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Wednesday
November 6, 1991

Briefing on How To Use the Federal Register
For information on a briefing in Washington, DC, see announcement on the inside cover of this issue.

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THE FEDERAL REGISTER

WHAT IT IS AND HOW TO USE IT

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN:	November 25, at 9:00 a.m.
WHERE:	Office of the Federal Register, First Floor Conference Room, 1100 L Street NW., Washington, DC.
RESERVATIONS:	202–523–5240.
DIRECTIONS:	North on 11th Street from Metro Center to southwest corner of 11th and L Streets

Contents

Federal Register

Vol. 56, No. 215

Wednesday, November 6, 1991

Agency for International Development
NOTICES
Meetings:
International Food and Agricultural Development and Economic Cooperation Board, 56660

Agriculture Department
See also Federal Crop Insurance Corporation; Forest Service
NOTICES
Agricultural commodities, overseas donations; types and quantities, 56625

Air Force Department
NOTICES
Meetings:
Scientific Advisory Board, 56637
(4 documents)

Alcohol, Drug Abuse, and Mental Health Administration
NOTICES
Federal agency urine drug testing; certified laboratories meeting minimum standards, list, 56653

Army Department
See Engineers Corps

Civil Rights Commission
NOTICES
Meetings; State advisory committees:
Maryland, 56625
South Carolina, 56625

Coast Guard
PROPOSED RULES
Drawbridge operations:
Kentucky, 56610
Massachusetts, 56609

Commerce Department
See also Export Administration Bureau; Foreign-Trade Zones Board; International Trade Administration; National Oceanic and Atmospheric Administration
NOTICES
Agency information collection activities under OMB review, 56626

Committee for the Implementation of Textile Agreements
NOTICES
Cotton, wool, and man-made textiles:
Malaysia, 56634

Customs Service
PROPOSED RULES
Automated entry filing; prefiling privilege limitation, 56608

Defense Department
See also Air Force Department; Defense Intelligence Agency; Engineers Corps
NOTICES
Acquisition laws:
Contract administration statutes; review, 56635
Contract formation statutes; review, 56636
Intellectual property statutes; review, 56636
Other acquisition statutes; review, 56636
Socio-economic statutes; review, 56636
Standards of conduct statutes; review, 56637
Committees; establishment, renewal, termination, etc.:
Navy Exchange System Advisory Committee, 56637
Environmental statements; availability, etc.:
Comprehensive theater missile defense, production capability research and development activities, 56634

Defense Intelligence Agency
RULES
Privacy Act; implementation, 56595

Drug Enforcement Administration
NOTICES
Applications, hearings, determinations, etc.:
Stanford Seed Co., 56665
Sterling Organics, 56665

Education Department
RULES
Postsecondary education:
Pell grant program, 56912
NOTICES
Agency information collection activities under OMB review, 56638

Employment and Training Administration
RULES
Immigration Act of 1990; implementation:
F-1 nonimmigrant students; off-campus work authorization; employer attestations, 56860

Employment Standards Administration
See Wage and Hour Division

Energy Department
See also Federal Energy Regulatory Commission
PROPOSED RULES
Acquisition regulations:
Research opportunity announcement; solicitation procedures, 56621
NOTICES
Natural gas exportation and importation:
Continental Energy Marketing Ltd., 56641

Engineers Corps
NOTICES
Environmental statements; availability, etc.:
Los Angeles District, CA, 56638

Environmental Protection Agency
RULES
Air quality planning purposes; designation of areas:
Attainment status for selected areas affected by ozone, carbon monoxide, particulate matter, and lead national ambient air quality standards, 56694
NOTICES
Pesticide programs:
Pesticides and ground-water strategy; documents availability, 56643

Pesticide registration, cancellation, etc.:
Fenthion, 56642
Toxic and hazardous substances control:
Premanufacture notices receipts, 56644
(2 documents)

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

Export Administration Bureau
NOTICES
National security import investigations:
Gears and gearing products, 56626

Farm Credit Administration
NOTICES
Meetings; Sunshine Act, 56690

Federal Aviation Administration
RULES
Airmen certification:
Recreational pilots and non-instrumental-rated private pilots with fewer than 400 hours flight time; annual flight review requirements; compliance date
Correction, 56571
Standard instrument approach procedures, 56571
PROPOSED RULES
Airworthiness standards:
Special conditions—
McDonnell Douglas model DC-9-8 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) series airplanes, 56605
Jet routes, 56608
Terminal control areas, 56607
NOTICES
Advisory circulars; availability, etc.:
Airplanes, small—
Equipment, systems, and installations, 56686
Grants and cooperative agreements; availability, etc.:
Airport improvement program, 56686

Federal Communications Commission
RULES
Practice and procedure:
Fee collection program; fee increases and procedural changes, 56599
Radio stations; table of assignments:
Kansas, 56602
PROPOSED RULES
Radio services, special:
Private land mobile services—
Frequencies in 72-76 MHz band; low-power mobile use, 56611

Federal Crop Insurance Corporation
RULES
Crop insurance; various commodities:
Peaches (canning and processing), 56569
Popcorn, 56569
Tobacco (dollar plan), 56569
Tobacco (quota plan), 56569
PROPOSED RULES
Sales closing, cancellation, termination for indebtedness, and contract change dates, 56605

Federal Deposit Insurance Corporation
NOTICES
Meetings; Sunshine Act, 56690
(2 documents)
Powers of attorney; issuance, 56645

Federal Election Commission
RULES
Excess funds disposition; members of Congress; transmittal to Congress
Effective date, 56570
Presidential primary and general election candidates; public financing; transmittal to Congress
Effective date, 56570
Presidential primary candidates; matching fund submission and certification procedures; transmittal to Congress
Effective date, 56570

Federal Energy Regulatory Commission
NOTICES
Electric rate, small power production, and interlocking directorate filings, etc.:
Union Electric Co. et al., 56639
Applications, hearings, determinations, etc.:
PSI Energy, Inc., et al., 56641

Federal Highway Administration
RULES
Payment procedures:
Railroad work reimbursement; self-insurance cost eligibility, 56576

Federal Housing Finance Board
RULES
Federal home loan bank systems:
Directors; eligibility, financial disclosure, and conflict of interest requirements
Correction, 56691

Federal Maritime Commission
NOTICES
Agreements filed, etc., 56646
Correction, 56691

Federal Reserve System
NOTICES
Federal Reserve Bank services; fee schedules and pricing principles:
Private sector adjustment factor, 1992 FY, 56646
Applications, hearings, determinations, etc.:
First National Corp., 56652
Leachville State Bancshares, Inc., et al., 56653

Fish and Wildlife Service
PROPOSED RULES
Endangered and threatened species:
5-year review of listed species, 56882

Food and Drug Administration
NOTICES
Animal drugs, feeds, and related products:
Export applications—
IVOMEC Premix (ivermectin) for swine, 56655
(2 documents)
Food additive petitions:
Ciba-Geigy Corp., 56656
Phoenix Medical Technology, Inc., 56656
Quantum Chemical Corp., 56656

Foreign-Trade Zones Board
NOTICES
Applications, hearings, determinations, etc.:
Colorado—
Apple Computer, Inc.; electronic data processing and communications equipment manufacturing plant, 56627
Florida, 56627
Louisiana—
North American Shipbuilding, Inc.; shipbuilding facility, 56627
Oregon—
Continental Mills, Inc.; food products processing plant, 56628
Texas—
General Motors Corp.; automobile manufacturing plant, 56628
Washington, 56629

Forest Service
NOTICES
Meetings:
National Commission on Wildfire Disasters, 56625

Health and Human Services Department
See Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Care Financing Administration; Health Resources and Services Administration; National Institutes of Health; Public Health Service

Health Care Financing Administration
PROPOSED RULES
Medicare:
Durable medical equipment, prosthetics, orthotics, and supplies; carrier jurisdiction for claims, 56612

Health Resources and Services Administration
See also Public Health Service
NOTICES
Advisory committees; annual reports; availability, 56657

Housing and Urban Development Department
RULES
Community development block grants:
Section 108 loan guarantee program, 56902
NOTICES
Grant and cooperative agreement awards:
Public and Indian housing—
Single room occupancy dwellings for homeless individuals moderate rehabilitation programs; Mountain Home, AR, et al., 56657

