financial reporting forms may be obtained from the grantee's Program Manager at SJI, or photocopies may be made from the supply received with the award.

2. *Do reporting requirements differ for renewal grants or package grants?* Recipients of a continuation, on-going support, or package grant are required to submit quarterly progress and financial status reports on the same schedule and with the same information as recipients of a grant for a single new project.

A continuation or an on-going support grant should be considered as a supplement to and extension of the original award, and the reports numbered accordingly. For example, if the last quarterly report filed under the original award is report number six, the first report including a portion of the renewal grant should be report number seven.

Recipients of a package grant should file a summary financial status report covering the entire package as well as separate financial reports for each of the projects in the package, identified by letter of the alphabet (e.g., SJI–93–15R–J–001–A; SJI–93–15R–J–001–B; SJI–93–15R–J–001–C).

3. *Why is it important to address the special conditions that are attached to the award document?* In some instances, a list of special conditions is attached to the award document. The special conditions are imposed to establish a schedule for reporting certain key information, to assure that the Institute has an opportunity to offer suggestions at critical stages of the project, and to provide reminders of some, but not all of the requirements contained in the Grant Guideline. Accordingly, it is important for grantees to check the special conditions carefully and discuss with their Program Manager any questions or problems with the conditions they may have. Most concerns about timing, response time, and the level of detail required can be resolved in advance through a telephone conversation. The Institute's primary concern is to work with grantees to assure that their projects accomplish their objectives, not to enforce rigid bureaucratic requirements. However, if a grantee fails to comply with a special condition or with other grant requirements, the Institute may, after proper notice, suspend payment of grant funds or terminate the grant.

Sections X., XI., and XII. of the Grant Guideline contain the Institute's administrative and financial requirements. Institute staff are always available to answer questions and provide assistance regarding these provisions.

4. *What is a Grant Adjustment?* A Grant Adjustment is the Institute's form for acknowledging the satisfaction of special conditions, or approving changes in grant activities, schedule, staffing, sites, or budget allocations requested by the project director. It also may be used to correct errors in grant documents, add small amounts to a grant award, or deobligate funds from the grant.

5. *What schedule should be followed in submitting requests for reimbursements or advance payments?* Requests for reimbursements or advance payments may be made at any time after the project start date and before the end of the 90-day close-out period. However, the Institute follows the U.S. Treasury's policy limiting advances to the minimum amount required to meet immediate cash needs. Given normal processing time, grantees should not seek to draw down funds for periods greater than 30 days from the date of the request.

6. *Do procedures for submitting requests for reimbursement or advance payment differ for renewal grants or package grants?* The basic procedures are the same for any grant. A continuation or an on-going support grant should be considered as a supplement to and extension of the original award, and the payment requests numbered accordingly. For example, if the last payment request under the original award is number nine, then the first request for funds from the continuation award should be number ten.

Recipients of a package grant should file separate requests for each project in the package. For example, if there are three projects within a package grant, a grantee should prepare three separate payment requests, each identified by the letter of the alphabet designated in the award document (e.g., SJI–93–15R–J–001–A; SJI–93–15R–J–001–B; SJI–93–15R–J–001–C). Subsequent payment requests should be numbered consecutively for each project within the package (e.g., project SJI–93–15R–J–001–A payment number 2; SJI–93–15R–J–001–B payment number 4; etc.).

7. *If things change during the grant period, can funds be reallocated from one budget category to another?* The Institute recognizes that some flexibility is required in implementing a project design and budget. Thus, grantees may shift funds among direct cost budget categories. When any one reallocation or the cumulative total of reallocations are expected to exceed five percent of the approved budget, a grantee must specify the proposed changes, explain the reasons for the changes, and request Institute approval.

The same standard applies to renewal grants and package grants. However, prior written Institute approval is required to shift leftover funds from the original award to cover activities to be conducted under the renewal award, or to use renewal grant monies to cover costs incurred during the original grant period. Prior written Institute approval also is needed to shift funds between projects included in a package grant.

8. *What information about project activities should be communicated to SJI?* In general, grantees should provide prior notice of critical project events such as advisory board meetings or training sessions so that the Institute Program Manager can attend if possible. If methodological, schedule, staff, budget allocations or other significant changes become necessary, the grantee should contact the Institute's program monitor prior to implementing any of these changes, so that possible questions may be addressed in advance. Questions concerning the financial requirements section of the Guideline, quarterly financial reporting or payment requests,

should be addressed to the Chief or Deputy Chief of the Institute's Finance and Management Division.

It is helpful to include the grant number assigned to the award on all correspondence to the Institute.

9. *What is the 90-day close-out period?* Following the last day of the grant, a 90-day period is provided to allow for all grant-related bills to be received and posted, and grant funds drawn down to cover these expenses. No obligations of grant funds may be incurred during this period. The last day on which an expenditure of grant funds can be obligated is the end date of the grant period. Similarly, the 90-day period is not intended as an opportunity to finish and disseminate grant products. This should occur before the end of the grant period.

Starting the day after the end of the award period, and during the following 90 days, all monies that have been obligated should be expended. All payment requests must be received by the end of the 90-day "close-out-period." Any unexpended monies held by the grantee that remain after the 90-day follow-up period must be returned to the Institute. Any funds remaining in the grant that have not been drawn down by the grantee will be deobligated.

The following Grant Guideline is adopted by the State Justice Institute for FY 1994:

State Justice Institute Grant Guideline—Table of Contents

Summary

This Guideline sets forth the proposed programmatic, financial, and administrative requirements of grants, cooperative agreements, and contracts awarded by the State Justice Institute. The Institute, a private, nonprofit corporation established by an Act of Congress, is authorized to award grants, cooperative agreements and contracts to improve the administration and quality of justice in the State courts.

Grants may be awarded to State and local courts and their agencies; national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branch of State governments; and national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments. The Institute may also award grants to other nonprofit organizations with expertise in judicial administration; institutions of higher education; individuals, partnerships, firms, or corporations; and private agencies with expertise in judicial administration if the objectives of the funded program can be better served by such an entity. Funds may be awarded, as well, to Federal, State or local agencies and institutions other than courts for services that cannot be provided for adequately through nongovernmental arrangements. In addition, the Institute may provide financial assistance in the form of interagency agreements with other grantors.

The Institute will consider applications for funding support that address any of the areas specified in its enabling legislation. However, the Board of Directors of the Institute has designated certain program categories as being of special interest.

The Institute has established one round of competition for FY 1994 funds. The concept paper submission deadline for all but two funding categories is December 1, 1993. Concept papers to implement the plans developed at the March, 1993 National Conference on Family Violence and the Courts must be mailed by October 8, 1993. Concept papers on projects that follow up on October 1993 National Symposium on Court-Connected Dispute Resolution Research must be mailed by March 15, 1994.

It is anticipated that between $11 million and $11.5 million will be available for award. This Guideline applies to all concept papers and formal applications submitted for FY 1994 funding.

The awards made by the State Justice Institute are governed by the requirements of this Guideline and the authority conferred by Public Law 98–620, title II, 42 U.S.C. 10701, *et seq.*, as amended.

I. Background

The State Justice Institute ("Institute") was established by Public Law 98–620 to improve the administration of justice in the State courts in the United States. Incorporated in the State of Virginia as a private, nonprofit corporation, the Institute is charged, by statute, with the responsibility to:

A. Direct a national program of financial assistance designed to assure that each citizen of the United States is provided ready access to a fair and effective system of justice;

B. Foster coordination and cooperation with the Federal judiciary;

C. Promote recognition of the importance of the separation of powers doctrine to an independent judiciary; and

D. Encourage education for judges and support personnel of State court systems through national and State organizations, including universities.

To accomplish these broad objectives, the Institute is authorized to provide funds to State courts, national organizations which support and are supported by State courts, national judicial education organizations, and other organizations that can assist in improving the quality of justice in the State courts.

The Institute is supervised by an eleven-member Board of Directors appointed by the President, by and with the consent of the Senate. The Board is statutorily composed of six judges, a State court administrator, and four members of the public, no more than two of whom can be of the same political party.

Through the award of grants, contracts, and cooperative agreements, the Institute is authorized to perform the following activities:

A. Support research, demonstrations, special projects, technical assistance, and training to improve the administration of justice in the State courts;

B. Provide for the preparation, publication, and dissemination of information regarding State judicial systems;

C. Participate in joint projects with Federal agencies and other private grantors;

D. Evaluate or provide for the evaluation of programs and projects funded by the Institute to determine their impact upon the quality of criminal, civil, and juvenile justice and the extent to which they have contributed to improving the quality of justice in the State courts;

E. Encourage and assist in furthering judicial education;

F. Encourage, assist, and serve in a consulting capacity to State and local justice system agencies in the development, maintenance, and coordination of criminal, civil, and juvenile justice programs and services; and

G. Be responsible for the certification of national programs that are intended to aid and improve State judicial systems.

II. Scope of the Program

During FY 1994, the Institute will consider applications for funding support that address any of the areas specified in its enabling legislation. The Board, however, has designated certain program categories as being of "special interest." See section II.B.

A. Authorized Program Areas

The State Justice Institute Act authorizes the Institute to fund projects addressing one or more of the following program areas:

1. Assistance to State and local court systems in establishing appropriate procedures for the selection and removal of judges and other court personnel and in determining appropriate levels of compensation;

2. Education and training programs for judges and other court personnel for the performance of their general duties and for specialized functions, and national and regional conferences and seminars for the dissemination of information on new developments and innovative techniques;

3. Research on alternative means for using judicial and nonjudicial personnel in court decisionmaking activities, implementation of demonstration programs to test such innovative approaches, and evaluations of their effectiveness;

4. Studies of the appropriateness and efficacy of court organizations and financing structures in particular States, and support to States to implement plans for improved court organization and financing;

5. Support for State court planning and budgeting staffs and the provision of technical assistance in resource allocation and service forecasting techniques;

6. Studies of the adequacy of court management systems in State and local courts, and implementation and evaluation of innovative responses to records management, data processing, court personnel management, reporting and transcription of court proceedings, and juror utilization and management;

7. Collection and compilation of statistical data and other information on the work of the courts and on the work of other agencies which relate to and affect the work of courts;

8. Studies of the causes of trial and appellate court delay in resolving cases, and establishing and evaluating experimental programs for reducing case processing time;

9. Development and testing of methods for measuring the performance of judges and courts and experiments in the use of such measures to improve the functioning of judges and the courts;

10. Studies of court rules and procedures, discovery devices, and evidentiary standards to identify problems with the operation of such rules, procedures, devices, and standards; and the development of alternative approaches to better reconcile the requirements of due process with the need for swift and certain justice, and testing of the utility of those alternative approaches;

11. Studies of the outcomes of cases in selected areas to identify instances in which the substance of justice meted out by the courts diverges from public expectations of fairness, consistency, or equity; and the development, testing and evaluation of alternative approaches to resolving cases in such problem areas;

12. Support for programs to increase court responsiveness to the needs of citizens through citizen education, improvement of court treatment of witnesses, victims, and jurors, and development of procedures for obtaining and using measures of public satisfaction with court processes to improve court performance;

13. Testing and evaluating experimental approaches to provide increased citizen access to justice, including processes which reduce the cost of litigating common grievances and alternative techniques and mechanisms for resolving disputes between citizens; and

14. Other programs, consistent with the purposes of the Act, as may be deemed appropriate by the Institute, including projects dealing with the relationship between Federal and State court systems in areas where there is concurrent State-Federal jurisdiction and where Federal courts, directly or indirectly, review State court proceedings.

In addition, the Battered Women's Testimony Act of 1992 and the Judicial Training and Research for Child Custody Litigation Act of 1992 authorize the Institute to:

1. Collect and analyze information regarding the admissibility and quality of expert testimony on the experiences of battered women offered as part of the defense in criminal cases under State law, as well as sources of and methods to obtain funds to pay costs incurred to provide such testimony, particularly in cases involving indigent women defendants;

2. Develop training materials to assist battered women, operators of domestic violence shelters, battered women's advocates, and attorneys to use expert testimony on the experiences of battered women in appropriate cases, and individuals with expertise in the experiences of battered women to develop skills appropriate to providing such testimony;

3. Support research regarding State judicial decisions relating to child custody litigation involving domestic violence;

4. Develop training curricula to assist State courts to develop an understanding of, and appropriate responses to child custody litigation involving domestic violence; and

5. Disseminate information and training materials regarding these issues and provide related technical assistance.

Funds will not be made available for the ordinary, routine operation of court systems or programs in any of these areas.

B. Special Interest Program Categories

1. General Description

The Institute is interested in funding both innovative programs and programs of proven merit that can be replicated in other jurisdictions. Although applications in any of the statutory program areas are eligible for funding in FY 1994, the Institute is especially interested in funding those projects that:

a. Formulate new procedures and techniques, or creatively enhance existing arrangements to improve the courts;

b. Address aspects of the State judicial systems that are in special need of serious attention;

c. Have national significance in terms of their impact or replicability in that they develop products, services and techniques that may be used in other States; and

d. Create and disseminate products that effectively transfer the information and ideas developed to relevant audiences in State and local judicial systems or provide technical assistance to facilitate the adaptation of effective programs and procedures in other State and local jurisdictions.

A project will be identified as a "Special Interest" project if it meets the four criteria set forth above and (1) it falls within the scope of the "special interest" program areas designated below, or (2) information coming to the

attention of the Institute from the State courts, their affiliated organizations, the research literature, or other sources demonstrates that the project responds to another special need or interest of the State courts.

Concept papers and applications which address a "Special Interest" category will be accorded a preference in the rating process. (See the selection criteria listed in sections VI.B., "Concept Paper Submission Requirements for New Projects," and VIII.B., "Application Review Procedures.")

2. Specific Categories

The Board has designated the areas set forth below as "Special Interest" program categories. The order of listing does not imply any ordering of priorities among the categories.

a. *Enhancing Court-Community Relations.* This category includes research, demonstration, evaluation and education projects designed to foster or enhance effective cooperative relationships between courts and local communities, and to test innovative methods for eliminating economic, racial, ethnic, cultural or gender-based barriers to justice.

Specifically, the Board is interested in supporting innovative projects that assist in implementing the recommendations of State Task Forces on Gender Bias in the courts and the Second National Conference on Gender Bias in the Courts, including a national clearinghouse or resource center and projects that address the inequities and stereotypes faced by women and men in domestic relations, criminal, civil, probate and juvenile cases. However, operational support will not be provided for new or existing State Task Forces.

Examples of other possible projects include but are not limited to the examination, development, and testing of innovative methods that trial or appellate courts may use to: address court-community problems resulting from the influx of legal and illegal immigrants, including projects to lessen the financial impact of that immigration on the courts; design and assess procedures for use in custody, visitation, and other domestic relations cases when family members or property are outside the United States; or facilitate communication with Federal authorities when illegal aliens are involved in State court proceedings; handle cases involving pro se litigants fairly and effectively; use volunteers effectively; and respond to the needs of the culturally, demographically, economically and physically diverse public the courts serve. However, Institute funds may not be used to support legal representation of individuals in specific cases.

Previous SJI-supported projects that address these issues include: The planning of a National Town Meeting on Improving Public Confidence in the Judicial System and a National Conference on Racial and Ethnic Bias in the Courts; presentation of the Second National Conference on Gender Bias and the Courts; faculty workshops on race fairness, cultural awareness, and Native American legal issues; evaluation of an experimental community court in New York City; development of a manual for management of court interpretation services and materials for training and assisting court interpreters; development of touchscreen computer systems, videotapes and written materials to assist pro se litigants; a demonstration of the use of volunteers to monitor guardianships; studies of effective and efficient methods of providing legal representation to indigent parties in criminal and family cases and the applicability of various dispute resolution procedures to different cultural groups; guidelines for court-annexed day care systems; preparation of public education materials for adults and students and a curriculum for media representatives and judges on reporting on the courts and the law; and the testing of a computerized intake and referral system for court users and telephone-based systems for obtaining general court information and case-specific information.

b. *Education and Training for Judges and Other Key Court Personnel.* The Institute continues to be interested in supporting an array of projects to strengthen and broaden the availability of court education programs at the State, regional and national levels. Accordingly, this category is divided into five subsections: (i) State Initiatives; (ii) National and Regional Education Programs; (iii) Judicial Education Technical Assistance; (iv) Conferences; and (v) Scholarships. All Institute-supported conferences and education and training seminars should be accessible to persons with disabilities in accordance with the Americans with Disabilities Act.

i. *State Initiatives.* This category includes support for training projects developed or endorsed by a State's courts for the benefit of judges and other court personnel in that State. Funding of these initiatives does not include support for training programs conducted by national providers of judicial education unless such a program is designed specifically for a particular State and has the express support of the State Chief Justice, State Court Administrator, or State Judicial Educator. The types of programs to be supported within this category should be defined by individual State need but may include:

(a) *Development of State Court Education Programs.* Projects to assist development of State court education programs include, but are not limited to:

- Seed money for the creation of an ongoing State-based entity for planning, developing, and administering judicial education programs;
- The development of a pre-bench orientation program and other training for new judges;
- Seed money for innovative continuing education and career development programs including seminars addressing the evolving roles of courts and judges in society, organizational and leadership development, and coping with the gap between resources and the demand for services; and educational programs based on Institute-supported research; and
- The preparation of State plans for judicial education, including model plans for career-long education of the judiciary (e.g., new judge training and orientation followed by continuing education and career development).

(b) *Curriculum Adaptation Projects.* The Board is reserving up to $350,000 to provide support for adaptation and implementation of model curricula and/or model training programs previously developed with SJI support. The exact amount to be awarded for curriculum adaptation grants will depend on the number and quality of the applications submitted in this category and other categories of the Guideline.

Only State or local courts may apply for Curriculum Adaptation funding. Grants to support adaptation of educational programs previously developed with SJI funds are limited to no more than $20,000 each. As with other awards to State or local courts, cash or in-kind match must be provided equal to at least 50% of the grant amount requested.

Curriculum Adaptation projects may include a replication or State-specific modification of a model educational program, model curriculum, or course module developed with SJI funds by any other State or any national organization; an adaptation of a curriculum or a portion of a curriculum developed for a national or regional conference; or an adaptation of a curriculum for use as part of a State judicial conference or State training

program for judges and other court personnel.

Curriculum Adaptation grants will be awarded on the basis of criteria including: the need for the educational program and for outside funding; the certainty of effective implementation; and expressions of interest by the judges and/or court personnel who would be directly involved in or affected by the project. In making implementation awards, the Institute will also consider factors such as the reasonableness of the amount requested, compliance with the statutory match requirements, diversity of subject matter, geographic diversity, and the level of appropriations available in the current year and the amount expected to be available in succeeding fiscal years.

In lieu of concept papers and formal applications, applicants for grants may submit, at any time, a detailed letter, with three photocopies. Although there is no prescribed form for the letter nor a minimum or maximum page limit, letters of application should include the following information to assure that each of the criteria for evaluating applications is addressed:

• *Project Description.* What is the model curriculum or training program to be tested? Who developed it? How will it complement existing education and training programs? Who will the participants be, how will they be recruited, and from where will they come (e.g., from across the State, from a single local jurisdiction)? How many participants are anticipated and what limits, if any, will be placed on the number of participants? What are the proposed dates for the beginning and ending of the grant period?

• *Need for funding.* Why is this education program needed at the present time? Why cannot State or local resources fully support the modification and presentation of the model curriculum? What is the potential for replicating the program in the future using State or local funds, once it has been successfully adapted and tested?

• *Certainty of effective implementation.* What date has been set for presenting the program? What types of modifications in the length, format and content of the model curriculum are anticipated? Who will be responsible for adapting the model curriculum? How will the presentation of the program be evaluated and by whom? (Ordinarily, an outside evaluation is not necessary.) What measures will be taken to facilitate subsequent presentations of the adapted program?

• *Expressions of interest by judges and/or court personnel.* A demonstration (e.g., by attaching letters of support) that the proposed program has the support of the court system leadership, and the judges, court managers, and judicial education personnel who are expected to attend.

• *Budget and matching State contribution.* A copy of Form E (see Appendix IV) and a narrative that briefly describes the basis for the proposed costs and the source of the match offered.

• For local courts, a concurrence signed by the Chief Justice. (See Form B, Appendix V.)

Letters of application may be submitted at any time. However, there should be at least 60 days between the date of submission and the date of the proposed program. It is anticipated that they will be acted upon within 45 days of receipt. The Board of Directors has delegated its authority to approve these grants to its Judicial Education Committee.

Curriculum Adaptation grants require only two copies of project manuals, handbooks, or packets to be submitted to SJI at the conclusion of the grant, along with the final project report. Applicants preparing instructional material as part of a Curriculum Adaptation grant must provide for including a prominent acknowledgment that support was received from the Institute, along with the "SJI" logo, and a disclaimer paragraph based on the example provided in section X.Q. of the Guideline.

Applicants seeking other types of funding for developing and testing educational programs must comply with the requirements for concept papers and applications set forth in sections VI and VII or the requirements for renewal applications set forth in section IX.

ii. *National and Regional Education Programs.* This category includes support for national or regional training programs developed by any provider, e.g., national organizations, State courts, universities, or public interest groups. Within this category, priority will be given to training projects which address issues of major concern to the State judiciary and other court personnel. Programs to be supported may include:

• Training programs or seminars on topics of interest and concern that transcend State lines including the factors that should be considered in deciding child custody and termination of parental rights;

• Multi-State or regional training programs sponsored by national organizations, nonprofit groups, State courts or universities;

• Specialized training programs for State trial and appellate court judges, State and local court managers, or other court personnel, including seminars based on Institute-supported research, and training that addresses issues related to leadership in a court setting, adapting to change, and developing strategies for improving the quality and administration of justice; and

• Curricula designed for use at the workplace or at home using video, computer-based, or other media.

iii. *Judicial Education Technical Assistance.* Unlike the preceding categories which support direct training, "Technical Assistance" refers to services necessary for the development of effective educational projects for judges and other court personnel. Projects in this category should focus on the needs of the States, and applicants should demonstrate their ability to work effectively with State judicial educators.

The Institute is currently funding the following judicial education technical assistance projects: The Judicial Education Reference Information and Technology Transfer Project (JERITT), which collects and disseminates information (as well as providing technical assistance) on continuing education programs for judges and court personnel; the Judicial Education/Adult Education Project (JEAEP), which provides expert assistance on the application of adult and continuing education theory and practices to court education programs; the Leadership Institute in Judicial Education, which offers an annual training program and followup assistance to State judicial education leadership teams to help them develop improved approaches to court education; and NASJE NEWS, a newsletter of the National Association of State Judicial Educators.

iv. *Conferences.* This category includes support for regional or national conferences on topics of major concern to the State judiciary and court personnel. Applicants are encouraged to consider the use of videoconference and other technologies to increase participation and limit travel expenses in planning and presenting conferences. Applicants also are reminded that conference sites should be accessible to persons with disabilities in accordance with the Americans With Disabilities Act. In planning a conference, applicants should provide for a written, video, or other product that would widely disseminate the information, findings, and any recommendations resulting from the conference.

The Institute is particularly interested in supporting national symposia that synthesize the information available from Institute-supported projects and other sources on the Implementation

and Operation of Drug Courts; and on Reducing Litigation Delay.

(a) *National Symposium on the Implementation and Operation of Drug Courts.* Many jurisdictions around the country have established a specialized "drug court." In at least 12 of these "drug courts," defendants who have been charged with or pleaded guilty to a drug-related offense are ordered to participate in a substance abuse treatment program and are subject to close monitoring. Upon successful completion of the program, the charges are dismissed or the conviction is expunged. Because of the widespread judicial interest in these programs, the Institute seeks to support a symposium which would bring together representatives of the jurisdictions with drug courts, researchers who have studied or evaluated the impact of these courts, representatives of jurisdictions that are interested in establishing a drug court, and other judicial and criminal justice officials, attorneys and scholars to exchange information and recommendations about their effectiveness, implementation, and operation.

Among the topics that should be addressed are variations in the objectives and approaches of the various drug courts; the effectiveness of the programs in curtailing offenders' substance abuse and criminal conduct; the impact of the programs on the courts, the criminal justice system and the substance abuse treatment system; the benefits and drawbacks of operating the program as a diversion rather than a sentencing alternative; the methods used to establish and institutionalize drug courts including how the differing objectives and procedures of the criminal justice and substance abuse treatment systems were reconciled; and methods for evaluating and monitoring the programs.

(b) *National Symposium on Reducing Litigation Delay.* The Institute has supported approximately 20 projects examining methods for improving caseflow in various types and levels of courts, or training judges and court managers on pretrial and trial management. The Institute is interested in supporting a symposium that would bring together litigation delay researchers, technical assistance providers, trial and appellate court judges and managers, State court administrators, attorneys, scholars, and others to synthesize and share the information resulting from the projects funded by the Institute and others; determine the approaches to pretrial, trial, and individual docket management that appear to be most effective and the best methods for implementing them; identify the programs that may be needed to assist courts in further reducing litigation delay; and define and prioritize the topics for further research on improving caseflow management.

v. *Scholarships for Judges and Court Personnel.* The Institute is reserving up to $250,000 (in addition to any scholarship funds remaining from Fiscal Year 1993) to support a scholarship program for State court judges and court managers.

(a) *Program Description/Scholarship Amounts.* The purposes of the Institute scholarship program are to: enhance the knowledge, skills, and abilities of judges and court managers; enable State court judges and court managers to attend out-of-State educational programs sponsored by national and State providers that they could not otherwise attend because of limited State, local and personal budgets; and provide States, judicial educators, and the Institute with evaluative information on a range of judicial and court-related education programs.

Scholarships will be granted to individuals only for the purpose of attending out-of-State programs within the United States. A scholarship may cover the cost of tuition and transportation to the site of the educational program up to a maximum total of $1,500 per scholarship. (Transportation expenses include roundtrip coach airfare or train fare, or up to $.25/mile if the recipient drives to the site of the program.) Ordinarily, funds to pay tuition and transportation expenses in excess of $1,500, and other costs of attending the program such as lodging, meals, materials, and local transportation (including rental cars) at the site of the education program, must be obtained from other sources or be borne by the scholarship recipient.

(b) *Eligibility Requirements.* Because of the limited amount of funds available, scholarships are limited to full-time judges of State or local trial and appellate courts, and to full-time professional, State or local court personnel with management responsibilities. Senior judges, part-time judges, quasi-judicial hearing officers, State administrative law judges, staff attorneys, law clerks, line staff, law enforcement officers and other executive branch personnel will not be eligible to receive a scholarship.

(c) *Application Procedures.* Judges and court managers interested in receiving a scholarship must submit the Institute's Judicial Education Scholarship Application Form (Form S1, see Appendix III). Applications must be submitted by:

November 1, 1993, for programs beginning between February 1, 1994 and April 30, 1994;

February 1, 1994, for programs beginning between May 1 and July 31, 1994;

May 2, 1994, for programs beginning between August 1, and October 31, 1994; and

August 1, 1994, for programs beginning between November 1, 1994 and January 31, 1995.

No exceptions or extensions will be granted.

All scholarship applicants must obtain the written concurrence of the Chief Justice of his or her State (or the Chief Justice's designee) on the Institute's Judicial Education Scholarship Concurrence (Form S2, see Appendix III). Court managers, other than elected clerks of court, also should submit a letter of support from their supervisor. The Concurrence (Form S2) may accompany the application or be sent separately. However, the original signed Concurrence form must be received by the Institute within one week after the appropriate application mailing deadline (i.e. by November 8, 1993, or February 8, May 9, or August 8, 1994). No application will be reviewed if a signed Concurrence has not been received by the required date.

(d) *Review Procedures/Selection Criteria.* The Board of Directors has delegated the authority to approve or deny scholarships to its Judicial Education Committee. The Institute intends to notify each applicant whose scholarship has been approved within 45 days after the relevant application deadline. In order to assure the availability of scholarship funds throughout the year, the Committee will limit the amount of the scholarship support awarded in any quarter to no more than $62,500 (in addition to scholarship funds that may not have been awarded in previous quarters).

The factors that the Institute will consider in selecting scholarship recipients are:

- The applicant's need for training in the particular course subject and how the applicant would apply the information/skills gained;
- The State's need for the applicant to attend the specific educational program, as demonstrated by a description of current legal, procedural, administrative or other problems affecting the State's courts, enactment of new legislation, or other indications of need, in addition to submission of a signed Form S2;

- The absence of educational programs in the applicant's State addressing the particular topic;
- How the applicant intends to disseminate the knowledge gained (e.g., by developing/teaching a course or providing in-service training for judges or court personnel at the State or local level);
- The length of time that the applicant intends to serve as a judge or court manager, assuming reelection or reappointment, where applicable;
- The length of time since the applicant attended a non-mandatory judicial or court management education program;
- The unavailability of State or local funds to cover the costs of attending the program;
- The quality of the educational program to be attended as demonstrated by the sponsoring organization's experience in judicial education, evaluations by participants or other professionals in the field, or prior SJI support for this or other programs sponsored by the organization;
- Geographic balance;
- The balance of scholarships among types of applicants and courts;
- The balance of scholarships among educational programs; and
- The level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

(e) *Responsibilities of Scholarship Recipients.* In order to receive the funds authorized by a scholarship award, recipients must submit Scholarship Payment Voucher (Form S3) together with a tuition statement from the program sponsor, and a transportation fare receipt (or statement of the driving mileage to and from the recipient's home to the site of the educational program). Recipients also must submit to the Institute a certificate of attendance at the program and an evaluation of the educational program they attended. A copy of the evaluation also must be sent to the Chief Justice of their State.

A State or a local jurisdiction may impose additional requirements on scholarship recipients that are consistent with SJI's criteria and requirements, e.g., a requirement to serve as faculty on the subject at a State- or locally-sponsored judicial education program.

c. *Court Financing and Use of Resources.* This category includes demonstration, evaluation, education, and research projects designed to contribute to the National Conference on the Funding Crisis in the State Courts scheduled for the Fall of 1994. Among the possible topics that could be addressed under this category are:

- The testing of innovative methods for enhancing interbranch communications;
- Documentation and evaluation of the effects of "privatizing" judicial branch services or responsibilities including the effect on the quality of service and the public's perception of fairness, the financial impact of privatization on the courts, and the management changes required in order to properly oversee contractors;
- Documentation and evaluation of effective techniques for managing court resources, services, and personnel and managing reductions of services and personnel levels in a court environment;
- Examinations of the results, benefits and drawbacks of various methods of enhancing the stability and equity of court funding; and
- Dissemination of information regarding these issues to the court community nationally.

In previous funding cycles, the Institute has supported a National Conference on the Funding Crisis in the Courts and projects that examined judgeship, staffing, and indigent defense services needs; assessed approaches for managing budget cutbacks; and evaluated techniques for improving collection and administration of monetary penalties and restitution in criminal cases.

d. *Planning and Managing the Future of the Courts.* The Institute is interested in supporting activities that would enable courts to implement and evaluate long-range strategic planning processes and complementary innovative management approaches in their own jurisdictions.

The types of projects that fall within this category are:

- Development, implementation, institutionalization, and evaluation of long-range planning approaches in individual States and local jurisdictions, e.g., the development or inclusion of strategic planning techniques, environmental scanning, trends analysis and other comprehensive long-range, strategic planning methods as components of courts' current planning processes or as part of the initiation of such a process;
- Adaptation, implementation and evaluation of innovative management approaches, such as total quality management, designed to complement, enhance or support use of a long-range strategic planning process. This includes the development and testing of performance standards and other techniques to enable trial and appellate court officials to conduct user evaluations of the quality of court services and to measure public, internal and supplier satisfaction as a means to improve court performance.
- Development, presentation and evaluation of training necessary to enable judges and court staff to participate productively in the implementation or institutionalization of the planning process and/or related innovative management approaches.

The Institute has supported futures commissions in seven States. Because the Board of Directors believes that a sufficient variety of commission models now exists, the Institute will not support the development or implementation of any State futures commissions in FY 1994. The Institute also has supported planning, futures, and innovative management projects including: national and Statewide "future and the courts" conferences and training; development of curricula, guidebooks and a video on visioning, and a long-range trial planning guide for trial courts; the provision of technical assistance to courts conducting futures and long-range planning activities; a test of the feasibility of implementing the Trial Court Performance Standards in four States; the development of Appellate Court Performance Standards; and the application of total quality management principles to court operations.

e. *Dispute Resolution and the Courts.* This category includes research, evaluation, demonstration, technical assistance, and education projects addressing the findings and recommendations developed at the National Symposium on Court-Connected Dispute Resolution Research, to be conducted in Orlando in October, 1993. A summary of the recommendations and findings from the conference will be made available by January, 1994. Concept papers proposing addressing these issues must be mailed by March 15, 1994. They will be considered by the Institute's Board of Directors at its meeting on May 12–14, 1994.

f. *Application of Technology.* This category includes the testing of innovative applications of technology to improve the operation of court management systems and judicial practices at both the trial and appellate court levels.

The Board seeks to support local experiments with promising but untested applications of technology in the courts that include a structured evaluation of the impact of the technology in terms of costs, benefits, and staff workload. In this context, "untested" refers to novel applications

of technology developed for the private sector and other fields that have not previously been applied to the courts.

The Board is particularly interested in the evaluation of optical imaging as a tool for transferring information; the effective use of management information systems to monitor, assess, and predict evolving court needs; and training programs to prepare staff for technological change. (See paragraph XI.H.2.b. regarding the limits on the use of grant funds to purchase equipment and software.)

In previous funding cycles, grants have been awarded to support:

Demonstration and evaluation of communications technology, e.g.: Interactive computerized information systems to assist pro se litigants; the use of FAX technology by courts; a multi-user "system for judicial interchange" designed to link disparate automated information systems and share court information among judicial system offices throughout a State without replacement of the various hardware and software environments which support individual courts; a computerized voice information system permitting parties to access by telephone information pertaining to their cases; an automated public information directory of courthouse facilities and services; an automated appellate court bulletin board; and a computer-integrated courtroom that provides full access to the judicial system for hearing-impaired jurors, witnesses, crime victims, litigants, attorneys, and judges;

Demonstration and evaluation of records technology, including: The integration of bar-coding technology with an existing automated case management system; an on-bench automated system for generating and processing court orders; an automated judicial education management system; testing of a document management system for small courts that uses imaging technology, and of automated telephone docketing for circuit-riding judges; evaluation of the use of automated teller machines for paying jurors; and assessment of a combined use of court recording technologies; and

Court technology assistance services, e.g.: Circulation of a court technology bulletin designed to inform judges and court managers about the latest developments in court-related technologies; creation of a court technology laboratory to provide judges and court managers with the opportunity to test automated court-related systems; enhancement of a data base documenting automated systems currently in use in courts across the country; establishment of a technical information service to respond to specific inquiries concerning court-related technologies; development of court automation performance standards; and an assessment of programs that allow public access to electronically stored court information.

Grants also provided support for national court technology conferences; preparation of guidelines on privacy and public access to electronic court information; the testing of a computerized citizen intake and referral service; implementation and evaluation of a Statewide automated integrated case docketing and recordkeeping system; a prototype computerized benchbook using hypertext technology; and computer simulation models to assist State courts in evaluating potential strategies for improving civil caseflow.

g. *Reduction of Litigation Expense and Delay.* This category includes projects to adapt, implement, and evaluate methods developed through research and demonstration projects supported by the Institute and other funders for fairly and effectively managing dockets and reducing the time from the filing of a case to its final disposition (including the pretrial, adjudicatory, post-trial, and appellate stages of the litigation process) and the reduction of the cost and complexity of litigation. The Board is particularly interested in projects that test techniques for improving the coordination between the courts and social service and treatment agencies in order to accelerate and improve dispositions in juvenile, mental health, drug possession, and other cases. This category does not include operational support for mediation, arbitration or other dispute resolution programs. (See also section II.B.2.b.iv.(b) regarding the National Symposium on Reducing Litigation Delay.)

In previous funding cycles, grants have been awarded to support the examination of the causes of delay and the methods for improving case processing in trial courts in rural jurisdictions, limited jurisdiction urban trial courts, and in intermediate appellate courts. In addition, grant support has been awarded to projects demonstrating the use of differentiated case management in trial and appellate courts, and examining the impact of innovative procedures for screening civil cases, handling medical malpractice cases, and expediting appellate decisions.