Interior Department
See also Fish and Wildlife Service; Land Management Bureau; National Park Service; Surface Mining Reclamation and Enforcement Office
NOTICES
Meetings:
White House Conference on Indian Education Advisory Committee, 56658

Internal Revenue Service
PROPOSED RULES
Income taxes:
Stripped bonds and coupons treatment
Hearing cancellation, 56609

International Development Cooperation Agency
See Agency for International Development

International Trade Administration
NOTICES
Antidumping:
Pressure sensitive plastic tape from Italy, 56630
Refined antimony trioxide from China, 56631
Countervailing duties:
Brass sheet and strip from Brazil, 56631
Applications, hearings, determinations, etc.:
University of—
Washington et al., 56632

International Trade Commission
NOTICES
Import investigations:
Aspherical ophthalmoscopy lenses from Japan, 56660
Softwood lumber from Canada, 56661
Static random access memories and integrated circuit devices containing same, etc.; correction, 56691
Steel wire rope from India et al., 56662

Interstate Commerce Commission
NOTICES
Rail carriers:
Cost recovery procedures—
Productivity adjustment, 56662
Railroad operation, acquisition, construction, etc.:
Durham Transport, Inc., 56662
Norfolk & Western Railway Co., 56663

Justice Department
See also Drug Enforcement Administration
RULES
Organization, functions, and authority delegations:
Assistant Attorney General, Civil Division, 56578
NOTICES
Pollution control; consent judgments:
Hills Materials Co., 56663
Joseph Simon & Sons et al., 56663
Privacy Act:
Systems of records, 56664

Labor Department
See Employment and Training Administration; Pension and Welfare Benefits Administration; Wage and Hour Division

Land Management Bureau
NOTICES
Survey plat filings:
Idaho, 56659

Management and Budget Office
NOTICES
Discount rates to be used in evaluating deferred costs and benefits (Circular A-94), 56673

Merit Systems Protection Board
NOTICES
Meetings; Sunshine Act, 56690

National Aeronautics and Space Administration
RULES
Acquisition regulations:
Miscellaneous amendments
Correction, 56691

National Highway Traffic Safety Administration
PROPOSED RULES
Drug offender's driver's license suspension
Correction, 56692

National Institutes of Health
NOTICES
Meetings:
National Institute of Diabetes and Digestive and Kidney Diseases, 56657
National Institute of General Medical Sciences, 56657 (3 documents)

National Oceanic and Atmospheric Administration
RULES
Fishery conservation and management:
Pacific Coast groundfish, 56603
Marine mammals:
Incidental and taking import; "dolphin safe" tuna labeling—
Reporting and recordkeeping requirements; effective and compliance dates postponement, 56603
PROPOSED RULES
Fishery conservation and management:
Gulf of Alaska and Bering Sea and Aleutian Islands groundfish, 56623
NOTICES
Meetings:
Sea Grant Review Panel, 56633
Western Pacific Fishery Management Council, 56634

National Park Service
NOTICES
Environmental statements; availability, etc.:
Olympic National Park and Forest, WA; mountain goat management; correction, 56691
Petroglyph National Monument, NM, 56659

National Science Foundation
NOTICES
Meetings:
Chemical and Thermal Systems Advisory Committee, 56670
Cross-Disciplinary Activities Special Emphasis Panel, 56670
Ocean Sciences Research Panel, 56670
Physics Special Emphasis Panel, 56670

Nuclear Regulatory Commission
NOTICES
Regulatory guides; issuances, availability, and withdrawal, 56671
Small business size standards; clarification, 56671
Applications, hearings, determinations, etc.:
Carolina Power & Light Co., 56672

Office of Management and Budget
See Management and Budget Office

Pension and Welfare Benefits Administration
NOTICES
Employee benefit plans; prohibited transaction exemptions:
General Electric Pension Trust et al., 56666

Presidential Documents
ADMINISTRATIVE ORDERS
Soviet nationals; employment at U.S. diplomatic and consular missions (Presidential Determination No. 92–4 of October 24, 1991), 56567

Public Health Service
See also Alcohol, Drug Abuse, and Mental Health Administration; Food and Drug Administration; Health Resources and Services Administration; National Institutes of Health
RULES
Fellowships, internships, training:
National Health Service Corps scholarship and loan repayment programs, 56596
PROPOSED RULES
Medical care and examinations; Indian tribe's resource deficiency level; determination review
Correction, 56691

Resolution Trust Corporation
NOTICES
Coastal Barrier Improvement Act; property availability:
Alpine Village, AZ, 56673
Oak Valley, CO, 56674
Swan's Nest, CO, 56674

Securities and Exchange Commission
NOTICES
Agency information collection activities under OMB review, 56675 (2 documents)
Self-regulatory organizations; proposed rule changes:
American Stock Exchange, Inc.; correction, 56692
Cincinnati Stock Exchange, Inc., 56676
Midwest Securities Trust Co., 56677
National Association of Securities Dealers, Inc., 56678
New York Stock Exchange, Inc., 56679
Options Clearing Corp., 56680
Applications, hearings, determinations, etc.:
Kemper Investment Portfolios et al., 56682
Public Service Electric & Gas Co., 56685

Surface Mining Reclamation and Enforcement Office
RULES
Permanent program and abandoned mine land reclamation plan submissions:
Iowa, 56578

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

Thrift Supervision Office
NOTICES
Receiver appointments:
Atlantic Financial Federal-West Virginia, F.S.A., 56688
Applications, hearings, determinations, etc.:
Liberty Federal Savings Bank, 56688

Transportation Department
See Coast Guard; Federal Aviation Administration; Federal Highway Administration; National Highway Traffic Safety Administration

Treasury Department
See also Customs Service; Internal Revenue Service; Thrift Supervision Office

NOTICES
Agency information collection activities under OMB review, 56687, 56688
(3 documents)

United States Information Agency
NOTICES
Senior Executive Service:
Performance Review Board; membership, 56688

Wage and Hour Division
RULES
Immigration Act of 1990; implementation:
F-1 nonimmigrant students; off-campus work authorization; employer attestations, 56860

Separate Parts In This Issue

Part II
Environmental Protection Agency, 56694

Part III
Department of Labor, Employment and Training Administration and Wage and Hour Division, 56860

Part IV
Department of the Interior, Fish and Wildlife Service, 56882

Part V
Department of Housing and Urban Development, 56902

Part VI
Department of Education, 56912

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

CFR PARTS AFFECTED IN THIS ISSUE

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

3 CFR

Administrative Orders

Presidential Determinations:
No. 92-4 of October 24, 1991..... 56567

7 CFR

434..... 56569
435..... 56569
447..... 56569
451..... 56569

Proposed Rules:

Ch. IV..... 56605

11 CFR

100..... 56570
102 (2 documents)..... 56570
106..... 56570
110..... 56570
113..... 56570
116..... 56570
9001..... 56570
9002..... 56570
9003..... 56570
9004..... 56570
9005..... 56570
9006..... 56570
9007..... 56570
9012..... 56570
9031..... 56570
9032..... 56570
9033..... 56570
9034 (2 documents)..... 56570
9035..... 56570
9036 (2 documents)..... 56570
9037 (2 documents)..... 56570
9038..... 56570
9039..... 56570

12 CFR

922..... 56691
931..... 56691
932..... 56691

14 CFR

61..... 56571
97..... 56571

Proposed Rules:

21..... 56605
25..... 56605
71..... 56607
75..... 56608

19 CFR

Proposed Rules:

141..... 56608
142..... 56608

20 CFR

655..... 56860

23 CFR

140..... 56576

Proposed Rules:

1212..... 56692

24 CFR

570..... 56902

26 CFR

Proposed Rules:

1..... 56609

28 CFR

0..... 56578

29 CFR

508..... 56860

30 CFR

915..... 56578

32 CFR

292a..... 56595
319..... 56595

33 CFR

Proposed Rules:

117 (2 documents)..... 56609, 56610

34 CFR

690..... 56911

40 CFR

81..... 56694

42 CFR

62..... 56596

Proposed Rules:

36..... 56691
400..... 56612
420..... 56612
421..... 56612

47 CFR

1..... 56599
13..... 56599
73..... 56602

Proposed Rules:

2..... 56611
90..... 56611

48 CFR

1801..... 56691
1815..... 56691
1852..... 56691

Proposed Rules:

935..... 56621

50 CFR

216..... 56603
247..... 56603
611..... 56603
663..... 56603

Proposed Rules:

17..... 56882
672..... 56623
675..... 56623

Federal Register
Vol. 56, No. 215
Wednesday, November 6, 1991

Presidential Documents

Title 3—

The President

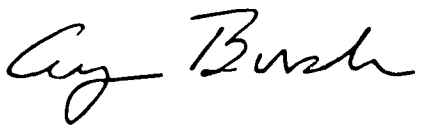
Presidential Determination No. 92–4 of October 24, 1991

Employment of Soviet Nationals at U.S. Diplomatic and Consular Missions in the Soviet Union

Memorandum for the Secretary of State

By the authority vested in me by the Constitution and laws of the United States, including section 301 of title 3 of the United States Code and section 136 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (Public Law 99–93) ("the Act"), I hereby determine that implementation of section 136(a) of the Act poses undue practical and administrative difficulties. Consistent with this determination, you are authorized to employ Soviet nationals in nonsensitive areas of the New Embassy Compound in Moscow under strict monitoring by cleared Americans. Further, I delegate to you the responsibility vested in me by section 136(b) of the Act to report to the Congress on circumstances relevant to this determination. Such responsibility may be redelegated within the Department of State.

You are authorized and directed to report this determination to the Congress and to publish it in the **Federal Register.**



THE WHITE HOUSE,
Washington, October 24, 1991.

[FR Doc. 91–26964
Filed 11–4–91; 2:57 pm]
Billing code 3195–01–M

Rules and Regulations

Federal Register
Vol. 56, No. 215
Wednesday, November 6, 1991

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.
The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Part 434

[Doc. No. 0285s]

Tobacco (Dollar Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice to extend Sunset Review date.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby publishes this notice to extend the sunset review date for the Tobacco (Dollar Plan) Crop Insurance Regulations (7 CFR part 435). The intended effect of this notice is to reestablish the sunset review date of these regulations following a review in accordance with the provisions of Departmental Regulation 1512-1 to determine the need, currency, clarity, and effectiveness of these regulations under those procedures.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (703) 235-1168.

EFFECTIVE DATE: November 6, 1991.

SUPPLEMENTARY INFORMATION: This action has been reviewed under the USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1994.

Authority: Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516).

Done in Washington, DC, on October 17, 1991.

James E. Cason,
Manager, Federal Crop Insurance Program.

[FR Doc. 91-26615 Filed 11-5-91; 8:45 am]
BILLING CODE 3410-08-M

7 CFR Part 435

[Doc. No. 0284s]

Tobacco (Quota Plan) Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice to extend Sunset Review date.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby publishes this notice to extend the sunset review date for the Tobacco (Quota Plan) Crop Insurance Regulations (7 CFR part 435). The intended effect of this notice is to reestablish the sunset review date of these regulations following a review in accordance with the provisions of Departmental Regulation 1512-1 to determine the need, currency, clarity, and effectiveness of these regulations under those procedures.

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (703) 235-1168.

SUPPLEMENTARY INFORMATION: This action has been reviewed under the USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is August 1, 1994.

(Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516)).

Done in Washington, DC, on October 17, 1991.

James E. Cason,
Manager Federal Crop Insurance Program.

[FR Doc. 91-26616 Filed 11-5-91; 8:45 am]
BILLING CODE 3410-08-M

7 CFR Part 447

[Docket No. 0282s]

Popcorn Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice to extend Sunset Review date.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby publishes this notice to extend the sunset review date for the Popcorn Crop Insurance Regulations (7 CFR part 447). The intended effect of this notice is to reestablish the sunset review date of these regulations following a review in accordance with the provisions of Departmental Regulation 1512-1 to determine the need, currency, clarity, and effectiveness of these regulations under those procedures.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (703) 235-1168.

EFFECTIVE DATE: November 6, 1991.

SUPPLEMENTARY INFORMATION: This action has been reviewed under the USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is June 1, 1996.

(Secs, 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516)).

Done in Washington, DC, on October 17, 1991.

James E. Cason,
Manager, Federal Crop Insurance Program.

[FR Doc. 91-26614 Filed 11-5-91; 8:45 am]
BILLING CODE 3410-08-M

7 CFR Part 451

[Docket No. 0277s]

Canning and Processing Peach Crop Insurance Regulations

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Notice to extend Sunset Review date.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby publishes this notice to extend the sunset review date for the Canning and Processing Peach Crop Insurance Regulations (7 CFR part 451). The intended effect of this notice is to reestablish the sunset review date of these regulations following a review in accordance with the provisions of Departmental Regulation 1512-1 to determine the need, currency, clarity, and effectiveness of these regulations under those procedures.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC, 20250, telephone (703) 235-1168.

EFFECTIVE DATE: November 6, 1991.

SUPPLEMENTARY INFORMATION: This action has been reviewed under the USDA procedures established by Departmental Regulation 1512-1. This action constitutes a review as to the need, currency, clarity, and effectiveness of these regulations under those procedures. The sunset review date established for these regulations is May 15, 1995.

(Secs. 506, 516, Pub. L. 75-430, 52 Stat. 73, 77 as amended (7 U.S.C. 1506, 1516)).

Done in Washington, DC, on October 17, 1991.

James E. Cason,

Manager, Federal Crop Insurance Program.

[FR Doc. 91-26612 Filed 11-5-91; 8:45 am]

BILLING CODE 3410-08-M

FEDERAL ELECTION COMMISSION

[Notice 1991—18]

11 CFR Parts 100,102, 106, 110, 116, 9001-9007, 9012, & 9031-9039

Public Financing of Presidential Primary and General Election Candidates

AGENCY: Federal Election Commission.

ACTION: Final Rule: Announcement of Effective Date.

SUMMARY: On July 29, 1991 (56 FR 35898), the Commission published the text of revised regulations governing publicly financed Presidential primary and general election candidates. 11 CFR 106.2, and parts 9001-9007, 9012, and 9031-9039. These regulations implement the provisions of 26 U.S.C. chapters 95 and 96, the Presidential Election Campaign Fund Act and the Presidential Primary Matching Payment Account Act. The Commission also published conforming amendments to 11 CFR 100.8(b), 102.17, 110.1, 110.8 and 116.5 The Commission announces that the final rules and the conforming amendments are effective as of November 6, 1991.

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219-3690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: Section 438(d) of title 2, United States Code, and 26 U.S.C. 9009(c) and 9039(c) require that any rules or regulations prescribed by the Commission to implement titles 2 and 26 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate 30 legislative days prior to final promulgation. The Commission's title 26 regulations and conforming amendments to the title 2 regulations were transmitted to Congress on July 19, 1991. Thirty legislative days expired in the Senate and the House of Representatives on October 22, 1991.

Announcement of Effective Date: 11 CFR 100.8(b) 102.17, 106.2, 110.1, 110.8, and 116.5, and 11 CFR parts 9001-9007, 9012, and 9031-9039, as published at 56 FR 35898, are effective as of November 6, 1991.

Dated: November 1, 1991.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 91-26756 Filed 11-5-91; 8:45 am]

BILLING CODE 6715-01-M

[Notice 1991-19]

11 CFR Parts 102 and 113

Use of Excess Funds

AGENCY: Federal Election Commission.

ACTION: Final Rule: Announcement of Effective Date.

SUMMARY: On July 25, 1991 (56 FR 34124), the Commission published the text of new and revised rules regarding the disposition of excess campaign or donated funds by Members of Congress. The rules amend 11 CFR 102.3, 113.1 and 113.2, to implement the Ethics Reform Act of 1989, Pub. L. 101-194. The Commission announces that these rules are effective as of November 6, 1991.

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Susan Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219-3690 or (800) 424-9530.

SUPPLEMENTARY INFORMATION: Section 438(d) of title 2, United States Code, requires that any rule or regulation prescribed by the Commission to implement title 2 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. The new rules at 11 CFR 102.3, 113.1 and 113.2 were transmitted to Congress on July 19, 1991. Thirty legislative days expired in the Senate on October 7, 1991, and in the House of Representatives on October 16, 1991.

Announcement of Effective Date: 11 CFR 102.3, 113.1 and 113.2, as published at 56 FR 34124, are effective as of November 6, 1991.