The Institute has also supported development of a case management review process; studies of case processing in civil and domestic relations cases; the extent of case processing problems caused by discovery; methods for effectively managing motions practice in civil cases; examination of the feasibility of collecting billing information from attorneys in order to better assess the impact of new procedures on litigant costs; and assistance to trial courts in major urban areas and to appellate courts to improve case processing, adopt and implement time standards, and otherwise reduce litigation delay.

h. *Substance Abuse.* This category includes the development and evaluation of innovative techniques for courts to handle the increasing volume of substance abuse-related criminal, civil, juvenile and domestic relations cases fairly and expeditiously; the planning and presentation of seminars or other educational forums for judges, probation officers, caseworkers, and other court personnel to examine court-related issues concerning alcohol and other drug abuse and develop specific plans for how individual courts can respond to the impact of the increasing volume of substance abuse-related criminal, civil, juvenile, and domestic relations cases on their ability to manage their overall caseloads fairly and efficiently.

The Board of Directors is particularly interested in funding innovative projects which establish coordinated efforts between local courts and treatment providers; enhance inter-branch communication regarding the effective disposition of cases involving substance abuse; and evaluate the effectiveness of various methods for treating substance abuse. Proposals should demonstrate a direct impact on the ability of State courts to handle cases involving substance abuse fairly and effectively. The Institute will not fund projects focused on developing additional assessment tools for substance abusers, or providing support for basic court or treatment services. (See also section II.B.2.b.iv.a. regarding the National Symposium on The Implementation and Operation of Drug Courts.)

In previous funding cycles, the Institute has sponsored a National Conference on Substance Abuse and the Courts, and State efforts to implement the plans developed at that Conference. It has also supported projects to evaluate the drug court procedures initiated by the Dade County, Florida, Pulaski County, Arkansas, and New York City courts, and the effectiveness of other court-based alcohol and drug assessment programs; replicate the Dade County program in non-urban sites;

assess the impact of legislation and court decisions dealing with drug-affected infants, and strategies for coping with increasing caseload pressures; develop a benchbook to assist judges in child abuse and neglect cases involving parental substance abuse; test the use of a dual diagnostic treatment model for domestic violence cases in which substance abuse was a factor; and present local and regional educational programs for judges and other court personnel on substance abuse and its treatment.

The Institute and the Bureau of Justice Assistance (BJA) also are supporting two technical assistance projects: one by the National Center for State Courts to assist courts in implementing the plans developed at the National Conference; and the other by the American University Court Technical Assistance Project to identify successful drug case management strategies, conduct seminars on drug case management, and develop a guidebook for implementing drug case processing initiatives. In addition, the Institute and the Department of Health and Human Services' Center for Substance Abuse Treatment (CSAT) have entered into inter-agency agreement to conduct regional training programs for State judges and legislators on substance abuse treatment.

i. *Facilitating the Appropriate Use of Intermediate Sanctions.* Since FY 1989, the Institute has supported a joint program with the National Institute of Corrections (NIC) to facilitate the purposeful and effective use of intermediate sanctions by (1) helping State and local jurisdictions analyze their current sanctioning purposes and practices and (2) encouraging the leadership and active participation of the judiciary in guiding the development and use of a meaningful array of sanctions. "Intermediate sanctions" refers to a range of penalties and programs between unsupervised probation and total confinement for felony offenders who do not pose a significant risk to public safety (e.g., fines, restitution, community service, house arrest, day-reporting centers, and intensive-supervised probation).

As part of the continuation of the joint program, the Board is interested in supporting a comprehensive project that consists of:

- presentation of a national videoconference for teams of judges and criminal justice officials on how to effectively develop and implement intermediate sanctions;
- production of videotapes for use in local or State judicial training programs modeled after the video conference to generate the support and participation of key decision-makers and practitioners;
- presentation of a two-day regional or single-State training program for teams of judges and criminal justice officials; and
- development of a specialized training program for judges for inclusion in annual judicial conferences or other State continuing judicial education programs.

These educational programs and materials should be designed to offer practical information to participants to enhance their understanding of the principles underlying the effective use of a range of sanctions, and create the environment for a collaborative working relationship among the judicial and executive branch officials responsible for their effective implementation. The teams attending these programs should include, at a minimum, the presiding judge of the general jurisdiction court or the criminal division of that court, the community corrections director or chief probation officer, and the prosecutor. Teams should also include other key decisionmakers such as the public defender, State or local legislators, the chief law enforcement officer, and members of the community.

Collaborative concept papers from two or more organizations may be submitted. Applicants may wish to refer to "The Intermediate Sanctions Handbook: Experiences and Tools for Policy-Makers," available through the NIC Information Center, 1860 Industrial Circle, Suite A, Longmont, Colorado 80501.

j. *Assessing the Impact of Health Care-Related Issues on the State Courts.* This category includes research, demonstration, education, and evaluation projects on issues related to the growing impact of health care related issues on the State courts. Among the issues that may be addressed are:

- the use and effectiveness of innovative remedies in long-term environmental and toxic substance exposure cases such as medical surveillance orders;
- the impact on the State courts of proposed or enacted changes in the nation's health care system;
- the potential impact on the State Courts of the U.S. Supreme Court's decision in *Daubert* v. *Merrill Dow Pharmaceuticals*, governing the use of scientific evidence under the Federal Rules of Evidence;
- the implications for the courts of advances in the application of biotechnology to health care.
- the impact on State courts of the judicial review of administrative decisions made under Medicaid and similar State-authorized health care programs, and decisions made by State medical review boards; and
- the basis for determining what constitutes clear and convincing evidence of a person's wish not to initiate or continue life-sustaining treatment, including the implications of the Federal Patient Self-Determination Act; what constitutes extraordinary rather than routine medical services in disputes over the extent of health insurance coverage; and the legal and ethical implications involved in litigation over organ transplants.

In previous funding cycles, the Institute has supported projects to: Develop guidelines for judges in cases regarding the withdrawal of life-sustaining treatment; prepare benchbooks, handbooks, videotapes and training materials on guardianship, the Americans with Disabilities Act and AIDS; and conduct a series of health science-law workshops for judges and judicial educators.

k. *Improving the Use of Juries.* This category includes innovative research, demonstration, evaluation, and education projects to assist courts to improve juror comprehension, the structure of jury decisionmaking, public understanding of jury decisions, and attitudes toward jury service. Among the topics that could be addressed are:

i. Demonstrations and evaluations of innovative approaches for assuring juror safety both during and following jury service, and for reducing the emotional effects on jurors of sensational trials or cases involving particularly traumatic events.

ii. Assessments of the effect on outcome, deliberation time, and juror satisfaction of innovative procedures including:

- the use of "plain English" preliminary and final instructions;
- permitting juries, during their deliberations, to use or have on-line access to videotaped testimony, computerized transcripts, copies or videotapes of the instructions, any computer simulations used in the trial, and other similar materials;
- permitting jurors to discuss the case during trial;
- permitting attorneys to present brief, periodic "mini-summaries" or explanations of their case; and
- using structured verdict forms or special verdicts.

iii. Studies exploring whether juries limited to individuals with certain educational or professional backgrounds are better able to understand and

dispense justice in litigation involving complex subject matter than randomly selected juries, or judges.

Proposals for research submitted under this category should demonstrate the direct applicability of the results to court practices and procedures.

In previous funding cycles, the Institute has supported a manual for implementing innovations in jury selection, use, and management; technical assistance and training to facilitate implementation of the Standards on Jury Management; an investigation of the impact of juror notetaking and question asking; an examination of the relationship of juror fees, terms of service, and excuses from juror service; and development of a guide for making juries accessible to persons with disabilities.

l. *Family Violence and the Courts.* This category includes:

i. State and local court projects to implement the action plans and strategies developed by the teams that participated in the Institute-supported National Conference on Family Violence and the Courts to be held in San Francisco in March, 1993, and projects designed to assist teams in implementing their plans. A special accelerated cycle has been established for considering such projects. In order to be considered during this special cycle, concept papers proposing implementation projects must be mailed by October 8, 1993. They will be considered by the Institute's Board of Directors at its meeting in November, 1993. Applications based on those concept papers will be considered by the Board at its meeting in March, 1994. The Institute also will accept and consider concept papers proposing implementation projects during its regular funding cycle. (See section VI.D.)

ii. Projects to collect information on the admissibility, quality, availability, and cost of expert testimony offered on behalf of battered women on trial for killing or assaulting their alleged abusers, and the development and testing of training materials to assist:

- Battered women, operators of domestic violence shelters, battered women's advocates, and attorneys to use and assess such expert testimony in appropriate cases, particularly cases involving indigent women; and
- Judges, court staff, and criminal justice officials in understanding such testimony and assuring the fair adjudication of such cases.

iii. Projects to identify appropriate and effective approaches for courts to adjudicate child custody litigation involving domestic violence, including:

- Research describing and analyzing the extent and nature of State court decisions relating to child custody litigation involving domestic violence;
- The development, testing, and delivery of training to assist judges and court staff in understanding and fairly adjudicating child custody cases involving domestic violence; and
- Development and testing of approaches to assist judges in determining and addressing the service needs of children exposed to domestic violence, and the design and presentation of training on the short- and long-term effects on children of exposure to domestic violence and the methods for mitigating those effects when issuing protection, custody, visitation or other orders.

iv. Projects examining the effects and appropriate use, if any, of mediation in dissolution, custody, visitation and other cases involving family violence.

v. Projects addressing the issues specified in Sec. 512 of the pending Violence Against Women Act such as training on the nature, incidence and impact of sexual assault and domestic violence; the application of rape shield laws; the use of expert witnesses in sexual assault cases; and the need for and appropriate use of orders of protection in domestic violence cases.

In previous funding cycles, the Institute supported a national conference on family violence and the courts; a national and a State symposium on courts, children and the family; a national symposium on enhancing coordination of cases involving the same family that are being heard in different courts; and the development and testing of curricula to enhance judges' understanding of the dynamics of family violence and guide them in adjudicating family violence cases and custody cases in which spousal abuse is involved. In addition, the Institute has supported an evaluation of the effectiveness of court-ordered treatment for family violence offenders; a demonstration of ways to improve court processing of injunctions for protection and a study of ways to improve the effectiveness of civil protection orders for family violence victims; studies of the appropriate use of mediation in child abuse cases and in divorce, custody, and visitation cases involving family violence; development of a video and other materials for parties and children awaiting a court hearing in domestic relations cases involving family violence; an examination of state-of-the-art court practices for handling family violence cases and of ways to improve access to rural courts for victims of family violence; a benchbook for judges on child abuse and neglect cases stemming from parental substance abuse; curricula to fairly adjudicate child abuse and neglect cases; an examination of the effectiveness of probation as a sanction for child sexual abuse offenders; and the development of guidelines for courts in handling elder abuse cases.

m. *The Relationship Between State and Federal Courts.* This category includes education, research, demonstration, and evaluation projects designed to build upon the insights and information gained at the Institute-supported National Conference on State-Federal Judicial Relationships held in Orlando in April, 1992.

i. Among the topics that could be addressed in education projects are the development and testing of curricula and other educational materials to:

- enhance operation of State-Federal Judicial Councils;
- assist judges and court staff in drawing the attention of the public and the media to the needs of the courts within the bounds of the applicable codes of conduct;
- illustrate effective methods being used at the trial court, State and Circuit levels to coordinate cases and administrative activities; and
- conduct regional conferences replicating the National Conference.

ii. Among the topics that could be addressed in other types of projects are examination of the impact of varying Federal prosecution policies on the State courts, and the development and testing of new approaches to:

- coordinate related State and Federal criminal cases;
- coordinate cases that may be brought under the pending Violence Against Women Act;
- coordinate bankruptcy cases with State litigation involving the individual or entity in bankruptcy including improved notice, certification and communication procedures and practices;
- exchange information and coordinating calendars among State and Federal courts;
- handle capital habeas corpus cases fairly and efficiently;
- share jury pools, alternative dispute resolution programs and court services; and
- facilitate certification of cases from Federal to State courts and explore the implications of certification of cases from State to Federal courts.

In previous funding cycles, the Institute has supported national and regional conferences on State-Federal judicial relationships and the Chief Justices' Special Committee of State

Judges on Asbestos Litigation. In addition, the Institute has supported projects developing judicial impact statement procedures for national legislation affecting State courts, and projects examining methods of State and Federal court cooperation; procedures for facilitating certification of questions of law; the management of mass tort litigation in State and Federal courts; the impact on the State courts of diversity cases and cases brought under section 1983; the procedures used in Federal habeas corpus review of State court criminal cases; the factors that motivate litigants to select Federal or State courts; and the mechanisms for transferring cases between Federal and State courts, as well as the methods for effectively consolidating, deciding, and managing complex litigation. The Institute has also supported a clearinghouse of information on State constitutional law decisions, and a seminar examining the implications of the "Federalization" of crime.

C. Single-Jurisdiction Projects

The Board will consider supporting a limited number of projects submitted by State or local courts that address the needs of only the applicant State or local jurisdiction. It has established two categories of Single Jurisdiction Projects:

1. Programs Addressing a Critical Need of a Single State or Local Jurisdiction

a. *Description of the Program.* The Board will set aside up to $600,000 to support projects submitted by State or local courts that address the needs of only the applicant State or local jurisdiction. A project under this section may address any of the topics included in the Special Interest Categories or Statutory Program Areas, and may, but need not, seek to implement the findings and recommendations of Institute supported research, evaluation, or demonstration programs. Concept papers for single jurisdiction projects may be submitted by a State court system, an appellate court, or a limited or general jurisdiction trial court. All awards under this category are subject to the matching requirements set forth in section X.B.1.

b. *Application Procedures.* Concept papers and applications requesting funds for projects under this section must meet the requirements of sections VI. ("Concept Paper Submission Requirements for New Projects") and VII. ("Application Requirements"), respectively, and must demonstrate that:

i. The proposed project is essential to meeting a critical need of the jurisdiction; and

ii. The need cannot be met solely with State and local resources within the foreseeable future.

2. Technical Assistance Grants

a. *Description of the Program.* The Board will set aside up to $600,000 of Fiscal Year 1994 funds (in addition to any technical assistance funds remaining from Fiscal Year 1993) to support the provision of technical assistance to State and local courts. The exact amount to be awarded for these grants will depend on the number and quality of the applications submitted in this category and other categories of the Guideline. It is anticipated, however, that at least $150,000 will be available each quarter to support Technical Assistance grants. The program is designed to provide State and local courts with sufficient support to obtain technical assistance to diagnose a problem, develop a response to that problem, and initiate implementation of any needed changes.

Technical Assistance grants are limited to no more than $30,000 each, and may cover the cost of obtaining the services of expert consultants, travel by a team of officials from one court to examine a practice, program or facility in another jurisdiction that the applicant court is interested in replicating, or both.

The technical assistance must be completed within 12 months after the start-date of the grant. Only State or local courts may apply for Technical Assistance grants. As with other awards to State or local courts, cash or in-kind match must be provided equal to at least 50% of the grant amount. Technical Assistance grant recipients also are subject to the same quarterly reporting requirements as other Institute grantees.

At the conclusion of the grant period, a Technical Assistance grant recipient must complete a Technical Assistance Evaluation Form. The grantee also must submit to the Institute three copies of a final report that explains how it intends to act on the consultant's recommendations as well as three copies of the consultant's written report.

b. *Review Criteria.* Technical Assistance grants will be awarded on the basis of criteria including: Whether the assistance would address a critical need of the court; the soundness of the technical assistance approach to the problem; the qualifications of the consultant(s) to be hired, or the specific criteria that will be used to select the consultant(s); commitment on the part of the court to act on the consultant's recommendations; and the reasonableness of the proposed budget. The Institute will also consider factors such as the level and nature of the match that would be provided, diversity of subject matter, geographic diversity, and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

c. *Application Procedures.* In lieu of concept papers and formal applications, applicants for Technical Assistance grants may submit, at any time, an original and three copies of a detailed letter describing the proposed project and addressing the criteria listed above. Although there is no prescribed form for the letter nor a minimum or maximum page limit, letters of application should include the following information to assure that each of the criteria is addressed:

i. *Need for Funding.* What is the critical need facing the court? How will the proposed technical assistance help the court to meet this critical need? Why cannot State or local resources fully support the costs of the required consultant services?

ii. *Project Description.* What tasks would the consultant be expected to perform? Who (organization or individual) would be hired to provide the assistance and how was this consultant selected? If a consultant has not yet been identified, what procedures and criteria would be used to select the consultant? (Applicants are expected to follow their jurisdiction's normal procedures for procuring consultant services.) What is the time frame for completion of the technical assistance? How would the court oversee the project and provide guidance to the consultant?

If the consultant has been identified, a letter from that individual or organization documenting interest in and availability for the project, as well as the consultant's ability to complete the assignment within the proposed time period and for the proposed cost, should accompany the applicant's letter. The consultant must agree to submit a detailed written report to the court and the Institute upon completion of the technical assistance.

If the support or cooperation of agencies, funding bodies, organizations, or courts other than the applicant, would be needed in order for the consultant to perform the required tasks, written assurances of such support or cooperation must accompany the application letter. Support letters also may be submitted under separate cover; however, to ensure that there is sufficient time to bring them to the attention of the Board's Technical Assistance Committee, letters sent under separate cover must be received not less than two weeks prior to the

Board meeting at which the technical assistance requests will be considered (i.e., by November 4, 1993; February 17, 1994; April 28, 1994; and July 14, 1994).

iii. *Likelihood of implementation.* What steps have been/will be taken to facilitate implementation of the consultant's recommendations upon completion of the technical assistance? For example, if the support or cooperation of other agencies, funding bodies, organizations, or a court other than the applicant will be needed to adopt the changes recommended by the consultant and approved by the court, how will they be involved in the review of the recommendations and development of the implementation plan?

iv. *Budget and matching State contribution.* A completed Form E, "Preliminary Budget" (see Appendix IV to the Grant Guideline), must be included with the applicant's letter requesting technical assistance. Please note that the estimated cost of the technical assistance services should be broken down into the categories listed on the budget form rather than aggregated under the Consultant/ Contractual category. In addition, the budget should provide for submission of three copies of the consultant's final report to the Institute.

v. *Support for the project from the State supreme court or its designated agency or council.* Written concurrence on the need for the technical assistance must be submitted. This concurrence may be a copy of SJI Form B (see Appendix V.) signed by the Chief Justice of the State Supreme Court or the Chief Justice's designee, or a letter from the State Chief Justice or designee. The concurrence may be submitted with the applicant's letter or under separate cover prior to consideration of the application. The concurrence also must specify whether the State Supreme Court would receive, administer, and account for the grant funds, if awarded, or would designate the local court or a specified agency or council to receive the funds directly.

Letters of application may be submitted at any time; however, all of the letters received during a calendar quarter will be considered at one time. Applicants submitting letters between October 1, 1993, and January 15, 1994, will be notified of the Board's decision by March 31, 1994; those submitting letters between January 16, and March 15, 1994, will be notified by May 31, 1994. Notification of the Board's decisions concerning letters received between March 16 and June 15, 1994, will be made by August 31, 1994; and applicants submitting letters between June 16 and September 30, 1994, will be notified by November 30, 1994. The Board has delegated its authority to approve these grants to its Technical Assistance Committee.

The Technical Assistance grant program described in this section should not be confused with the Judicial Education Technical Assistance projects described in section II.B.2.b.iii.

III. Definitions

The following definitions apply for the purposes of this guideline:

A. Institute

The State Justice Institute.

B. State Supreme Court

The highest appellate court in a State, unless, for the purposes of the Institute program, a constitutionally or legislatively established judicial council that acts in place of that court. In States having more than one court with final appellate authority, State Supreme Court shall mean that court which also has administrative responsibility for the State's judicial system. State Supreme Court also includes the office of the court or council, if any, it designates to perform the functions described in this guideline.

C. Designated Agency or Council

The office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for funds and to receive, administer, and be accountable for those funds.

D. Grantor Agency

The State Justice Institute.

E. Grantee

The organization, entity, or individual to which an award of Institute funds is made. For a grant based on an application from a State or local court, grantee refers to the State Supreme Court or its designee.

F. Subgrantee

A State or local court which receives Institute funds through the State Supreme Court.

G. Match

The portion of project costs not borne by the Institute. Match includes both in-kind and cash contributions. Cash match is the direct outlay of funds by the grantee to support the project. In-kind match consists of contributions of time, services, space, supplies, etc., made to the project by the grantee or others (e.g., advisory board members) working directly on the project. Under normal circumstances, allowable match may be incurred only during the project period. When appropriate, and with the prior written permission of the Institute, match may be incurred from the date of the Institute Board of Directors' approval of an award. Match does not include project-related income such as tuition or revenue from the sale of grant products, nor time of participants attending an education program.

H. Continuation Grant

A grant of no more than 24 months to permit completion of activities initiated under an existing Institute grant or enhancement of the programs or services produced or established during the prior grant period.

I. On-going Support Grant

A grant of up to 36 months to support a project that is national in scope and that provides the State courts with services, programs or products for which there is a continuing important need.

J. Package Grant

A single grant that supports two or more closely-related projects which logically should be viewed as a whole or would require substantial duplication of effort if administered separately. Closely-related projects may include those addressing interrelated topics, or those requiring the services of all or some of the same key staff persons, or the core elements of a multifaceted program. Each of the components of a package grant must operate within the same project period.

K. Human Subjects

Individuals who are participants in an experimental procedure or who are asked to provide information about themselves, their attitudes, feelings, opinions and/or experiences through an interview, questionnaire, or other data collection technique(s).

L. Curriculum

The materials needed to replicate an education or training program developed with grant funds including, but not limited to: the learning objectives; the presentation methods; a sample agenda or schedule; an outline of presen tations and other instructors' notes; copies of overhead transparencies or other visual aids; exercises, case studies, hypotheticals, quizzes and other materials for involving the participants; background materials for participants; evaluation forms; and suggestions for replicating the program including possible faculty or the

preferred qualifications or experience of those selected as faculty.

M. Products

Tangible materials resulting from funded projects including, but not limited to: curricula; monographs; reports; books; articles; manuals; handbooks; benchbooks; guidelines; videotapes; audiotapes; and computer software.

IV. Eligibility for Award

In awarding funds to accomplish these objectives and purposes, the Institute has been authorized by Congress to award grants, cooperative agreements, and contracts to State and local courts and their agencies (42 U.S.C. 10705(b)(1)(A)); national nonprofit organizations controlled by, operating in conjunction with, and serving the judicial branches of State governments (42 U.S.C. 10705(b)(1)(B)); and national nonprofit organizations for the education and training of judges and support personnel of the judicial branch of State governments (42 U.S.C. 10705(b)(1)(C)).

An applicant will be considered a national education and training applicant under section 10705(b)(1)(C) if: (1) the principal purpose or activity of the applicant is to provide education and training to State and local judges and court personnel; and (2) the applicant demonstrates a record of substantial experience in the field of judicial education and training.

The Institute also is authorized to make awards to other nonprofit organizations with expertise in judicial administration, institutions of higher education, individuals, partnerships, firms, corporations, and private agencies with expertise in judicial administration, provided that the objectives of the relevant program area(s) can be served better. In making this judgment, the Institute will consider the likely replicability of the projects' methodology and results in other jurisdictions. For-profit organizations are also eligible for grants and cooperative agreements; however, they must waive their fees.

The Institute may also make awards to Federal, State or local agencies and institutions other than courts for services that cannot be adequately provided through nongovernmental arrangements.

Finally, the Institute may enter into inter-agency agreements with other public or private funders to support projects consistent with the purpose of the State Justice Institute Act.

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court or its designated agency or council. The latter shall receive all Institute funds awarded to such courts and be responsible for assuring proper administration of Institute funds, in accordance with section XI.B.2. of this Guideline. A list of persons to contact in each State regarding approval of applications from State and local courts and administration of Institute grants to those courts is contained in Appendix I.

V. Types of Projects and Grants; Size of Awards

A. Types of Projects

Except as expressly provided in sections II.B.2.b. and II.C. above, the Institute has placed no limitation on the overall number of awards or the number of awards in each special interest category. The general types of projects are:

1. Education and training;
2. Research and evaluation;
3. Demonstration; and
4. Technical assistance.

B. Types of Grants

The Institute has established the following types of grants:

1. New grants (See sections VI. and VII.).
2. Continuation grants (See sections III.H. and IX.A.).
3. On-going Support grants (See sections III.I. and IX.B.).
4. Package grants (See sections III.J., VI.A.2.b., VI.A.3.b., and VII.).
5. Technical assistance grants (See section II.C.2.).
6. Curriculum Adaptation grants (See section II.B.2.b.i.(b)).
7. Scholarships (See section II.B.2.b.v.).

C. Maximum Size of Awards

1. Except as specified below, concept papers and applications for new projects other than national conferences, and applications for continuation grants may request funding in amounts up to $300,000, although new and continuation awards in excess of $200,000 are likely to be rare and to be made, if at all, only for highly promising proposals that will have a significant impact nationally.

2. Applications for ongoing support grants may request funding in amounts up to $600,000, except as provided in paragraph V.C.3. At the discretion of the Board, the funds to support ongoing support grants may be awarded either entirely from the Institute's appropriations for the fiscal year of the award or from the Institute's appropriations for successive fiscal years beginning with the fiscal year of the award. When funds to support the full amount of an ongoing support grant are not awarded from the appropriations for the fiscal year of award, funds to support any subsequent years of the grant will be made available upon (1) the satisfactory performance of the project as reflected in the quarterly Progress Reports required to be filed and grant monitoring, and (2) the availability of appropriations for that fiscal year.

3. An application for a package grant may request funding in an amount up to a total of $750,000 per year.

4. Applications for technical assistance grants may request funding in amounts up to $30,000.

5. Applications for Curriculum Adaptation grants may request funding in amounts up to $20,000.

6. Applications for scholarships may request funding in amounts up to $1,500.

D. Length of Grant Periods

1. Grant periods for all new and continuation projects ordinarily will not exceed 24 months.

2. Grant periods for ongoing support grants ordinarily will not exceed 36 months.

3. Grant periods for technical assistance grants and Curriculum Adaptation grants ordinarily will not exceed 12 months.

VI. Concept Paper Submission Requirements for new Projects

Concept papers are an extremely important part of the application process because they enable the Institute to learn the program areas of primary interest to the courts and to explore innovative ideas, without imposing heavy burdens on prospective applicants. The use of concept papers also permits the Institute to better project the nature and amount of grant awards. This requirement and the submission deadlines for concept papers and applications may be waived for good cause (e.g., the proposed project would provide a significant benefit to the State courts or the opportunity to conduct the project did not arise until after the deadline).

A. Format and Content

All concept papers must include a cover sheet, a program narrative, and a preliminary budget, regardless of whether the applicant is proposing a single project or a "package of projects," or whether the applicant is requesting accelerated award of a grant of less than $40,000.

1. The Cover Sheet

The cover sheet for all concept papers must contain:

a. A title describing the proposed project;

b. The name and address of the court, organization or individual submitting the paper;

c. The name, title, address (if different from that in b.), and telephone number of a contact person(s) who can provide further information about the paper;

d. The letter of the Special Interest Category (see section II.B.2.) or the number of the statutory Program Area (see section II.B.1.) that the proposed project addresses most directly; and

e. The estimated length of the proposed project.

Applicants requesting the Board to waive the application requirement and approve a grant of less than $40,000 based on the concept paper, should add APPLICATION WAIVER REQUESTED to the information on the cover page.

2. The Program Narrative

a. *Concept Papers Proposing a Single Project.* The program narrative of a concept paper describing a single project should be no longer than necessary, but in no case should exceed eight (8) double-spaced pages on 8½ by 11 inch paper. Margins must not be less than 1 inch and type no smaller than 12 point and 12 cpi must be used. The narrative should describe:

i. *Why this project is needed and how it will benefit State courts?* If the project is to be conducted in a specific location(s), applicants should discuss the particular needs of the project site(s) to be addressed by the project, why those needs are not being met through the use of existing materials, programs, procedures, services or other resources, and the benefits that would be realized by the proposed sites(s).

If the project is not site specific, applicants should discuss the problems that the proposed project will address, why existing materials, programs, procedures, services or other resources do not adequately resolve those problems, and the benefits that would be realized from the project by State courts generally.

ii. *What will be done if a grant is awarded?* A summary description of the project to be conducted and the approach to be taken, including the anticipated length of the grant period. Applicants requesting a waiver of the application requirement for a grant of less than $40,000 should explain the proposed methods for conducting the project as fully as space allows.

iii. *How the effects and quality of the project will be determined?* A summary description of how the project will be evaluated, including the evaluation criteria.

iv. *How others will find out about the project and be able to use the results?* A description of the products that will result, the degree to which they will be applicable to courts across the nation, and the manner in which the products and results of the project will be disseminated.

b. *Concept Papers Requesting a Package Grant Covering More Than One Project.* The program narrative of a concept paper requesting a package grant (see definition in section III.J.) should be no longer than necessary, but in no case should exceed 15 double-spaced pages on 8½ by 11 inch paper. Margins must not be less than 1 inch, and type no smaller than 12-point and 12 cpi must be used.

In addition to addressing the issues listed in paragraph VI.A.2.a., the program narrative of a package grant concept paper must describe briefly each component project, as well as how its inclusion enhances the entire package; and explain:

i. How are the proposed projects related?

ii. How would their operation and administration be enhanced if they were funded as a package rather than as individual projects; and

iii. What disadvantages, if any, would accrue by considering or funding them separately.

3. The Budget

a. *Concept Papers Proposing a Single Project.* A preliminary budget must be attached to the narrative that includes the estimates and information specified on Form E included in Appendix IV of this Guideline.

b. *Concept Papers Requesting a Package Grant Covering More Than One Project.* A separate preliminary budget for each component project of the package, as well as a combined budget that reflects the costs of the entire package, must be attached to the narrative. Each project budget must be identified by the title that corresponds to the narrative description of the project in the program narrative and a letter of the alphabet (i.e. A, B, C). Each of these budgets must include the estimates and information specified on Form E included in Appendix IV of this Guideline.

c. *Concept Papers Requesting Accelerated Award of a Grant of Less than $40,000.* Applicants requesting a waiver of the application requirement and approval of a grant based on a concept paper under section VI.C., must attach to Form E (see Appendix IV) a budget narrative explaining the basis for each of the items listed, and whether the costs would be paid from grant funds or through a matching contribution or other sources. The budget narrative is not counted against the eight-page limit for the program narrative.

4. The Institute encourages concept paper applicants to attach letters of cooperation and support from the courts and related agencies that will be involved in or directly affected by the proposed project. Letters of support also may be sent under separate cover. However, in order to ensure that there is sufficient time to bring them to the Board's attention, support letters sent under separate cover must be received no later than February 1.

5. The Institute will not accept concept papers with program narratives exceeding the limits set in sections VI.A.2. a. and b. The page limit does not include the cover page, budget form, the budget narrative if required under section VI.A.3.c., and any letters of cooperation or endorsements. Additional material should not be attached unless it is essential to impart a clear understanding of the project.

6. Applicants submitting more than one concept paper may include material that would be identical in each concept paper in a cover letter, and incorporate that material by reference in each paper. The incorporated material will be counted against the eight-page limit for each paper. A copy of the cover letter should be attached to each copy of each concept paper.

7. Sample concept papers from previous funding cycles are available from the Institute upon request.

B. Selection Criteria

1. All concept papers will be evaluated by the staff on the basis of the following criteria:

a. The demonstration of need for the project;

b. The soundness and innovativeness of the approach described;

c. The benefits to be derived from the project;

d. The reasonableness of the proposed budget;

e. The proposed project's relationship to one of the "Special Interest" categories set forth in section II.B; and

f. The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions.

2. "Single jurisdiction" concept papers submitted pursuant to section II.C. will be rated on the proposed project's relation to one of the "Special Interest" categories set forth in section

II.B., and on the special requirements listed in section II.C.1.

3. In determining which concept papers will be selected for development into full applications, the Institute will also consider the availability of financial assistance from other sources for the project; the amount and nature (cash or in-kind) of the applicant's anticipated match; whether the applicant is a State court, a national court support or education organization, a non-court unit of government, or another type of entity eligible to receive grants under the Institute's enabling legislation (see 42 U.S.C. 10705(b) (as amended) and section IV above); the extent to which the proposed project would also benefit the Federal courts or help the State courts enforce Federal constitutional and legislative requirements, and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

C. Review Process

Concept papers will be reviewed competitively by the Board of Directors. Institute staff will prepare a narrative summary and a rating sheet assigning points for each relevant selection criterion for those concept papers which fall within the scope of the Institute's funding program and merit serious consideration by the Board. Staff will also prepare a list of those papers that, in the judgment of the Executive Director, propose projects that lie outside the scope of the Institute's funding program or are not likely to merit serious consideration by the Board. The narrative summaries, rating sheets, and list of nonreviewed papers will be presented to the Board for their review. Committees of the Board will review concept paper summaries within assigned program areas and prepare recommendations for the full Board. The full Board of Directors will then decide which concept paper applicants should be invited to submit formal applications for funding.

The decision to invite an application is solely that of the Board of Directors. With regard to concept papers requesting a package grant, the Board retains discretion to invite an application including all, none, or selected portions of the package for possible funding.

The Board may waive the application requirement and approve a grant based on a concept paper for a project requiring less than $40,000, when the need for and benefits of the project are clear, and the methodology and budget require little additional explanation.

D. Submission Requirements

An original and three copies of all concept papers submitted for consideration in Fiscal Year 1994 must be sent by first class or overnight mail or by courier no later than December 1, 1993, except for concept papers proposing to implement an action plan developed during the National Conference on Family Violence and the Courts which must be sent by October 8, 1993 (see Special Interest category (1), and concept papers proposing projects that follow-up on the National Symposium on Court Connected Dispute Resolution Research which must be sent by March 15, 1994 (see Special Interest category e). A postmark or courier receipt will constitute evidence of the submission date. All envelopes containing concept papers should be marked CONCEPT PAPER and should be sent to: State Justice Institute, 1650 King Street, suite 600, Alexandria, Virginia 22314.

It is preferable for letters of cooperation and support to be appended to the concept paper when it is submitted. If support letters are sent under separate cover, they must be received no later than February 1, 1994 in order to ensure that there is sufficient time to bring them to the Board's attention.

The Board will meet on November 18–21, 1993 to review the concept papers and invite applications to implement an action plan developed during the National Conference on Family Violence and the Courts. It will meet on March 10–12, 1994, to review concept papers and invite applications on other topics, and will meet on May 12–14, 1994, to consider concept papers to follow-up on the National Symposium on Court Connected Dispute Resolution Research.

The Institute will send written notice to all persons submitting concept papers of the Board's decisions regarding their papers and of the key issues and questions that arose during the review process. A decision by the Board not to invite an application may not be appealed, but does not prohibit resubmission of the concept paper or a revision thereof in a subsequent round of funding. The Institute will also notify the designated State contact listed in the Appendix when the Board invites applications that are based on concept papers which are submitted by courts within their State or which specify a participating site within their State.

Receipt of each concept paper will be acknowledged in writing. Extensions of the deadline for submission of concept papers will not be granted.

VII. Application Requirements for New Projects

Except as specified in section VI., a formal application for a new project is to be submitted only upon invitation of the Board following review of a concept paper. An application for Institute funding support must include an application form; budget forms (with appropriate documentation); a project abstract and program narrative; a disclosure of lobbying form, when applicable; and certain certifications and assurances. These documents are described below.

A. Forms

1. Application Form (FORM A)

The application form requests basic information regarding the proposed project, the applicant, and the total amount of funding support requested from the Institute. It also requires the signature of an individual authorized to certify on behalf of the applicant that the information contained in the application is true and complete, that submission of the application has been authorized by the applicant, and that if funding for the proposed project is approved, the applicant will comply with the requirements and conditions of the award, including the assurances set forth in Form D.

2. Certificate of State Approval (FORM B)

An application from a State or local court must include a copy of FORM B signed by the State's Chief Justice or Chief Judge, the director of the designated agency, or the head of the designated council. The signature denotes that the proposed project has been approved by the State's highest court or the agency or council it has designated. It denotes further that if funding for the project is approved by the Institute, the court or the specified designee will receive, administer, and be accountable for the awarded funds.

3. Budget Forms (FORM C or C1)

Applicants may submit the proposed project budget either in the tabular format of FORM C or in the spreadsheet format of FORM C1. Applicants requesting more than $100,000 are encouraged to use the spreadsheet format. If the proposed project period is for more than a year, a separate form should be submitted for each year or portion of a year for which grant support is requested.

In addition to FORM C or C1, applicants must provide a detailed budget narrative providing an explanation of the basis for the

estimates in each budget category. (See section VII.D.)

Applications for a package grant must include a separate budget and budget narrative for each project included in the proposed package, as well as a combined budget that reflects the total costs of the entire package.

If funds from other sources are required to conduct the project, either as match or to support other aspects of the project, the source, current status of the request, and anticipated decision date must be provided.