Dated: November 1, 1991.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 91-26757 Filed 11-5-91; 8:45 am]

BILLING CODE 6715-01-M

[Notice 1991-17]

11 CFR Parts 9034, 9036, and 9037

Matching Fund Submission and Certification Procedures for Presidential Primary Candidates

AGENCY: Federal Election Commission.

ACTION: Final Rule: Announcement of Effective Date.

SUMMARY: On July 25, 1991 (56 FR 34130), the Commission published the text of revised regulations setting forth procedures for matching fund submissions by Presidential primary candidates. 11 CFR 9034.1, 9034.5, 9036.2, 9036.4, 9036.5, 9036.6, 9037.1 and 9037.2. These regulations implement portions of the Presidential Primary Matching Payment Account Act. 26 U.S.C. chapter 96. The Commission announces that these rules are effective as of November 6, 1991.

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Susan E. Propper, Assistant General Counsel, 999 E Street, NW., Washington, DC 20463, (202) 219-3690 or toll free (800) 424-9530.

SUPPLEMENTARY INFORMATION: Section 9039(c) of title 26, United States Code, requires that any rules or regulations prescribed by the Commission to implement title 26 of the United States Code be transmitted to the Speaker of the House of Representatives and the President of the Senate thirty legislative days prior to final promulgation. The revisions to 11 CFR parts 9034, 9036 and 9037 were transmitted to Congress on July 19, 1991. Thirty legislative days expired in the Senate and the House of Representatives on October 22, 1991.

Announcement of Effective Date: 11 CFR 9034.1, 9034.5, 9036.2, 9036.4, 9036.5, 9036.6, 9037.1 and 9037.2, as published at 56 FR 34130 are effective as of November 6, 1991.

Dated: November 1, 1991.

John Warren McGarry,

Chairman, Federal Election Commission.

[FR Doc. 91-26755 Filed 11-5-91; 8:45 am]

BILLING CODE 6715-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 61

[Docket No. 24695; Amdt. No. 61-91]

RIN 2120-AE11

Amendment of the Compliance Date for the Annual Flight Review Requirements for Recreational Pilots and Non-Instrument-Rated Private Pilots with Fewer than 400 Hours of Flight Time; Correction

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, correction.

SUMMARY: This action corrects an error that appeared in a final rule published on September 5, 1991, (56 FR 43970) which extends, until August 31, 1993, the compliance date for the requirement that recreational pilots and non-instrument-rated private pilots with fewer than 400 hours of flight time receive an annual flight review consisting of a minimum of 1 hour each of flight and ground instruction. The effective date should be corrected to reflect the date of issuance rather than the date of publication. The effective date for this rule should be August 30, 1991, (the date of issuance) instead of September 5, 1991, (the date of publication).

EFFECTIVE DATE: This final rule is effective August 30, 1991.

FOR FURTHER INFORMATION CONTACT: Thomas Glista, Regulations Branch (AFS-850), General Aviation and Commercial Division, 800 Independence Ave. SW., Washington, DC, 20591, telephone: (202) 267-8150.

SUPPLEMENTARY INFORMATION:

Background

The compliance date for the requirement that recreational pilots and non-instrument-rated private pilots with fewer than 400 hours of flight time receive an annual flight review consisting of a minimum of 1 hour each of flight and ground instruction was to be August 31, 1991. This final rule was published to extend that compliance date until August 31, 1993. This final rule was issued and placed on display at the Office of the Federal Register on August 30, 1991, 1 day before the annual flight review requirement was to go into effect. The effective date must be changed from September 5, 1991, (the date of publication) to August 30, 1991 (the date of issuance) to reflect that the rule issued and promulgated before the August 31, 1991, compliance date.

Need for Immediate Adoption

Since this amendment corrects a publication error and does not substantively amend agency regulations, this action is relatively minor. Accordingly, I find that notice and public comment procedures are unnecessary. I further find that good cause exists for making the amendment effective in less than 30 days to eliminate any unnecessary misinterpretation of the compliance date intended.

Issued in Washington, DC on October 4, 1991.

Donald P. Byrne,

Assistant Chief Counsel for Regulations and Enforcement, Office of the Chief Counsel.

[FR Doc. 91-26598 Filed 11-5-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 97

[Docket No. 26677; Amdt. No. 1464]

Standard Instrument Approach Procedures: Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA-200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—

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

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

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

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the Federal Register expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is

unnecessary. The Provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviations Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPs criteria were applied to only these specific conditions existing at the affected airports.

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Aviation safety, Approaches, Standard instrument, Incorporation by reference.

Issued in Washington, DC on October 25, 1991.

Thomas C. Accardi,

Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

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

NFDC TRANSMITTAL LETTER

Effective	State	City	Airport	FDC No.	SIAP
09/27/91	OH.	Findlay	Findlay	FDC 1/4704	VOR RWY 36 AMDT 4 . . . *This Corrects NOTAM IN TL 91-22.*
09/27/91	OH.	Findlay	Findlay	FDC 1/4705	VOR RWY 25 AMDT 3.
10/7/91	PA.	Pittsburgh	Allegheny County	FDC 1/4952	ILS RWY 10 AMDT 3.
10/7/91	PA.	Pittsburgh	Allegheny County	FDC 1/4953	NDB RWY 28 AMDT ??
10/7/91	PA.	Pittsburgh	Allegheny County	FDC 1/4955	VOR RWY 5 AMDT 9.
10/03/91	NJ.	Pittstown	Sky Manor	FDC 1/4831	VOR RWY 7 AMDT 2 . . . *This Corrects NOTAM IN TL 91-22.*
10/03/91	NJ.	Readington	Solberg-Hunterdon	FDC 1/4830	VOR-A AMDT 6 . . . *This Corrects NOTAM IN TI 91-22.*
10/08/91	DC.	Washington	Washington Dulles Intl.	FDC 1/4924	ILS RWY 12, AMDT 5.
10/09/91	PA.	Pittsburgh	Allegheny County	FDC 1/4956	ILS RWY 28 AMDT 27.
10/10/91	FL.	Pensacola	Pensacola Regional	FDC 1/4982	VOR RWY 7 AMDT 2.
10/10/91	MI.	Kalamazoo	Kalamazoo/Battle Creek International	FDC 1/4987	NDB RWY 35 AMDT 17 . . . *This Corrects NOTAM IN TL 91-22.*
10/10/91	MI.	Kalamazoo	Kalamazoo/Battle Creek International	FDC 1/4989	LOC BC RWY 17 AMDT 17 . . . *This Corrects NOTAM IN TL 91-22.*
10/10/91	MI.	Kalamazoo	Kalamazoo/Battle Creek International	FDC 1/4995	VOR RWY 35 AMDT 15 . . . *This Corrects NOTAM IN TL 91-22.*
10/15/91	KY.	Louisville	Standiford Field	FDC 1/5073	ILS RWY 29 AMDT 20.
10/15/91	PA.	Erie	Erie Intl.	FDC 1/5101	ILS RWY 6 AMDT 15.
10/16/91	AK.	Barrow	Wiley Post-Will Rogers Mem.	FDC 1/5090	VOR RWY 24, AMDT 3.
10/16/91	AK.	Barrow	Wiley Post-Will Rogers Mem.	FDC 1/5091	VOR/DME RWY 24 ORIG.
10/16/91	PA.	Erie	Erie Intl.	FDC 1/5097	ILS RWY 24 AMDT 7.
10/16/91	PA.	Erie	Erie Intl.	FDC 1/5098	VOR/DME RWY 24 AMDT 11.
10/16/91	PA.	Erie	Erie Intl.	FDC 1/5100	VOR RWY 6 AMDT 15.
10/16/91	PA.	Galeton	Cherry Springs	FDC 1/5095	VOR-A AMDT 5.
10/17/91	AK.	Fairbanks	Fairbanks Intl.	FDC 1/5031	ILS RWY 19R, AMDT 20.
10/17/91	AK.	King Salmon	King Salmon	FDC 1/5032	LOC/DME BC RWY 29, AMDT 1.
10/17/91	PA.	Erie	Erie Intl.	FDC 1/5115	NDB RWY 24 AMDT 17.
10/17/91	PA.	Philadelphia	Northeast Philadelphia	FDC 1/5116	ILS RWY 24 AMDT 9.
10/18/91	OH.	Portsmouth	Greater Portsmouth Regional	FDC 1/5144	NDB RWY 36 AMDT 2.
10/22/91	WA.	Olympia	Olympia	FDC 1/5210	VOR RWY 17 AMDT 10 . . . *This Supersedes NOTAM IN TL 91-21.*
10/24/91	FL.	Sanford	Central Florida Regional	FDC 1/5267	RNAV RWY 9 AMDT 9.
10/24/91	FL.	Sanford	Central Florida Regional	FDC 1/5268	NDB RWY 9 AMDT 11.
10/24/91	FL.	Sanford	Central Florida Regional	FDC 1/5269	ILS RWY 9 AMDT 1.