4. Assurances (FORM D)

This form lists the statutory, regulatory, and policy requirements and conditions with which recipients of Institute funds must comply.

5. Disclosure of Lobbying Activities

This form requires applicants other than units of State or local government to disclose whether they, or another entity that is part of the same organization as the applicant, have advocated a position before Congress on any issue, and to identify the specific subjects of their lobbying efforts. (See section X.D.)

B. Project Abstract

The abstract should highlight the purposes, goals, methods and anticipated benefits of the proposed project. It should not exceed one single-spaced page on 8½ by 11 inch paper.

C. Program Narrative

The program narrative for an application proposing a single project should not exceed 25 double-spaced pages on 8½ by 11 inch paper. The program narrative for an application requesting a package grant for more than one project should not exceed 40 double-spaced pages on 8½ by 11 inch paper. Margins must not be less than 1 inch, and type no smaller than 12-point and 12 cpi must be used. The page limit does not include the forms, the abstract, the budget narrative, and any appendices containing resumes and letters of cooperation or endorsement. Additional background material should be attached only if it is essential to obtaining a clear understanding of the proposed project. Numerous and lengthy appendices are strongly discouraged.

The program narrative should address the following topics:

1. Project Objectives

A clear, concise statement of what the proposed project is intended to accomplish. In stating the objectives of the project, applicants should focus on the overall programmatic objective (e.g., to enhance understanding and skills regarding a specific subject, or to determine how a certain procedure affects the court and litigants) rather than on operational objectives (e.g., provide training for 32 judges and court managers, or review data from 300 cases).

2. Program Areas to be Covered

A statement which lists the program areas set forth in the State Justice Institute Act, and, if appropriate, the Institute's Special Interest program categories that are addressed by the proposed projects.

3. Need for the Project

If the project is to be conducted in a specific location(s), a discussion of the particular needs of the project site(s) to be addressed by the project and why those needs are not being met through the use of existing materials, programs, procedures, services or other resources.

If the project is not site specific, a discussion of the problems that the proposed project will address, and why existing materials, programs, procedures, services or other resources do not adequately resolve those problems. The discussion should include specific references to the relevant literature and to the experience in the field.

An application requesting a package grant to support more than one project also must describe how the proposed projects in the package are related; how their operation and administration would be enhanced if they were funded as a package rather than as individual projects; and what disadvantages, if any, would accrue by considering or funding them separately.

4. Tasks, Methods and Evaluation

a. *Tasks and Methods.* A delineation of the tasks to be performed in achieving the project objectives and the methods to be used for accomplishing each task. For example:

i. *For research and evaluation projects,* the data sources, data collection strategies, variables to be examined, and analytic procedures to be used for conducting the research or evaluation and ensuring the validity and general applicability of the results. For projects involving human subjects, the discussion of methods should address the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and the protection of others who are not the subjects of research but would be affected by the research. If the potential exists for risk or harm to the human subjects, a discussion should be included of the value of the proposed research and the methods to be used to minimize or eliminate such risk.

ii. *For education and training projects,* the adult education techniques to be used in designing and presenting the program, including the teaching/learning objectives of the educational design, the teaching methods to be used, and the opportunities for structured interaction among the participants; how faculty will be recruited, selected, and trained; the proposed number and length of the conferences, courses, seminars or workshops to be conducted; the materials to be provided and how they will be developed; and the cost to participants.

iii. *For demonstration projects,* the demonstration sites and the reasons they were selected, or if the sites have not been chosen, how they will be identified and their cooperation obtained; how the program or procedures will be implemented and monitored.

iv. *For technical assistance projects,* the types of assistance that will be provided; the particular issues and problems for which assistance will be provided; how requests will be obtained and the type of assistance determined; how suitable providers will be selected and briefed; how reports will be reviewed; and the cost to recipients.

An application requesting a package grant for more than one project must describe separately the tasks associated with each project in the proposed package. Each project must be identified by a separate letter of the alphabet (i.e., A, B, C) and a descriptive title.

b. *Evaluation.* Every project design must include an evaluation plan to determine whether the project met its objectives. The evaluation should be designed to provide an objective and independent assessment of the effectiveness or usefulness of the training or services provided; the impact of the procedures, technology or services tested; or the validity and applicability of the research conducted. In addition, where appropriate, the evaluation process should be designed to provide ongoing or periodic feedback on the effectiveness or utility of particular programs, educational offerings, or achievements which can then be further refined as a result of the evaluation process. The plan should present the qualifications of the evaluator(s); describe the criteria, related to the project's programmatic objectives, that will be used to evaluate the project's effectiveness; explain how the evaluation will be conducted,

including the specific data collection and analysis techniques to be used; discuss why this approach is appropriate; and present a schedule for completion of the evaluation within the proposed project period.

The evaluation plan should be appropriate to the type of project proposed. For example:

i. An evaluation approach suited to many *research* projects is a review by an advisory panel of the research methodology, data collection instruments, preliminary analyses, and products as they are drafted. The panel should be comprised of independent researchers and practitioners representing the perspectives affected by the proposed project.

ii. The most valuable approaches to evaluating *educational or training* programs will serve to reinforce the participants' learning experience while providing useful feedback on the impact of the program and possible areas for improvement. One appropriate evaluation approach is to assess the acquisition of new knowledge, skills, attitudes or understanding through participant feedback on the seminar or training event. Such feedback might include a self-assessment on what was learned along with the participant's response to the quality and effectiveness of faculty presentations, the format of sessions, the value or usefulness of the material presented and other relevant factors. Another appropriate approach would be to use an independent observer who might request verbal as well as written responses from participants in the program. When an education project involves the development of curricular materials an advisory panel of relevant experts can be coupled with a test of the curriculum to obtain the reactions of participants and faculty as indicated above.

iii. The evaluation plan for a *demonstration* project should encompass an assessment of program effectiveness (e.g., how well did it work?); user satisfaction, if appropriate; the cost-effectiveness of the program; a process analysis of the program (e.g., was the program implemented as designed? did it provide the services intended to the targeted population?); the impact of the program (e.g., what effect did the program have on the court? what benefits resulted from the program?); and the replicability of the program or components of the program.

iv. *For technical assistance* projects, applicants should explain how the quality, timeliness, and impact of the assistance provided will be determined, and should develop a mechanism for feedback from both the users and providers of the technical assistance.

v. Evaluation plans involving *human subjects* should include a discussion of the procedures for obtaining respondents' informed consent, ensuring the respondents' privacy and freedom from risk or harm, and the protection of others who are not the subjects of evaluation but would be affected by it. Other than the provision of confidentiality to respondents, human subjects protection issues ordinarily are not applicable to participants evaluating an education program.

vi. The evaluation plan in a package grant application should address the issues listed above for the particular types of projects included in the package, assessing the strengths and weaknesses of the individual components as well as the benefits and limitations of the projects as a package.

5. Project Management

A detailed management plan including the starting and completion date for each task; the time commitments to the project of key staff and their responsibilities regarding each project task; and the procedures that will be used to ensure that all tasks are performed on time, within budget, and at the highest level of quality. In preparing the project time line, Gantt Chart, or schedule, applicants should make certain that all project activities, including publication or reproduction of project products and their initial dissemination will occur within the proposed project period. The management plan must also provide for the submission of Quarterly Progress and Financial Reports within 30 days after the close of each calendar quarter (i.e., no later than January 30, April 30, July 30, and October 30).

Package grant applications must include a management plan for each project included in the package with the same project title and alphabetic identifier describing the project in the program narrative, as well as a plan embracing the package as a whole.

6. Products

A description of the products to be developed by the project (e.g., training curricula and materials, videotapes, articles, manuals, or handbooks), including when they will be submitted to the Institute. The application must explain how and to whom the products will be disseminated; describe how they will benefit the State courts including how they can be used by judges and court personnel; identify development, production, and dissemination costs covered by the project budget; and present the basis on which products and services developed or provided under the grant will be offered to the courts community and the public at large (i.e. whether products will be distributed at no cost to recipients, or if costs are involved, the reason for charging recipients and the estimated price of the product). Ordinarily, applicant should schedule all product preparation and distribution activities within the project period. Applicants also should provide for the preparation of a one-page abstract summarizing products resulting from a project for inclusion on the Institute's electronic bulletin board.

Package grant applications must discuss these issues with regard to the products that would result from each of the projects included in the package.

The type of products to be prepared depend on the nature of the project. For example, in most instances, the products of a research, evaluation, or demonstration project should include an article summarizing the project findings that is publishable in a journal serving the courts community nationally, an executive summary that will be disseminated to the project's primary audience, or both. Applicants proposing to conduct empirical research or evaluation projects with national import should describe how they will make their data available for secondary analysis after the grant period. (See section X.W.)

The curricula and other products developed by education and training projects should be designed for use outside the classroom so that they may be used again by original participants and others in the course of their duties.

Applicants must provide for submitting a final draft of the final grant product(s) to the Institute for review and approval at least 30 days before the product(s) are submitted for publication or reproduction. No grant funds may be obligated for publication or reproduction of a final grant product without the written approval of the Institute.

Applicants must also provide for including in all project products a prominent acknowledgment that support was received from the Institute and a disclaimer paragraph based on the example provided in section X.Q. of the Guideline. The "SJI" logo must appear on the front cover of a written product, or in the opening frames of a video product, unless the Institute approves another placement.

Twenty copies of all project products, including videotapes, must be submitted to the Institute. In addition, a copy of each product must be sent to the

library established in each State to collect the materials developed with Institute support. (A list of these libraries is contained in Appendix II). To facilitate their use, all videotaped products should be distributed in VHS format. For all wordprocessed products, grantees must submit a diskette of the text in ASCII. For non-text products, a copy of the summary or a brief abstract in ASCII must be submitted.

7. Applicant Status

An applicant that is not a State or local court and has not received a grant from the Institute within the past two years should include a statement indicating whether it is either a national non-profit organization controlled by, operating in conjunction with, and serving the judicial branches of State governments; or a national non-profit organization for the education and training of State court judges and support personnel. See section IV. If the applicant is a non-judicial unit of Federal, State, or local government, it must explain whether the proposed services could be adequately provided by non-governmental entities.

8. Staff Capability

A summary of the training and experience of the key staff members and consultants that qualify them for conducting and managing the proposed project. Resumes of identified staff should be attached to the application. If one or more key staff members and consultants are not known at the time of the application, a description of the criteria that will be used to select persons for these positions should be included.

9. Organizational Capacity

Applicants that have not received a grant from the Institute within the past two years should include a statement describing the capacity of the applicant to administer grant funds including the financial systems used to monitor project expenditures (and income, if any), and a summary of the applicant's past experience in administering grants, as well as any resources or capabilities that the applicant has that will particularly assist in the successful completion of the project.

If the applicant is a nonprofit organization (other than a university), it must also provide documentation of its 501(c) tax exempt status as determined by the Internal Revenue Service and a copy of a current certified audit report. For purposes of this requirement, "current" means no earlier than two years prior to the current calendar year. If a current audit report is not available, the Institute will require the organization to complete a financial capability questionnaire which must be signed by a Certified Public Accountant. Other applicants may be required to provide a current audit report, a financial capability questionnaire, or both, if specifically requested to do so by the Institute.

Unless requested otherwise, an applicant that has received a grant from the Institute within the past two years should describe only the changes in its organizational capacity, tax status, or financial capability that may affect its capacity to administer a grant.

10. Statement of Lobbying Activities

Non-governmental applicants must submit the Institute's Disclosure of Lobbying Activities Form that requires them to state whether they, or another entity that is a part of the same organization as the applicant, have advocated a position before Congress on any issue, and identifies the specific subjects of their lobbying efforts.

11. Letters of Support for the Project

If the cooperation of courts, organizations, agencies, or individuals other than the applicant is required to conduct the project, written assurances of cooperation and availability should be attached as an appendix to the application, or they may be sent under separate cover. In order to ensure that there is sufficient time to bring them to the Board's attention, letters of support sent under separate cover must be received at least four weeks before the meeting of the Board of Directors at which the application will be considered (i.e., no later than October 21, 1993, February 1, 1994, April 14, 1994, June 30, 1994, or August 25, 1994, respectively).

D. Budget Narrative

The budget narrative should provide the basis for the computation of all project-related costs. An application for a package grant for more than one project must include a separate budget narrative for each project component, with the same alphabetic identifier and project title used to describe each component project in the program narrative. Additional background or schedules may be attached if they are essential to obtaining a clear understanding of the proposed budget. Numerous and lengthy appendices are strongly discouraged.

The budget narrative should address the items listed below. The costs attributable to the project evaluation should be clearly identified.

1. Justification of Personnel Compensation

The applicant should set forth the percentages of time to be devoted by the individuals who will serve as the staff of the proposed project, the annual salary of each of those persons, and the number of work days per year used for calculating the percentages of time or daily rate of those individuals. The applicant should explain any deviations from current rates or established written organization policies. If grant funds are requested to pay the salary and related costs for a current employee of a court or other unit of government, the applicant should explain why this would not constitute a supplantation of State or local funds in violation of 42 U.S.C. 10706(d)(1). An acceptable explanation may be that the position to be filled is a new one established in conjunction with the project or that the grant funds will be supporting only the portion of the employee's time that will be dedicated to new or additional duties related to the project.

2. Fringe Benefit Computation

The applicant should provide a description of the fringe benefits provided to employees. If percentages are used, the authority for such use should be presented as well as a description of the elements included in the determination of the percentage rate.

3. Consultant/Contractual Services

The applicant should describe each type of service to be provided. The basis for compensation rates and the method for selection should also be included. Rates for consultant services must be set in accordance with section XI.H.2.c.

4. Travel

Transportation costs and per diem rates must comply with the policies of the applicant organization. If the applicant does not have an established travel policy, then travel rates shall be consistent with those established by the Institute or the Federal Government. (A copy of the Institute's travel policy is available upon request.) The budget narrative should include an explanation of the rate used, including the components of the per diem rate and the basis for the estimated transportation expenses. The purpose for travel should also be included in the narrative.

5. Equipment

Grant funds may be used to purchase or lease only that equipment which is essential to accomplishing the objectives of the project. The applicant should describe the equipment to be purchased or leased and explain why

the acquisition of that equipment is essential to accomplish the project's goals and objectives. The narrative should clearly identify which equipment is to be leased and which is to be purchased. The method of procurement should also be described. Purchases for automatic data processing equipment must comply with section XI.H.2.b.

6. Supplies

The applicant should provide a general description of the supplies necessary to accomplish the goals and objectives of the grant. In addition, the applicant should provide the basis for the amount requested for this expenditure category.

7. Construction

Construction expenses are prohibited except for the limited purposes set forth in section X.H.2. Any allowable construction or renovation expense should be described in detail in the budget narrative.

8. Telephone

Applicants should include anticipated telephone charges, distinguishing between monthly charges and long distance charges in the budget narrative. Also, applicants should provide the basis used in developing the monthly and long distance estimates.

9. Postage

Anticipated postage costs for project-related mailings should be described in the budget narrative. The cost of special mailings, such as for a survey or for announcing a workshop, should be distinguished from routine operational mailing costs. The bases for all postage estimates should be included in the justification material.

10. Printing/Photocopying

Anticipated costs for printing or photocopying should be included in the budget narrative. Applicants should provide the details underlying these estimates in support of the request.

11. Indirect Costs

Applicants should describe the indirect cost rates applicable to the grant in detail. If costs often included within an indirect cost rate are charged directly (e.g., a percentage of the time of senior managers to supervise product activities), the applicant should specify that these costs are not included within their approved indirect cost rate. These rates must be established in accordance with section XI.H.4. If the applicant has an indirect cost rate or allocation plan approved by any Federal granting agency, a copy of the approved rate agreement should be attached to the application.

12. Match

The applicant should describe the source of any matching contribution and the nature of the match provided. Any additional contributions to the project should be described in this section of the budget narrative as well. If in-kind match is to be provided, the applicant should describe how the amount and value of the time, services or materials actually contributed will be documented sufficiently clearly to permit them to be included in an audit of the grant. Applicants should be aware that the time spent by participants in education courses does not qualify as in-kind match. (Samples of forms used by current grantees to track in-kind match are available from the Institute upon request.)

Applicants that do not contemplate making matching contributions continuously throughout the course of the project or on a task-by-task basis must provide a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions will be made. (See sections III.C., VIII.B., X.B. and XI.D.1.)

E. Submission Requirements

1. An application package containing the application, an original signature on FORM A (and on FORM B, if the application is from a State or local court, or on the Disclosure of Lobbying Form if the applicant is not a unit of State or local government), and four photocopies of the application package must be sent by first class or overnight mail, or by courier no later than May 18, 1994. A postmark or courier receipt will constitute evidence of the submission date. Please mark APPLICATION on all application package envelopes and send to: State Justice Institute, 1650 King Street, Suite 600, Alexandria, Virginia 22314.

Receipt of each proposal will be acknowledged in writing. Extensions of the deadline for receipt of applications will not be granted.

2. Applicants invited to submit more than one application may include material that would be identical in each application in a cover letter, and incorporate that material by reference in each application. The incorporated material will be counted against the 25-page (or in the case of package grant applications, the 40-page) limit for the program narrative. A copy of the cover letter should be attached to each copy of each application.

3. It is preferable for letters of cooperation or support to be appended to the application when it is submitted. If support letters are sent under separate cover, they must be received no later than four weeks before the meeting of the Board of Directors at which the application will be considered (i.e. no later than October 21, 1993, February 1, 1994, April 14, 1994, June 30, 1994, or August 25, 1994, respectively) in order to ensure that there is sufficient time to bring them to the Board's attention.

VIII. Application Review Procedures

A. Preliminary Inquiries

The Institute staff will answer inquiries concerning application procedures. The staff contact will be named in the Institute's letter inviting submission of a formal application.

B. Selection Criteria

1. All applications will be rated on the basis of the criteria set forth below. The Institute will accord the greatest weight to the following criteria:

a. The soundness of the methodology;

b. The appropriateness of the proposed evaluation design;

c. The qualifications of the project's staff;

d. The applicant's management plan and organizational capabilities;

e. The reasonableness of the proposed budget;

f. The demonstration of need for the project;

g. The products and benefits resulting from the project;

h. The demonstration of cooperation and support of other agencies that may be affected by the project;

i. The proposed project's relationship to one of the "Special Interest" categories set forth in section II.B.; and

j. The degree to which the findings, procedures, training, technology, or other results of the project can be transferred to other jurisdictions.

2. "Single jurisdiction" applications submitted pursuant to section II.C.1. will also be rated on the proposed project's relation to one of the "Special Interest" categories set forth in section II.B. and on the special requirements listed in section II.C.1.b.

3. In determining which applicants to fund, the Institute will also consider whether the applicant is a State court, a national court support or education organization, a non-court unit of government, or other type of entity eligible to receive grants under the Institute's enabling legislation (see 42 U.S.C. 10705(6) (as amended) and Section IV above); the availability of financial assistance from other sources

for the project; the amount and nature (cash or in-kind) of the applicant's match; the extent to which the proposed project would also benefit the Federal courts or help the State courts enforce Federal constitutional and legislative requirements; and the level of appropriations available to the Institute in the current year and the amount expected to be available in succeeding fiscal years.

C. Review and Approval Process

Applications will be reviewed competitively by the Board of Directors. The Institute staff will prepare a narrative summary of each application, and a rating sheet assigning points for each relevant selection criterion. When necessary, applications may also be reviewed by outside experts. Committees of the Board will review applications within assigned program categories and prepare recommendations to the full Board. The full Board of Directors will then decide which applications to approve for a grant. The decision to award a grant is solely that of the Board of Directors.

Awards approved by the Board will be signed by the Chairman of the Board on behalf of the Institute.

D. Return Policy

Unless a specific request is made, unsuccessful applications will not be returned. Applicants are advised that Institute records are subject to the provisions of the Federal Freedom of Information Act, 5 U.S.C. 552.

E. Notification of Board Decision

The Institute will send written notice to applicants concerning all Board decisions to approve or deny their respective applications and the key issues and questions that arose during the review process. A decision by the Board to deny an application may not be appealed, but does not prohibit resubmission of a concept paper based on that application in a subsequent round of funding. The Institute will also notify the designated State contact listed in Appendix I when grants are approved by the Board to support projects that will be conducted by or involve courts in their State.

F. Response to Notification of Approval

Applicants have 30 days from the date of the letter notifying them that the Board has approved their application to respond to any revisions requested by the Board. If the requested revisions (or a reasonable schedule for submitting such revisions) has not been submitted to the Institute within 30 days after notification, the approval will be automatically rescinded and the application presented to the Board for reconsideration.

IX. Renewal Funding Procedures and Requirements

The Institute recognizes two types of renewal funding as described below—"continuation grants" and "on-going support grants." The award of an initial grant to support a project does not constitute a commitment by the Institute to renew funding. The Board of Directors anticipates allocating no more than $3 million of available FY 1994 grant funds for renewal grants.

A. Continuation Grants

1. Purpose and Scope

Continuation grants are intended to support projects with a limited duration that involve the same type of activities as the previous project. They are intended to enhance the specific program or service produced or established during the prior grant period. They may be used, for example, when a project is divided into two or more sequential phases, for secondary analysis of data obtained in an Institute-supported research project, or for more extensive testing of an innovative technology, procedure, or program developed with SJI grant support.

In order for a project to be considered for continuation funding, the grantee must have completed the project tasks and met all grant requirements and conditions in a timely manner, absent extenuating circumstances or prior Institute approval of changes to the project design. Continuation grants are not intended to provide support for a project for which the grantee has underestimated the amount of time or funds needed to accomplish the project tasks.

A continuation grant may be awarded for either a single project or for more than one project as a package grant (see sections III.J., V.C.1 and 3, and V.D.1 and 3).

2. Application Procedures—Letters of Intent

In lieu of a concept paper, a grantee seeking a continuation grant must inform the Institute, by letter, of its intent to submit an application for such funding as soon as the need for renewal funding becomes apparent but no less than 120 days before the end of the current grant period.

a. A letter of intent must be no more than 3 single-spaced pages on 8½ by 11 inch paper and must contain a concise but thorough explanation of the need for continuation; an estimate of the funds to be requested; and a brief description of anticipated changes in scope, focus or audience of the project.

b. Letters of intent will not be reviewed competitively. Institute staff will review the proposed activities for the next project period and, within 30 days of receiving a letter of intent, inform the grantee of specific issues to be addressed in the continuation application and the date by which the application for a continuation grant must be submitted.

3. Application Format

An application for a continuation grant must include an application form, budget forms (with appropriate documentation), a project abstract conforming to the format set forth in section VII.B., a program narrative, a budget narrative, a disclosure of lobbying form from (applicants other than units of State or local government), and certain certifications and assurances.

The program narrative should conform to the length and format requirements set forth in section VII.C. However, rather than the topics listed in section VII.C., the program narrative of an application for a continuation grant should include:

a. *Project Objectives.* A clear, concise statement of what the continuation project is intended to accomplish.

b. *Need for Continuation.* An explanation of why continuation of the project is necessary to achieve the goals of the project, and how the continuation will benefit the participating courts or the courts community generally. That is, to what extent will the original goals and objectives of the project be unfulfilled if the project is not continued, and conversely, how will the findings or results of the project be enhanced by continuing the project?

A continuation application requesting a package grant to support more than one project should explain, in addition, how the proposed projects are related; how their operation and administration would be enhanced by the grant; the advantages of funding the projects as a package rather than individually; and the disadvantages, if any, that would accrue by considering or funding them separately.

c. *Report of Current Project Activities.* A discussion of the status of all activities conducted during the previous project period. Applicants should identify any activities that were not completed, and explain why. A continuation application requesting a package grant must describe separately the activities undertaken in each of the

projects included within the proposed package.

d. *Evaluation Findings.* The key findings, impact, or recommendations resulting from the evaluation of the project, if they are available, and how they will be addressed during the proposed continuation. If the findings are not yet available, applicants should provide the date by which they will be submitted to the Institute.

e. *Tasks, Methods, Staff and Grantee Capability.* A full description of any changes in the tasks to be performed, the methods to be used, the products of the project, how and to whom those products will be disseminated, the assigned staff, or the grantee's organizational capacity. Applicants should include, in addition, the criteria and methods by which the proposed continuation project would be evaluated.

A continuation application for a package grant must address these issues separately for each project included in the proposed package, using the same alphabetic identifiers and project titles as in the original application.

f. *Task Schedule.* A detailed task schedule and time line for the next project period. A continuation application for a package grant should include a separate task schedule and timeline for each project included in the proposed package, as well as a schedule and time line that covers the package of projects as a whole. The same alphabetic identifiers and project titles used in the original application should be used to identify the component projects in the renewal application.

g. *Other Sources of Support.* An indication of why other sources of support are inadequate, inappropriate or unavailable.

4. Budget and Budget Narrative

Provide a complete budget and budget narrative conforming to the requirements set forth in paragraph VII.D. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered.

A continuation application for a package grant must include a separate budget narrative identified alphabetically (i.e. A, B, C) and by project title for each project component.

5. References to Previously Submitted Material

An application for a continuation grant should not repeat information contained in a previously approved application or other previously submitted materials, but should provide specific references to such materials where appropriate.

6. Submission Requirements, Review and Approval Process, and Notification of Decision

The submission requirements set forth in section VII.E., other than the deadline for mailing, apply to applications for a continuation grant. Such applications will be rated on the selection criteria set forth in section VIII.B. The key findings and recommendations resulting from an evaluation of the project and the proposed response to those findings and recommendations will also be considered. The review and approval process, return policy, and notification procedures are the same as those for new projects set forth in sections VIII.C.—VIII.E.

B. On-going Support Grants

1. Purpose and Scope

On-going support grants are intended to support projects that are national in scope and that provide the State courts with services, programs or products for which there is a continuing important need. An on-going support grant may also be used to fund longitudinal research that directly benefits the State courts. On-going support grants are subject to the limits on size and duration set forth in V.C.2 and V.D.2. A project is eligible for consideration for an on-going support grant if:

a. The project is supported by and has been evaluated under a grant from the Institute;

b. The project is national in scope and provides a significant benefit to the State courts;

c. There is a continuing important need for the services, programs or products provided by the project as indicated by the level of use and support by members of the court community;

d. The project is accomplishing its objectives in an effective and efficient manner; and

e. It is likely that the service or program provided by the project would be curtailed or significantly reduced without Institute support.

Each project supported by an on-going support grant must include an evaluation component assessing its effectiveness and operation throughout the grant period. The evaluation should be independent, but may be designed collaboratively by the evaluator and the grantee. The design should call for regular feedback from the evaluator to the grantee throughout the project period concerning recommendations for mid-course corrections or improvement of the project, as well as periodic reports to the Institute at relevant points in the project.

An interim evaluation report must be submitted 18 months into the grant period. The decision to obligate Institute funds to support the third year of the project will be based on the interim evaluation findings and the applicant's response to any deficiencies noted in the report.

A final evaluation assessing the effectiveness, operation of, and continuing need for the project must be submitted 90 days before the end of the three-year project period.

In addition, a detailed annual task schedule must be submitted not later than 45 days before the end of the first and second years of the grant period, along with an explanation of any necessary revisions in the projected costs for the remainder of the project period. (See also section IX.B.3.h.)

2. Application Procedures—Letters of Intent

The Board will consider awarding an on-going support grant for a period of up to 36 months. The total amount of the grant will be fixed at the time of the initial award. Funds ordinarily will be made available in annual increments as specified in section V.C.2.

In lieu of a concept paper, a grantee seeking an on-going support grant must inform the Institute, by letter, of its intent to submit an application for such funding as soon as the need for renewal funding becomes apparent but no less than 120 days before the end of the current grant period. The letter of intent should be in the same format as that prescribed for continuation grants in section IX.A.2.a.

3. Application Procedures and Format

An application for an on-going support grant must include an application form, budget forms (with appropriate documentation), a project abstract conforming to the format set forth in section VII.B., a program narrative, a budget narrative, and certain certifications and assurances.

The program narrative should conform to the length and format requirements set forth in section VII.C. However, rather than the topics listed in section VII.C., the program narrative of applications for on-going support grants should address:

a. *Description of Need for and Benefits of the Project.* Provide a detailed discussion of the benefits provided by the project to the State courts around the country, including the degree to which State courts, State court judges, or State court managers and

personnel are using the services or programs provided by the project.

An application for ongoing support of a package grant should explain, in addition, how the proposed projects are related; how their operation and administration would be enhanced by the grant; the advantages of funding the projects as a package rather than individually; and the disadvantages, if any, that would accrue by considering or funding them separately.

b. *Demonstration of Court Support.* Demonstrate support for the continuation of the project from the courts community.

c. *Report on Current Project Activities.* Discuss the extent to which the project has met its goals and objectives, identify any activities that have not been completed, and explain why. An application for ongoing support of a package grant must describe separately the activities undertaken in each of the projects included within the proposed package.

d. *Evaluation Findings.* Attach a copy of the final evaluation report regarding the effectiveness, impact, and operation of the project, specify the key findings or recommendations resulting from the evaluation, and explain how they will be addressed during the proposed renewal period.

e. *Objectives, Tasks, Methods, Staff and Grantee Capability.* Describe fully any changes in the objectives; tasks to be performed; the methods to be used; the products of the project; how and to whom those products will be disseminated; the assigned staff; and the grantee's organizational capacity.

An application for ongoing support of a package grant must address these issues separately for each project included in the proposed package, using the same alphabetic identifiers and project titles as in the original application.

f. *Task Schedule.* Present a general schedule for the full proposed project period and a detailed task schedule for the first year of the proposed new project period. An application for ongoing support of a package grant should include a separate task schedule and timeline for each project included in the proposed package, as well as a schedule and time line that covers the package of projects as a whole. The same alphabetic identifiers and project titles used in the original application should be used to identify the component projects in the renewal application.

g. *Other Sources of Support.* Indicate why other sources of support are inadequate, inappropriate or unavailable.

4. Budget and Budget Narrative

Provide a complete three-year budget and budget narrative conforming to the requirements set forth in paragraph VII.D. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. A complete budget narrative should be provided for each year, or portion of a year, for which grant support is requested. Changes in the funding level requested should be discussed in terms of corresponding increases or decreases in the scope of activities or services to be rendered. The budget should provide for realistic cost-of-living and staff salary increases over the course of the requested project period. Applicants should be aware that the Institute is unlikely to approve a supplemental budget increase for an ongoing support grant in the absence of well documented, unanticipated factors that clearly justify the requested increase.

A continuation application for a package grant must include a separate budget narrative identified alphabetically (i.e. A, B, C) and by project title for each project component.

5. References to Previously Submitted Material

An application for an ongoing support grant should not repeat information contained in a previously approved application or other previously submitted materials, but should provide specific references to such materials where appropriate.

6. Submission Requirements, Review and Approval Process, and Notification of Decision

The submission requirements set forth in section VII.E., other than the deadline for mailing, apply to applications for an ongoing support grant. Such applications will be rated on the selection criteria set forth in section VIII.B. The key findings and recommendations resulting from an evaluation of the project and the proposed response to those findings and recommendations will also be considered. The review and approval process, return policy, and notification procedures are the same as those for new projects set forth in sections VIII.C.–VIII.E.

X. Compliance Requirements

The State Justice Institute Act (Pub. L. 98–620, as amended) contains limitations and conditions on grants, contracts and cooperative agreements of which applicants and recipients should be aware. In addition to eligibility requirements which must be met to be considered for an award from the Institute, all applicants should be aware of and all recipients will be responsible for ensuring compliance with the following:

A. State and Local Court Systems

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council. The latter shall receive, administer, and be accountable for all funds awarded to such courts. 42 U.S.C. 10705(b)(4). Appendix I to this guideline lists the agencies, councils and contact persons designated to administer Institute awards to the State and local courts.

B. Matching Requirements

1. All awards to courts or other units of State or local government (not including publicly supported institutions of higher education) require a match from private or public sources of not less than 50% of the total amount of the Institute's award. For example, if the total cost of a project is anticipated to be $150,000, a State court or executive branch agency may request up to $100,000 from the Institute to implement the project. The remaining $50,000 (50% of the $100,000 requested from SJI) must be provided as a match. A cash match, non-cash match, or both, may be provided, but the Institute will give preference to those applicants who provide a cash match to the Institute's award. (For a further definition of match, see section III.G.)

The requirement to provide match may be waived in exceptionally rare circumstances upon approval of the Chief Justice of the highest court in the State and a majority of the Board of Directors. 42 U.S.C. 10705(d) (as amended).

2. Other eligible recipients of Institute funds are not required to provide a match, but are encouraged to contribute to meeting the costs of the project. In instances where a cash match is proposed, the grantee is responsible for ensuring that the total amount proposed is actually contributed. If a proposed cash match contribution is not fully met, the Institute may reduce the award amount accordingly, in order to maintain the ratio originally provided for in the award agreement (see sections VIII.B. above and XI.D.).

C. Conflict of Interest

Personnel and other officials connected with Institute-funded programs shall adhere to the following requirements:

1. No official or employee of a recipient court or organization shall participate personally through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise in any proceeding, application, request for a ruling or other determination, contract, grant, cooperative agreement, claim, controversy, or other particular matter in which Institute funds are used, where to his/her knowledge he/she or his/her immediate family, partners, organization other than a public agency in which he/she is serving as officer, director, trustee, partner, or employee or any person or organization with whom he/she is negotiating or has any arrangement concerning prospective employment, has a financial interest.

2. In the use of Institute project funds, an official or employee of a recipient court or organization shall avoid any action which might result in or create the appearance of:

a. Using an official position for private gain; or

b. Affecting adversely the confidence of the public in the integrity of the Institute program.

3. Requests for proposals or invitations for bids issued by a recipient of Institute funds or a subgrantee or subcontractor will provide notice to prospective bidders that the contractors who develop or draft specifications, requirements, statements of work and/or requests for proposals for a proposed procurement will be excluded from bidding on or submitting a proposal to compete for the award of such procurement.

D. Lobbying

Funds awarded to recipients by the Institute shall not be used, indirectly or directly, to influence Executive orders or similar promulgations by Federal, State or local agencies, or to influence the passage or defeat of any legislation by Federal, State or local legislative bodies. 42 U.S.C. 10706(a).

It is the policy of the Board of Directors to award funds only to support applications submitted by organizations that would carry out the objectives of their applications in an unbiased manner. Consistent with this policy and the provisions of 42 U.S.C. 10706, the Institute will not knowingly award a grant to an applicant that has, directly or through an entity that is part of the same organization as the applicant, advocated a position before Congress on the specific subject matter of the application.

E. Political Activities

No recipient shall contribute or make available Institute funds, program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office. Recipients are also prohibited from using funds in advocating or opposing any ballot measure, initiative, or referendum. Finally, officers and employees of recipients shall not intentionally identify the Institute or recipients with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office. 42 U.S.C. 10706(a).

F. Advocacy

No funds made available by the Institute may be used to support or conduct training programs for the purpose of advocating particular nonjudicial public policies or encouraging nonjudicial political activities. 42 U.S.C. 10706(b).

G. Prohibition Against Litigation Support

No funds made available by the Institute may be used directly or indirectly to support legal assistance to parties in litigation, including cases involving capital punishment.

H. Supplantation and Construction

To ensure that funds are used to supplement and improve the operation of State courts, rather than to support basic court services, funds shall not be used for the following purposes:

1. To supplant State or local funds supporting a program or activity;

2. To construct court facilities or structures, except to remodel existing facilities or to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program; or

3. Solely to purchase equipment.

I. Confidentiality of Information

Except as provided by Federal law other than the State Justice Institute Act, no recipient of financial assistance from SJI may use or reveal any research or statistical information furnished under the Act by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.

J. Human Research Protection

All research involving human subjects shall be conducted with the informed consent of those subjects and in a manner that will ensure their privacy and freedom from risk or harm and the protection of persons who are not subjects of the research but would be affected by it, unless such procedures and safeguards would make the research impractical. In such instances, the Institute must approve procedures designed by the grantee to provide human subjects with relevant information about the research after their involvement and to minimize or eliminate risk or harm to those subjects due to their participation.

K. Nondiscrimination

No person may, on the basis of race, sex, national origin, disability, color, or creed be excluded from participation in, denied the benefits of, or otherwise subjected to discrimination under any program or activity supported by Institute funds. Recipients of Institute funds must immediately take any measures necessary to effectuate this provision.

L. Reporting Requirements

Recipients of Institute funds, other than scholarships awarded under section II.B.2.b.v., shall submit Quarterly Progress and Financial Reports within 30 days of the close of each calendar quarter (that is, no later than January 30, April 30, July 30, and October 30). Two copies of each report must be sent. The Quarterly Progress Reports shall include a narrative description of project activities during the calendar quarter, the relationship between those activities and the task schedule and objectives set forth in the approved application or an approved adjustment thereto, any significant problem areas that have developed and how they will be resolved, and the activities scheduled during the next reporting period.