NFDC Transmittal Letter Attachment

Fairbanks
Fairbanks Intl
Alaska
ILS RWY 19, AMDT 20 . . .
Effective: 10/17/91
FDC 1/5031/FAI/FI/P Fairbanks Intl, Fairbanks, AK. ILS RWY 19R, AMDT 20 . . . Min Alt at Fox NDB 3500. This is ILS RWY 19R AMDT 20A.

King Salmon
King Salmon
Alaska
LOC/DME BC RWY 29, AMDT 1 . . .
Effective: 10/17/91
FDC 1/5032/AKN/FI/P King Salmon, King Salmon, AK. LOC/DME BC RWY 29, AMDT 1 . . . Disregard Glideslope Indications. This is LOC/DME BC RWY 29 AMDT 1A.

Barrow
Wiley Post-Will Rogers Mem
Alaska
VOR RWY 24, AMDT 3 . . .
Effective: 10/16/91
FDC 1/5090/BRW/FI/P Wiley Post-Will Rogers Mem, Barrow, AK. VOR RWY 24, AMDT 3 . . . MSA from BRW VORTAC 1300. This is VOR RWY 24 AMDT 3A.

Barrow
Wiley Post-Will Rogers Mem
Alaska
VOR/DME RWY 24 ORIG . . .
Effective: 10/16/91
FDC 1/5091/BRW/FI/P Wiley Post-Will Rogers Mem, Barrow, AK. VOR/DME RWY 24 Orig . . . MSA from BRW VORTAC 1300. This is VOR/DME RWY 24 orig. A.

Washington
Washington Dulles Intl
District of Columbia
ILS RWY 12, AMDT 5 . . .
Effective: 10/08/91
FDC 1/4924/IAD/FI/P Washington Dulles Intl, Washington, DC. ILS RWY 12, AMDT 5 . . . Change Min Alt at Knuck Int to 4500. This becomes ILS RWY 12 AMDT 5A.

Pensacola
Pensacola Regional
Florida
VOR RWY 7 AMDT 2 . . .
Effective: 10/10/91
FDC 1/4982/PNS/FI/P Pensacola Regional, Pensacola, FL. VOR RWY 7 AMDT 2 . . . S-7 MDA 800 HAT 704 ALL CATS. VIS CAT C 2, Cat D 2¼. Circling MDA 800 HAA 679, all CATS VIS C 2, CAT D 2¼. PROC turn outbound min alt 2600. Terminal route. PENSI to NUN VOR min alt 2600. Missed APCH . . . climb to 2600 then left turn direct NUN VOR and hold. Alt mins CAT D 800 2¼. FAF to MAP 7.5 NM TDZE 96. MSA from NUN VOR 040-280, 1800, 280-040 2900. Change all references to rwy 7-25 to rwy 8-26. This becomes VOR RWY 8 AMDT 2A.

Sanford
Central Florida Regional
Florida
RNAV RWY 9 AMDT 9 . . .
Effective: 10/24/91
FDC 1/5267/SFB/FI/P Central Florida Regional, Sanford, FL. RNAV RWY 9 AMDT 9 . . . change all references to rwy 9-27 to rwy 9L-27R. This becomes RNAV rwy 9L, AMDT 9A.

Sanford
Central Florida Regional
Florida
NDB RWY 9 AMDT 11 . . .
Effective: 10/24/91
FDC 1/5268/SFB/FI/P Central Florida Regional, Sanford, FL. NDB RWY 9 AMDT 11 . . . change all references to RWY 9-27 to RWY 9L-27R. This becomes NDB RWY 9L AMDT 11A.

Sanford
Central Florida Regional
Florida
ILS RWY 9 AMDT 1 . . .
Effective: 10/24/91
FDC 1/5269/SFB/FI/P Central Florida Regional, Sanford, FL. ILS RWY 9 AMDT 1 . . . change all references to RWY 9-27 to RWY 9L-27R. This becomes ILS RWY 9L AMDT 1A.

Louisville
Standiford Field
Kentucky
ILS RWY 29 AMDT 20 . . .
Effective: 10/15/91
FDC 1/5073/SDF/FI/P Standiford Field, Louisville, KY. ILS RWY 29 AMDT 20 . . . missed APCH . . . climb to 900, then climbing left turn to 2700 via heading 230 and IIU R-279 to DAMEN INT and hold. This is ILS RWY 29 AMDT 20A.

Kalamazoo
Kalamazoo/Battle Creek International
Michigan
NDB RWY 35 AMDT 17 . . .
Effective: 10/10/91
This Corrects NOTAM in TL 91-22
FDC 1/4987/AZO/FI/P Kalamazoo/Battle Creek International, Kalamazoo, MI. NDB RWY 35 AMDT 17 . . . S-35 MDA 1500/HAT 632 ALL CATS. VIS CAT C 6000, CAT D 1-¾. Circling MDA 1500, HAA 626 all CATS, VIS CAT C 1-¾. South Bend ALSTG MINS S-35 MDA 1720/HAT 852 all CATS, VIS CAT B 1, CAT C 2, CAT D 2-½. Circling MDA 1720/HAA 846 all CATS. VIS CAT B 1-¼, CAT C 2-½, CAT D 2-¾. Delete Note, "when control tower closed . . . thru . . . use south bend ALSTG." Add note, "when control tower closed, except for operators with approved weather reporting service. use south bend ALSTG." This is NDB RWY 35 AMDT 17A.

Kalamazoo
Kalamazoo/Battle Creek International
Michigan
LOC BC RWY 17 AMDT 17 . . .
Effective: 10/10/91
This corrects NOTAM in TL 91-22.
FDC 1/4989/AZO/FI/P Kalamazoo/Battle Creek International, Kalamazoo, MI. Loc BC RWY 17 AMDT 17 . . . PANGA fix MINS circling MDA 1500/HAA 626 all CATS, VIS CAT C 1-¾. Delete transition . . . OSEGO INT to UPJON INT (NOPT). Delete note, "air carrier landing visibility . . . thru . . . 3. Straight-in MINS NA." Add notes, "when control tower closed, except for operators with approved weather reporting service, use south bend ALSTG. Increase all MDA's 220 feet and all VIS ¾ mile. Straight-in mins NA. Loc BC unusable beyond 20 degrees left side of centerline." This is LOC BC RWY 17 AMDT 17A.

Kalamazoo
Kalamazoo/Battle Creek International
Michigan
VOR RWY 35 AMDT 15 . . .
Effective: 10/10/91
This corrects NOTAM in TL 91-22.
FDC 1/4995/AZO/FI/P Kalamazoo/Battle Creek International, Kalamazoo, MI. VOR RWY 35 AMDT 15 . . . S-35 MDA 1460/HAT 592 all CATS. VIS CAT A/B RVR 4000, CAT C RVR 5000, CAT D RVR 6000. Circling MDA 1500/HAA 626 all CATS; VIS CAT C 1¾. South Bend ALSTG MINS . . . S-35 MDA 1660/HAT 792 all CATS. VIS CAT A/B 1, CAT C 1¾ CAT D 2. Circling MDA 1720/HAA 846 all CATS, VIS CAT B 1¼ CAT C 2½, CAT D 2¾. Delete Note, "CAT D S-35 visibility increased . . . thru . . . use southbend altimeter setting." Add note, "when control tower closed, except for operators with approved weather reporting service. use South Bend altimeter setting. CAT A/B S-35 visibility increased ¼ mile for inoperative MALSR." This is VOR RWY 35 AMDT 15A.