The quarterly financial status report shall be submitted in accordance with section XI.G.2. of this guideline. A final project progress report and financial status report shall be submitted within 90 days after the end of the grant period in accordance with section XI.K.2. of this Guideline.

M. Audit

Each recipient must provide for an annual fiscal audit. (See section XI.J. of

this guideline for the requirements of such audits.)

Accounting principles employed in recording transactions and preparing financial statements must be based upon generally accepted accounting principles (GAAP).

N. Suspension of Funding

After providing a recipient reasonable notice and opportunity to submit written documentation demonstrating why fund termination or suspension should not occur, the Institute may terminate or suspend funding of a project that fails to comply substantially with the Act, Institute guidelines, or the terms and conditions of the award. 42 U.S.C. 10708(a).

O. Title to Property

At the conclusion of the project, title to all expendable and nonexpendable personal property purchased with Institute funds shall vest in the recipient court, organization, or individual that purchased the property if certification is made to the Institute that the property will continue to be used for the authorized purposes of the Institute-funded project or other purposes consistent with the State Justice Institute Act, as approved by the Institute. If such certification is not made or the Institute disapproves such certification, title to all such property with an aggregate or individual value of $1,000 or more shall vest in the Institute, which will direct the disposition of the property.

P. Original Material

All products prepared as the result of Institute-supported projects must be originally-developed material unless otherwise specified in the award documents. Material not originally developed that is included in such products must be properly identified, whether the material is in a verbatim or extensive paraphrase format.

Q. Acknowledgment and Disclaimer

Recipients of Institute funds shall acknowledge prominently on all products developed with grant funds that support was received from the Institute. The "SJI" logo must appear on the front cover of a written product, or in the opening frames of a video product, unless another placement is approved in writing by the Institute.

Recipients also shall display the following disclaimer on all grant products:

"This [document, film, videotape, etc.] was developed under a [grant, cooperative agreement, contract] from the State Justice Institute. The points of view expressed are those of the [author(s), filmmaker(s), etc.] and do not necessarily represent the official position or policies of the State Justice Institute."

R. Institute Approval of Grant Products

No grant funds may be obligated for publication or reproduction of a final product developed with grant funds without the written approval of the Institute. Grantees shall submit a final draft of each such product to the Institute for review and approval. These drafts shall be submitted sufficiently before the product is scheduled to be sent for publication or reproduction to permit Institute review and incorporation of any appropriate changes agreed upon by the grantee and the Institute.

S. Distribution of Grant Products to State Libraries

Grantees shall send one copy of each final product developed with grant funds to the library established in each State to collect materials prepared with Institute support. (A list of these libraries is contained in Appendix II).

T. Copyrights

Except as otherwise provided in the terms and conditions of an Institute award, a recipient is free to copyright any books, publications, or other copyrightable materials developed in the course of an Institute-supported project, but the Institute shall reserve a royalty-free, nonexclusive and irrevocable right to reproduce, publish, or otherwise use, and to authorize others to use, the materials for purposes consistent with the State Justice Institute Act.

U. Inventions and Patents

If any patentable items, patent rights, processes, or inventions are produced in the course of Institute-sponsored work, such fact shall be promptly and fully reported to the Institute. Unless there is a prior agreement between the grantee and the Institute on disposition of such items, the Institute shall determine whether protection of the invention or discovery shall be sought. The Institute will also determine how the rights in the invention or discovery, including rights under any patent issued thereon, shall be allocated and administered in order to protect the public interest consistent with "Government Patent Policy" (President's Memorandum for Heads of Executive Departments and Agencies, February 18, 1983, and statement of Government Patent Policy).

V. Charges for Grant-Related Products/ Recovery of Costs

When Institute funds fully cover the cost of developing, producing, and disseminating a product, (e.g., a report, curriculum, videotape or software), the product should be distributed to the field without charge. When Institute funds only partially cover the development, production, or dissemination costs, the grantee may recover its costs for reproducing and disseminating the material to those requesting it.

Applicants should disclose the intent to sell grant-related products in both the concept paper and the application. Grantees must obtain the written, prior approval of the Institute of their plans to recover project costs through the sale of grant products. Written requests to recover costs ordinarily should be received during the grant period and should specify the nature and extent of the costs to be recouped, the reason that such costs were not budgeted (if the rationale was not disclosed in the approved application), the number of copies to be sold, the intended audience for the products to be sold, and the proposed sale price. See section III.G. and XI.F. for requirements regarding project-related income.

W. Availability of Research Data for Secondary Analysis

Upon request, grantees must make available for secondary analysis a diskette(s) or data tape(s) containing research and evaluation data collected under an Institute grant and the accompanying code manual. Grantees may recover the actual cost of duplicating and mailing or otherwise transmitting the data set and manual from the person or organization requesting the data. Grantees may provide the requested data set in the format in which it was created and analyzed.

X. Approval of Key Staff

If the qualifications of an employee or consultant assigned to a key project staff position are not described in the application or if there is a change of a person assigned to such a position, a recipient shall submit a description of the qualifications of the newly assigned person to the Institute. Prior written approval of the qualifications of the new person assigned to a key staff position must be received from the Institute before the salary or consulting fee of that person and associated costs may be paid or reimbursed from grant funds.

XI. Financial Requirements

A. Accounting Systems and Financial Records

All grantees, subgrantees, contractors and other organizations directly or indirectly receiving Institute funds are required to establish and maintain accounting systems and financial records to accurately account for funds they receive. These records shall include total program costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget.

1. Purpose

The purpose of this section is to establish accounting system requirements and to offer guidance on procedures which will assist all grantees/subgrantees in:

a. Complying with the statutory requirements for the awarding, disbursement, and accounting of funds;

b. Complying with regulatory requirements of the Institute for the financial management and disposition of funds;

c. Generating financial data which can be used in the planning, management and control of programs; and

d. Facilitating an effective audit of funded programs and projects.

2. References

Except where inconsistent with specific provisions of this Guideline, the following regulations, directives and reports are applicable to Institute grants and cooperative agreements. These materials supplement the requirements of this section for accounting systems and financial recordkeeping and provide additional guidance on how these requirements may be satisfied.

a. *Office of Management and Budget (OMB) Circular A–21*, Cost Principles for Educational Institutions.

b. *Office of Management and Budget (OMB) Circular A–87*, Cost Principles for State and Local Governments.

c. *Office of Management and Budget (OMB) Circular A–88 (revised)*, Indirect Cost Rates, Audit and Audit Follow-up at Educational Institutions.

d. *Office of Management and Budget (OMB) Circular A–102*, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments.

e. *Office of Management and Budget (OMB) Circular A–110*, Grants and Agreements with Institutions of Higher Education, Hospitals and other Non-Profit Organizations.

f. *Office of Management and Budget (OMB) Circular A–128*, Audits of State and Local Governments.

g. *Office of Management and Budget (OMB) Circular A–122*, Cost Principles for Non-profit Organizations.

B. Supervision and Monitoring Responsibilities

1. Grantee Responsibilities

All grantees receiving direct awards from the Institute are responsible for the management and fiscal control of all funds. Responsibilities include accounting for receipts and expenditures, maintaining adequate financial records and refunding expenditures disallowed by audits.

2. Responsibilities of State Supreme Court

Each application for funding from a State or local court must be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council.

The State Supreme Court shall receive all Institute funds awarded to such courts and shall be responsible for assuring proper administration of Institute funds. The State Supreme Court is responsible for all aspects of the project, including proper accounting and financial recordkeeping by the subgrantee. The responsibilities include:

a. *Reviewing Financial Operations.* The State Supreme Court should be familiar with, and periodically monitor, its subgrantees' financial operations, records system and procedures. Particular attention should be directed to the maintenance of current financial data.

b. *Recording Financial Activities.* The subgrantee's grant award or contract obligation, as well as cash advances and other financial activities, should be recorded in the financial records of the State Supreme Court in summary form. Subgrantee expenditures should be recorded on the books of the State Supreme Court *OR* evidenced by report forms duly filed by the subgrantee. Non-Institute contributions applied to projects by subgrantees should likewise be recorded, as should any project income resulting from program operations.

c. *Budgeting and Budget Review.* The State Supreme Court should ensure that each subgrantee prepares an adequate budget as the basis for its award commitment. The detail of each project budget should be maintained on file by the State Supreme Court.

d. *Accounting for Non-Institute Contributions.* The State Supreme Court will ensure, in those instances where subgrantees are required to furnish non-Institute matching funds, that the requirements and limitations of this guideline are applied to such funds.

e. *Audit Requirement.* The State Supreme Court is required to ensure that subgrantees have met the necessary audit requirements as set forth by the Institute (see sections X.M. and XI.J).

f. *Reporting Irregularities.* The State Supreme Court and its subgrantees are responsible for promptly reporting to the Institute the nature and circumstances surrounding any financial irregularities discovered.

C. Accounting System

The grantee is responsible for establishing and maintaining an adequate system of accounting and internal controls for itself and for ensuring that an adequate system exists for each of its subgrantees and contractors. An acceptable and adequate accounting system is considered to be one which:

1. Properly accounts for receipt of funds under each grant awarded and the expenditure of funds for each grant by category of expenditure (including matching contributions and project income);

2. Assures that expended funds are applied to the appropriate budget category included within the approved grant;

3. Presents and classifies historical costs of the grant as required for budgetary and evaluation purposes;

4. Provides cost and property controls to assure optimal use of grant funds;

5. Is integrated with a system of internal controls adequate to safeguard the funds and assets covered, check the accuracy and reliability of the accounting data, promote operational efficiency, and assure conformance with any general or special conditions of the grant;

6. Meets the prescribed requirements for periodic financial reporting of operations; and

7. Provides financial data for planning, control, measurement, and evaluation of direct and indirect costs.

D. Total Cost Budgeting and Accounting

Accounting for all funds awarded by the Institute shall be structured and executed on a "total project cost" basis. That is, total project costs, including Institute funds, State and local matching shares, and any other fund sources included in the approved project budget shall be the foundation for fiscal administration and accounting. Grant applications and financial reports require budget and cost estimates on the basis of total costs.

1. Timing of Matching Contributions

Matching contributions need not be applied at the exact time of the

obligation of Institute funds. However, the full matching share must be obligated during the award period, except that with the prior written permission of the Institute, contributions made following approval of the grant by the Institute's Board but before the beginning of the grant may be counted as match. Grantees that do not contemplate making matching contributions continuously throughout the course of a project or on a task-by-task basis, are required to submit a schedule within 30 days after the beginning of the project period indicating at what points during the project period the matching contributions will be made. In instances where a proposed cash match is not fully met, the Institute may reduce the award amount accordingly, in order to maintain the ratio originally provided for in the award agreement.

2. Records for Match

All grantees must maintain records which clearly show the source, amount, and timing of all matching contributions. In addition, if a project has included, within its approved budget, contributions which exceed the required matching portion, the grantee must maintain records of those contributions in the same manner as it does the Institute funds and required matching shares. For all grants made to State and local courts, the State Supreme Court has primary responsibility for grantee/subgrantee compliance with the requirements of this section. (See section XI.B.2.)

E. Maintenance and Retention of Records

All financial records, supporting documents, statistical records and all other records pertinent to grants, subgrants, cooperative agreements or contracts under grants shall be retained by each organization participating in a project for at least three years for purposes of examination and audit. State Supreme Courts may impose record retention and maintenance requirements in addition to those prescribed in this chapter.

1. Coverage

The retention requirement extends to books of original entry, source documents supporting accounting transactions, the general ledger, subsidiary ledgers, personnel and payroll records, cancelled checks, and related documents and records. Source documents include copies of all grant and subgrant awards, applications, and required grantee/subgrantee financial and narrative reports. Personnel and payroll records shall include the time and attendance reports for all individuals reimbursed under a grant, subgrant or contract, whether they are employed full-time or part-time. Time and effort reports will be required for consultants.

2. Retention Period

The three-year retention period starts from the date of the submission of the final expenditure report or, for grants which are renewed annually, from the date of submission of the annual expenditure report.

3. Maintenance

Grantees and subgrantees are expected to see that records of different fiscal years are separately identified and maintained so that requested information can be readily located. Grantees and subgrantees are also obligated to protect records adequately against fire or other damage. When records are stored away from the grantee's/subgrantee's principal office, a written index of the location of stored records should be on hand, and ready access should be assured.

4. Access

Grantees and subgrantees must give any authorized representative of the Institute access to and the right to examine all records, books, papers, and documents related to an Institute grant.

F. Project-Related Income

Records of the receipt and disposition of project-related income must be maintained by the grantee in the same manner as required for the project funds that gave rise to the income. The policies governing the disposition of the various types of project-related income are listed below.

1. Interest

A State and any agency or instrumentality of a State including State institutions of higher education and State hospitals, shall not be held accountable for interest earned on advances of project funds. When funds are awarded to subgrantees through a State, the subgrantees are not held accountable for interest earned on advances of project funds. Local units of government and nonprofit organizations that are direct grantees must refund any interest earned. Grantees shall so order their affairs to ensure minimum balances in their respective grant cash accounts.

2. Royalties

The grantee/subgrantee may retain all royalties received from copyrights or other works developed under projects or from patents and inventions, unless the terms and conditions of the project provide otherwise.

3. Registration and Tuition Fees

Registration and tuition fees shall be used to pay project-related costs not covered by the grant, or to reduce the amount of grant funds needed to support the project. Registration and tuition fees may be used for other purposes only with the prior written approval of the Institute.

4. Income From the Sale of Grant Products

When grant funds fully cover the costs of producing and disseminating a limited number of copies of a product, the grantee may, with the written approval of the Institute, sell additional copies reproduced at its expense only at a price that recovers actual reproduction and distribution costs. These costs must be reported on the quarterly financial status reports and documented in an auditable manner. Whenever possible, the intent to sell a product should be disclosed in the concept paper and application or reported to the Institute in writing once a decision to sell products has been made. The grantee must request approval to recover its product reproduction and dissemination costs as specified in section X.V.

5. Other

Other project income shall be treated in accordance with disposition instructions set forth in the project's terms and conditions.

G. Payments and Financial Reporting Requirements

1. Payment of Grant Funds

The procedures and regulations set forth below are applicable to all Institute grant funds and grantees.

a. *Request for Advance or Reimbursement of Funds.* Grantees will receive funds on a "Check-Issued" basis. Upon receipt, review, and approval of a Request for Advance or Reimbursement by the Institute, a check will be issued directly to the grantee or its designated fiscal agent. A request must be limited to the grantee's immediate cash needs. The Request for Advance or Reimbursement, along with the instructions for its preparation, will be included in the official Institute award package.

For purposes of submitting Requests for Advance or Reimbursement, recipients of continuation and on-going support grants should consider these grants as supplements to and extensions of the original award and number their

requests on a project rather than a grant basis. (See Recommendations to Grantees in the Introduction for further guidance.)

Payment requests for projects within a package grant may be submitted at the same time, but must be calculated separately by component project. The alphabetic project identifier (A, B, C, etc.) should be appended to the grant number in Block 5 of the Request for Advance or Reimbursement. (See Recommendations to Grantees in the Introduction for further guidance.)

b. *Termination of Advance and Reimbursement Funding.* When a grantee organization receiving cash advances from the Institute:

i. Demonstrates an unwillingness or inability to attain program or project goals, or to establish procedures that will minimize the time elapsing between cash advances and disbursements, or cannot adhere to guideline requirements or special conditions;

ii. Engages in the improper award and administration of subgrants or contracts; or

iii. Is unable to submit reliable and/or timely reports, the Institute may terminate advance financing and require the grantee organization to finance its operations with its own working capital. Payments to the grantee shall then be made by the use of the Institute check method to reimburse the grantee for actual cash disbursements. In the event the grantee continues to be deficient, the Institute reserves the right to suspend reimbursement payments until the deficiencies are corrected.

c. *Principle of Minimum Cash on Hand.* Recipient organizations should request funds based upon immediate disbursement requirements. Grantees should time their requests to ensure that cash on hand is the minimum needed for disbursements to be made immediately or within a few days. Idle funds in the hands of subgrantees will impair the goals of good cash management.

2. Financial Reporting

In order to obtain financial information concerning the use of funds, the Institute requires that grantees/subgrantees of these funds submit timely reports for review.

Two copies of the Financial Status Report are required from all grantees, other than recipients of scholarships under section II.B.2.b.v., for each active quarter on a calendar-quarter basis. This report is due within 30 days after the close of the calendar quarter. It is designed to provide financial information relating to Institute funds, State and local matching shares, and any other fund sources included in the approved project budget. The report contains information on obligations as well as outlays. A copy of the Financial Status Report, along with instructions for its preparation, will be included in the official Institute Award package. In circumstances where an organization requests substantial payments for a project prior to the completion of a given quarter, the Institute may request a brief summary of the amount requested, by object class, in support of the Request for Advance or Reimbursement.

Grantees receiving a continuation or on-going support grant should provide financial information and number their quarterly Financial Status Reports on a project rather than a grant basis.

Grantees receiving a package grant must submit a quarterly financial report summarizing the financial activity for the entire package and separate reports for each project within the package. On the separate reports for the component projects, the alphabetic project identifier (A, B, C, etc.) must be appended to the grant number in Block 5 of the Financial Status Report.

3. Consequences of Non-Compliance With Submission Requirements

Failure of the grantee organization to submit required financial and program reports may result in a suspension of grant payments or revocation of the grant award.

H. Allowability of Costs

1. General

Except as may be otherwise provided in the conditions of a particular grant, cost allowability shall be determined in accordance with the principles set forth in *OMB Circulars A–87,* Cost Principles for State and Local Governments; *A–21,* Cost Principles Applicable to Grants and Contracts With Educational Institutions; and *A–122,* Cost Principles for Non-Profit Organizations. No costs may be recovered to liquidate obligations which are incurred after the approved grant period.

2. Costs Requiring Prior Approval

a. *Preagreement Costs.* The written prior approval of the Institute is required for costs which are considered necessary to the project but occur prior to the award date of the grant.

b. *Equipment.* Grant funds may be used to purchase or lease only that equipment which is essential to accomplishing the goals and objectives of the project. The written prior approval of the Institute is required when the amount of automated data processing (ADP) equipment to be purchased or leased exceeds $10,000 or the software to be purchased exceeds $3,000.

c. *Consultants.* The written prior approval of the Institute is required when the rate of compensation to be paid a consultant exceeds $300 a day.

3. Travel Costs

Transportation and per diem rates must comply with the policies of the applicant organization. If the applicant does not have an established written travel policy, then travel rates shall be consistent with those established by the Institute or the Federal Government. Institute funds shall not be used to cover the transportation or per diem costs of a member of a national organization to attend an annual or other regular meeting of that organization.

4. Indirect Costs

These are costs of an organization that are not readily assignable to a particular project, but are necessary to the operation of the organization and the performance of the project. The cost of operating and maintaining facilities, depreciation, and administrative salaries are examples of the types of costs that are usually treated as indirect costs. It is the policy of the Institute that all costs should be budgeted directly; however, if a recipient has an indirect cost rate approved by a Federal agency as set forth below, the Institute will accept that rate.

a. *Approved Plan Available.*

i. The Institute will accept an indirect cost rate or allocation plan approved for a grantee during the preceding two years by any Federal granting agency on the basis of allocation methods substantially in accord with those set forth in the applicable cost circulars. A copy of the approved rate agreement must be submitted to the Institute.

ii. Where flat rates are accepted in lieu of actual indirect costs, grantees may not also charge expenses normally included in overhead pools, e.g., accounting services, legal services, building occupancy and maintenance, etc., as direct costs.

iii. Organizations with an approved indirect cost rate, utilizing total direct costs as the base, usually exclude contracts under grants from any overhead recovery. The negotiation agreement will stipulate that contracts are excluded from the base for overhead recovery.

b. *Establishment of Indirect Cost Rates.* In order to be reimbursed for indirect costs, a grantee or organization

must first establish an appropriate indirect cost rate. To do this, the grantee must prepare an indirect cost rate proposal and submit it to the Institute. The proposal must be submitted in a timely manner (within three months after the start of the grant period) to assure recovery of the full amount of allowable indirect costs, and it must be developed in accordance with principles and procedures appropriate to the type of grantee institution involved.

c. *No Approved Plan.* If an indirect cost proposal for recovery of actual indirect costs is not submitted to the Institute within three months after the start of the grant period, indirect costs will be irrevocably disallowed for all months prior to the month that the indirect cost proposal is received. This policy is effective for all grant awards.

I. Procurement and Property Management Standards

1. Procurement Standards

For State and local governments, the Institute is adopting the standards set forth in Attachment O of *OMB Circular A–102.* Institutions of higher education, hospitals, and other non-profit organizations will be governed by the standards set forth in Attachment O of *OMB Circular A–110.*

2. Property Management Standards

The property management standards as prescribed in Attachment N of *OMB Circulars A–102* and *A–110* shall be applicable to all grantees and subgrantees of Institute funds except as provided in section X.O.

All grantees/subgrantees are required to be prudent in the acquisition and management of property with grant funds. If suitable property required for the successful execution of projects is already available within the grantee or subgrantee organization, expenditures of grant funds for the acquisition of new property will be considered unnecessary.

J. Audit Requirements

1. Implementation

Each grantee (including a State or local court receiving a subgrant from the State Supreme Court) shall provide for an annual fiscal audit. The audit may be of the entire grantee organization (e.g., a university) or of the specific project funded by the Institute. Audits conducted in accordance with the Single Audit Act of 1984 and OMB Circular A–128, or OMB Circular A–133 will satisfy the requirement for an annual fiscal audit. The audit shall be conducted by an independent Certified Public Accountant, or a State or local agency authorized to audit government agencies. The audit shall be conducted in accordance with the Government Accounting Standards issued by the Comptroller General of the United States and shall include:

a. An opinion on whether the financial statements of the grantee present fairly its financial position and the results of its financial operations in accordance with generally accepted accounting principles;

b. A report on the grantee's internal control structure over financial reporting; and,

c. A report on the tests of compliance with applicable laws and regulations that have a direct and material effect on the financial statement amounts.

A written report shall be prepared upon completion of the audit. Grantees are responsible for submitting copies of the reports to the Institute within 30 days after the acceptance of the report by the grantee, for each year that there is financial activity involving Institute funds.

Grantees who receive funds from a Federal agency and who satisfy audit requirements of the cognizant Federal agency, should submit a copy of the audit report prepared for that Federal agency to the Institute in order to satisfy the provisions of this section. Cognizant Federal agencies do not send reports to the Institute. Therefore, each grantee must send this report directly to the Institute.

2. Resolution and Clearance of Audit Reports

Timely action on recommendations by responsible management officials is an integral part of the effectiveness of an audit. Each grant recipient shall have policies and procedures for acting on audit recommendations by designating officials responsible for: follow-up, maintaining a record of the actions taken on recommendations and time schedules, responding to and acting on audit recommendations, and submitting periodic reports to the Institute on recommendations and actions taken.

3. Consequences of Non-Resolution of Audit Issues

It is the general policy of the State Justice Institute not to make new grant awards to an applicant having an unresolved audit report involving Institute awards. Failure of the grantee organization to resolve audit questions may also result in the suspension of payments for active Institute grants to that organization.

K. Close-Out of Grants

1. Definition

Close-out is a process by which the Institute determines that all applicable administrative and financial actions and all required work of the grant have been completed by both the grantee and the Institute.

2. Grantee Close-Out Requirements

Within 90 days after the end date of the grant or any approved extension thereof (revised end date), the following documents must be submitted to the Institute by a grantee other than a recipient of a scholarship under section II.B.2.b.v.

a. *Financial Status Report.* The final report of expenditures must have no unliquidated obligations and must indicate the exact balance of unobligated funds. Any unobligated/unexpended funds will be deobligated from the award by the Institute. Final payment requests for obligations incurred during the award period must be submitted to the Institute prior to the end of the 90-day close-out period. Grantees on a check-issued basis, who have drawn down funds in excess of their obligations/expenditures, must return any unused funds as soon as it is determined that the funds are not required. In no case should any unused funds remain with the grantee beyond the submission date of the final financial status report.

b. *Final Progress Report.* This report should describe the project activities during the final calendar quarter of the project and the closeout period, including to whom project products have been disseminated; provide a summary of activities during the entire project; specify whether all the objectives set forth in the approved application or an approved adjustment thereto have been met and, if any of the objectives have not been met, explain the reasons therefor; and discuss what, if anything, could have been done differently that might have enhanced the impact of the project or improved its operation.

3. Extension of Close-Out Period

Upon the written request of the grantee, the Institute may extend the close-out period to assure completion of the Grantee's close-out requirements. Requests for an extension must be submitted at least 14 days before the end of the close-out period and must explain why the extension is necessary and what steps will be taken to assure that all the grantee's responsibilities will be met by the end of the extension period.

XII. Grant Adjustments

All requests for program or budget adjustments requiring Institute approval must be submitted in a timely manner by the project director. All requests for changes from the approved application will be carefully reviewed for both consistency with this guideline and the enhancement of grant goals and objectives.

A. Grant Adjustments Requiring Prior Written Approval

There are several types of grant adjustments which require the prior written approval of the Institute. Examples of these adjustments include:

1. Budget revisions among direct cost categories which, individually or in the aggregate, exceed or are expected to exceed five percent of the approved original budget or the most recently approved revised budget. For the purposes of this section, the Institute will view budget revisions cumulatively.

a. For package grants, reallocations among budget categories of an individual project within the package that total less than five percent of the approved budget for that project do not require a grant adjustment. However, transfers of funds between projects included in the package require prior, written approval by the Institute.

b. For continuation and on-going support grants, funds from the original award may be used during the renewal grant period and funds awarded by a continuation or on-going support grant may be used to cover project-related expenditures incurred during the original award period, with the prior, written approval of the Institute.

2. A change in the scope of work to be performed or the objectives of the project (see section XII.D.).

3. A change in the project site.

4. A change in the project period, such as an extension of the grant period and/or extension of the final financial or progress report deadline (see section XII.E.).

5. Satisfaction of special conditions, if required.

6. A change in or temporary absence of the project director (see sections XII. F. and G.).

7. The assignment of an employee or consultant to a key staff position whose qualifications were not described in the application, or a change of a person assigned to a key project staff position (see section X.X.).

8. A successor in interest or name change agreements.

9. A transfer or contracting out of grant-supported activities (see section XII.H.).

10. A transfer of the grant to another recipient.

11. Preagreement costs, the purchase of automated data processing equipment and software, and consultant rates, as specified in section XI.H.2.

12. A change in the nature or number of the products to be prepared or the manner in which a product would be distributed.

B. Request for Grant Adjustments

All grantees and subgrantees must promptly notify the SJI program managers, in writing, of events or proposed changes which may require an adjustment to the approved application. In requesting an adjustment, the grantee must set forth the reasons and basis for the proposed adjustment and any other information the SJI program managers determine would help the Institute's review.

C. Notification of Approval/Disapproval

If the request is approved, the grantee will be sent a Grant Adjustment signed by the Executive Director or his/her designee. If the request is denied, the grantee will be sent a written explanation of the reasons for the denial.

D. Changes in the Scope of the Grant

A grantee/subgrantee may make minor changes in methodology, approach, or other aspects of the grant to expedite achievement of the grant's objectives with subsequent notification of the SJI program manager. Major changes in scope, duration, training methodology, or other significant areas must be approved in advance by the Institute.

E. Date Changes

A request to change or extend the grant period must be made at least 30 days in advance of the end date of the grant. A revised task plan should accompany requests for a no-cost extension of the grant period, along with a revised budget if shifts among budget categories will be needed. A request to change or extend the deadline for the final financial report or final progress report must be made at least 14 days in advance of the report deadline (see section XI.K.3.).

F. Temporary Absence of the Project Director

Whenever absence of the project director is expected to exceed a continuous period of one month, the plans for the conduct of the project director's duties during such absence must be approved in advance by the Institute. This information must be provided in a letter signed by an authorized representative of the grantee/subgrantee at least 30 days before the departure of the project director, or as soon as it is known that the project director will be absent. The grant may be terminated if arrangements are not approved in advance by the Institute.

G. Withdrawal of/Change in Project Director

If the project director relinquishes or expects to relinquish active direction of the project, the Institute must be notified immediately. In such cases, if the grantee/subgrantee wishes to terminate the project, the Institute will forward procedural instructions upon notification of such intent. If the grantee wishes to continue the project under the direction of another individual, a statement of the candidate's qualifications should be sent to the Institute for review and approval. The grant may be terminated if the qualifications of the proposed individual are not approved in advance by the Institute.

H. Transferring or Contracting Out of Grant-Supported Activities

A principal activity of the grant-supported project shall not be transferred or contracted out to another organization without specific prior approval by the Institute. All such arrangements should be formalized in a contract or other written agreement between the parties involved. Copies of the proposed contract or agreement must be submitted for prior approval at the earliest possible time. The contract or agreement must state, at a minimum, the activities to be performed, the time schedule, the policies and procedures to be followed, the dollar limitation of the agreement, and the cost principles to be followed in determining what costs, both direct and indirect, are to be allowed. The contract or other written agreement must not affect the grantee's overall responsibility for the direction of the project and accountability to the Institute.

State Justice Institute Board of Directors

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David I. Tevelin, Executive Director (ex officio)

David I. Tevelin,

Executive Director.

Appendix I—List of State Contacts Regarding Administration of Institute Grants to State and Local Courts

Mr. Oliver Gilmore, Administrative Director, Administrative Office of the Courts, 817 South Court Street, Montgomery, Alabama 36130, (205) 834–7990
Mr. Arthur H. Snowden II, Administrative Director, Alaska Court System, 303 K Street, Anchorage, Alaska 99501, (907) 264–0547
Mr. David K. Byers, Administrative Director, Supreme Court of Arizona, 1501 West Washington Street, Suite 411, Phoenix, Arizona 85007–3330, (602) 542–9301
Mr. James D. Gingerich, Director, Administrative Office of the Courts, 625 Marshall, Little Rock, Arkansas 72201–1078, (501) 376–6655
Mr. William C. Vickrey, State Court Administrator, Administrative Office of the Courts, 303 Second Street, South Tower, San Francisco, California 94107, (415) 396–9100
Mr. Steven V. Berson, State Court Administrator, Colorado Judicial Department, 1301 Pennsylvania Street, Suite 300, Denver, Colorado 80203–2416, (303) 861–1111, ext. 585
Ms. Faith P. Arkin Director, External Affairs, Office of the Chief Court Administrator, Drawer N, Station A, Hartford, Connecticut 06106, (203) 566–8210
Mr. Lowell Groundland, Director, Administrative Office of the Courts, Carvel State Office Building, 820 N. French Street, Wilmington, Delaware 19801, (302) 571–2480
Mr. Ulysses Hammond, Executive Officer, Courts of the District of Columbia, 500 Indiana Avenue, NW., Washington, DC 20001, (202) 879–1700
Mr. Kenneth Palmer, State Courts Administrator, Florida State Courts System, Supreme Court Building, Tallahassee, Florida 32399–1900, (904) 922–5081
Mr. Robert L. Doss, Jr., Director, Administrative Office of the Georgia Courts, The Judicial Council of Georgia, 244 Washington Street, SW., Suite 500, Atlanta, Georgia 30334–5900, (404) 656–5171
Mr. Perry C. Taitano, Administrative Director, Superior Court of Guam, Judiciary Building, 110 West O'Brien Drive, Agana, Guam 96920, 011 (671) 472–8961 through 8968
Honorable Daniel G. Heely, Administrative Director of the Courts, Office of the Administrative Director, Post Office Box 2560, Honolulu, Hawaii 96813, (808) 539–4900
Honorable Charles F. McDevitt, Chief Justice, Idaho Supreme Court, 451 West State Street, Boise, Idaho 83720, (208) 334–3464
Mr. Robert E. Davison, Director, Administrative Office of the Courts, 840 S. Spring Street, Springfield, Illinois 62704, (312) 793–3250
Mr. Bruce A. Kotzan, Executive Director, Supreme Court of Indiana, State House, Room 323, Indianapolis, Indiana 46204, (317) 232–2542
Mr. William J. O'Brien, State Court Administrator, Supreme Court of Iowa, State House, Des Moines, Iowa 50319, (515) 281–5241
Dr. Howard P. Schwartz, Judicial Administrator, Kansas Judicial Center, 301 West 10th Street, Topeka, Kansas 66612, (923) 296–4873
Ms. Laura Stammel, Assistant Director, Administrative Office of the Courts, 100 Mill Creek Park, Frankfort, Kentucky 40601, (502) 564–2350
Dr. Hugh M. Collins, Judicial Administrator, Supreme Court of Louisiana, 301 Loyola Avenue, Room 109, New Orleans, Louisiana 70112–1887, (504) 568–5747
Mr. James T. Glessner, State Court Administrator, Administrative Office of the Courts, P.O. Box 4820, Downtown Station, Portland, Maine 04112, (207) 822–0792
Ms. Deborah A. Unitus, Assistant State Court Administrator, Administrative Office of the Courts, Rowe Boulevard and Taylor Avenue, Annapolis, Maryland 21401, (301) 974–2141
Honorable John E. Fenton, Jr., Chief Justice for Administration and Management, The Trial Court, Administrative Office of the Trial Court, Two Center Plaza, Suite 540, Boston, Massachusetts 02108, (617) 742–8575
Ms. Marilyn K. Hall, State Court Administrator, Michigan Supreme Court, P.O. Box 30048, 611 West Ottawa Street, Lansing, Michigan 48909, (517) 373–0136
Ms. Sue K. Dosal, State Court Administrator, Supreme Court of Minnesota, 230 State Capitol, St. Paul, Minnesota 55155, (617) 296–2474
Honorable Leslie Johnson, Director, Center for Court Education and Continuing Studies, Box 879, Oxford, Mississippi 38677, (601) 232–5955
Mr. Ron Larkin, Director of Operations, Office of the State Court Administrator, 1105 R Southwest Blvd., Jefferson City, Missouri 65109, (314) 751–3585
Mr. Patrick A. Chenovick, State Court Administrator, Montana Supreme Court, Justice Building, Room 315, 215 North Sanders, Helena, Montana 59620–3001, (406) 444–2621
Mr. Joseph C. Steele, State Court Administrator, Supreme Court of Nebraska, State Capitol Building, Room 1220, Lincoln, Nebraska 68509, (404) 471–2643
Mr. Donald J. Mello, Court Administrator, Administrative Office of the Courts, Capitol Complex, Carson City, Nevada 89710, (702) 885–5076
Mr. James F. Lynch, State Court Administrator, Supreme Court of New Hampshire, Frank Rowe Kenison Building, Concord, New Hampshire 03301, (603) 271–2419
Mr. Robert Lipscher, Administrative Director, Administrative Office of the Courts, CN–037, RJH Justice Complex, Trenton, New Jersey 08625, (609) 984–0275
Honorable E. Leo Milones, Chief Administrative Judge, Office of Court Administration, 270 Broadway, New York, New York 10007, (212) 587–2004
Mr. Robert L. Lovato, State Court Administrator, Administrative Office of the Courts, Supreme Court of New Mexico, Supreme Court Building, Room 25, Sante Fe, New Mexico 87503, (505) 827–4800
Mr. James C. Drennan, Administrative Director, Administrative Office of the Courts, Post Office Box 2448, Raleigh, North Carolina 27602, (919) 733–7106/7107
Mr. Keithe E. Nelson, State Court Administrator, Supreme Court of North Dakota, State Capitol Building, Bismarck, North Dakota 58505, (701) 224–4216
Mr. Stephan W. Stover, Administrative Director of the Courts, Supreme Court of Ohio, State Office Tower, 30 East Broad Street, Columbus, Ohio 43266–0419, (614) 466–2653
Mr. Howard W. Conyers, Administrative Director, Administrative Office of the Courts, 1925 N. Stiles, Suite 305, Oklahoma City, Oklahoma 73105, (405) 521–2450
Mr. R. William Linden, Jr., State Court Administrator, Supreme Court of Oregon, Supreme Court Building, Salem, Oregon 97310, (503) 378–6046
Mr. Thomas B. Darr, Director for Legislative Affairs, Communications and Administration, 5035 Ritter Road, Mechanicsburg, Pennsylvania 17055, (717) 795–2000
Dr. Robert C. Harrell, State Court Administrator, Supreme Court of Rhode Island, 250 Benefit Street, Providence, Rhode Island 02903, (401) 277–3266
Mr. Louis L. Rosen, Director, South Carolina Court Administration, Post Office Box 50447, Columbia, South Carolina 29250, (803) 734–1800
Honorable Robert A. Miller, Chief Justice, Supreme Court of South Dakota, 500 East Capitol Avenue, Pierre, South Dakota 57501, (605) 773–4885
Mr. Charles E. Ferrell, Executive Secretary, Supreme Court of Tennessee, Supreme Court Building, Room 422, Nashville, Tennessee 37219, (615) 741–2687
Mr. C. Raymond Judice, Administrative Director, Office of Court Administration of the Texas Judicial System, Post Office Box 12066, Austin, Texas 78711, (512) 463–1625
Mr. Ronald W. Gibson, State Court Administrator, Administrative Office of the Courts, 230 South 500 East, Salt Lake City, Utah 84102, (801) 533–6371
Mr. Thomas J. Lehner, Court Administrator, Supreme Court of Vermont, 111 State Street, Montpelier, Vermont 05602, (802) 828–3281
Ms. Viola E. Smith, Clerk of the Court/Administrator, Territorial Court of the

Virgin Islands, Post Office Box 70, Charlotte Amalie, St. Thomas, Virgin Islands 00801, (809) 774–6680, ext. 248
Mr. Robert N. Baldwin, Executive Secretary, Supreme Court of Virginia, Administrative Offices, 100 North Ninth Street, 3rd Floor, Richmond, Virginia 23219, (804) 786–6455
Ms. Mary C. McQueen, Administrator for the Courts, Supreme Court of Washington, Highways-Licensing Building, 6th Floor, 12th & Washington, Olympia, Washington 98504, (206) 753–5780
Mr. Ted J. Philyaw, Administrative Director of the Courts, Administrative Office, 402–E State Capitol, Charleston, West Virginia 25305, (304) 348–0145
Mr. J. Denis Moran, Director of State Courts, Post Office Box 1688, Madison, Wisconsin 53701–1688, (608) 266–6828
Mr. Robert L. Duncan, Court Coordinator, Supreme Court Building, Cheyenne, Wyoming 82002, (307) 777–7581

Appendix II—SJI Libraries, Designated Sites and Contacts (August 1993)

State: Alabama
Location: Supreme Court Library
Contact: Mr. William C. Younger, State Law Librarian, Alabama Supreme Court Bldg., 445 Dexter Avenue, Montgomery, Alabama 36130, (205) 242–4347
State: Alaska
Location: Anchorage Law Library
Contact: Ms. Cynthia S. Petumenos, State Law Librarian, Alaska Court Libraries, 303 K Street, Anchorage, Alaska 99501, (907) 264–0583
State: Arizona
Location: State Law Library
Contact: Ms. Sharon Womack, Director, Department of Library & Archives, State Capitol, 1700 West Washington, Phoenix, Arizona 85007, (602) 542–4035
State: Arkansas
Location: Administrative Office of the Courts
Contact: Mr. James D. Gingerich, Director, Supreme Court of Arkansas, Administrative Office of the Courts, Justice Building, 625 Marshall, Little Rock, Arkansas 72201–1078, (501) 376–6655
State: California,
Location: Administrative Office of the Courts
Contact: Mr. William C. Vickrey, State Court Administrator, Administrative Office of the Courts, 303 Second Street, South Tower, San Francisco, California 94107, (415) 396–9100
State: Colorado
Location: Supreme Court Library
Contact: Ms. Frances Campbell, Supreme Court Law Librarian, Colorado State Judicial Building, 2 East 14th Avenue, Denver, Colorado 80203, (303) 837–3720
State: Connecticut
Location: State Library
Contact: Mr. Richard Akeroyd, State Librarian, 231 Capital Avenue, Hartford, Connecticut 06106, (203) 566–4301
State: Delaware
Location: Administrative Office of the Courts
Contact: Mr. Michael E. McLaughlin, Deputy Director, Administrative Office of the Courts, Carvel State Office Building, 820 North French Street, 11th Floor, P.O. Box 8911, Wilmington, Delaware 19801, (302) 571–2480
State: District of Columbia
Location: Executive Office, District of Columbia Courts
Contact: Mr. Ulysses Hammond, Executive Officer, Courts of the District of Columbia, 500 Indiana Avenue, NW., Washington, DC 20001, (202) 879–1700
State: Florida
Location: Administrative Office of the Courts
Contact: Mr. Kenneth Palmer, State Court Administrator, Florida State Courts System, Supreme Court Building, Tallahassee, Florida 32399–1900, (904) 488–8621
State: Georgia
Location: Administrative Office of the Courts
Contact: Mr. Robert L. Doss, Jr., Director, Administrative Office of the Courts, The Judicial Council of Georgia, 244 Washington Street, SW., Suite 550, Atlanta, Georgia 30334, (404) 656–5171
State: Hawaii
Location: Supreme Court Library
Contact: Ms. Ann Koto, Acting Law Librarian, Supreme Court Law Library, P.O. Box 2560, Honolulu, Hawaii 96804, (808) 548–4605
State: Idaho,
Location: AOC Judicial Education Library/ State Law Library in Boise
Contact: Ms. Laura Pershing, State Law Librarian, Idaho State Law Library, Supreme Court Building, 451 West State Street, Boise, Idaho 83720, (208) 334–3316
State: Illinois
Location: Supreme Court Library
Contact: Ms. Brenda I. Larison, Supreme Court Library, Supreme Court Building, Springfield, Illinois 62701–1791, (217) 782–2424
State: Indiana
Location: Supreme Court Library
Contact: Ms. Constance Matts, Supreme Court Librarian, Supreme Court Library, State House, Indianapolis, Indiana 46204, (317) 232–2557
State: Iowa
Location: Administrative Office of the Court
Contact: Mr. Jerry K. Beatty, Executive Director, Judicial Education & Planning, Administrative Office of the Courts, State Capital Building, Des Moines, Iowa 50319, (515) 281–8279
State: Kansas
Location: Supreme Court Library
Contact: Mr. Fred Knecht, Law Librarian, Kansas Supreme Court Library, 301 West 10th Street, Topeka, Kansas 66614, (913) 296–3257
State: Kentucky
Location: State Law Library
Contact: Ms. Sallie Howard, State Law Librarian, State Law Library, State Capital, Room 200–A, Frankfort, Kentucky 40601, (502) 564–4848
State: Louisiana
Location: State Law Library
Contact: Ms. Carol Billings, Director, Louisiana Law Library, 301 Loyola Avenue, New Orleans, Louisiana 70112, (504) 568–5705
State: Maine
Location: State Law and Legislative Reference Library
Contact: Ms. Lynn E. Randall, State Law Librarian, State House Station 43, Augusta, Maine 04333, (207) 289–1600
State: Maryland
Location: State Law Library
Contact: Mr. Michael S. Miller, Director, Maryland State Law Library, Court of Appeal Building, 361 Rowe Boulevard, Annapolis, Maryland 21401, (301) 974–3395
State: Massachusetts
Location: Middlesex Law Library
Contact: Ms. Sandra Lindheimer, Librarian, Middlesex Law Library, Superior Court House, 40 Thorndike Street, Cambridge, Massachusetts 02141, (617) 494–4148
State: Michigan
Location: Michigan Judicial Institute
Contact: Mr. Dennis W. Catlin, Executive Director, Michigan Judicial Institute, 222 Washington Square North, P.O. Box 30205, Lansing, Michigan 48909, (517) 334–7804
State: Minnesota
Location: State Law Library (Minnesota Judicial Center)
Contact: Mr. Marvin R. Anderson, State Law Librarian, Supreme Court of Minnesota, 25 Constitution Avenue, St. Paul, Minnesota 55155, (612) 297–2084
State: Mississippi
Location: Mississippi Judicial College
Contact: Mr. Rick D. Patt, Staff Attorney, Mississippi Judicial College, 6th Floor, 3825 Ridgewood, Jackson, Mississippi 39211, (601) 982–6590
State: Montana
Location: State Law Library
Contact: Ms. Judith Meadows, State Law Librarian, State Law Library of Montana, Justice Building, 215 North Sanders, Helena, Montana 59620, (406) 444–3660
State: National
Location: JERITT Project/Michigan State University
Contact: Dr. John K. Hudzik, Project Director, Judicial Education, Reference, Information and, Technical Transfer Project (JERITT), Michigan State University, 560 Baker Hall, East Lansing, Michigan 48824
State: Nebraska
Location: Administrative Office of the Courts
Contact: Mr. Joseph C. Steele, State Court Administrator, Supreme Court of Nebraska, Administrative Office of the Courts, P.O. Box 98910, Lincoln, Nebraska 68509–8910, (402) 471–3730
State: Nevada
Location: National Judicial College
Contact: Dean V. Robert Payant, National Judicial College, Judicial College Building, University of Nevada, Reno, Nevada 89550, (702) 784–6747
State: New Jersey
Location: New Jersey State Library
Contact: Mr. Robert L. Bland, Law Coordinator, State of New Jersey, Department of Education, State Library, 185 West State Street, CN520, Trenton, New Jersey 08625, (609) 292–6230
State: New Mexico
Location: Supreme Court Library
Contact: Mr. Thaddeus Bejnar, Librarian, Supreme Court Library, Post Office Drawer L, Santa Fe, New Mexico 87504, (505) 827–4850
State: New York
Location: Supreme Court Library
Contact: Ms. Susan M. Wood, Esq., Principal Law Librarian, New York State Supreme

Court Law Library, Onondaga County Court House, Syracuse, New York 13202, (315) 435–2063
State: North Carolina
Location: Supreme Court Library
Contact: Ms. Louise Stafford, Librarian, North Carolina Supreme Court Library, P.O. Box 28006, (by courier) 500 Justice Building, 2 East Morgan Street, Raleigh, North Carolina 27601, (919) 733–3425
State: North Dakota
Location: Supreme Court Library
Contact: Ms. Marcella Kramer, Assistant Law Librarian, Supreme Court Law Library, 600 East Boulevard Avenue, 2nd Floor, Judicial Wing, Bismarck, North Dakota 58505–0530, (701) 224–2229
State: Northern Mariana Islands
Location: Supreme Court of the Northern Mariana Islands
Contact: Honorable Jose S. Dela Cruz, Chief Justice, Supreme Court of the Northern Mariana Islands, P.O. Box 2165, Saipan, MP 96950, (670) 234–5275
State: Ohio
Location: Supreme Court Library
Contact: Mr. Paul S. Fu, Law Librarian, Supreme Court Law Library, Supreme Court of Ohio, 30 East Broad Street, Columbus, Ohio 43266–0419, (614) 466–2044
State: Oklahoma
Location: Administrative Office of the Courts
Contact: Mr. Howard W. Conyers, Director, Administrative Office of the Courts, 1915 North Stiles, Suite 305, Oklahoma City, Oklahoma 73105, (405) 521–2450
State: Oregon
Location: Administrative Office of the Courts
Contact: Mr. R. William Linden, Jr., State Court Administrator, Supreme Court of Oregon, Supreme Court Building, Salem, Oregon 97310, (503) 378–6046
State: Pennsylvania
Location: State Library of Pennsylvania
Contact: Ms. Betty Lutz, Head, Acquisitions Section, State Library of Pennsylvania, Technical Services, G46 Forum Building, Harrisburg, Pennsylvania 17105 (717) 787–4440
State: Puerto Rico
Location: Office of Court Administration
Contact: Mr. Alfredo Rivera-Mendoza, Esq., Director, Area of Planning and Management, Office of Court, Administration, P.O. Box 917, Hato Rey, Puerto Rico 00919
State: Rhode Island
Location: State Law Library
Contact: Mr. Kendall F. Svengalis, Law Librarian, Licht Judicial Complex, 250 Benefit Street, Providence, Rhode Island 02903, (401) 277–3275
State: South Carolina
Location: Coleman Karesh Law Library (University of South Carolina School of Law)
Contact: Mr. Bruce S. Johnson, Law Librarian, Associate, Professor of Law, Coleman Karesh Law Library, U.S.C. Law Center, University of South Carolina, Columbia, South Carolina 29208, (803) 777–5944
State: Tennessee
Location: Tennessee State Law Library
Contact: Ms. Donna C. Weir, Librarian, Tennessee State Law, Library,Supreme Court Building, 401 Seventh Avenue N, Nashville, Tennessee 37243–0609, (615) 741–2016
State: Texas
Location: State Law Library
Contact: Ms. Kay Schleuter, Director, State Law Library, P.O. Box 12367, Austin, Texas 78711, (512) 463–1722
State: U.S. Virgin Islands
Location: Library of the Territorial Court of the Virgin Islands (St. Thomas)
Contact: Librarian, The Library, Territorial Court of the Virgin Islands, Post Office Box 70, Charlotte Amalie, St. Thomas, U.S. Virgin Islands 00804
State: Utah
Location: Utah State Judicial Administration Library
Contact: Ms. Jennifer Bullock, Librarian, Utah State Judicial, Administration Library, 230 South 500 East, Suite 300, Salt Lake City, Utah 84102, (801) 533–6371
State: Vermont
Location: Supreme Court of Vermont
Contact: Mr. Thomas J. Lehner, Court Administrator, Supreme Court of Vermont, 111 State Street, c/o Pavilion Office Building, Montpelier, Vermont 05602, (802) 828–3278
State: Virginia
Location: Administrative Office of the Courts
Contact: Mr. Robert N. Baldwin, Executive Secretary, Supreme Court of Virginia, Administrative Offices, 100 North Ninth Street, Third Floor, Richmond, Virginia 23219, (804) 786–6455
State: Washington
Location: Washington State Law Library
Contact: Ms. Deborah Norwood, State Law Librarian, Washington State Law Library, Temple of Justice, Mail Stop AV–02, Olympia, Washington 98504–0502, (206) 357–2146
State: West Virginia
Location: Administrative Office of the Courts
Contact: Mr. Richard H. Rosswurm, Deputy Administrative Director for Judicial Education, West Virginia Supreme Court of Appeals, State Capitol, Capitol E–400, Charleston, West Virginia 25305, (304) 348–0145
State: Wisconsin
Location: State Law Library
Contact: Ms. Marcia Koslov, State Law Librarian, State Law Library, 310E State Capitol, P.O. Box 7881, Madison, Wisconsin 53707, (608) 266–1424
State: Wyoming
Location: Wyoming State Law Library
Contact: Ms. Kathy Carlson, Law Librarian, Wyoming State Law Library, Supreme Court Building, Cheyenne, Wyoming 82002, (307) 777–7509
National: American Judicature Society
Contact: Ms. Clara Wells, Assistant for Information and Library Services, 25 East Washington Street, Suite 1600, Chicago, Illinois 60602, (312) 558–6900
National: National Center for State Courts
Contact: Ms. Peggy Rogers, Acquisitions/Serials Librarian, 300 Newport Avenue, Williamsburg, Virginia 23187–8798, (804) 253–2000

APPENDIX III

[Form S1]

State Justice Institute—Scholarship Application

APPLICANT INFORMATION:

1. Applicant Name:
(Last) _____
(First) _____
(M) _____
2. Position: _____
3. Name of Court: _____
4. Address:
Street/P.O. Box _____
City _____
State _____
Zip Code _____
5. Telephone No. _____
6. Congressional District: _____

PROGRAM INFORMATION:

7. Course Name: _____
8. Course Dates: _____
9. Course Provider: _____
10. Location Offered: _____

ESTIMATED EXPENSES: (Please note, scholarships are limited to tuition and transportation expenses to and from the site of the course up to a maximum of $1,500.)

Tuition: $_____
Transportation: $_____
(airfare, trainfare or if you plan to drive, the approximate distance and mileage rate)
Amount Requested: $_____
(This application does not serve as a registration for the course. Please contact the education provider.)

ADDITIONAL INFORMATION: Please attach a current resume or professional summary, and answer the following questions. (You may attach additional pages if necessary.)

1. How will your taking this course benefit either your court or the State's courts generally?

2. Is there any education or training currently available through your State on this topic?

3. How will you apply what you have learned? Please include any plans you may have to develop/teach a course on this topic in your jurisdiction/State, provide in-service training, or otherwise disseminate what you have learned to colleagues.

4. Are State or local funds available to support your attendance at the proposed course? If so, what amount(s) will be provided?

5. How long have you served as a judge or court manager? How long do you anticipate serving as a judge or court manager, assuming reelection or reappointment?

6. How long has it been since you attended a non-mandatory continuing professional education program?

STATEMENT OF APPLICANT'S COMMITMENT

If a scholarship is awarded, I will submit an evaluation of the educational program to the State Justice Institute and to the Chief Justice of my State.
Signatures _____
Dates _____

Please return this form and Form S–2 to: State Justice Institute, 1650 King Street, Suite 600, Alexandria Virginia 22314.

[Form S2]

State Justice Institute

Scholarship Application—Concurrence

I, _____,
Name of Chief Justice (or Chief Justice's Designee)
have reviewed the application for a scholarship to attend the program entitled _____,
prepared by _____,
Name of Applicant
and concur in its submission to the State Justice Institute. The applicant's participation in the program would benefit the State; the applicant's absence to attend the program would not present an undue hardship to the court; and receipt of a scholarship would not diminish the amount of funds made available by the State for judicial education.

Signature _____
Name _____
Title _____
Date _____

APPENDIX IV

[Form E]

State Justice Institute, Preliminary Budget

Category	SJI Funds	Match[1]
Personnel	$_____	$_____
Fringe benefits	$_____	$_____
Consultant/contractual.	$_____	$_____
Travel	$_____	$_____
Equipment	$_____	$_____
Supplies	$_____	$_____
Telephone	$_____	$_____
Postage	$_____	$_____
Printing/photocopying.	$_____	$_____
Audit	$_____	$_____
Other	$_____	$_____
Indirect costs (%)	$_____	$_____
Total	$_____	$_____
Cash match		
In-kind match		

[1] Cash match should be identified with an *.

Project Total $_____

Financial assistance has been or will be sought for this project from the following other sources:

_____

_____

Appendix V

[Form B]

(Instructions on Reverse Side)

State Justice Institute—Certificate of State Approval

The _____
Name of State Supreme Court or Designated Agency or Council
has reviewed the application entitled _____
prepared by _____,
Name of Applicant
approves its submission to the State Justice Institute, and

[•] agrees to receive and administer and be accountable for all funds awarded by the Institute pursuant to the application.

[•] designates _____.
Name of Designated Trial or Appellate Court or Agency

Signature _____
Name _____
Title _____
Date _____

Instructions—Form B

The State Justice Institute Act requires that:

Each application for funding by a State or local court shall be approved, consistent with State law, by the State's Supreme Court, or its designated agency or council, which shall receive, administer, and be accountable for all funds awarded by the Institute to such courts. 42 U.S.C. 10705(b)(4).

Form B should be signed by the Chief Judge or Chief Justice of the State Supreme Court, or by the Director of the designated agency or chair of the designated council. If the designated agency or council differs from the designee listed in Appendix I to the State Justice Institute Grant Guideline, evidence of the new or additional designation should be attached.

The term "State Supreme Court" refers to the court of last resort of a State. "Designated agency or council" refers to the office or judicial body which is authorized under State law or by delegation from the State Supreme Court to approve applications for funds and to receive, administer and be accountable for those funds.

[FR Doc. 93–25201 Filed 10–15–93; 8:45 am]

BILLING CODE 6820–SC–P

federal register

Monday
October 18, 1993

Part III

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Final Rules

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB73

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Oregon Chub

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The U.S. Fish and Wildlife Service (Service) determines endangered status for the Oregon chub (*Oregonichthys crameri*) throughout its range, pursuant to the Endangered Species Act of 1973, as amended (Act). The Oregon chub is a small cyprinid fish that formerly inhabited sloughs and overflow ponds throughout the Willamette River drainage in Oregon. The only remaining established populations are restricted to an 18.6 mile (30 kilometer) stretch of the Middle Fork Willamette River drainage, just 2 percent of its historic range. Most remaining populations occur near rail, highway, and power transmission corridors and within public park and campground facilities. These populations are threatened by (1) direct mortality from chemical spills from overturned truck or rail tankers, runoff or accidental spill of brush control and agricultural chemicals, and overflow from chemical toilets in campgrounds; (2) competition for resources or predation resulting from intentional or accidental introductions of nonindigenous fishes; and (3) loss of habitat from siltation of shallow habitats from logging and construction activities, unauthorized fill activities, and changes in water level or flow conditions from construction, diversions, or natural desiccation. This rule implements the protection and recovery provisions afforded by the Act for this fish.

EFFECTIVE DATE: November 17, 1993.

ADDRESSES: The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, Portland Field Office, 2600 S.E. 98th Avenue, Suite 100, Portland, Oregon 97266.

FOR FURTHER INFORMATION CONTACT: Russell D. Peterson, Field Supervisor, at the above address (telephone number 503/231–6179).

SUPPLEMENTARY INFORMATION:

Background

The Oregon chub was first described by Synder in 1908 as *Hybopsis crameri* (Long 1978), and considered to be the sole western member of the genus *Hybopsis* (Markle *et al.* 1991). Subsequent taxonomic revisions included placing the chub in the monotypic genus Oregonichthys in 1929, and again within *Hybopsis* in 1951 (Markle *et al.* 1991). Further revisions of *Hybopsis* recognized several subgenera including *Oregonichthys* (Markle *et al.* 1991) and the current treatment of *Oregonichthys* as a monotypic genus by Maden (Pearsons 1989). The genus *Oregonichthys* is endemic to the Umpqua and Willamette Rivers of western Oregon. In the past, the common name "Oregon chub" as been used to refer to all *Oregonichthys* from both of these drainages. However, the Umpqua River form of *Oregonichthys* (*O. kalawatseti*) has been formally described (Markle *et al.* 1991) as taxonomically distinct from the *Oregonichthys* in the Willamette River drainage, which retains the earlier name of *O. crameri*. Use of the term "Oregon chub," therefore, refers only to *O. crameri*.

The Oregon chub was formerly distributed throughout the lower elevation backwaters of the Willamette River drainage (Pearsons 1989). Known established populations of the Oregon chub are now restricted to an 18.6 mile (30 kilometer (km)) stretch of the Middle Fork Willamette River in the vicinity of Dexter and Lookout Point Reservoirs in Lane County, Oregon. Small numbers of chubs (one to four fish) have also been observed in recent years on the lower North Santiam River, which forms the boundary between Linn and Marion Counties and in Gray Creek within the Finley National Wildlife Refuge in Benton County. Surveys in 1992 discovered an additional population in a tributary to Lake Creek in Linn County (Douglas F. Markle, Oregon State University (OSU), pers. comm., 1992). The long-term viability of the Gray Creek, North Santiam River, and Lake Creek populations remain unknown.

Decline of the Oregon chub is attributed to changes in and elimination of its backwater habitats. The mainstem of the Willamette River was formerly a braided channel with numerous secondary channels, meanders, oxbows, and overflow ponds that may have provided habitat for the chub. However, the construction of flood control projects and revetments have altered historical flooding patterns and eliminated much of the river's braided channel pattern (Corps of Engineers (COE) 1970, Li *et al.* 1987). The period of construction of flood control structures coincides with the period of decline of this species. In addition, the introduction of nonindigenous species (e.g., bass, crappie, mosquito fish) may have exacerbated the species' decline and may limit the potential for the Oregon chub to expand beyond its present restricted range.

Habitat at the remaining population sites of the Oregon chub is typified by low- or zero-velocity water flow conditions, depositional substrates, and abundant aquatic, or overhanging riparian, vegetation. Life history information on the Oregon chub was derived primarily from observations made at the Shady Dell Pond (Pearsons 1989). Spawning occurred from the end of April through early August when water temperatures ranged from 16° to 28 °C. Males greater than 25 mm in standard length (SL) were involved in spawning. Males over 35 mm SL defended territories in or near aquatic vegetation (mostly *Fontinalis antipyretica*). The number of eggs produced per female ranged from 147 to 671. During the May sampling period, adult Oregon chub (27 to 58 mm SL) fed most heavily on copepods, cladocerans, and chironomid larvae (Markle *et al.* 1991).

Previous Federal Action

Service action began when it included the Oregon chub on the December 30, 1982, Notice of Review for vertebrate wildlife as a category 2 candidate species (47 FR 58454). A category 2 candidate species is one for which information contained in Service files indicates that proposing to list is possibly appropriate but additional data are needed to support a listing proposal. The Oregon chub was included in the September 18, 1985 (50 FR 37958), and January 6, 1989 (54 FR 554), Animal Notices of Review as a category 2 candidate. All inclusions on the Notice of Review have been under the earlier name *Hybopsis crameri*.

On April 10, 1990, the Service received a petition to list the Oregon chub (*Oregonichthys crameri*) as an endangered species and to designate critical habitat. The petition and supporting documentation were submitted by Dr. Douglas F. Markle and Mr. Todd N. Pearsons, both of OSU. The petitioners submitted taxonomic, biological, distributional, and historic information and cited numerous scientific articles in support of the petition. The petition and accompanying data described the

Oregon chub as endangered because of a 98 percent reduction in the range of the species and potential threats at existing known population sites. The Service made a 90-day finding that substantial information had been presented which indicated that the requested action may be warranted and published this finding in the Federal Register on November 1, 1990 (55 FR 46080).

Important new data on the ecology, distribution, and taxonomic status of *Oregonichthys crameri* (Pearsons 1989, Markle *et al.* 1991) provided the Service with sufficient information to elevate it to category 1 status and support a proposed listing. On November 19, 1991, the Service published a proposal to list the species as endangered (56 FR 58348). The proposal also constituted the 1-year finding that the petitioned action was warranted, in accordance with section 4(b)(3)(B) of the Act. Information evaluated in this listing determination includes pertinent data available from both published and unpublished sources. Unpublished sources include solicited draft reports, letters, and personal contacts with agencies, organizations, and individuals.

Summary of Comments and Recommendations

In the November 19, 1991, proposed rule (56 FR 58348) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final decision. The comment period closed on January 21, 1992. Appropriate State agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. No requests for public hearings were received. One comment was received and is discussed below.

The single comment expressed the position that enacting conservation measures specified in the Conservation Agreement for the Oregon chub would preclude the need for Federal listing. The Service responds by stating the following: A Conservation Agreement for the Oregon chub in the Willamette Valley of Oregon was prepared by the Oregon Department of Fish and Wildlife (ODFW), in conjunction with Oregon State University, to help coordinate management efforts among State and Federal agencies for the species and its habitat. This Conservation Agreement was finalized in January 1992 and became effective on May 8, 1992. The signatory agencies consist of ODFW, Oregon Parks and Recreation Department, COE, Bureau of Land Management, the Service, and Forest Service (Willamette National Forest). The goal of the Conservation Agreement is to "* * * reverse the declining trend of Oregon chub populations, and to increase the abundance of this species in healthy, wild populations through protection of habitat, re-introductions to suitable habitat within its historic range, and public education and involvement." The objectives of the Conservation Agreement are to (1) establish a task force to oversee and coordinate Oregon chub conservation and management actions, (2) protect existing populations, (3) establish new populations, and (4) foster greater public understanding of the Oregon chub and its status.

Although the goal of the Conservation Agreement is to provide for the conservation and recovery of the species, the document does not outline specific tasks or a timetable for implementing them, nor does it address the estimated costs of implementing these actions. The Conservation Agreement may serve as a useful basis for a recovery plan in the future. At present, however, accomplishment of tasks adequate to substantially reduce existing threats has not occurred, and the species remains in danger of extinction from the threats discussed in this rule.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the Oregon chub should be classified as an endangered species throughout its range. Procedures found in section 4 of the Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five criteria described in section 4(a)(1). These factors and their application to the Oregon chub (*Oregonichthys crameri*) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

Based on a 1987 survey (Markle *et al.* 1989) and compilation of all known historical records, presently viable populations of the Oregon chub occur in the following locations: Dexter Reservoir, Shady Dell Pond, Buckhead Creek near Lookout Point Reservoir, and possibly Elijah Bristow State Park, and Finley National Wildlife Refuge. These represent a small fraction—estimated as 2 percent based on stream miles—of the species' formerly extensive distribution within the Willamette River drainage. This 98 percent decline in the range of the species prompted the petitioners to request endangered status for the Oregon chub.

The decline of the Oregon chub has been correlated with the construction of dams. Based on the date of last capture at a site, Pearsons (1989) estimated that the most severe decline occurred during the 1950's and 1960's. Eight of 11 flood control projects in the Willamette River drainage were completed between 1953 and 1968 (COE 1970). Other structural changes along the Willamette River corridor, such as revetment and channelization, diking and drainage, and the removal of floodplain vegetation, have removed or altered the slack water habitats of the Oregon chub (Willamette Basin Task Force 1969, Hjort *et al.* 1984, Sedell and Froggatt 1984, Li *et al.* 1987, Scheerer *et al.* 1992). Channel confinement, isolation of the Willamette River from the majority of its floodplain, and elimination or degradation of both seasonal and permanent wetland habitats within the floodplain began as early as 1872 and, for example, has reduced the 15-mile (25-km) reach between Harrisburg and the McKenzie River confluence from over 155 miles (250 km) of shoreline in 1854 to less than 40 miles (64 km) presently (Sedell and Froggatt 1984, Sedell *et al.* 1990).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Not known to be applicable.

C. Disease or Predation

The establishment and expansion of nonindigenous species in Oregon has likely contributed to the decline of the Oregon chub and limits the species' ability to expand beyond its current restricted range. Nonindigenous fishes and amphibians (bass, crappie, mosquito fish, bullfrogs and others) are now a significant element of the pond and slough habitats of the Willamette River drainage (Willamette Basin Task Force 1969, Hjort *et al.* 1984, Li *et al.* 1984, Scheerer *et al.* 1992). Many sites formerly inhabited by the Oregon chub are now inhabited by nonindigenous species (Markle *et al.* 1989). Of the remaining population sites, Shady Dell Pond and Buckhead Creek are not known to have nonindigenous fish populations and Elijah Bristow State Park had only a single juvenile largemouth bass (ODFW 1992). Though a number of otherwise similar habitats were sampled on Finley National Wildlife Refuge, the site where Oregon

chub were collected was apparently the only site within the refuge where nonindigenous fishes were infrequent; a single brown bullhead (*Ictalurus nebulosus*) was collected during the survey (Scheerer *et al.* 1992). Nonindigenous fish populations are present in Dexter and Lookout Point Reservoirs. However, the Oregon chub population in Dexter is relatively isolated and the population in Lookout Point "has diminished greatly since the 1950's" (ODFW 1992). Although the recently identified Lake Creek population occurs in an area occupied by numerous exotic fishes (Drs. Douglas Markle and Stanley Gregory, OSU, pers. comm., 1992), the viability of this population has not been established.

Adult centrarchids (bass and crappie) and ictalurids (bullhead and catfish) are documented piscivores (Li *et al.* 1987, see also Carlander 1969, Moyle 1976, Carlander 1977, Wydoski and Whitney 1979). These fishes are frequently the dominant inhabitants of ponds and sloughs within the Willamette River drainage and may constitute a major detriment to recolonization efforts. Adult bullfrogs (*Rana catesbeiana*), an introduced amphibian, prefer habitat similar in characteristics (little to no water velocity, abundant aquatic and emergent vegetation) to preferred habitat for Oregon chub, and are omnivorous and consume small fish as part of their diet (Cohen and Howard 1958, Bury and Whelan 1984). Nonindigenous fishes may also serve as sources of parasites and diseases. However, disease and parasite problems are not well studied in the Oregon chub.

D. The Inadequacy of Existing Regulatory Mechanisms

Although the Oregon chub "clearly meets the criteria for listing" (William Haight, ODFW, pers. comm., 1991), it is not currently listed under Oregon's Act. The Oregon chub is listed as a "sensitive" species by ODFW (ODFW Adm. Rule 635–100–040). This designation is similar to the Service's category 2 designation in that it highlights the possibly precarious status of a species but requires no protective measures. The Oregon chub is listed as a sensitive species by Region 6 of the Forest Service, and as a threatened species by the American Fisheries Society (Williams *et al.* 1990). All of these designations were made when the Oregon chub was believed to include populations from the Umpqua River drainage as well as those of the Willamette River drainage.

As discussed in the Summary of Contents section of this rule, an interagency Conservation Agreement was established for the Oregon chub in the spring of 1992. The Conservation Agreement was developed in an effort to coordinate management activities among the State and Federal agencies responsible for managing the species and/or its habitat. The goal of the Conservation Agreement is to conserve and recover the Oregon chub through protection of the species' habitat, introductions into suitable habitat within its historic range, and public education and involvement. Despite the goals and objectives of this Conservation Agreement to protect and enhance Oregon chub populations, it is a relatively new agreement, and significant tasks have not yet been accomplished. Threats from chemical spills, siltation from logging or road construction, predation and/or competition from nonnative fishes, loss of habitat, and changes in water level and flow conditions continue to threaten this species. In addition, the implementation of this agreement does not provide for any consultation with the Service pursuant to section 7 of the Act, as would listing the chub as an endangered species.

E. Other Natural or Manmade Factors Affecting its Continued Existence

All known extant populations of the Oregon chub occur near rail, highway, and power transmission corridors and within public park and campground facilities. These populations are threatened by chemical spills from overturned truck or rail tankers, runoff or accidental spills of brush control chemicals, overflow from chemical toilets in campgrounds, siltation of shallow habitats from logging and construction activities, loss of habitat from illegal fill activities, and changes in water level or flow conditions from construction, diversions, or natural desiccation. There is public pressure to develop additional sport fisheries in Lookout Point and Dexter Reservoirs. Because all remaining population sites are easily accessible, there also continues to be a potential for illegal introductions of nonindigenous species, particularly mosquito fish and game fishes such as bass and walleye.

Observed feeding strategies and diet of introduced fishes, particularly juvenile centrarchids and adult mosquito fish (Li *et al.* 1987), and bullfrogs (Cohen and Howard 1958, Kane *et al.* 1992) in many cases overlap with diet and feeding strategies described for Oregon chub (Pearsons 1989). This suggests that direct competition for food between Oregon chub and introduced species may further impede species survival, as well as recovery efforts. The failure to find Oregon chub in waters also inhabited by mosquito fish (Dr. Douglas Markle, OSU, pers. comm., 1990) may reflect food-based competitive exclusion.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list the Oregon chub as endangered. The distribution of the Oregon chub has declined to 2 percent of its historic range and remaining populations are threatened by direct mortality from chemical spills, competition or predation from nonindigenous fishes and amphibians, and loss of habitat from siltation, unauthorized fill activities, and changes in water level or flow conditions. Critical habitat is not being designated at this time as discussed below.

Critical Habitat

Section 4(a)(3) of the Act requires that, to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time the species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently determinable for this species.

When prompt listing of a species is essential to its conservation but sufficient information to perform analyses of the impacts of critical habitat designation is lacking, the Service may go forward with a final listing decision without designating critical habitat. A critical habitat determination, to the maximum extent prudent, must then be completed not later than 2 years from the proposed listing of a species.

The petitioners recommended that "all waters and tributaries of the Middle Fork of the Willamette River from the base of Dexter Dam upstream to its confluence with the North Fork of the Middle Fork be designated as critical habitat." Since the petition was received, two additional populations of the Oregon chub have been located: One downstream of the Dexter Dam within Elijah Bristow State Park and another in a tributary of Lake Creek, Linn County. However, the suitability of Elijah Bristow State Park, Lake Creek and its tributaries, the sites of possible remnant populations on Finley National Wildlife Refuge and in the North Santiam River as habitats that might support the long-term survival of the species are not yet known. Surveys were conducted during the summer of 1992 by the ODFW and OSU, specifically for obtaining information on Oregon chub

distributions, or for general or research fisheries information on the Willamette River and its tributaries. The Service is currently evaluating the results of these studies. After a thorough analysis and review of this information, the Service will, to the maximum extent prudent, designate critical habitat for the Oregon chub.

Available Conservation Measures

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

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to insure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Road construction activity, timber sales, and alterations of current campgrounds on the Willamette National Forest and water management practices of the COE at Dexter and Lookout Point Reservoirs may require section 7 consultations with the Service.

The Act and implementing regulations found at 50 CFR 17.21 set forth a series of general prohibitions and exceptions that apply to all endangered wildlife. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to take (including harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or attempt any such conduct), import or export, transport in interstate or foreign commerce in the course of commercial activity, or sell or offer for sale in interstate or foreign commerce any listed species. It also is illegal to possess, sell, deliver, carry, transport, or ship any such wildlife that has been taken illegally. Certain exceptions apply to agents of the Service and State conservation agencies.

Permits may be issued to carry out otherwise prohibited activities involving endangered wildlife species under certain circumstances. Regulations governing permits are at 50 CFR 17.22 and 17.23. Such permits are available for scientific purposes, to enhance the propagation or survival of the species, and/or for incidental take in connection with otherwise lawful activities. Information on permits to take federally listed species may be obtained by writing to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, Room 432, Arlington, Virginia 22203–3507 (703/358–2104, FAX 703/358–2281).