Readington
Solberg-Hunterdon
NJ.
VOR-A AMDT 6 . . .
Effective: 10/03/91
This corrects NOTAM in TL 91-22.
FDC 1/4830/N51/FI/P Solberg-Hunterdon, Readington, NJ. VOR-A AMDT 6 . . . add note "PROC NA

at night except by prior arrangements for RW lights." This becomes VOR-A AMDT 6A.

Pittstown
Sky Manor
NJ.
VOR RWY 7 AMDT 2 . . .
Effective: 10/03/91
This corrects NOTAM in TL 91-22.
FDC 1/4831/N40/ FI/P Sky Manor, Pittstown, NJ. VOR RWY 7 AMDT 2 . . . delete terminal route ABE VORTAC to EVITT INT. This becomes VOR RWY 7 AMDT 2A.

Findlay
Findlay
Ohio
VOR RWY 36 AMDT 4 . . .
Effective: 09/27/91
This corrects NOTAM in TL 91-22.
FDC 1/4704/FDY/ FI/P Findlay, Findlay, OH. VOR RWY 36 AMDT 4 . . . alternate minimums NA. delete note "when local altimeter . . . thru . . . 160 feet." Minimum altitude PEGGE INT 1320. Delete PEGGE INT profile note "1480 when using Toledo express altimeter setting." Add note "Request rail/REIL RWYS 7 & 36, and MIRL RWYS 7-25 and 18-36—CTAF." This is VOR RWY 36 AMDT 4A.

Findlay
Findlay
Ohio
VOR RWY 25 AMDT 3 . . .
Effective: 09/27/91
FDC 1/4705/FDY/ FI/P Findlay, Findlay, OH. VOR RWY 25 AMDT 3 . . . alternate minimums . . . NA. delete note "when local altimeter . . . thru . . . 160 feet." Add note "request rail/REIL RWYS 7 & 36, and MIRL RWYS 7-25 and 18-36—CTAF." This is VOR RWY 25 AMDT 3A.

Portsmouth
Greater Portsmouth Regional
Ohio
NDB RWY 36 AMDT 2 . . .
Effective: 10/18/91
FDC 1/5144/PMH/ FI/P Greater Portsmouth Regional, Portsmouth, OH. NDB RWY 36 AMDT 2 . . . terminal route . . . YRK VORTAC to PMH NDB—course 042 degrees. This is NDB RWY 36 AMDT 2A.

Pittsburgh
Allegheny County
Pennsylvania
ILS RWY 10 AMDT 3 . . .
Effective: 10/7/91
FDC 1/4952/AGC/ FI/P Allegheny County, Pittsburgh, PA. ILS RWY 10 AMDT 3 . . . delete note "when control tower closed 1. SSALR RWY 28 becomes SSALS. 2. Activate SSALS RWY 28—CTAF." This becomes ILS RWY 10 AMDT 3A.

Pittsburgh
Allegheny County
Pennsylvania
NDB RWY 28 AMDT 22 . . .
Effective: 10/7/91
FDC 1/4953/AGC/ FI/P Allegheny County, Pittsburgh, PA. NDB RWY 28 AMDT 22 . . . delete note "when control tower closed 1. SSALR becomes SSALS. 2. activate SSALS RWY 28—CTAF. 3. S-28 VIS CAT C 1¾, CAT D 2. 4. S-28 OM MINS VIS CAT C 6000, CAT D 1½. 5. INOP components table does not apply to CAT C." This becomes NDB RWY 28 AMDT 22A.

Pittsburgh
Allegheny County
Pennsylvania
VOR RWY 5 AMDT 9 . . .
Effective: 10/7/91
FDC 1/4955/AGC/ FI/P Allegheny County, Pittsburgh, PA. VOR RWY 5 AMDT 9 . . .delete note "when control tower closed 1. SSALR becomes SSALS. 2. Activate SSALS RWY 28-CTAF." This becomes VOR RWY 5 AMDT 9A.

Pittsburgh
Allegheny County
Pennsylvania
ILS RWY 28 AMDT 27 . . .
Effective: 10/09/91
FDC 1/4956/AGC/ FI/P Allegheny County, Pittsburgh, PA. ILS RWY 28 AMDT 27 . . .delete note "when control tower closed . . .thru . . .CAT D RVR 6000." This becomes ILS RWY 28 AMDT 27A.

Galeton
Cherry Springs
Pennsylvania
VOR-A AMDT 5 . . .
Effective: 10/16/91
FDC 1/5095/5G6/ FI/P Cherry Springs, Galeton, PA. VOR-A AMDT 5 . . .delete note "caution . . . look-out tower and high ridge 1.5 NM SE of ARPT." Add note "PROC NA at night except by prior arrangement for RWY lights". Delete CAT D mins. This becomes VOR-A AMDT 5A.

Erie
Erie Intl
Pennsylvania
ILS RWY 24 AMDT 7 . . .
Effective: 10/16/91
FDC 1/5097/ERI/ FI/P Erie Intl, Erie, PA. ILS RWY 24 AMDT 7 . . .S-ILS-24 VIS 3/4 all CATS. S-LOC-24 VIS 3/4 CATS A/B/C. Change note "CAT D S-LOC VIS increased to 1 mile for INOP MM." To "CAT A/B/C S-LOC-24 VIS increased 1/4 mile for INOP MALSR." Delete note "when control tower closed, activate MALSR RWY 24, SSALS RWY 6-CTAF." This becomes ILS RWY 24 AMDT 7A.

Erie
Erie Intl
Pennsylvania
VOR/DME RWY 24 AMDT 11 . . .
Effective: 10/16/91
FDC 1/5098/ERI/ FI/P Erie Intl, Erie, PA. VOR/DME RWY 24 AMDT 11 . . .S-24 VIS 3/4 CATS A/B. Delete note "when control tower . . . thru . . . RWY 6—CTAF." Add note "CAT A/B S-24 VIS increased 1/4 miles for INOP MALSR." This becomes VOR/DME RWY 24 AMDT 11A.

Erie
Erie Intl
Pennsylvania
VOR RWY 6 AMDT 15 . . .
Effective: 10/16/91
FDC 1/5100/ERI/ FI/P Erie Intl, Erie, PA. VOR RWY 6 AMDT 15 . . . delete note "When CTL TWR closed . . . thru . . . table does not apply." This becomes VOR RWY 6 AMDT 15A.

Erie
Erie Intl
Pennsylvania
ILS RWY 6 AMDT 15 . . .
Effective: 10/15/91
FDC 1/5101/ERI/ FI/P Erie Intl, Erie, PA. ILS RWY 6 AMDT 15 . . .change note 'INOP components table does not apply to S-LOC, S-LOC CAT C VIS increased to RVR 6000 and CAT D VIS increased to 1½ miles for INOP SSALR' TO 'INOP components table does not apply to S-LOC CAT C VIS increased to RVR 6000 and CAT D VIS increased to 1½ miles for INOP MALSR.' Delete note 'when CTL TWR closed 1. SSALR becomes SSALS. 2. Activate SSALS RWY 6 and MALSR RWY 24-CTAF. 3. INOP components table does not apply. 4. S-ILS VIS all CATS increased to 1 Mile. 5. S-LOC VIS CAT C increased to 1¼ miles and CAT D increased to 1½ miles.' This becomes ILS RWY 6 AMDT 15A.

Erie
Erie Intl
Pennsylvania
NDB RWY 24 AMDT 17 . . .
Effective: 10/17/91
FDC 1/5115/ERI/ FI/P Erie Intl, Erie, PA. NDB RWY 24 AMDT 17 . . .delete note "when CTL TWR closed, activate MALSR RWY 24, SSALS RWY 6—TAF". This becomes AMDT 17A.0.

Philadelphia

Northeast Philadelphia
Pennsylvania
ILS RWY 24 AMDT 9 . . .
Effective: 10/17/91
FDC 1/5116/PNE/ FI/P Northeast Philadelphia, Philadelphia, PA. ILS RWY 24 AMDT 9 . . .S–ILS–RWY 24 VIS ¾ ALL CATS, S–LOC RWY 24 VIS 3/4 CATS A/B/C. For INOP MALSR S–LOC–24 VIS 1 CATS A/B/C. This becomes ILS RWY 24 AMDT 9A.
Olympia
Olympia
Washington
VOR RWY 17 AMDT 10 . . .
This supersedes NOTAM IN TL 91–21
FDC 1/5210/OLM/ FI/P Olympia, Olympia, WA. VOR RWY 17 AMDT 10 . . .S–17 MDA 860/HAT 658 all CATS VIS CATS A and B ¾ CAT C 1¼, CAT D 1½. Circling CATS A and B MDA 860/HAA 654 VIS 1 CAT C MDA 860/HAA 654 VIS 1¾, CAT D MDA 960/HAA 754 VIS 2½. This is VOR RWY 17 AMDT 10A.