National Environmental Policy Act

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

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Author

The primary author of this rule is Ronald Rhew, U.S. Fish and Wildlife Service, Portland Field Office (see **ADDRESSES** section) (telephone number 503/231–6179).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.11(h) by adding the following, in alphabetical order under FISHES, to the List of Endangered and Threatened Wildlife as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
*	*	*	*	*	*	*	*
FISHES							
*	*	*	*	*	*	*	*
Chub, Oregon	*Oregonichthys crameri.*	U.S.A. (OR)	Entire	E	520	NA	NA
*	*	*	*	*	*	*	*

Dated: September 24, 1993.

Richard N. Smith,

Acting Director, U.S. Fish and Wildlife Service.

[FR Doc. 93–25434 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AB83

Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for the Plant Astrophytum Asterias (Star Cactus)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: The Fish and Wildlife Service (Service) determines *Astrophytum asterias* (star cactus) to be an endangered species under the authority of the Endangered Species Act of 1973 (Act), as amended. This cactus is known from only two sites, one in Starr County, Texas, and the other in Tamaulipas, Mexico. Only about 2,100 plants are known in the wild. The species is threatened by collecting, conversion of its habitat to agriculture or improved pasture, and habitat alteration from severe overgrazing. This action will implement Federal protection provided by the Act for star cactus. Critical habitat is not being designated.

EFFECTIVE DATE: November 17, 1993.

ADDRESSES: The complete file for this rule is available for inspection by appointment, during normal business hours at the Corpus Christi Ecological Services Field Office, U.S. Fish and Wildlife Service, c/o Corpus Christi State University, Campus Box 338, 6300 Ocean Drive, Corpus Christi, Texas 78412.

FOR FURTHER INFORMATION CONTACT: Angela Brooks, at the above address (Telephone 512/994–9005).

SUPPLEMENTARY INFORMATION:

Background

Star cactus was first collected in Tamaulipas, Mexico, by Baron von Karwinsky in 1843, and was named *Echinocactus asterias* by Joseph Zuccarini in 1845. In 1868, C.A. Lemaire described *Astrophytum prismaticum* and included *Echinocactus asterias* and several other Mexican species in the new genus *Astrophytum*. Thus, *Echinocactus asterias* Zuccarini became *Astrophytum asterias* (Zuccarini) Lemaire. Since these initial treatments, various taxonomic experts have placed star cactus in one genus or the other. The Service takes no position on the correct generic placement of star cactus, but will use the name *Astrophytum asterias* because of its prevalence in most current horticultural cactus literature.

Astrophytum asterias is a small spineless cactus. It is disk- or dome-shaped, 2–15 cm (1–6 in.) across, up to 7 cm (3 in.) tall, brownish or dull green, and often speckled with a covering of tiny white scales. Vertical grooves divide the main body into eight vaguely triangular sections, each section marked with a central line of circular indentations filled with straw-colored to whitish wooly hairs. Flowers are yellow with orange centers, and up to about 5 cm (2 in.) in diameter. Fruits are green to grayish-red, about 1.25 cm (0.5 in.) long, oval, and fleshy (Damude and Poole 1990).

Star cactus is a strikingly attractive plant that has been a favorite in the cactus and succulent trade for many years. Plants are easily grown from seed and propagation techniques have been studied in detail (Martin *et al.* 1971, Backeberg 1977, Pilbean 1987, Minnich and Hutflesz 1991). In a greenhouse environment, plants grown from seed are consistently hardier and more disease resistant than plants taken from the wild, which tend to be highly sensitive to cold and excess moisture. Cultivated plants of star cactus probably outnumber those in the wild many times. Despite relatively easy propagation and the superior quality of cultivated plants for horticultural purposes, field collected plants of star cactus still enter the commercial market. In a recent survey of the cactus trade in Texas, approximately 400 field collected star cactus plants were found at one nursery (Damude and Poole 1990).

The star cactus grows at low elevations in the grasslands and shrublands of the Rio Grande Plains or the Tamaulipan thorn shrub. Originally the vegetation in this area was likely a subtropical grassland, perhaps with scattered trees. Now, because of fire suppression and severe overgrazing, much of the area has been invaded with thorny shrub and tree species. The habitat of star cactus in the original grassland is unclear. Today the species is found in sparse, fairly open brushland. It is most often found in the partial shade of other plants or of rocks growing on gravelly saline clays or loams overlaying the Tertiary Catahoula

and Frio formations. The Texas site is in a creek drainage (Damude and Poole 1990).

Much of the probable native habitat of star cactus has been converted to agriculture or improved pasture. In the area where plants presently occur, pasture improvement is done by clearing the shrubs and then planting buffelgrass (*Cenchrus ciliaris*). The landscape is, therefore, a mosaic of buffelgrass pasture and shrub stands of various ages. It is unlikely that star cactus could survive this land management regime. Much of the suitable habitat in Mexico has been converted to corn fields or orange groves (Sanchez-Mejorada, *et al.* 1986).

Historically, star cactus occurred in Cameron, Hidalgo, and Starr counties in South Texas, and the adjacent states of Nuevo Leon and Tamaulipas in Mexico. Presently, star cactus is known from only one locality in Texas and one in Tamaulipas, both privately owned, with only about 2,100 plants known in the wild (Damude and Poole 1990). The Nuevo Leon site is believed to have been extirpated by collectors, and the Tamaulipas site has been reduced to very few individuals (Sanchez-Mejorada, *et al.* 1986).

Star cactus was included (under the name *Echinocactus asterias*) in category 2 in the September 27, 1985, and February 21, 1990, Federal Register notices (50 FR 39526 and 55 FR 6184) of plants under review for threatened or endangered classification. Category 2 includes those taxa for which there is some evidence of vulnerability, but for which there are not enough data to support listing proposals at the time. A status report on star cactus was completed December 1, 1990 (Damude and Poole 1990). This report provided sufficient information on the biological vulnerability and threats to star cactus to support a category 1 status and proposal to list the species as endangered. The proposal was published in the Federal Register on October 9, 1992 (57 FR 46528). A notice to reopen the comment period on the proposal was published in the Federal Register on February 12, 1993 (58 FR 8249).

Summary of Comments and Recommendations

In the October 9, 1992, proposed rule (57 FR 46528) and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the development of a final rule. A notice reopening the comment period was published on February 12, 1993 (58 FR 8249). Appropriate state agencies, county governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. Newspaper notices were published in the Monitor (McAllen, Texas) and the Starr County Town Crier (Rio Grande City, Texas) on February 20, 1993, and February 24, 1993, respectively, which invited general public comment.

A total of 9 comments were received. Seven commenters supported the listing. Two commenters provided information or questioned statements in the proposal without either supporting or opposing the listing. Issues raised by commenters are discussed below.

Issue: One commenter expressed the opinion that the statement, "In Mexico today the plant is restricted to rockier sites less threatened by cultivation, and these sites are usually heavily grazed," implies that heavy grazing may be beneficial to star cactus habitat.

Response: The Service finds no evidence that heavy grazing benefits star cactus and intended the statement to illustrate that habitat not already destroyed in Mexico is still threatened by current land use practices. The statement has been modified in the final rule to make its meaning clearer.

Issue: The same commenter expressed the opinion that alteration of a site by mechanical brush control may enhance habitat for star cactus because the proposed rule stated that brush had been mechanically cleared on the site of the Texas population.

Response: Even though the general area of the Texas population was cleared in the past, it is uncertain if the small area presently occupied by star cactus was cleared. The Service continues to believe mechanical brush clearing, especially followed by introduction of nonnative pasture grasses, is detrimental to star cactus.

Issue: One commenter suggested additional surveys for star cactus be done in southern Texas and Mexico.

Response: The Service agrees additional surveys would be beneficial and these will be considered in the recovery program for the species.

Issue: One commenter noted concerns that commercial cactus growers will cease growing star cactus if listed because of permit requirements. This would mean growers will no longer contribute to conservation of the species through its greenhouse propagation.

Response: Commercial trade prohibitions under the Act apply only to interstate commerce. The Service believes few states other than Texas, where the species is native, will add star cactus to their endangered plant lists and therefore no restrictions on trade of greenhouse propagated plants will occur within most states. Permits for interstate commerce of greenhouse propagated plants will be available from the Service. Many growers already have the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) permit necessary for international commerce and they will be able to acquire the permit required by the Act with little additional effort. The Service believes enough growers will acquire permits that legal trade will be able to fill the commercial demand for this species.

Issue: The same commenter requested the final rule contain language to acknowledge that conserving star cactus means protecting and reviving its habitat as well as encouraging greenhouse propagation and distribution.

Response: The Service believes habitat protection and management is the most important element in conserving this species. Threats to star cactus habitat are discussed in Factor A of the "Summary of Factors Affecting the Species" section of this final rule. Details of habitat management needs will be discussed in the recovery plan for this species. The Service anticipates some land of the Lower Rio Grande Valley National Wildlife Refuge will be suitable for star cactus habitat conservation and restoration.

Issue: Several commenters offered information about star cactus or offered to provide assistance with various aspects of the species' recovery.

Response: These statements are gratefully acknowledged. The Service anticipates the participation of Federal, state, and local agencies, private organizations, and individual citizens will all be required to recover this species. All groups and individuals will be given the opportunity to comment on the adequacy of recovery tasks before the Star Cactus Recovery Plan is finalized.

Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that star cactus should be classified as an endangered species. Procedures found at section 4(a)(1) of the Act (16 U.S.C. 1531 *et seq.*) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one of more of the five factors described in section 4(a)(1). These factors and their application to *Astrophytum asterias*

(Zuccarini) Lemaire (star cactus) are as follows:

A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Several common range management practices threaten the present habitat of star cactus. Root-plowing or other mechanical or chemical brush clearing activities, introduction of aggressive exotic grass species such as buffelgrass, suppression of the natural fire cycle, and excessive livestock numbers may all destroy or significantly alter the natural habitat (Damude and Poole 1990). Brush has been mechanically cleared in the past on the site of the Texas population, altering the habitat and possibly destroying many plants. Part of the Texas population is bisected by a paved road, and many plants may have been destroyed during construction. Any potential road widening would present a threat to the population, as would the management practice of roadside pesticide or herbicide use (Damude and Poole 1990). Most of the historic range of star cactus in Mexico no longer contains suitable habitat because the natural vegetation has been destroyed and the land is under cultivation for oranges or corn. In Mexico today, the plant is restricted to rockier sites less suitable for cultivation and these sites are threatened by overgrazing. Observers have noted that grazing practices are slowly altering the natural vegetation (Sanchez-Mejorada, *et al.* 1986).

B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Star cactus is highly prized by cactus enthusiasts for its rarity and unusual appearance. Though the plant has been in cultivation since the 1930's, and propagated material is available for sale, wild collected plants remain on the market. A recent survey of the cactus trade in Texas revealed 400 field-dug specimens of star cactus at a Texas nursery, these presumably from Mexico. In addition to its desirability for horticultural collections, the plant has been reported to be used as a hallucinogen and to be actively sought in the wild for this purpose (E. Haner, Soil Conservation Service, Hebbronville, Texas, *in litt.* 1992). The one known population in Nuevo Leon, Mexico, is believed to be extirpated due to collecting. The known population in Tamaulipas, Mexico, had many large individuals up to 15 cm (6 in.) in diameter in 1978, but when visited in 1985 no plants remained over 7 cm (3 in.) in diameter, and fewer than 100 individuals could be found in an extensive search (Sanchez-Mejorada, *et al.* 1986). Fewer than 2,100 individuals are known in the wild (Damude and Poole 1990).

C. Disease or Predation

Occasionally plants in deteriorated condition have been observed, but disease has not been confirmed in the known populations. No evidence of predation has been noted (Damude and Poole 1990).

D. The Inadequacy of Existing Regulatory Mechanisms

Commercial trade in field collected material of star cactus is not presently prohibited in the United States by Federal or Texas State law. Star cactus is listed in Appendix I of CITES (50 CFR 23.23), but protection under this treaty is limited to international trade. Mexico also has laws prohibiting the export of its native cacti. However, enforcement of Mexican export laws and CITES protections in this near-border area can be difficult. Listing under the Act would provide protection by prohibiting interstate commerce in this species without a permit, and would make it a Federal violation to collect this plant in knowing violation of any state law or regulation, including state criminal trespass law.

E. Other Natural or Manmade Factors Affecting its Continued Existence

With fewer than 2,100 individuals known in two populations, the species may be vulnerable to extinction because of lowered viability and genetic variability in the wild.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by this species in determining to make this rule final. Based on this evaluation, the preferred action is to list star cactus as endangered. The status of endangered is appropriate because of the species' limited distribution, low population numbers, and imminent threats of collecting and habitat destruction.

Critical Habitat

Section 4(a)(3) of the Act, as amended, requires to the maximum extent prudent and determinable, that the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for this species. As discussed under Factor B in the "Summary of Factors Affecting the Species", star cactus is threatened by taking, an activity difficult to prevent and only regulated by the Act with respect to plants in cases of (1) removal and reduction to possession of listed plants from lands under Federal jurisdiction, or their malicious damage or destruction on such lands; and (2) removal, cutting, digging up, or damaging or destroying in knowing violation of any state law or regulation, including state criminal trespass law. Such provisions are difficult to enforce, and publication of critical habitat descriptions and maps would make star cactus more vulnerable and increase enforcement problems. All involved parties and principal landowners have been notified of the location and importance of protecting this species' habitat. Protection of this species' habitat will be addressed through the recovery process and through the section 7 jeopardy standard. Therefore, it would not now be prudent to determine critical habitat for star cactus.

Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain practices. Recognition through listing encourages and results in conservation actions by Federal, state, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the states and authorizes recovery plans for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Some Federal actions that may affect this species include soil conservation and range improvement recommendations by the Soil Conservation Service to private landowners, the funding of these activities by the Agricultural

Stabilization and Conservation Service, and the registration of herbicides and pesticides for rangeland use by the Environmental Protection Agency.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general prohibitions and exceptions that apply to all endangered plants. All prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal for any person subject to the jurisdiction of the United States to import or export, transport in interstate or foreign commerce in the course of a commercial activity, sell or offer for sale this species in interstate or foreign commerce, or to remove and reduce to possession the species from areas under Federal jurisdiction. In addition, for listed plants, the 1988 amendments (Pub. L. 100–478) to the Act prohibit the malicious damage or destruction on Federal lands and the removal, cutting, digging up, or damaging or destroying of listed plants in knowing violation of any state law or regulation, including state criminal trespass law. Certain exceptions apply to agents of the Service and state conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered species under certain circumstances.

Star cactus is a popular species with cactus and succulent enthusiasts and considerable commercial trade exists. The vast majority of trade involves plants artificially propagated from seed. However, some field collected plants are also being offered for sale (Damude and Poole 1990). Requests for copies of the regulations on listed plants and inquiries regarding prohibitions and permits may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, room 432, Arlington, VA 22203 (703/358–2104, FAX 703/358–2281).

Astrophytum asterias was included in Appendix II of CITES (50 CFR 23.23) on July 1, 1975; it was transfered to Appendix I effective October 22, 1987 (52 FR 35743; September 23, 1987). The effect of including *Astrophytum asterias* in Appendix I is that both export and import permits are generally required before international shipment may occur. Such shipment is strictly regulated by CITES party nations to prevent effects that may be detrimental to the species' survival. Generally, the import or export cannot be allowed if it is for primarily commercial purposes. If plants are certified as artificially propagated, however, international shipment requires only export documents under CITES, and commercial shipments may be allowed.

National Environmental Policy Act

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

References Cited

Backeberg, C. 1977. Cactus Lexicon. Blandford Press, Poole, Dorset, United Kingdom.

Damude, N. and J. Poole. 1990. Status Report on *Echinocactus asterias* (=*Astrophytum asterias*). U.S. Fish and Wildlife Service, Albuquerque, New Mexico.

Lemaire, C.A. 1888. Les cactees. Librairie Agricole de la Maison Rustique, Paris.

Martin, M.J., P.R. Chapman, and H.A. Auger. 1971. Cacti and their cultivation. Winchester Press, New York.

Minnich, W.S. and F. Hutflesz. 1991. Cacti and succulents for the amateur. Cactus and Succulent Journal (U.S.) 63:122–123.

Pilbean, J. 1987. Cacti for the connoisseur: A guide for growers and collectors. Timber Press, Portland, Oregon.

Sanchez-Mejorada, H.E. Anderson, N. Taylor, and R. Taylor. 1986. Succulent plant conservation studies and training in Mexico. World Wildlife Fund, Washington, D.C.

Zuccarini, J.G. 1845. Act. acad. monagr. *Echinocactus asterias*. Abb. Bayer. Akad. Wiss. Munchen 4(2):13.

Authors

The primary authors of this final rule are Angela Brooks and Tim Cooper (see **ADDRESSES** section), and Kathryn Kennedy, U.S. Fish and Wildlife Service, Austin Ecological Services Field Office, 611 East 6th Street, Austin, Texas 78701.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and record-keeping requirements, and Transportation.

Regulation Promulgation

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

PART 17—[AMENDED]

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

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

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

§ 17.12 Endangered and threatened plants.

* * * * *

(h) * * *

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Cactaceae—Cactus family:						
Astrophytum asterias (= *Echinocactus asterias*)	Star cactus	U.S.A. (TX); Mexico	E	521	NA	NA

Dated: September 29, 1993.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 93–25433 Filed 10–15–93; 8:45 am]

BILLING CODE 4310–65–P

federal register

Monday
October 18, 1993

Part IV

Environmental Protection Agency

Premanufacture Notices; Monthly Status Report for July 1993

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS-53169; FRL-4650-3]

Premanufacture Notices; Monthly Status Report for July 1993

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(d)(3) of the Toxic Substance Control Act (TSCA) requires EPA to issue a list in the Federal Register each month reporting the premanufacture notices (PMNs) and exemption requests pending before the Agency and the PMNs and exemption requests for which the review period has expired since publication of the last monthly summary. This is the report for July 1993.

Nonconfidential portions of the PMNs and exemption request may be seen in the TSCA Nonconfidential Information Center, (NCIC) ETG-102 at the address below between 8 a.m. and noon and 1 p.m. and 4 p.m., Monday through Friday, excluding legal holidays.

ADDRESSES: Written comments, identified with the document control number "[OPPTS-53169]" and the specific PMN and exemption request number should be sent to: Document Control Office (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Rm. ETG-099, Washington, DC 20460, (202) 260-1532.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E-545, 401 M St., SW., Washington, DC 20460, (202) 260-3725.

SUPPLEMENTARY INFORMATION: The monthly status report published in the Federal Register as required under section 5(d)(3) of TSCA (90 Stat. 2012 (15 U.S.C. 2504), will identify: (a) PMNs received during July ; (b) PMNs received previously and still under review at the end of July; (c) PMNs for which the notice review period has ended during July; (d) chemical substances for which EPA has received a notice of commencement to manufacture during July; and (e) PMNs for which the review period has been suspended. Therefore, the July 1993 PMN Status Report is being published.

List of Subjects

Environmental protection.

Dated: October 8, 1993.

Frank V. Caesar,

Acting Director, Information Management Division, Office of Pollution Prevention and Toxics.

Premanufacture Notice Monthly Status Report for July 1993.

I. 200 Premanufacture notices and exemption requests received during the month:

PMN No.

P 93-1176 P 93-1188 P 93-1221 P 93-1222
P 93-1223 P 93-1224 P 93-1225 P 93-1226
P 93-1227 P 93-1228 P 93-1229 P 93-1230
P 93-1231 P 93-1232 P 93-1233 P 93-1234
P 93-1235 P 93-1236 P 93-1237 P 93-1238
P 93-1239 P 93-1240 P 93-1241 P 93-1242
P 93-1243 P 93-1244 P 93-1245 P 93-1246
P 93-1247 P 93-1248 P 93-1249 P 93-1250
P 93-1251 P 93-1252 P 93-1253 P 93-1254
P 93-1255 P 93-1256 P 93-1257 P 93-1258
P 93-1259 P 93-1260 P 93-1261 P 93-1262
P 93-1263 P 93-1264 P 93-1265 P 93-1266
P 93-1267 P 93-1268 P 93-1269 P 93-1270
P 93-1271 P 93-1272 P 93-1273 P 93-1274
P 93-1275 P 93-1276 P 93-1277 P 93-1278
P 93-1279 P 93-1280 P 93-1281 P 93-1282
P 93-1283 P 93-1284 P 93-1285 P 93-1286
P 93-1287 P 93-1288 P 93-1289 P 93-1290
P 93-1291 P 93-1292 P 93-1293 P 93-1294
P 93-1295 P 93-1296 P 93-1297 P 93-1298
P 93-1299 P 93-1300 P 93-1301 P 93-1302
P 93-1303 P 93-1304 P 93-1305 P 93-1306
P 93-1307 P 93-1308 P 93-1309 P 93-1310
P 93-1311 P 93-1312 P 93-1313 P 93-1314
P 93-1315 P 93-1316 P 93-1317 P 93-1318
P 93-1319 P 93-1320 P 93-1321 P 93-1322
P 93-1323 P 93-1324 P 93-1325 P 93-1326
P 93-1327 P 93-1328 P 93-1329 P 93-1330
P 93-1331 P 93-1332 P 93-1334 P 93-1335
P 93-1336 P 93-1337 P 93-1338 P 93-1339
P 93-1340 P 93-1341 P 93-1342 P 93-1343
P 93-1344 P 93-1345 P 93-1346 P 93-1347
P 93-1348 P 93-1349 P 93-1350 P 93-1351
P 93-1352 P 93-1353 P 93-1354 P 93-1355
P 93-1356 P 93-1357 P 93-1358 P 93-1359
P 93-1360 P 93-1361 P 93-1362 P 93-1363
P 93-1364 P 93-1365 P 93-1366 P 93-1367
P 93-1368 P 93-1369 P 93-1370 P 93-1371
P 93-1372 P 93-1373 P 93-1374 P 93-1375
P 93-1376 P 93-1377 P 93-1378 P 93-1379
P 93-1380 P 93-1381 P 93-1382 P 93-1383
P 93-1384 P 93-1386 P 93-1387 P 93-1388
P 93-1389 P 93-1390 P 93-1391 P 93-1392
P 93-1393 P 93-1394 P 93-1396 P 93-1397
Y 93-0171 Y 93-0172 Y 93-0173 Y 93-0174
Y 93-0175 Y 93-0176 Y 93-0177 Y 93-0178
Y 93-0179 Y 93-0180 Y 93-0181 Y 93-0182
Y 93-0183 Y 93-0184 Y 93-0185 Y 93-0186
Y 93-0187 Y 93-0188 Y 93-0189 Y 93-0190
Y 93-0191 Y 93-0192 Y 93-0193 Y 93-0194

II. 201 Premanufacture notices received previously and still under review at the end of the month:

PMN No.

P 84-0660 P 84-0704 P 85-0619 P 85-0941
P 86-0066 P 86-1315 P 87-0323 P 88-0998
P 88-0999 P 88-1937 P 88-1938 P 88-1980
P 88-1982 P 88-1984 P 88-1985 P 88-2484
P 88-2518 P 89-0721 P 89-0775 P 89-0867
P 89-0963 P 89-1038 P 90-0158 P 90-0263
P 90-0550 P 90-0558 P 90-0564 P 90-0581
P 90-0603 P 90-1358 P 90-1422 P 90-1527
P 90-1592 P 90-1840 P 91-0043 P 91-0572
P 91-0619 P 91-0689 P 91-0809 P 91-0818
P 91-0914 P 91-0915 P 91-0939 P 91-0940
P 91-0941 P 91-1009 P 91-1010 P 91-1014
P 91-1015 P 91-1131 P 91-1206 P 91-1210
P 91-1324 P 91-1386 P 91-1394 P 91-1409
P 92-0003 P 92-0031 P 92-0032 P 92-0033
P 92-0048 P 92-0314 P 92-0343 P 92-0344
P 92-0477 P 92-0478 P 92-0606 P 92-0649
P 92-0692 P 92-0714 P 92-0787 P 92-0804
P 92-0919 P 92-1003 P 92-1125 P 92-1222
P 92-1255 P 92-1294 P 92-1295 P 92-1296
P 92-1298 P 92-1307 P 92-1308 P 92-1324
P 92-1337 P 92-1345 P 92-1352 P 92-1364
P 92-1369 P 92-1489 P 92-1503 P 92-1504
P 93-0014 P 93-0017 P 93-0040 P 93-0066
P 93-0094 P 93-0126 P 93-0168 P 93-0177
P 93-0204 P 93-0212 P 93-0213 P 93-0215
P 93-0227 P 93-0250 P 93-0251 P 93-0252
P 93-0253 P 93-0254 P 93-0255 P 93-0256
P 93-0257 P 93-0277 P 93-0282 P 93-0307
P 93-0313 P 93-0314 P 93-0315 P 93-0316
P 93-0339 P 93-0343 P 93-0352 P 93-0353
P 93-0362 P 93-0364 P 93-0374 P 93-0375
P 93-0438 P 93-0458 P 93-0480 P 93-0483
P 93-0498 P 93-0505 P 93-0507 P 93-0512
P 93-0532 P 93-0533 P 93-0553 P 93-0555
P 93-0568 P 93-0572 P 93-0578 P 93-0603
P 93-0627 P 93-0633 P 93-0652 P 93-0658
P 93-0698 P 93-0699 P 93-0701 P 93-0718
P 93-0720 P 93-0721 P 93-0722 P 93-0723
P 93-0724 P 93-0725 P 93-0726 P 93-0731
P 93-0732 P 93-0733 P 93-0734 P 93-0735
P 93-0761 P 93-0832 P 93-0853 P 93-0854
P 93-0855 P 93-0856 P 93-0857 P 93-0858
P 93-0880 P 93-0881 P 93-0896 P 93-0936
P 93-0937 P 93-0953 P 93-0955 P 93-0959
P 93-0964 P 93-0987 P 93-1024 P 93-1025
P 93-1026 P 93-1027 P 93-1028 P 93-1039
P 93-1043 P 93-1047 P 93-1069 P 93-1071
P 93-1074 P 93-1082 P 93-1096 P 93-1108
P 93-1111 P 93-1119 P 93-1166 P 93-1180
P 93-1183

III. 193 Premanufacture notices and exemption request for which the notice review period has ended during the month. (Expiration of the notice review period does not signify that the chemical has been added to the Inventory).

PMN No.

P 90-0372 P 91-0659 P 93-0184 P 93-0185
P 93-0186 P 93-0187 P 93-0188 P 93-0189
P 93-0190 P 93-0333 P 93-0360 P 93-0418
P 93-0552 P 93-0747 P 93-0748 P 93-0749
P 93-0750 P 93-0751 P 93-0752 P 93-0753
P 93-0754 P 93-0755 P 93-0756 P 93-0757
P 93-0758 P 93-0759 P 93-0760 P 93-0788
P 93-0789 P 93-0790 P 93-0791 P 93-0792
P 93-0793 P 93-0794 P 93-0795 P 93-0796
P 93-0797 P 93-0798 P 93-0799 P 93-0800
P 93-0801 P 93-0802 P 93-0803 P 93-0804
P 93-0805 P 93-0806 P 93-0807 P 93-0808
P 93-0809 P 93-0810 P 93-0811 P 93-0812
P 93-0813 P 93-0814 P 93-0815 P 93-0816
P 93-0817 P 93-0818 P 93-0819 P 93-0820
P 93-0821 P 93-0822 P 93-0823 P 93-0824
P 93-0825 P 93-0826 P 93-0827 P 93-0828
P 93-0829 P 93-0830 P 93-0831 P 93-0832
P 93-0833 P 93-0834 P 93-0835 P 93-0836
P 93-0837 P 93-0838 P 93-0839 P 93-0840
P 93-0841 P 93-0842 P 93-0843 P 93-0844

P 93–0845 P 93–0846 P 93–0847 P 93–0848
P 93–0849 P 93–0850 P 93–0851 P 93–0852
P 93–0853 P 93–0854 P 93–0855 P 93–0856
P 93–0857 P 93–0858 P 93–0859 P 93–0860
P 93–0861 P 93–0862 P 93–0863 P 93–0864
P 93–0865 P 93–0866 P 93–0867 P 93–0868
P 93–0869 P 93–0870 P 93–0871 P 93–0872
P 93–0873 P 93–0874 P 93–0875 P 93–0876
P 93–0877 P 93–0878 P 93–0879 P 93–0882
P 93–0883 P 93–0884 P 93–0885 P 93–0886
P 93–0887 P 93–0888 P 93–0889 P 93–0890
P 93–0891 P 93–0892 P 93–0893 P 93–0894
P 93–0895 P 93–0897 P 93–0898 P 93–0899
P 93–0900 P 93–0901 P 93–0902 P 93–0903
P 93–0904 P 93–0905 P 93–0906 P 93–0907
P 93–0908 P 93–0909 P 93–0910 P 93–0911
P 93–0912 P 93–0913 P 93–0914 P 93–0915
P 93–0916 P 93–0917 P 93–0918 P 93–0919
P 93–0920 P 93–0921 P 93–0922 P 93–0923
P 93–0924 P 93–0925 P 93–0926 P 93–0927
P 93–0928 P 93–0929 P 93–0930 P 93–0931
P 93–0932 P 93–0933 P 93–0934 P 93–0935
P 93–0938 P 93–0939 P 93–0940 P 93–0941
P 93–0942 P 93–0943 P 93–0944 P 93–0945
P 93–0946 P 93–0947 P 93–0948 P 93–0949
P 93–0951 P 93–1003 Y 93–0165 Y 93–0166
Y 93–0167 Y 93–0168 Y 93–0169 Y 93–0170
Y 93–0171

IV. 9 Chemical Substances for Which EPA Has Received Notices of Commencement To Manufacture.

PMN No.	Identity/generic name	Date of commencement
P 88–0219	1,3-Dimethyl-1,1,3,3-tetramethyldisiloxane; alcohol	April 12, 1988.
P 89–0963	G Polyalkylene polyamine	July 8, 1992.
P 90–0667	Reaction products of epoxy phenolic novolac resin, tetrabromobisphenol *A*, methacrylic acid	January 5, 1991.
P 90–0668	Reaction products of epoxy phenolic novolac resin, tetrabromobisphenol *A*, carboxyl-terminated butadiene/acrylonitrile copolymer, methacrylic acid	May 22, 1991.
P 91–0129	G Amylopectin, 2-(heteromonocyclic) ethyl ether	March 18, 1991.
P 91–0660	G Substituted heterocycle benzoic acid	June 18, 1991.
P 92–0343	G 1,3,5-Triazin-2-amine, 4-dimethylamino-6-substituted-	July 28, 1992.
P 92–0344	G 1,3,5-Triazin-2-amine, 4-dimethylamino-6-substituted-	September 22, 1992.
Y 92–0171	G Saturated copolymer resin	October 8, 1992.

V. 9 Premanufacture notices for which the period has been suspended.

PMN No.

P 91–0572 P 91–0689 P 93–0277 P 93–0307
P 93–0561 P 93–0572 P 93–0936 P 93–0937
P 93–0955

[FR Doc. 93–25472 Filed 10–15–93; 8:45 am]
BILLING CODE 6560–50–F

federal register

Monday
October 18, 1993

Part V

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research: Actions Under the Guidelines; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research: Actions Under the Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Actions Under the NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth eight actions to be taken by the Director, National Institutes of Health (NIH), under the May 7, 1986, NIH Guidelines for Research Involving Recombinant DNA Molecules (51 FR 16958).

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities (ORDA), Office of Science Policy and Technology Transfer, National Institutes of Health, Building 31, room 4B11, Bethesda, Maryland 20892, (301) 496–9838.

SUPPLEMENTARY INFORMATION: Today eight actions are being promulgated under the NIH Guidelines for Research Involving Recombinant DNA Molecules. These eight proposed actions were published for comment in the **Federal Register** of February 12, 1993 (58 FR 8500) and August 18, 1993 (58 FR 44098), and reviewed and recommended for approval by the NIH Recombinant DNA Advisory Committee (RAC) at its meetings on March 1–2, 1993, and September 9–10, 1993.

I. Background Information and Decisions on Actions Under the NIH Guidelines

A. Major Amendment to Appendix D–XXVII to the NIH Guidelines

On July 9, 1993, Drs. Philip Greenberg and Stanley R. Riddell of the Fred Hutchinson Cancer Research Center, Seattle, Washington, indicated their intention to submit a major amendment to their human gene transfer protocol to the Recombinant DNA Advisory Committee for formal review and approval. The request was to treat an additional 15 patients who do not have acquired immunodeficiency syndrome-related lymphoma and who are not undergoing autologous bone marrow transplantation.

The current protocol is entitled: A Phase I Study of Cellular Adoptive Immunotherapy Using Genetically Modified CD8+ HIV-Specific T Cells for HIV-Seropositive Patients Undergoing Allogeneic Bone Marrow Transplant. The initial protocal was approved by the NIH Director on April 17, 1992, and published in the **Federal Register** on April 22, 1992 (57 FR 14775).

Appendix D–XXVII currently reads:

"Dr. Philip D. Greenberg of the University of Washington, Seattle, Washington, can conduct gene transfer experiments on up to 15 HIV seropositive patients undergoing allogeneic bone marrow transplantation for non-Hodgkin's lymphoma to evaluate the safety and efficacy of HIV-specific cytotoxic T lymphocyte (CTL) therapy. CTL will be transduced with a retroviral vector (HyTK) encoding a gene that is a fusion product of the hygromycin phosphotransferase gene (HPH) and the herpes simplex virus thymidine kinase (HSV–TK) gene. This vector will deliver both a marker gene and a suicide gene in these T cell clones in the event that patients develop side effects as a consequence of CTL therapy. Data will be correlated over time, looking at multiple parameters of HIV disease activity. The objectives of these studies include evaluating the safety and toxicity of CTL therapy, determining the duration of in vivo survival of HIV-specific CTL clones, and determining if ganciclovir therapy can eradicate genetically modified, adoptively transferred CTL cells."

The amended protocol is entitled: Phase I Study to Evaluate the Safety of Cellular Adoptive Immunotherapy using Genetically Modified CD8+ HIV-Specific T Cells in HIV Seropositive Individuals. This request was published for comment in the **Federal Register** of August 18, 1993 (58 FR 44098).

The protocol was reviewed and recommended approval during the RAC meeting of September 9–10, 1993, by a vote of 16 in favor, 0 opposed, and 2 abstentions.

The following section may be amended as follows:

"Appendix D–XXVII.

"Drs. Philip Greenberg and Stanley R. Riddell of the Fred Hutchinson Cancer Research Center, Seattle, Washington, may conduct gene transfer experiments on 15 human immunodeficiency virus (HIV) seropositive patients (18–45 years old) undergoing allogeneic bone marrow transplantation for non-Hodgkin's lymphoma and 15 HIV-seropositive patients (18–50 years old) who do not have acquired immunodeficiency syndrome (AIDS)-related lymphoma and who are not undergoing bone marrow transplantation to evaluate the safety and efficacy of HIV-specific cytotoxic T lymphocyte (CTL) therapy. CTL will be transduced with a retroviral vector (HyTK) encoding a gene that is a fusion product of the hygromycin phosphotransferase gene (HPH) and the herpes simplex virus thymidine kinase (HSV–TK) gene. This vector will deliver both a marker gene and an ablatable gene in these T cell clones in the event that patients develop side effects as a consequence of CTL therapy. Data will be correlated over time, looking at multiple parameters of HIV disease activity. The objectives of these studies include evaluating the safety and toxicity of CTL therapy, determining the duration of in vivo survival of HIV-specific CTL clones, and determining if ganciclovir therapy can eradicate genetically modified, adoptively transferred CTL cells."

I accept this recommendation, and Appendix D–XXVII of the NIH Guidelines will be amended accordingly.

B. Addition of Appendix D–LVII to the NIH Guidelines

In a letter dated December 17, 1992, Drs. Richard C. Boucher and Michael R. Knowles of the University of North Carolina, Chapel Hill, North Carolina, indicated their intention to submit a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: Gene Therapy for Cystic Fibrosis Using E1 Deleted Adenovirus: A Phase I Trial in the Nasal Cavity. This request was published for comment in the **Federal Register** of February 12, 1993 (58 FR 8500).

The protocol was reviewed and recommended for approval during the RAC meeting of March 1–2, 1993, by a vote of 16 in favor, 0 opposed, and 1 abstention. Approval of this protocol was contingent on the following stipulation: the investigators must submit a letter of resolution regarding the correct sequence of the cystic fibrosis transmembrane conductance regulator (CFTR) gene.