[FR Doc. 91–26601 Filed 11–5–91; 8:45 am]
BILLING CODE 4910–13–M

Federal Highway Administration

23 CFR Part 140

[FHWA Docket No. 90–15]

RIN 2125–AC64

Reimbursement for Railroad Work

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The FHWA is amending its regulation on reimbursement for railroad work to add an optional method of determining eligibility of reimbursable self-insurance cost. The Liability Insurance Committee of the Railroad Insurance Management Association suggested the regulation be changed to include as an alternative a reimbursable fixed national force account self-insurance rate, because railroads were experiencing considerable difficulty in getting self-insurance rates approved. This change should ease the administrative burden of determining appropriate self-insurance rates for worker compensation insurance and public liability and property damage insurance.

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Jerry Poston, Office of Engineering, (202) 366–0450; or Mr. Wilbert Baccus, Office of Chief Counsel, (202) 366–0780, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The FHWA's current regulation dealing with reimbursement for worker compensation insurance and public liability and property damage insurance for railroad force account work performed on Federal-aid highway projects is contained in 23 CFR part 140, subpart I. Under § 140.906(b), the costs of this insurance are eligible for reimbursement. If a railroad is a self-insurer, costs are to be experience rates developed from actual costs, not to exceed the rates of a regular insurance company.

The Liability Insurance Committee of the Railroad Insurance Management Association claimed that railroads were experiencing considerable difficulty in getting self-insurance rates approved. It suggested the regulation be changed to include as an alternative a reimbursable fixed national force account self-insurance rate of 8 percent of direct labor costs. The FHWA agreed to review the issue.

The FHWA's current regulation that deals with the maximum dollar amount of coverage for railroad protective liability insurance to be reimbursed from Federal-aid funds is contained in 23 CFR part 646, subpart A. Under § 646.111(a), the maximum dollar amounts of coverage to be reimbursed from Federal funds with respect to bodily injury, death and property damage is limited to a combined amount of $2 million per occurrence with an aggregate of $6 million for each annual period with certain exceptions included in 23 CFR 646.111(b). These limits have been in effect since 1980.

The Liability Insurance Committee of the Railroad Insurance Management Association requested that the reimbursable limits be raised to $5 million per occurrence and an aggregate of $10 million per annual policy period because of loss exposure increases over the last 10 years and the potential for catastrophic loss involving a train derailment at a rail-highway project site. The FHWA agreed to review this issue.

In a notice of proposed rulemaking (NPRM), FHWA Docket 90–15 (55 FR 49902, December 3, 1990), the FHWA proposed to amend its regulation to include as an alternative a reimbursable fixed national force account self-insurance rate of 8 percent to cover both worker compensation insurance and public liability and property damage insurance. This change was proposed to ease the administrative burden of determining appropriate self-insurance rates. The FHWA also proposed to amend its regulation to increase the reimbursable railroad protective liability insurance coverage limits to $5 million per occurrence and an aggregate of $10 million per annual period. This change was proposed to update the railroad protective liability insurance coverage limits.

There were 17 commenters on the NPRM. Comments were received from 10 State highway agencies, 3 railroad companies, one transit authority, one insurance company, the American Short Line Railroad Association, and the Railroad Insurance Management Association's Liability Insurance Committee.

Fourteen commenters addressed reimbursement for force account self-insurance. Twelve of the commenters favored the proposed change. The commenters in favor of the proposed change cited as their reasons the fact that railroads have had difficulty establishing self-insurance rates because they have not had adequate loss experience over a sufficient period of time to accurately set rates, and the proposed change would allow both railroad and State auditors to avoid expensive analysis and audit time and allow below-market rates charged against highway projects, which would be a cost savings to the projects.

Two comments did not favor the proposed change. One railroad company endorsed a fixed rate, but recommended it be set at 10 percent instead of 8 percent with an escalation provision added to automatically adjust the rate each year to reflect the increased costs associated with increases in risk and loss exposure. One State highway agency recommended no change in the regulation, because it thought if the railroads were given an optional method of determining rates they would use the method that gives them the best net benefit.

The FHWA has decided to revise its regulation to allow the alternative of a reimbursable force account self-insurance rate of 8 percent of direct labor costs to cover both worker compensation insurance and public liability and property damage insurance. This should ease the administrative burden of determining appropriate self-insurance rates.

The FHWA believes 8 percent would be a reasonable and adequate reimbursement rate. This percentage also represents the rate supported by the majority of the commenters. If a railroad wishes to request a higher rate, e.g., 10 percent, it would have the option under the rule of submitting a higher

rate for approval. While the FHWA is amending its regulation to allow the railroads the option of determining the rate that is most beneficial for them, the States continue to retain their approval authority over reimbursable rates for railroads operating within their jurisdiction.

All commenters addressed the reimbursable limits for railroad protective liability insurance (RPLI). Six State highway agencies and one insurance company opposed the proposed changes. Four State highway agencies and the insurance company thought many insurance companies would have difficulty insuring the higher limits. The insurance company recommended the limits be raised to $3 million and $9 million. One State highway agency recommended the proposed limits be reduced to allow coverage by a single insurance company. Three State highway agencies estimated the rate of increase in premiums that would occur if coverage was increased to the proposed limits. These agencies estimate the rate of increase in premiums would range from two to five times the cost for current coverage. Three State highway agencies and the insurance company thought it would be difficult for smaller contractors to purchase the larger coverage, which would keep them from bidding on projects. One State highway agency thought the limits should not be raised until there has been further study of the need for a higher limit and the possible negative impact of increased premiums on smaller contractors. Two State highway agencies thought that few claims had been paid under RPLI, and one agency recommended that an investigation be conducted into the past performance of RPLI, including its cost, its application and the benefits derived from it.

Four State highway agencies, three railroad companies, a transit authority, the American Short Line Railroad Association (ASLRA), and the Railroad Insurance Management Association (RIMA), Liability Insurance Committee favored the proposed increases in reimbursable limits. One State highway agency thought the proposed increases were justified in light of the large damage amounts being awarded in accidents. One railroad and the ASLRA believe the proposed increases in limits are justified based on the increase in loss exposure that has taken place over the last 10 years. One railroad recommended that an escalator provision be established in order to allow reimbursable limits to keep pace with increases in loss exposure. Two railroads stated that increased claims costs since 1980 justify the proposed increases. The RIMA and one railroad believe if there is a demand for higher limits, insurance companies will readily provide them.

Upon further review the FHWA has decided not to change the reimbursable limits for railroad protective liability insurance at this time. Commenters have raised questions about the increased costs and the availability of the insurance if the limits are raised. Another issue raised by commenters was how much claim experience there has been against RPLI. These issues were not resolved in the responses to the docket. The need to raise the reimbursable limits to $5 million/$10 million for all rail-highway projects has not been established to the FHWA's satisfaction. The option still exists under 23 CFR 646.111(b) for Federal reimbursement of coverage greater than $2 million/$6 million in cases involving real and demonstrable danger of appreciably higher risks.

Rulemaking Analyses and Notices

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

The FHWA has determined that this action is not major within the meaning of Executive Order 12291 or significant within the meaning of Department of Transportation regulatory policies and procedures. It is anticipated that the economic impact of this rulemaking will be minimal; therefore, a full regulatory evaluation is not required.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (Pub. L. 96-354, 5 U.S.C. 605(b)), the FHWA has evaluated the effects of this rule on small entities.

In the NPRM published December 3, 1990 (55 FR 49902), the FHWA made a tentative determination that the expected impact of the proposed revision on small entities would be minimal and invited commenters to submit any relevant data. No comments were received regarding this issue and, after further consideration, the FHWA believes that this revision will not appreciably impact small entities.

Based on this evaluation, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12612 (Federalism Assessment)

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

Executive Order 12372 (Intergovernmental Review)

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

Paperwork Reduction Act

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

National Environmental Policy Act

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

Regulation Identification Number

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

List of Subjects in 23 CFR Part 140

Grant programs— Transportation. Highways and roads, Insurance. Railroads.