On June 25, 1993, Dr. James Wilson of the University of Pennsylvania Medical Center, Philadelphia, Pennsylvania, provided information to fulfill the stipulation requirement. On September 10, 1993, Dr. Boucher provided additional materials as requested by the primary reviewers. These materials were reviewed by primary reviewers of the protocol, and it was determined that the stipulations of the RAC were met. The following section may be added to Appendix D:

"Appendix D–LVII.

"Drs. Richard C. Boucher and Michael R. Knowles of the University of North Carolina, Chapel Hill, North Carolina, may conduct experiments on 9 patients (18 years old or greater) with cystic fibrosis to test for the safety and efficacy of an El-deleted recombinant adenovirus

containing the cystic fibrosis transmembrane conductance regulator (CFTR) cDNA, Ad.CB–CFTR. A single dose of 10^8, 3×10^9 or 10^{11} pfu/ml will be administered to the nasal cavity of 3 patients in each dose group. Patients will be monitored by nasal lavage and biopsy to assess safety and restoration of normal epithelial function."

I accept this recommendation, and Appendix D–LVII of the NIH Guidelines will be added accordingly.

C. Addition of Appendix D–LVIII to the NIH Guidelines

In a letter dated September 9, 1992, Dr. Joyce A. O'Shaughnessy of the National Institutes of Health, Bethesda, Maryland, indicated her attention to submit a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: Retroviral Mediated Transfer of the Human Multi-Drug Resistance Gene (MDR–1) into Hematopoietic Stem Cells During Autologous Transplantation after Intensive Chemotherapy for Breast Cancer.

During the December 3–4, 1992, Recombinant DNA Advisory Committee meeting, the protocol was deferred until the investigators submitted the following for full RAC review: (1) Data demonstrating that human CD34(+) cells can be transduced *in vitro* with the actual vector that will be used for the human clinical protocol, (2) a description of the methods that will be used to monitor gene expression in bone marrow and tumor cells, and (3) a description of the endpoint for determining bone marrow recovery, i.e., comparison of gene amplification and the rate of polymorphonuclear leukocyte recovery following taxol administration.

On July 14, 1993, Dr. O'Shaughnessy resubmitted a human gene therapy protocol for RAC review and approval. This request was published for comment in the **Federal Register** of August 18, 1993 (58 FR 44098).

The protocol was reviewed and recommended for approval during the RAC meeting of September 9–10, 1993 by a vote of 17 in favor, 0 opposed, and no abstentions. The following section may be added to Appendix D.

"Appendix D–LVIII.

"Dr. Joyce A. O'Shaughnessy of the National Institutes of Health, Bethesda, Maryland, may conduct experiments on 18 patients (18–60 years old) with Stage IV breast cancer who have achieved a partial or complete response to induction chemotherapy. This study will determine the feasibility of obtaining engraftment of CD34(+) hematopoietic stem cells transduced by a retroviral vector, G1MD, and expressing a cDNA for human multi-drug resistance–1 (MDR–1) gene following high dose chemotherapy, and whether the transduced MDR–1 gene confers drug resistance to hematopoietic cells and functions as an in vivo dominant selectable marker. Patients will be monitored for evidence of myeloprotection and presence of the transduced MDR–1 gene."

I accept this recommendation, and Appendix D–LVIII of the NIH Guidelines will be added accordingly.

D. Addition of Appendix D–LIX to the NIH Guidelines

On July 12, 1993, Drs. Larry E. Kun, R.A. Sanford, Malcolm Brenner, and Richard L. Heideman of St. Jude Children's Research Hospital, Memphis, Tennessee, and Dr. Edward H. Oldfield of the National Institutes of Health, Bethesda, Maryland, submitted a human gene therapy protocol to the Recombinant DNA Advisory Committee for formal review and approval. The title of this protocol is: Gene Therapy for Recurrent Pediatric Brain Tumors. This request was published for comment in the **Federal Register** of August 18, 1993 (58 FR 44098).

The protocol was reviewed and recommended for approval during the RAC meeting of September 9–10, 1993 by a vote of 17 in favor, 0 opposed, and no abstentions. The RAC requested that the Office of Recombinant DNA Activities send a letter to the Institutional Review Board strongly recommending that the Informed Consent document should be separated into two separate documents: (1) A patient assent form, and (2) a guardian consent form. On September 21, 1993, the Office of Recombinant DNA Activities sent a letter to the Institutional Review Board at the St. Jude Children's Research Hospital and the LeBonheur Children's Medical Center regarding the Committee's recommendations. The following section may be added to Appendix D:

"Appendix D–LIX.

"Drs. Larry E. Kun, R.A. Sanford, Malcolm Brenner, and Richard L. Heideman of St. Jude Children's Research Hospital, Memphis, Tennessee, and Dr. Edward H. Oldfield of the National Institutes of Health, Bethesda, Maryland, may conduct experiments on 6 patients (3–21 years old) with progressive or recurrent malignant supratentorial tumors resistant to standard therapies. Mouse cells producing the retroviral vector containing the herpes simplex thymidine kinase gene (G1TKSVNa) will be instilled into the tumor areas via multiple stereotactically placed cannulas. Patients will be treated with ganciclovir to eliminate cells expressing the transduced gene. Patients will be monitored for central nervous system, hematologic, renal or other toxicities, and for anti-tumor responses by magnetic resonance imaging studies.

I accept this recommendation, and Appendix D–LIX of the NIH Guidelines will be added accordingly.

E. Addition of Appendix D–LX to the NIH Guidelines Regarding Semliki Forest Virus

Dr. Gary F. Temple of Life Technologies, Inc., Gaithersburg, Maryland, submitted a request for a reduction in physical containment from Biosafety Level 3 to Biosafety Level 2 for a Semliki Forest Virus (SFV) vector expression system.

During the September 14–15, 1992, Recombinant DNA Advisory Committee meeting, the request was deferred so that the investigators could acquire data regarding the following: (1) The frequency of recombination that produces replication-competent virus, using cell numbers analogous to the laboratory setting (e.g., 1×10^9 cells), and (2) acquire data regarding the frequency of seropositivity among personnel previously exposed to SFV.

During the June 7–8, 1993, Recombinant DNA Advisory Committee meeting, the request was deferred until the investigators returned to the Committee with the following: (1) A product information sheet informing customers of the potential health risks associated with the expression system, standard methods to be used for virus inactivation, a helper virus assay to detect SFV, and a description of symptoms and procedures to be followed in the event that SFV infection occurs in a laboratory worker (including methods to prevent transfer to insect vectors and environmental spread); and (2) SFV inactivation data.

In a letter dated February 8, 1993, Dr. Temple resubmitted a request for a reduction in physical containment from Biosafety Level 3 to Biosafety Level 2 for a SFV vector expression system. This request was published for comment in the **Federal Register** on August 18, 1993 (58 FR 44098).

During the September 9–10, 1993, Recombinant DNA Advisory Committee meeting, this request was reviewed and recommended for approval by a vote of 13 in favor, 2 opposed, and 1 abstention. The physical containment for Life Technologies, Inc., SFV vector expression system may be reduced from Biosafety Level 3 to Biosafety Level 2.

Approval of the request is contingent on the following stipulation: (1) Principal investigators using this expression system must obtain signatures from all laboratory personnel certifying that they have been informed of the possible risks associated with this vector expression system and that they read the Product Information booklet. The following section may be added to Appendix D:

"Appendix D–LX.

"The physical containment level may be reduced from Biosafety Level 3 to Biosafety Level 2 for a Semliki Forest Virus (SFV) vector expression system of Life Technologies, Inc., Gaithersburg, Maryland."

I accept this recommendation, and Appendix D–LX of the NIH Guidelines will be added accordingly.

F. Amendment to Section III and Appendix D of the NIH Guidelines Regarding Actions Taken Under the Guidelines

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland, requested an amendment to Section III and Appendix D to eliminate the requirement for publication of Appendix D (Actions Taken Under the Guidelines) in the **Federal Register** and to allow distribution of these actions by the Office of Recombinant DNA Activities. This request was published for comment in the **Federal Register** of August 18, 1993 (58 FR 44098). Section III–A and Appendix D is proposed to read:

"Section III–A—Experiments that Require RAC Review and IBC Approval Before Initiation.

* * * Specific experiments already approved in this section may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 4B11, Bethesda, Maryland 20892."

"Appendix D—Actions Taken Under the Guidelines.

"As noted in the subsection of Section IV–C–1–b–(1), the Director, NIH, may take certain actions with regard to the Guidelines after the issues have been considered by the RAC. An updated list of these actions are available from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 4B11, Bethesda, Maryland 20892."

This request was reviewed and recommended for approval as proposed during the RAC meeting of September 9–10, 1993, by a vote of 16 in favor, 0 opposed, and no abstentions.

I accept this recommendation, and Appendix D of the NIH Guidelines will be amended accordingly.

G. Amendment to the Guidelines for the Submission of Human Gene Transfer/ Therapy Protocols for Review by the RAC of the Points to Consider/NIH Guidelines

Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland, requested an amendment to the Guidelines for the Submission of Human Gene Transfer/Therapy Protocols for Review by the RAC **Federal Register**, February 18, 1993, page 9104). These amendments will establish consistency in the submission of human gene transfer protocols for RAC review and require that principal investigators focus their oral responses to the RAC's questions and comments. This request was published for comment in the **Federal Register** of August 18, 1993 (58 FR 44098). The Title and Section I was proposed to read:

"Guidelines for the Submission of Human Gene Transfer Protocols for Review by the Recombinant DNA Advisory Committee

"I. Investigator Submitted Material:

"Written proposals must be submitted in the following order: (1) Scientific abstract—1 page; (2) non-technical abstract—1 page; (3) Institutional Biosafety Committee and Institutional Review Board approvals; (4) Points to Consider—5 pages; (6) protocol—20 pages excluding appendices; (7) Informed Consent Document—approved by the Institutional Review Board; (8) appendices including tables, figures, and manuscripts; and (9) Curricula vitae—2 pages in Biographical sketch format. When a proposal has been submitted previously, there should be a short section (≤200 words) immediately following the abstracts that summarizes the major revisions since the last review. Data provided * * *.

"* * * written responses (including critical data in response to the primary reviewers' comments) must be submitted by the Principal Investigators to the Office of Recombinant DNA Activities ≥2 weeks before the RAC meeting.

"Oral Responses to the RAC. Principal Investigators must limit their oral responses to the RAC only to those questions that are raised during the meeting. Oral presentations of previously submitted material and/or critical data that was not submitted ≥2 weeks prior to the RAC meeting is prohibited."

This request was reviewed and recommended for approval as proposed during the RAC meeting of September 9–10, 1993, by a vote of 16 in favor, 1 opposed, and no abstentions.

I accept this recommendation, and the title and section I to the Guidelines for the Submission of Human Gene Transfer/Therapy Protocols for Review by the RAC (**Federal Register**, February 18, 1993, page 9104) of the NIH Guidelines will be amended accordingly.

H. Amendments to Sections III, IV, V and Appendix C and F of the NIH Guidelines Regarding the Cloning of Toxin Molecules

In a letter dated July 28, 1993, Dr. Nelson A. Wivel, Director, Office of Recombinant DNA Activities, National Institutes of Health, Bethesda, Maryland, requested amendments to Sections III, IV, and V, and Appendices C and F regarding the review process for experiments involving the cloning of toxin molecules. These amendments will establish a new category of review entitled: Experiments that Require NIH (Office of Recombinant DNA Activities/ ORDA) and Institutional Biosafety Committee (IBC) Approval Before Initiation. Under this new category of review, experiments involving the cloning of toxin molecules that are lethal for vertebrates at an LD_{50} of <100 nanograms per kilogram of body weight will be reviewed by NIH (ORDA) in consultation with ad hoc toxin experts. This request was published for comment in the **Federal Register** of August 18, 1993 (58 FR 44098). Sections III, IV, V and Appendix C and F is proposed to read:

"Section III. Guidelines for Covered Experiments.

"Part III discusses experiments involving recombinant DNA. These experiments have been divided into five classes:

"'III–A. Experiments which require specific RAC review and NIH and IBC approval before initiation of the experiment;

"III–B. Experiments which require NIH (Office of Recombinant DNA Activities/ORDA) and Institutional Biosafety Committee (IBC) approval before initiation of the experiment;

"III–C. Experiments which require IBC approval before initiation of the experiment;

"III–D. Experiments which require IBC notification at the time of the experiment;

"III–E. Experiments which are exempt from the procedures of the Guidelines.

"IF AN EXPERIMENT FALLS INTO BOTH CLASS III–A AND ONE OF THE OTHER CLASSES, THE RULES PERTAINING TO CLASS III–A MUST BE FOLLOWED. If an experiment falls

into Class III–E and into either Class III–C or III–D as well, it can be considered exempt from the requirements of the Guidelines. Changes * * *"

Section III–A–I will be moved to a new Section III–B–1. New Section III–B is proposed to read:

"Section III–B–Experiments That Require NIH (ORDA) and IBC Approval Before Initiation.

"Section III–B–1. Deliberate formation of recombinant DNA containing genes for the biosynthesis of toxin molecules lethal for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight * * *

"Section III–B–1–(a). Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH through ORDA. The containment conditions for such experiments will be determined by ORDA in consultation with ad hoc experts. Such experiments also require the approval of the IBC before initiation (see Section IV–C–1–b–(3)–(f).".

Sections III–A–2, III–A–3, III–A–4 will be renumbered to III–A–1, III–A–2, III–A–3 respectively. Sections III–B, III–C, and III–D will be renumbered to III–C, III–D, and III–E respectively.

The new Section III–C–2 is proposed to read:

"Section III–C–2. Experiments in Which DNA From Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) is Cloned in Nonpathogenic Prokaryotic or Lower Eukaryotic Host-Vector Systems.

"Section III–C–2–a. * * * Many experiments in this category are exempt from the Guidelines (see Section III–E–4) and III–E–5). Experiments involving the formation of recombinant DNA for certain genes coding for molecules toxic for vertebrates require NIH (ORDA) approval (see Section III–B–1) or must be carried out under NIH specified conditions as described in Appendix F."

Section IV–B–5–b–(3) is proposed to read:

"Section IV–B–5–b–(3). Petition NIH (ORDA), with concurrence of the IBC for approval to conduct experiments specified in Sections III–A and III–B of the Guidelines;"

Section IV–C–1–b–(3)–(f) will be deleted which reads: "Approving the cloning of toxin genes in host-vector systems other than E. coli K–12 (see Appendix F); and]"

Section IV–C–1–b–(3)–(g) will become the new Section IV–C–1–b–(3)–(f).

The new Section IV–C–3–a is proposed to read:

"Reviewing and approving experiments involving the cloning of genes encoding for toxin molecules that are lethal for vertebrates at an LD_{50} ≤100 nanograms per kilogram body weight in organisms other than E. coli K–12 (see Section III–B–1 and Appendices F–I and F–II)."

Sections IV–C–3–a and IV–C–3–b will be renumbered to become Sections IV–C–3–b and IV–C–3–c respectively.

Section V–2 is proposed to read:

"* * * In the cases falling under Sections III–A through III–D, this judgment is to be reviewed and approved by the IBC * * *"

Appendix C is proposed to read:

"Appendix C. Exemptions Under Section III–D–5.

"* * * Appendix C–I. Recombinant DNA in Tissue Culture * * *

"* * * Exceptions. The following categories are not exempt from the NIH Guidelines: (i) Experiments described in Section III–A which require specific RAC review and NIH and IBC approval before initiation, (ii) experiments described in Section III–B which require NIH (ORDA) and IBC approval before initiation, (iii) experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents, and (iv) experiments involving the cloning of toxin molecule genes in E. coli K–12 (see Appendix F).

"* * * Appendix C–II. Experiments Involving E. coli K–12 Host-Vector Systems * * *

"* * * Exceptions. The following categories are not exempt from the NIH Guidelines: (i) Experiments described in Section III–A which require specific RAC review and NIH and IBC approval before initiation, (ii) experiments described in Section III–B which require NIH (ORDA) and IBC approval before initiation, (iii) experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment conditions specified in Section III–C–2 with prior IBC review and approval, (iv) large-scale experiments (e.g., more than 10 liters of culture), and (v) experiments involving the cloning of toxin molecule genes in E. coli K–12 (see Appendix F).

"* * * Appendix C–III. Experiments Involving Saccharomyces Host-Vector Systems * * *

"* * * Exceptions. The following categories are not exempt from the NIH Guidelines: (i) Experiments described in Section III–A which require specific RAC review and NIH and IBC approval before initiation, (ii) experiments described in Section III–B which require NIH (ORDA) and IBC approval before initiation, (iii) experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment conditions specified in Section III–C–2 with prior IBC review and approval, large-scale experiments (e.g., more than 10 liters of culture), and experiments involving the cloning of toxin molecule genes in E. coli K–12 (see Appendix F).

"* * * Appendix C–IV. Experiments Involving Bacillus subtilis Host-Vector Systems * * *

"* * * Exceptions. The following categories are not exempt from the NIH Guidelines: (i) Experiments described in Section III–A which require specific RAC review and NIH and IBC approval before initiation, (ii) experiments described in Section III–B which require NIH (ORDA) and IBC approval before initiation, (iii) experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment conditions specified in Section III–C–2 with prior IBC review and approval, large-scale experiments (e.g., more than 10 liters of culture), and experiments involving the cloning of toxin molecule genes in E. coli K–12 (see Appendix F).

"* * * Appendix C–V. Extrachromosomal Elements of Gram Positive Organisms * * *

"* * * Exceptions. The following categories are not exempt from the NIH Guidelines: (i) Experiments described in Section III–A which require specific RAC review and NIH and IBC approval before initiation, (ii) experiments described in Section III–B which require NIH (ORDA) and IBC approval before initiation, (iii) large-scale experiments (e.g., more than 10 liters of culture), and (iv) experiments involving the cloning of toxin molecule genes in E. coli K–12 (see Appendix F.)"

Appendix F is proposed to read:

"Appendix F. Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates.

"Appendix F–I. General Information.

"Appendix F specifies the containment to be used for the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. The cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} of <100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, Shigella dysenteriae neurotoxin) are covered under Section III–B–1 of the Guidelines and require NIH (ORDA) and IBC approval before initiation. No specific restrictions shall apply to the cloning of genes if the protein specified by the gene has an LD_{50} of 100 micrograms or more per kilogram of body weight.

Experiments involving genes coding for toxin molecules with an LD_{50} of <100 micrograms and >100 nanograms per kilogram body weight require registration with ORDA and IBC approval prior to initiating the experiments. A list of toxin molecules classified as to LD_{50} is available from ORDA. Testing procedures for determining toxicity of toxin molecules not on the list are available from ORDA. The results of such tests shall be forwarded to ORDA, which will consult with ad hoc experts, prior to inclusion of the molecules on the list (see Section IV–C–1–b–(2)–(e)) * * *.

"Appendix F–III. Containment Conditions for Cloning Toxin Molecule Genes in Organisms Other Than E. coli K–12.

"Requests involving the cloning of genes coding for molecules toxic for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight in host-vector systems other than E. coli K–12 will be evaluated by NIH (ORDA) in consultation with ad hoc toxin experts (see Sections III–B and IV–C–1–b–(3)–(f).

"Appendix F–IV. Specific Approvals.

"An updated list of experiments involving the deliberate formation of recombinant DNA containing genes coding for toxins lethal for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight is available from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 4B11, Bethesda, Maryland 20892."

Appendix F–IV–A through Appendix F–IV–K would be deleted. [A list of these specific approvals will be maintained in ORDA.]

This request was reviewed and recommended for approval as proposed during the RAC meeting of September 9–10, 1993, by a vote of 16 in favor, 0 opposed, and no abstentions.

I accept this recommendation, and Sections III, IV, V and Appendix C and F of the NIH Guidelines will be amended accordingly.

II. Summary of Actions

A. Major Amendment to Appendix D–XXVII to the NIH Guidelines

Appendix D–XXVII will read as follows:

"Appendix D–XXVII.

"Drs. Philip Greenberg and Stanley R. Riddell of the Fred Hutchinson Cancer Research Center, Seattle, Washington, may conduct gene transfer experiments on 15 human immunodeficiency virus (HIV) seropositive patients (18–45 years old) undergoing allogeneic bone marrow transplantation for non-Hodgkin's lymphoma and 15 HIV-seropositive patients (18–50 years old) who do not have acquired immunodeficiency syndrome (AIDS)-related lymphoma and who are not undergoing bone marrow transplantation to evaluate the safety and efficacy of HIV-specific cytotoxic T lymphocyte (CTL) therapy. CTL will be transduced with a retroviral vector (HyTK) encoding a gene that is a fusion product of the hygromycin phosphotransferase gene (HPH) and the herpes simplex virus thymidine kinase (HSV–TK) gene. This vector will deliver both a marker gene and an ablatable gene in these T cell clones in the event that patients develop side effects as a consequence of CTL therapy. Data will be correlated over time, looking at multiple parameters of HIV disease activity. The objectives of these studies include evaluating the safety and toxicity of CTL therapy, determining the duration of in vivo survival of HIV-specific CTL clones, and determining if ganciclovir therapy can eradicate genetically modified, adoptively transferred CTL cells."

B. Addition of Appendix D–LVII to the NIH Guidelines

The following section is added to Appendix D:

"Appendix D–LVII.

"Drs. Richard C. Boucher and Michael R. Knowles of the University of North Carolina, Chapel Hill, North Carolina, may conduct experiments on 9 patients (18 years old or greater) with cystic fibrosis to test for the safety and efficacy of and E1-deleted recombinant adenovirus containing the cystic fibrosis transmembrane conductance regulator (CFTR) cDNA, Ad.CB–CFTR. A single dose of 10^8, 3×10^9 or 10^{11} pfu/ml will be administered to the nasal cavity of 3 patients in each dose group. Patients will be monitored by nasal lavage and biopsy to assess safety and restoration of normal epithelial function."

C. Addition of Appendix D–LVIII to the NIH Guidelines

The following section is added to Appendix D:

"Appendix D–LVIII.

" Dr. Joyce A. O'Shaughnessy of the National Institutes of Health, Bethesda, Maryland, may conduct experiments on 18 patients (18–60 years old) with Stage IV breast cancer who have achieved a partial or complete response to induction chemotherapy. This study will determine the feasibility of obtaining engraftment of CD34(+) hematopoietic stem cells transduced by a retroviral vector, G1MD, and expressing a cDNA for the human multi-drug resistance-1 (MDR–1) gene following high dose chemotherapy, and whether the transduced MDR–1 gene confers drug resistance to hematopoietic cells and functions as in *in vivo* dominant selectable marker. Patients will be monitored for evidence of myeloprotection and presence of the transduced MDR–1 gene."

D. Addition of Appendix D–LIX to the NIH Guidelines

The following section is added to Appendix D:

"Appendix D–LIX.

"Drs. Larry E. Kun, R. A. Sanford, Malcolm Brenner, and Richard L. Heideman of St. Jude Children's Research Hospital, Memphis, Tennessee, and Dr. Edward H. Oldfield of the National Institutes of Health, Bethesda, Maryland, may conduct experiments on 6 patents (3–21 years old) with progressive or recurrent malignant supratentorial tumors resistant to standard therapies. Mouse cells producing the retroviral vector containing the herpes simplex thymidine kinase gene (G1TKSVNa) will be instilled into the tumor areas via multiple stereotactically placed cannulas. Patients will be treated with ganciclovir to eliminate cells expressing the transduced gene. Patients will be monitored for central nervous system, hematologic, renal or other toxicities, and for anti-tumor responses by magnetic resonance imaging studies."

E. Addition of Appendix D–LX to the NIH Guidelines Regarding Semliki Forest Virus

The following section is added to Appendix D:

"Appendix D–LX.

"The physical containment level may be reduced from Biosafety Level 3 to Biosafety Level 2 for a Semliki Forest Virus (SFV) vector expression system of Life Technologies, Inc., Gaithersburg, Maryland."

F. Amendment to Section III and Appendix D of the NIH Guidelines Regarding Actions Taken Under the Guidelines

Section III–A and Appendix D will read as follows:

"Section III–A—Experiments that Require RAC Review and IBC Approval Before Initiation.

"* * * Specific experiments already approved in this section may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 4B11, Bethesda, Maryland 20892."

"Appendix D—Actions Taken Under the Guidelines.

"As noted in the subsection of Section IV–C–1–b–(1), the Director, NIH, may take certain actions with regard to the Guidelines after the issues have been considered by the RAC. An updated list of these actions are available from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 4B11, Bethesda, Maryland 20892."

G. Amendment to the Guidelines for the Submission of Human Gene Transfer/Therapy Protocols for Review by the RAC of the Points to Consider/NIH Guidelines

The Title and Section I of the Guidelines for the Submission of Human Gene Transfer/Therapy Protocols for Review by the RAC (Federal Register, February 18, 1993, page 9104) will read as follows:

"Guidelines for the Submission of Human Gene Transfer Protocols for Review by the Recombinant DNA Advisory Committee

"I. Investigator Submitted Material:

"Written proposals must be submitted in the following order: (1) Scientific abstract—1 page; (2) non-technical abstract—1 page; (3) Institutional Biosafety Committee and Institutional Review Board approvals; (4) Points to Consider—5 pages; (6) protocol—20 pages excluding appendices; (7) Informed Consent Document—approved by the Institutional Review Board; (8) appendices including tables, figures, and manuscripts; and (9) Curricula vitae—2 pages in Biographical sketch format. When a proposal has been submitted previously, there should be a short section (≤200 words) immediately following the abstracts that summarizes the major revisions since the last review. Data provided * * *.

"* * * written responses (including critical data in response to the primary reviewers' comments) must be submitted by the Principal Investigators to the Office of Recombinant DNA Activities ≥2 weeks before the RAC meeting.

"Oral Responses to the RAC. Principal Investigators must limit their oral responses to the RAC only to those questions that are raised during the meeting.

Oral presentations of previously submitted material and/or critical data that was not submitted ≥2 weeks prior to the RAC meeting is prohibited."

H. Amendments to Sections III, IV, V and Appendix C and F of the NIH Guidelines Regarding the Cloning of Toxin Molecules

Sections III, IV, and V, and Appendices C and F will be amended as follows:

"Section III. Guidelines for Covered Experiments.

"Part III discusses experiments involving recombinant DNA. These experiments have been divided into five classes:

"III–A. Experiments which require specific RAC review and NIH and IBC approval before initiation of the experiment;

"III–B. Experiments which require NIH (Office of Recombinant DNA Activities/ORDA) and Institutional Biosafety Committee (IBC) approval before initiation of the experiment;

"III–C. Experiments which require IBC approval before initiation of the experiment;

"III–D. Experiments which require IBC notification at the time of the experiment;

"III–E. Experiments which are exempt from the procedures of the Guidelines.

"IF AN EXPERIMENT FALLS INTO BOTH CLASS III–A AND ONE OF THE OTHER CLASSES, THE RULES PERTAINING TO CLASS III–A MUST BE FOLLOWED. If an experiment falls into Class III–E and into either Class III–C or III–D as well, it can be considered exempt from the requirements of the Guidelines. Changes * * * "

Section III–A–I will be moved to a new Section III–B–1. New Section III–B will read:

"Section III–B–Experiments That Require NIH (ORDA) and IBC Approval Before Initiation.

"Section III–B–1. Deliberate formation of recombinant DNA containing genes for the biosynthesis of toxin molecules lethal for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight * * *

"Section III–B–1–(a). Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH through ORDA. The containment conditions for such experiments will be determined by ORDA in consultation with ad hoc experts. Such experiments also require the approval of the IBC before initiation (see Section IV–C–1–b–(3)–(f)."

Sections III–A–2, III–A–3, III–A–4 will be renumbered to III–A–1, III–A–2, III–A–3 respectively. Sections III–B, III–C, III–D will be renumbered to III–C, III–D, and III–E respectively.

The new Section III–C–2 will read:

"Section III–C–2. Experiments in Which DNA From Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) is Cloned in Nonpathogenic Prokaryotic or Lower Eukaryotic Host-Vector Systems.

"Section III–C–2–a. * * * Many experiments in this category are exempt from the Guidelines (see Section III–E–4) and III–E–5). Experiments involving the formation of recombinant DNA for certain genes coding for molecules toxic for vertebrates require NIH (ORDA) approval (see Section III–B–1) or must be carried out under NIH specified conditions as described in Appendix P."

Section IV–B–5–b–(3) will read:

"Section IV–B–5–b–(3). Petition NIH (ORDA), with concurrence of the IBC for approval to conduct experiments specified in Sections III–A and III–B of the Guidelines;"

Section IV–C–1–b–(3)–(f) will be deleted which reads: "Approving the cloning of toxin genes in host-vector systems other than E. coli K–12 (see Appendix F); and"

Section IV–C–1–b–(3)–(g) will become the new Section IV–C–1–b–(3)–(f).

The new Section IV–C–3–a will read:

"Reviewing and approving experiments involving the cloning of genes encoding for toxin molecules that are lethal for vertebrates at an LD_{50} ≤100 nanograms per kilogram body weight in organisms other then E. coli K–12 (see Section III–B–1 and Appendices F–I and F–II)."

Sections IV–C–3–a and IV–C–3–b will be renumbered to become Sections IV–C–3–b and IV–C–3–c respectively.

Section V–2 will read:

"* * * In the cases falling under Sections III–A through III–D, this judgment is to be reviewed and approved by the IBC * * *"

Appendix C will read:

"Appendix C. Exemptions Under Section III–D–5.

"* * * Appendix C–I. Recombinant DNA in Tissue Culture * * *

"* * * Exceptions. The following categories are not exempt from the NIH Guidelines: (1) experiments described in Section III–A which require specific RAC review and NIH and IBC approval before initiation, (ii) experiments described in Section III–B which require NIH (ORDA) and IBC approval before initiation, (iii) experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents, and (iv) experiments involving the cloning of toxin molecule genes in E. coli K–12 (see Appendix F).

"* * * Appendix C–II. Experiments Involving E. coli K–12 Host-Vector Systems * * *

"* * * Exceptions. The following categories are not exempt from the NIH

Guidelines: (i) experiments described in Section III–A which require specific RAC review and NIH and IBC approval before initiation, (ii) experiments described in Section III–B which require NIH (ORDA) and IBC approval before initiation, (iii) experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment conditions specified in Section III–C–2 with prior IBC review and approval, (iv) large-scale experiments (e.g., more than 10 liters of culture), and (v) experiments involving the cloning of toxin molecule genes in E. coli K–12 (see Appendix F).

"* * * Appendix C–III. Experiments Involving Saccharomyces Host-Vector Systems * * *

"* * * Exceptions. The following categories are not exempt from the NIH Guidelines: (i) experiments described in Section III–A which require specific RAC review and NIH and IBC approval before initiation, (ii) experiments described in Section III–B which require NIH (ORDA) and IBC approval before initiation, (iii) experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment conditions specified in Section III–C–2 with prior IBC review and approval, large-scale experiments (e.g., more than 10 liters of culture), and experiments involving the cloning of toxin molecule genes in E. coli K–12 (see Appendix F).

* * * Appendix C–IV. Experiments Involving Bacillus subtilis Host-Vector Systems * * *

* * * Exceptions. The following categories are not exempt from the NIH Guidelines: (1) Experiments described in Section III–A which require specific RAC review and NIH and IBC approval before initiation, (ii) experiments described in Section III–B which require NIH (ORDA) and IBC approval before initiation, (iii) experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment conditions specified in Section III–C–2 with prior IBC review and approval, large-scale experiments (e.g., more than 10 liters of culture), and experiments involving the cloning of toxin molecule genes in E. coli K–12 (see Appendix F).

"* * * Appendix C–V. Extrachromosomal Elements of Gram Positive Organisms * * *

* * * Exceptions. The following categories are not exempt from the NIH Guidelines: (i) Experiments described in Section III–A which require specific RAC review and NIH and IBC approval before initiation, (ii) experiments described in Section III–B which require NIH (ORDA) and IBC approval before initiation, (iii) large-scale experiments (e.g., more than 10 liters of culture), and (iv) experiments involving the cloning of toxin molecule genes in E. coli K–12 (see Appendix F.)"

Appendix F will read:

"Appendix F. Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates.

"Appendix F–I. General Information.

"Appendix F specifies the containment to be used for the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. The cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} of <100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, Shigella dysenteriae neurotoxin) are covered under Section III–B–1 of the Guidelines and require NIH (ORDA) and IBC approval before initiation. No specific restrictions shall apply to the cloning of genes if the protein specified by the gene has an LD_{50} of 100 micrograms or more per kilogram of body weight. Experiments involving genes coding for toxin molecules with an LD_{50} of <100 micrograms and >100 nanograms per kilogram body weight require registration with ORDA and IBC approval prior to initiating the experiments. A list of toxin molecules classified as to LD_{50} is available from ORDA. Testing procedures for determining toxicity of toxin molecules not on the list are available from ORDA. The results of such tests shall be forwarded to ORDA, which will consult with ad hoc experts, prior to inclusion of the molecules on the list (see Section IV–C–1–b–(2)–(e)) * * *

"Appendix F–III. Containment Conditions for Cloning Toxin Molecule Genes in Organisms Other Than *E. coli* K–12.

"Requests involving the cloning of genes coding for molecules toxic for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight in host-vector systems other than *E. coli* K–12 will be evaluated by NIH (ORDA) in consultation with *ad hoc* toxin experts (see Sections III–B and IV–C–1–b(3)–(f).

"Appendix F–IV. Specific Approvals.

"An updated list of experiments involving the deliberate formation of recombinant DNA containing genes coding for toxins lethal for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight is available from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 4B11, Bethesda, Maryland 20892."

Appendix F–IV–A through Appendix F–IV–K would be deleted. [A list of these specific approvals will be maintained in ORDA.]

III. Correction to the Notice of Actions Published in the Federal Register on September 13, 1993 (58 FR 47906)

Appendix D–XLIX should read:

"Appendix D–XLIX.

"Dr. Gary J. Nabel of the University of Michigan Medical Center, Ann Arbor, Michigan, may conduct experiments on 12 patients with AIDS to be divided into 4 experimental groups. CD4(+) lymphocytes will be isolated from peripheral blood and transduced with Rev M10, a transdominant inhibitory mutant of the *rev* gene of the human immunodeficiency virus (HIV). Transduction of the *rev* mutant will be mediated either by the retrovirus vector, PLJ-cREV M10, or by particle-mediated gene transfer of plasmid DNA. Patients will be monitored for survival of the transduced CD4(+) cells by polymerase chain reaction and whether Rev M10 can confer protection against HIV infection to CD4(+) cells."

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title and affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost-effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Effective Date: October 7, 1993.

Ruth L. Kirschstein,

Acting Director, National Institutes of Health

[FR Doc. 93–25498 Filed 10–15–93, 8:45 am]

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federal register

Monday
October 18, 1993

Part VI

Copyright Royalty Tribunal

37 CFR Parts 301 and 311
Digital Audio Recording Technology Act; Implementation; Final Rule

COPYRIGHT ROYALTY TRIBUNAL

37 CFR Parts 301 and 311

[Docket No. 92-3-DART]

Digital Audio Recording Technology Act; Implementation

AGENCY: Copyright Royalty Tribunal.

ACTION: Final regulations.

SUMMARY: This notice is issued to advise the public that the Copyright Royalty Tribunal is adopting 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 regulations are issued on a final basis 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.

DATES: These final regulations are effective on October 18, 1993.

FOR FURTHER INFORMATION CONTACT: Linda R. Bocchi, General Counsel, Copyright Royalty Tribunal, 1825 Connecticut Avenue, NW., suite 918, Washington, DC 20009.

SUPPLEMENTARY INFORMATION: On October 28, 1992, the Audio Home Recording Act of 1992 (AHRA), 17 U.S.C. 1001–1010 (Supp. IV 1992), became effective. AHRA provides that the manufacture, importation, and distribution of digital audio recording devices and media do not constitute copyright infringement. 17 U.S.C. 1008 (Supp. IV 1992). It requires that the first person to manufacture and distribute or import and distribute such devices or media, (i) File an initial notice of distribution; (ii) file quarterly and annual statements of account; and (iii) pay royalties upon distribution of such devices and media in the United States. 17 U.S.C. 1003 (Supp. IV 1992).

AHRA further specifies that any interested copyright owner whose musical work or sound recording has been: (i) Lawfully reproduced in a digital or analog musical recording, and (ii) distributed in the form of digital musical recordings or analog musical recordings; or disseminated to the public in transmissions, during the period when the royalty fees were paid, is entitled to a portion of these fees. 17 U.S.C. 1006(a)(1) (Supp. IV 1992). However, qualifying copyright owners must file a claim for the fees, with the Copyright Royalty Tribunal, during January and February of each calendar year. 17 U.S.C. 1007(a)(1) (Supp. IV 1992).

AHRA authorizes the Tribunal to prescribe the "form and manner" for filing claims. Id. The Tribunal, in an Advance Notice of Rule Making, invited comments concerning the filing of claims to royalties. 57 FR 54542 (1992). Thereafter, on January 29, 1993, the Tribunal, issued Interim Regulations, with a request for public comment. 58 FR 6441 (1993). The Interim Regulations also directed the parties to file a report, on or before June 1, 1993, commenting on the issue of whether performing rights societies need separate, specific, and written authorization to represent members and affiliates. 58 FR 6441, 6444 (1992).

The Parties

Comments were filed by: American Society of Composers, Authors and Publisher (ASCAP), Broadcast Music, Inc. (BMI), SESAC, Inc. (SESAC), American Federation of Musicians of the United States and Canada (AFM), American Federation of Television and Radio Artists (AFTRA), Electronic Industries Association (EIA), National Music Publishers Association (NMPA), Recording Industry Association of America (RIAA), Gospel Music Coalition (Coalition), Gear Publishing Company (Gear), and Bopp Du Wopp (Bopp). Informal comments were filed by National Academy of Songwriters (NAS). Reply comments were filed by ASCAP, BMI, SESAC, Copyright Management, Inc. (CMI), Harry Fox Agency (HFA), Songwriters Guild of America (SGA), and the Alliance of Artists and Recording Companies (AARC). Comments regarding the written authorization issue were filed by ASCAP, BMI, SESAC, HFA, SGA, the Coalition, CMI, RIAA, and James Cannings (Cannings).

The Comments

ASCAP, BMI and SESAC generally supported the new regulations. However, they proposed a new subsection to § 311.3, which would require each joint claimant to make available to other claimants within the relevant Subfund and to the Tribunal, upon request, a list of the individual claimants whose claims are encompassed within the joint claim.

They maintained that this information is vital to the Tribunal and the parties in establishing the relative value of each joint claim. They also emphasized that each party must know which claimants have granted authorization, and to whom the authorization was granted.

ASCAP, BMI and SESAC believe that their proposal is superior to a requirement that each joint claim be accompanied by a list of every individual claimant or identification of a musical work or sound recording for every individual claimant. They concluded that such filings would be voluminous, and burdensome to the Tribunal's record.

ASCAP, BMI and SESAC acknowledged that the cable and satellite regulations do not require that this information be made available. However, they argued that the diversity of represented parties in AHRA proceedings necessitates a different rule. In the cable and satellite proceedings, the performing rights societies are generally the only claimants to appear within the music category, leaving no doubt about representation. Contrastingly, under AHRA, there are several joint claimants within each Subfund, making identification of claimants within the given group essential.

The Coalition reiterated its support for a written authorization requirement before a performing rights society could represent a claimant. It incorporated, by reference, its comments on the proposed rules.

The Coalition concurred with the Tribunal's determination that AHRA does not give performing rights societies special entitlement. It further supported the Tribunal's determination that the cable, jukebox and satellite distribution proceedings are different because no issue regarding written authorization was raised during those rule making proceedings.

The Coalition agreed that the interim rule granting the performing rights societies the assumption of representation based on membership in those societies should apply to the 1992 distribution, so as to avoid disenfranchisement of royalty claimants. However, it further maintained that regulations affecting all future AHRA distribution proceedings should require written authorization because the performing rights societies will have ample time to get the authorization from their members and affiliates.

The Coalition reiterated its belief that claimants should identify the category or categories of music for each claim they file. It believes that identification of the music category would assist in settlement discussions and distribution proceedings. The Coalition urged the Tribunal to reconsider the requirement, if, after a distribution proceeding or

upon agreement of the parties, it appears that early identification is helpful in resolving competing royalty claims.

AFM, AFTRA, and RIAA requested clarification concerning the distribution of funds to nonfeatured musicians and nonfeatured vocalists. The filing parties agreed that the Tribunal need not adopt rules for the appointment of independent administrators or regulation of their activities. The parties, however, believe that the Tribunal has the duty, as part of its responsibilities in distributing the royalties, to disburse the nonfeatured performers share of the royalties to the appointed independent administrators. According to the parties, the distribution to the independent administrators is a purely ministerial task, which should be performed by the Tribunal, the agency authorized by AHRA to distribute the funds deposited in the Treasury. 17 U.S.C. 1007 (Supp. IV 1992).

EIA corrected the Tribunal's language in the supplementary information section of the interim rules discussion. The language in this section stated that there is immunity "so long as" the manufacturers satisfy four criteria. EIA maintained that the immunity from infringement given in AHRA, specified in 17 U.S.C. 1008 (Supp. IV 1993), is unconditional. Moreover, AHRA has remedies, other than infringement-based remedies, to address violations of AHRA.

EIA requested that the final rules and explanatory language clarify that AHRA provides unconditional immunity against infringement.

Gear expressed concern regarding the role of the performing rights societies. It supported the performing rights societies in their lobbying activities. However, Gear opposed any requirement that publishers and writers obtain the royalties from the performing rights societies, asserting that publishers and writers be given the opportunity to receive the royalties directly from the Tribunal. With regard to foreign performing rights societies, Gear argued that the domestic performing rights societies should be allowed to collect for their foreign counterparts, only if those foreign societies allow Americans to participate in the royalties they collect.

Bopp alleged that none of the parties who filed comments and reply comments in this proceeding fit within the definition of an entitled "interested copyright party." Bopp objected to the commenting parties' alleged distribution formula, which it maintains is based on sales and broadcast transmission statistics. Bopp proposed that each claimant receive an equal share of the royalty fund.

NAS filed informal comments "for the purpose of reserving its rights" under AHRA. NAS expressed concern with the distribution formula, which it believes should be determined by the Tribunal, interested representatives and claimants; with the assistance of an advisory panel. NAS believes that such an approach will expedite distribution of royalty payments to eligible claimants.

The Reply Comments

ASCAP, BMI and SESAC, in reply to the comments of Gear and Bopp, noted that neither of these two parties served them with their comments. Specifically, ASCAP, AMI, and SESAC stated that, contrary to Gear's representations, members or affiliates of performing rights societies are not prohibited from representing themselves in Tribunal royalty distribution proceedings.

Furthermore, ASCAP, BMI, and SESAC opposed Gear's proposal that performing rights societies be able to collect on behalf of foreign societies only if the foreign societies permit American writers and publishers to participate in the royalties these foreign societies collect. The performing rights societies noted that "[s]uch reciprocity is not part of the copyright law, and there is no legal basis for barring claims by foreign claimants."

Regarding Bopp's comments, ASCAP, BMI, and SESAC maintained that they do not accurately reflect the law on two points: (i) none of the joint claimants, including the performing rights societies are "proper claimants;" and (ii) all claimants should share equally in distributions as measured by the statutory distribution criteria; notwithstanding the relative merits of their claims. See 17 U.S.C. 1001(7), 1006(c) (Supp. IV 1992).

ASCAP, BMI, SESAC, CMI, HFA, and SGA filed joint reply comments. In the joint reply comments, ASCAP, BMI and SESAC withdrew their request for a requirement that joint claimants make available to other claimants and the Tribunal, upon request, a list of individuals whose claims are encompassed within the joint claim.

Regarding the comments of the Coalition, the joint parties opposed any provision requiring that the "categories" of music for which claims are made be identified. The joint parties refrained from responding to the Coalition's arguments concerning the issue of separate, specific and written authorization since the Tribunal had established a separate deadline for addressing that issue.

As to NAS' recommendation that a panel of experts be convened to assist the Tribunal in reaching its distribution determination, the joint parties concluded that such an issue is not yet ripe for consideration.

AARC, in anticipation of the withdrawal by ASCAP, BMI, and SESAC of their joint claimant list proposal, requested that, to the extent the Tribunal is still inclined to consider the proposal, the lists be filed with the Tribunal. AARC believes that merely requiring that the lists be available could cause undue expense and time delays because the claimants reside in various cities throughout the country. Under those circumstances, AARC maintains, the right may prove to be an empty one.

Moreover, AARC opposed NAS' recommendation for an expert panel to assist the Tribunal. AARC maintained that AHRA sets forth the procedures for distributing royalty payments. According the AARC these procedures include a litigated proceeding during which all the claimants will be given an opportunity to present written and oral evidence, including expert testimony, to assist the Tribunal in making its determination. AARC argued, in the alternative, if the Tribunal finds NAS' recommendation appealing, it should only apply the panel method in the case of the Musical Works Fund, since all royalties in the Sound Recordings Fund are based on record sales.

AARC also opposed the Coalition's suggestion that music categories be identified in the claims. Finally, AARC disagreed with Bopp's assertion that each eligible claimant be entitled to an equal share of the royalties. According to AARC, Bopp's arguments conflict with AHRA, which establishes the bases upon which shares are to be calculated.

Reports on Written Authorization Issue

ASCAP, BMI, SESAC, SGA, and HFA filed a joint statement informing the Tribunal that they had reached an agreement among themselves regarding the written authorization issue. Specifically, they agreed that the rebuttable inference adopted by the Tribunal in the Interim Regulations, 58 FR 6441, 6445 (1993), "should be made part of the final regulations applicable to claims made for royalties in the Musical Works Fund beyond 1992." They further proposed that "the regulations require each joint claimant to a Subfund within the Musical Works Fund to make available for inspection by any other joint claimant to the same

Subfund a list of individual claimants covered by the joint claim."

The Coalition and CMI filed joint comments advising the Tribunal that all parties had not reached an agreement concerning the interpretation of the contracts between the performing rights societies and their members and affiliates. The Coalition and CMI concurred with the Tribunal's determination that AHRA does not grant the performing rights societies special entitlement to make claims on behalf of their members and affiliates.

The Coalition and CMI further expressed their belief "that performing rights societies, like all other interested copyright parties filing joint claims on behalf of individual claimants, are required by the AHRA to obtain separate, specific, written authorizations to file claims for their members and their affiliates under the AHRA, and that neither the societies nor any other private party may be legally granted the preferential treatment sought here by the societies." Therefore, they urged the Tribunal to refrain from extending the 1992 performing rights societies temporary inference to [cover] any subsequent years.

The Coalition and CMI also concurred with the Tribunal's stated reluctance to engage in any review of the private contracts of any claimants for group representation. The Coalition and CMI, therefore, urged the Tribunal to reconsider whether, and the extent to which, oral or written testimony is necessary to resolve the written authorization issue.

RIAA urged the Tribunal "to require that all interested copyright parties filing joint claims on behalf of individual claimants obtain separate, specific, written authorizations to represent such individual claimants." Consequently, RIAA requested that the Tribunal not extend the temporary 1992 inference to cover any subsequent years.

Cannings

Cannings supported a regulation which requires performing rights societies to obtain separate, specific, and written authorization to represent individual claimants. Cannings maintained that the standard agreements between performing rights societies and their members or affiliates does not grant the societies an automatic right to represent its members or affiliates before the Tribunal.

Discussion

The Tribunal has reviewed all of the comments filed by the parties. EIA's comments regarding the unconditional nature of AHRA's grant of immunity from infringement are accurate. In fact, the language in the supplementary information section of the interim rules discussion, which EIA requested be corrected, resulted from an error. The Tribunal unsuccessfully attempted to correct this error both pre- and post-Federal Register publication.

With regard to Gear's opposition to any requirement that writers and publishers obtain their royalties from performing rights societies, the Tribunal notes that there is no such requirement. On the contrary, AHRA establishes rights for the individual interested copyright owner. 17 U.S.C. 1007(a)(1) (Supp. IV 1992). AHRA, however, also gives individual interested copyright owners the option of filing jointly. 17 U.S.C. 1007(a)(2) (Supp. IV 1992).

Gear's comments relating to foreign performing rights societies also lack legal basis. As ASCAP, BMI and SESAC noted in their reply, such reciprocity is not afforded in AHRA or any where else in copyright law. Consequently, reciprocity requirements fall outside of the scope of the Tribunal's authority.

Bopp raised questions regarding whether the majority of the commenting parties have standing as "entitled interested copyright part[ies]." Again, the Tribunal notes that individual interested copyright owners have a statutory right to negotiate joint representation in lieu of individual representation. Organizations which provide joint representation, such as those that have filed comments in this proceeding, are entitled to file comments, since the final ruling will establish the very procedures they will have to follow in filing claims.

Bopp also proposed distribution formulas. This proposal, however, is premature. As the Tribunal stated in its Interim Regulations, in response to the Coalition's comments analyzing different methods for valuing music types, "arguments [addressing distribution formulas] are more properly advocated in a distribution proceeding, rather than in this rulemaking proceeding. Therefore, at this time, the Tribunal expresses no opinion as to the value of any specific method for resolving disputes concerning the distribution of digital royalties." 58 FR 6441, 6444 (1992).

With regard to NAS' recommendation for an expert panel, the Tribunal agrees with AARC's position that the creation of such a panel is unnecessary. Specifically, AHRA sets forth the procedures for distributing royalty payments, including a litigated proceeding during which all parties will be afforded the opportunity to present written and oral evidence. 17 U.S.C. 1007(c) (Supp. IV 1992) (specifying that the Tribunal shall adopt the distribution proceedings listed under Chapter 8). During these litigated proceedings, the parties will be able to introduce expert testimony to assist the Tribunal in making its determination. Accordingly, an expert panel is not warranted in these proceedings.

In the case of categorization of music in claims, the Tribunal continues to believe that such a requirement would only result in confusion, without providing any significant assistance to the parties or the Tribunal. Thus, such a requirement will not be included in the final regulations.

Regarding the 4% of the Sound Recordings Fund required by AHRA to be placed into an escrow account, managed by an independent administrator, 17 U.S.C. 1006(b)(1) (Supp. IV 1992), the Tribunal agrees with AFM, AFTRA, and RIAA that the distribution to the independent administrators is a purely ministerial task. In the Interim Regulations, the Tribunal refused to adopt a regulation which appeared to parallel the regulation for filing claims for AHRA royalties.

The 4% of the Sound Recordings Fund is required by AHRA to be distributed to nonfeatured musicians and vocalists (nonfeatured performers), who have performed on sound recordings distributed in the United States. *Id.* These nonfeatured performers, however, are not included in AHRA's definition of "interested copyright owners". 17 U.S.C. 1001(7) (Supp. IV 1992). Pursuant to AHRA, the Tribunal's authority over the distribution of royalties extends only to interested copyright owners. 17 U.S.C. 1007 (Supp. IV 1992). Thus the Tribunal was correct in determining that it did not have the authority to regulate the distribution of such royalties to the individual nonfeatured performers, and in not promulgating any rules to that effect.

However, the parties have clarified that their request is for a rule that specifies the manner in which to identify the independent administrator to the Tribunal, not their appointment or activities. The Tribunal finds that such a notification requirement is necessary in order to facilitate the initial distribution of royalties to the independent administration. Further, the Tribunal concurs that such initial distribution falls within the purview of its authority. The Tribunal is, in fact, the only agency authorized by AHRA to distribute the funds deposited in the Treasury. 17 U.S.C. 1007 (Supp. IV 1992). Accordingly, the 4% share of the

Sound Recordings Fund shall be distributed, by the Tribunal, to the independent administrators, who shall manage the final distribution to the eligible nonfeatured performers.

Several of the parties proposed some form of a requirement that joint claimants file lists identifying each individual claimant in their respective group. ASCAP, BMI, and SESAC proposed that the lists be available to the parties and the Tribunal upon request. AARC, on the other hand, proposed that the joint claimants be required to file the lists with their claims. The Tribunal believes that such lists would be useful in light of the newness of this proceeding, and the fact that there are numerous joint claimants within each Subfund. However, the Tribunal agrees with ASCAP, BMI, and SESAC, that the lists should be available upon request, rather than filed with the Tribunal. Accordingly, the new subsection proposed by ASCAP, BMI, and SESAC will be adopted.

Similarly, it is useful for the Tribunal to have expeditious notification whenever an individual claimant, subsequent to filing an individual claim, negotiates a joint claims. Therefore, the Tribunal will require that the particular individual claimant or joint claimant notify the Tribunal within fourteen (14) days from the making of such an agreement. An appropriate provision will be added to the content of claims regulation.

The final issue pertains to the controversial matter of requiring performing rights societies to obtain separate, specific and written authorization to file AHRA royalty claims for their members and affiliates. In the Interim Regulations, the Tribunal concluded that this issue involves a private contractual dispute.

In its interim determination, the Tribunal rejected the performing rights societies' assertion that AHRA grants them special entitlement to make claims on behalf of their members and affiliates. Moreover, the Tribunal was unpersuaded by the performing rights societies' assertion that, since the requested language exempted them from obtaining separate, specific and written authorization is in the rules governing the filing of jukebox, cable, and satellite claims, it should be included in the rules regulating the filing of claims under AHRA.

The Tribunal expressed its reluctance to engage in the interpretation of private contracts, and recommended that the parties resolve the issue among themselves. Although the parties were given a five month period to resolve the issue, they were unsuccessful in reaching a universal settlement. Therefore, the Tribunal is now faced with the task of resolving the controversy in a manner that strikes a balance between its obligation to operate within the scope of its authority, and its responsibility to satisfy statutory obligations.

It has been well-established that the Tribunal is not the proper forum for resolving private contract disputes. *National Broadcasting Company* v. *Copyright Royalty Tribunal*, 848 F.2d 1289, 1291 (D.C. Cir. 1988); 1984 Cable Royalty Distribution Proceedings; Notice of Final Determination, 52 FR 8404, 8411. In National, the Court of Appeals underscored this fact by stating, "the CRT has no authority to provide a legally significant interpretation of contracts * * *." National 848 F.2d at 1291.

Notably, not only does that Tribunal lack statutory authority to interpret contracts, but any attempt by the Tribunal to engage in such activity would most probably raise constitutional problems as well, because "Congress may not vest in a non-Article III court the power to adjudicate, render final judgment and issue binding orders in a traditional contract action arising under state law, without consent of the litigants, and subject only to ordinary appellate review." *Thomas* v. *Union Carbide Agric. Prods. Co.*, 473 U.S. 568, 584 (1985).

Thus, any interpretation of a private contract by the Tribunal, in this instance, would constitute an abuse of delegated authority, as well as an unconstitutional infringement of judicial power. The authorization issue, however, cannot be ignored as the Tribunal is mandated, by AHRA, to prescribe regulations setting forth procedure for filing claims and distributing royalties. 17 U.S.C. 1007 (Supp. IV 1992).

Therefore, to preserve control over its distribution proceedings, while operating within prescribed constitutional and legislative boundaries, the Tribunal has promulgated a general procedural rule. This rule requires separate, specific, and written authorization, signed by members affiliated or their representatives, before a performing rights society can represent individual copyright owners. However, there are two situations where such written authorization will not be required:

1. The agreement between the performing rights societies and their members or affiliates specifically authorizes such societies to represent their members or affiliates before the Tribunal in royalty filing and fee distribution proceedings; or

2. The agreement between the performing rights societies and their members or affiliates, as specified in a court order, authorizes such societies to represent their members or affiliates before the Tribunal in royalty filing and fee distribution proceedings.

The Tribunal believes that such a rule is a reasonable solution to the written authorization issue, and is consistent with Congressional intent. AHRA, first and foremost, establishes rights for individual interested copyright owners. The joint claim alternative is merely a permitted option. Consequently, any general rule addressing written authorization should favor the individual claimant. The Tribunal believes that the aforementioned procedural rule accomplishes this goal.

The Tribunal underscores that its rule is purely procedural in nature and mandated by the need to manage its proceedings. The rule does not, in any way, foreclose the contracting parties full recourse to normal legal remedies. Cf. National, 848, F.2d at 1291.

List of Subjects in 37 CFR Parts 301 and 311

Copyright, Digital Audio Home Recording Act.

Final Regulations

In lieu of the foregoing, the Tribunal is amending 37 CFR chapter III in the manner set forth below:

Authority: 17 U.S.C. 803.(a).

1. Section 301.1 is amended by revising paragraph (g) and (h) to read as follows:

§ 301.1 Purpose.

* * * * *

(g) To distribute digital audio recording devices and media royalty payments under 17 U.S.C. Chapter 10 deposited with the Register of Copyrights.

(h) To consider petitions to adjust the royalty maximum for digital audio recording devices pursuant to 17 U.S.C. 1004(a)(3).

2. Section 301.70 is revised to read as follows:

§ 301.70 Scope.

This subpart governs only those proceedings dealing with the distribution of compulsory cable television, coin-operated phono-record player (jukebox) [and], satellite carrier and digital audio recording devices and media royalty payments [royalties] deposited with the Register of Copyrights, according to the terms of 17 U.S.C. 111 (d)(4), 116(c) [and], 119(b),

and 1005, respectively. It does not govern unrelated rule making proceedings. Those provisions of Subpart E generally regulating the conduct of proceedings shall apply to royalty fee distribution proceedings, unless they are inconsistent with the specific provisions of this subpart.

3. Section 301.71 is amended by revising paragraph (d) to read as follows:

§ 301.71 Commencement proceedings.

* * * * *

(d) *Digital audio recording devices and media.* In the case of royalty payments for the importation and distribution in the United States, or the manufacture and distribution in the United States, of any digital recording device or medium, any person claiming to be entitled to such payments must file a claim with the Tribunal during the month of January or February of each year in accordance with Tribunal regulations.

4. Section 301.72 is amended by revising paragraph (d) to read as follows:

§ 301.72 Determination of controversy.

* * * * *

(d) *Digital audio recording devices and media.* Within 30 days after the last day of February each year, the Tribunal shall determine whether a controversy exists among the claimants of digital audio recording devices and media royalty payments as to any Subfund of the Sound Recording Fund or the Musical Works Fund as set forth in 17 U.S.C. § 1006(b) (1) and (2). In order to determine whether a controversy exists, the Tribunal may conduct whatever proceedings it feels necessary, subject to the procedures and regulations of subpart E. The results of this determination shall be announced in the **Federal Register**. If the Tribunal decides that a controversy exists, the **Federal Register** notice shall also announce the commencement of the royalty distribution proceeding, and shall, to the extent feasible, describe the general structure and schedule of the proceeding.

5. Part 311 is added to read as follows:

PART 311—FILING OF CLAIMS TO DIGITAL AUDIO RECORDING DEVICES AND MEDIA ROYALTY PAYMENTS

Sec.

Authority: 17 U.S.C. 803(a), 1007(a)(1) (1992 & Supp. IV 1992).

§ 311.1 General.

This part prescribes procedures pursuant to 17 U.S.C. 1007(a)(1) (Supp. IV 1992), whereby interested copyright parties, as defined in 17 U.S.C. 1001(7) (Supp. IV 1992), claiming to be entitled to royalty payments made for the importation and distribution in the United States, or the manufacture and distribution in the United States, of digital audio recording devices and media pursuant to 17 U.S.C. 1006 (Supp. IV 1992), shall file claims with the Copyright Royalty Tribunal.

§ 311.2 Time of filing.

Commencing with January and February, 1993 and during January and February of each succeeding year, every interested copyright party claiming to be entitled to digital audio recording devices and media royalty payments made for quarterly periods ending during the previous calendar year shall file a claim with the Copyright Royalty Tribunal. No royalty payments shall be distributed to any interested copyright party for the specified period unless such interested copyright party has filed a claim to such royalty payments during January or February of the following calendar year. Claimants may file claims jointly or as a single claim. A performing rights society shall be required to obtain from its members or affiliates separate, specific, and written authorization, signed by members, affiliates, or their representatives, to file claims to the Musical Works Fund, apart from their standard arrangements, for purposes of royalties filing and fee distribution. However, such written authorization will not be required in cases where either, (a) The agreement between the performing rights society and its members or affiliates specifically authorizes such societies to represent their members or affiliates before the Copyright Royalty Tribunal in royalty filing and fee distribution proceedings; or (b) the agreement between the performing rights societies and their members or affiliates, as specified in a court order, authorizes such societies to represent their members or affiliates before the Copyright Royalty Tribunal in royalty filing and fee distribution proceedings.

§ 311.3 Content of claims.

(a) Claims filed by interested copyright parties for digital audio recording devices and media royalty payments shall include the following information:

(1) The full legal name of the person or entity claiming royalty payments.

(2) The telephone number, facsimile number, if any, and full address, including a specific number and street name or rural route, of the place of business of the person or entity.

(3) A statement as to how the claimant fits within the definition of interested copyright party specified in 17 U.S.C. 1001(7) (Supp. IV 1992).

(4) A statement as to whether the claim is being made against the Sound Recordings Fund or the Musical Works Fund, as set forth in 17 U.S.C. 1006(b) and as to which Subfund of the Sound Recordings Fund (i.e., the copyright owners or featured recording artists Subfund) or the Musical Works Fund (i.e., the music publishers or writers Subfund) the claim is being made against as set forth in 17 U.S.C. 1006(b)(1)–(2) (Supp. IV 1992).

(5) Identification, establishing a basis for the claim, of at least one musical work or sound recording embodied in a digital musical recording or an analog musical recording lawfully made under Title 17 of the United States Code that has been distributed (as that term is defined in 17 U.S.C. 1001(6) (Supp. IV 1992)), and that, during the period to which the royalty payments claimed pertain, has been (i) Distributed (as that term is defined in 17 U.S.C. 1001(6) (Supp. IV 1992)) in the form of digital musical recordings or analog musical recordings, or (ii) Disseminated to the public in transmissions.

(b) Claims shall bear the original signature of the claimant or of a duly authorized representative of the claimant.

(c) In the event that the legal name and/or full address of the claimant changes after the filing of the claim, the claimant shall notify the Copyright Royalty Tribunal of such change within thirty days of the change, or the claim may be subject to dismissal.

(d) In the event that, after filing an individual claim, an interested copyright party chooses to negotiate a joint claim, either the particular joint claimant or individual claimant shall notify the Copyright Royalty Tribunal of such change within fourteen days from the making of the agreement.

(e) If an interested copyright party intends to file claims against more than one Subfund, each such claim must be filed separately with the Copyright Royalty Tribunal. Any claim that purports to file against more than one subfund will be rejected.

(f) All claimants filing a joint claim shall make available to the Copyright Royalty Tribunal and other claimants filing claims within the relevant

Subfund, on reasonable notice and under reasonable conditions, a list of all individual claimants covered by the joint claim.

§ 311.4 Content of notices regarding independent administrators.

(a) The independent administrator jointly appointed by the interested copyright parties, as defined in 17 U.S.C. 1001 (7)(A) (Supp. IV 1992), and the American Federation of Musicians (or any successor entity) for the purpose of managing, and ultimately distributing the royalty payments to nonfeatured musicians as defined in 17 U.S.C. 1006(b)(1) (Supp. IV 1992), shall file a notice informing the Copyright Royalty Tribunal of his/her name and address.

(b) The independent administrator jointly appointed by the interested copyright parties, as defined in 17 U.S.C. 1001(7)(A) (Supp. IV 1992), and the American Federation of Television and Radio Artists (or any successor entity) for the purpose of managing, and ultimately distributing the royalty payments to nonfeatured vocalists as defined in 17 U.S.C. 1006(b)(1) (Supp. IV 1992), shall file a notice informing the Copyright Royalty Tribunal of his/her full name and address.

(c) A notice filed under paragraph (a) or (b) of this section shall include the following information:

(1) The full name of the independent administrator;

(2) The telephone number and facsimile number, if any, full address, including a specific number and street name or rural route, of the place of business of the independent administrator.

(d) Notice shall bear the original signature of the independent administrator or a duly authorized representative of the independent administrator, and shall be filed with the Copyright Royalty Tribunal no later than March 31 of each year, commencing with March 31, 1994.

§ 311.5 Compliance with statutory dates.

Claims filed with the Copyright Royalty Copyright Royalty Tribunal shall be considered timely filed only if:

(a) They are received in the offices of the Copyright Royalty Tribunal during normal business hours during the months of January or February, or

(b) They are properly addressed to the Copyright Royalty Tribunal, 1825 Connecticut Avenue, NW., suite 918, Washington, DC 20009 and they are deposited with sufficient postage with the United States Postal Service and bear a January or February U.S. postmark. Claims dated only with a business meter that are received after the last day of February will be rejected. No claim may be filed by facsimile transmission.

§ 311.6 Forms.

The Copyright Royalty Copyright Royalty Tribunal does not provide printed forms for the filing of claims.

Dated: October 13, 1993.

Cindy Daub,

Chairman.

[FR Doc. 93–25499 Filed 10–15–93; 8:45 am]

BILLING CODE 1410–09–M

federal register

Monday
October 18, 1993

Part VII

The President

Proclamation 6611—National Down Syndrome Awareness Month, 1993

Federal Register
Vol. 58, No. 199
Monday, October 18, 1993

Presidential Documents

Title 3—

The President

Proclamation 6611 of October 14, 1993

National Down Syndrome Awareness Month, 1993

By the President of the United States of America

A Proclamation

Down syndrome, the most common genetic birth defect associated with mental retardation, affects 4,000 babies a year from all ethnic and societal backgrounds. As little as twenty years ago, people with Down syndrome were stigmatized or, all too frequently, institutionalized. Now, happily, they are benefitting from important advances in research, education, and health care.

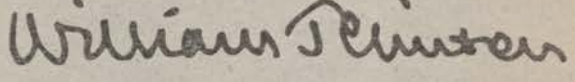
Over the past two decades, scientists have applied the technology of molecular genetics and other sciences to the study of Down syndrome. Researchers are looking for the genes, or combination of genes, on chromosome 21 that have a relationship to the development of intelligence and the physical disorders associated with Down syndrome. They are also looking for a possible relationship between Down syndrome and Alzheimer's disease.

There is a wide variation in mental abilities, behavior, and physical development in individuals with Down syndrome. However, individuals with Down syndrome benefit from loving homes, early intervention, special education, mainstreaming, appropriate medical care, and positive public attitudes—all made possible through the efforts of researchers, service providers, physicians, teachers, and parent support groups. In addition, such government agencies as the National Institute of Child Health and Human Development and the National Institute on Aging, components of the National Institutes of Health; the Maternal and Child Health Bureau; and the President's Committee on Mental Retardation have worked in concert with private organizations like the National Down Syndrome Congress and the National Down Syndrome Society to help those affected by this congenital disorder.

To help promote greater understanding of Down syndrome, the Congress, by Senate Joint Resolution 92, has designated the month of October 1993 as "National Down Syndrome Awareness Month" and has authorized and requested the President to issue a proclamation in observance of this month.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, do hereby proclaim the month of October 1993 as National Down Syndrome Awareness Month. I invite all Americans to observe this month with appropriate programs and activities.

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



[FR Doc. 93-25723
Filed 10-15-93; 10:41 am]
Billing code 3195-01-P

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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. 2074/P.L. 103–101
To authorize appropriations for the American Folklife Center for fiscal years 1994 and 1995. (Oct. 8, 1993; 107 Stat. 1020; 1 page)

H.R. 3051/P.L. 103–102
To provide that certain property located in the State of Oklahoma owned by an Indian housing authority for the purpose of providing low-income housing shall be treated as Federal property under the Act of September 30, 1950 (Public Law 874, 81st Congress). (Oct. 8, 1993; 107 Stat. 1021; 1 page)

S. 1130/P.L. 103–103
Federal Employees Leave Sharing Amendments Act of 1993 (Oct. 8, 1993; 107 Stat. 1022; 3 pages)

H.R. 38/P.L. 103–104
To establish the Jemez National Recreation Area in

the State of New Mexico, and for other purposes. (Oct. 12, 1993; 107 Stat. 1025; 5 pages)

H.R. 2608/P.L. 103–105

To provide for the reauthorization of the collection and publication of quarterly financial statistics by the Secretary of Commerce through fiscal year 1998, and for other purposes. (Oct. 12, 1993; 107 Stat. 1030; 1 page)

S. 1381/P.L. 103–106

National Forest Foundation Act Amendment Act of 1993 (Oct. 12, 1993; 107 Stat. 1031; 2 pages)

S.J. Res. 102/P.L. 103–107

To designate the months of October 1993 and October 1994 as "Country Music Month". (Oct. 12, 1993; 107 Stat. 1033; 1 page)

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CFR CHECKLIST

This checklist, prepared by the Office of the Federal Register, is published weekly. It is arranged in the order of CFR titles, stock numbers, prices, and revision dates.

An asterisk (*) precedes each entry that has been issued since last week and which is now available for sale at the Government Printing Office.

A checklist of current CFR volumes comprising a complete CFR set, also appears in the latest issue of the LSA (List of CFR Sections Affected), which is revised monthly.

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[1] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.

[2] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[3] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[4] No amendments to this volume were promulgated during the period Apr. 1, 1990 to Mar. 31, 1993. The CFR volume issued April 1, 1990, should be retained.

[5] No amendments to this volume were promulgated during the period Apr. 1, 1991 to Mar. 31, 1993. The CFR volume issued April 1, 1991, should be retained.

[6] No amendments to this volume were promulgated during the period July 1, 1989 to June 30, 1992. The CFR volume issued July 1, 1989, should be retained.

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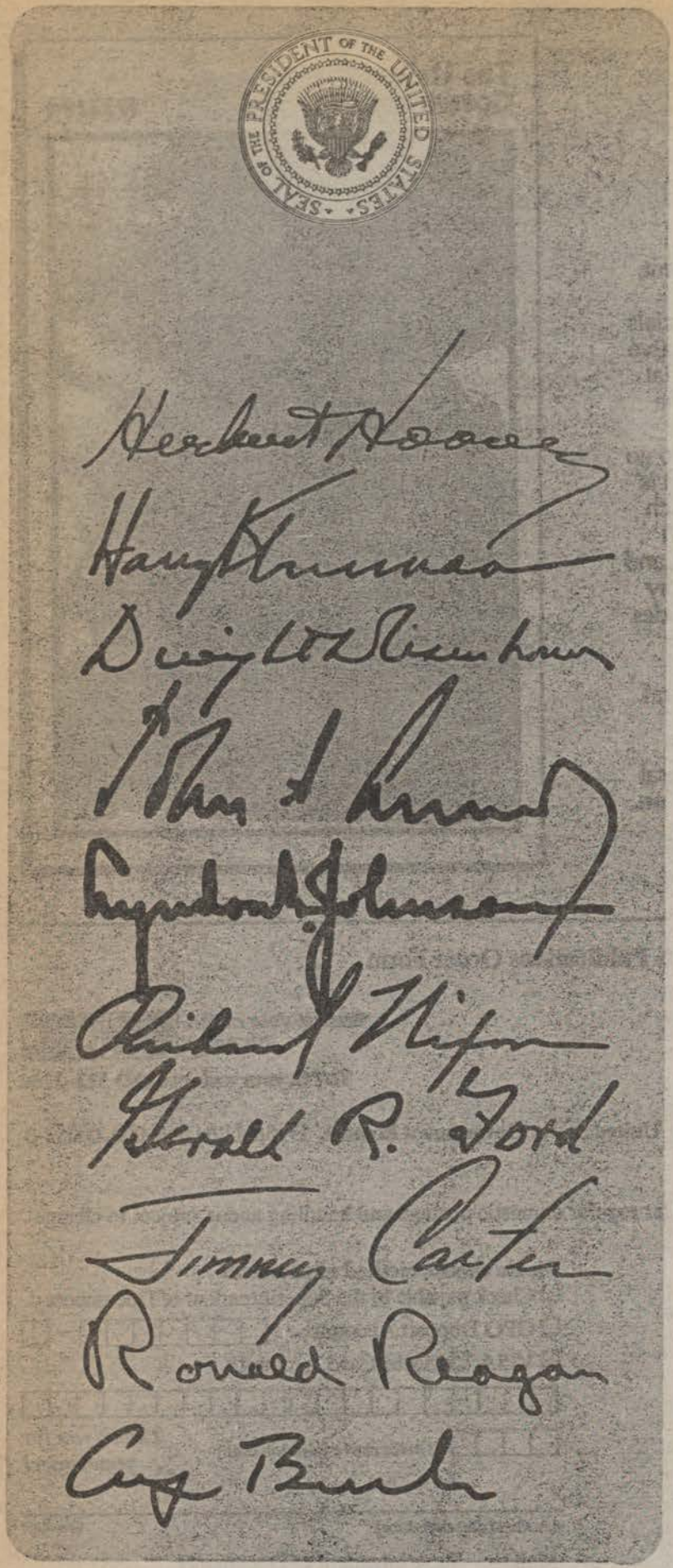

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