Issued on: October 28, 1991.

T.D. Larson,

Administrator.

In consideration of the foregoing, part 140, subpart I to chapter I of title 23, Code of Federal Regulations, is amended as set forth below.

PART 140—REIMBURSEMENT

1. The authority citation for part 140 is revised to read as follows and all other authority citations which appear throughout part 140 are removed:

Authority: 23 U.S.C. 101(e), 109(e), 114(a), 115(b), 120, 121, 122 and note, 130, 315; 49 CFR 1.48(b).

SUBPART I—REIMBURSEMENT FOR RAILROAD WORK

2. Part 140, subpart I is amended by revising § 140.906(b)(2) to read as follows:

§ 140.906 Labor costs.

* * * * *

(b) * * *

(2) Where the company is a self-insurer there may be reimbursement:

(i) At experience rates properly developed from actual costs, not to exceed the rates of a regular insurance company for the class of employment covered, or

(ii) At the option of the company, a fixed rate of 8 percent of direct labor costs for worker compensation and public liability and property damage insurance together.

[FR Doc. 91-26729 Filed 11-5-91; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part O

[Order No. 1544-91]

Delegation of Authority to Assistant Attorney General, Civil Division

AGENCY: Department of Justice.

ACTION: Final Rule.

SUMMARY: This order will amend part O of title 28 of the Code of Federal Regulations to delegate to the Assistant Attorney General, Civil Division the authority assigned to the Attorney General by section 6486 of the Anti-Drug Abuse Act of 1988, Public Law No. 100-690 (hereinafter the Act), 21 U.S.C. 844a. Section 6486 authorizes the Attorney General to assess civil penalties of up to $10,000 for the possession of small amounts of certain controlled substances.

EFFECTIVE DATE: October 28, 1991.

FOR FURTHER INFORMATION CONTACT: Richard C. Stearns, room 3639, Department of Justice, 10th and Constitution Avenue, NW., Washington, DC 20530. Tel. No. (202) 514-3331. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Section 6486 of the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690), 21 U.S.C. 844a, establishes a civil penalty not to exceed $10,000 for knowingly possessing certain designated controlled substances in "a personal use amount," as defined in regulations promulgated by the Attorney General. The Act authorizes the Attorney General to assess such a civil penalty in an administrative proceeding that includes the opportunity for a hearing on the record. In the event the Attorney General issues an order assessing a civil penalty against an individual, the Act authorizes the individual to bring an action in federal district court. In such an action the law and facts relating to the violation and assessment shall be determined *de novo*. The Act also provides for expungement of the record of section 6486 administrative proceedings if certain conditions are met. Final regulations implementing section 6486 were developed by the Department of Justice and were published in the **Federal Register** on January 11, 1991 (56 FR 1086). See 28 CFR part 76. Consistent with and supplemental to those regulations this order delegates to the Assistant Attorney General, Civil Division certain authority and responsibilities of the Attorney General under the Act and the regulations.

This order is a matter of internal department management. It will not have a significant economic impact on a substantial number of small entities. 5 U.S.C. 605(b). It is not a major rule within the meaning of or subject to Executive Order No. 12291.

List of Subjects in 28 CFR Part O

Authority delegations (Government agencies), Government Employees, Organization and functions (Government agencies), Whistleblowing.

Therefore, by virtue of the authority vested in me by law, including 5 U.S.C. 301, 21 U.S.C. 844a and 28 U.S.C. 509, 510, subpart I of part O of title 28 of the Code of Federal Regulations is amended as follows:

PART O—[AMENDED]

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

Authority: 5 U.S.C. 301; 28 U.S.C. 509-510; 515-519.

2. Section 0.45 is amended by adding paragraph (l) to read as follows:

§ 0.45 General functions.

* * * * *

(l) *Civil penalties for drug possession*—the authority and responsibilities of the Attorney General under section 6486 of the Anti-Drug Abuse Act of 1988 (21 U.S.C. 844a) and the regulations implementing that Act (28 CFR part 76). Such authority and responsibilities may be redelegated by the Assistant Attorney General to subordinate division officials to the extent and subject to limitations deemed advisable.

Dated: October 28, 1991.

William P. Barr,

Acting Attorney General.

[FR Doc. 91-26492 Filed 11-5-91; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 915

Approval of Amendment to the Iowa Permanent Regulatory Program

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

ACTION: Final rule.

SUMMARY: OSM is announcing approval of a proposed program amendment to Iowa's permanent regulatory program (hereinafter referred to as the Iowa program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment was initially submitted to OSM on February 9, 1988, with revised amendments submitted on June 9, 1988, and December 18, 1990, and pertains to: General requirements, initial regulatory program, areas unsuitable for mining, permits for operations and exploration, small operator assistance, bonding and insurance, permanent program performance standards, inspection and enforcement, blaster certification, and contested cases and public hearings. The amendment revises the State program to be consistent with the corresponding Federal regulations, incorporates the additional flexibility afforded by the revised Federal regulations, and improves operational efficiency.

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Jerry R. Ennis, Telephone: (816) 374-6405.

SUPPLEMENTARY INFORMATION:

I. Background

The Secretary of the Interior approved the Iowa program effective April 10, 1981. Information pertinent to the general background and revisions to the permanent program submission, as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Iowa program, can be found in the January 21, 1981, **Federal Register** (46 FR 5885). Subsequent actions concerning proposed amendments are codified at 30 CFR 915.15.

II. Submission of Amendment

In accordance with the provisions of 30 CFR 732.17, on August 1, 1986, the Director notified Iowa of needed changes to its approved regulatory program (Administrative Record No. IA-280). These changes included all revisions to the Federal regulations that had been adopted since the effective approval of Iowa's program on April 10, 1981, but prior to July 1, 1983, that were determined to be less effective than the Federal standard. Additionally, on June 9, 1987, the Director notified Iowa, in accordance with the provisions of 30 CFR 732.17, of needed changes resulting from regulations promulgated by OSM on February 10, 1987, (52 FR 4244). These additional changes concerned historic properties during the permitting of surface coal mining operations (Administrative Record No. IA-307).

On February 9, 1988, (Administrative Record No. IA-305) Iowa submitted to OSM a proposed amendment to its approved program. OSM published a notice in the March 31, 1988, **Federal Register** (53 FR 10397) announcing receipt of the amendment and inviting public comment on its adequacy (Administrative Record No. IA-323). The public comment period ended April 15, 1988.

On June 9, 1988 (Administrative Record No. IA-319), Iowa submitted a revised proposed amendment, both to comply with the requirements set forth in the above notification as well as to incorporate all changes to the Federal regulations through July 1, 1987. That proposal rescinds regulations at section 780, chapter 4, Surface Coal Mining and Reclamation Operations, of the Iowa Administrative Code (IAC) and replaces them with section 27, chapters 40 through 49, of the IAC. Iowa reorganized the regulatory authority from the Division of Mines and Minerals within the Department of Soil Conservation to the Division of Soil Conservation (DSC) within the Department of Agriculture and Land Stewardship. Consequently, the regulations have been recodified from section 780, chapter 4, to section 27, chapters 40 through 49. The applicable sections of the Code of Federal Regulations (CFR) at 30 CFR part 700 through 955, as they were in effect on July 1, 1987, are proposed to be incorporated into the Iowa program. Iowa has also incorporated the editorial notes that suspend certain provisions of the regulations as required by court decisions. The proposed amendment thus excludes Federal provisions suspended as of July 1, 1987. The regulations that Iowa proposes to amend are: Iowa Administrative Code (IAC) 27-40.1, Authority and scope; 27-40.2, Rules or subrules severable; 27-40.3, General; 27-40.4, Permanent regulatory program; 27-40.5, Restrictions on financial interests of State employees; 27-40.6, Exemptions for coal extraction incident to government-financed highway or other constructions; 27-40.7, Protection of employees; 27-40.11, Initial regulatory program; 27-40.12, General performance standards—initial program; 27-40.13 Special performance standards—initial program; 27-40.21, Areas designated by an Act of Congress; 27-40.22, Criteria for designating areas as unsuitable for surface coal mining operations; 27-40.23, State procedures for designating areas unsuitable for surface coal mining operations; 27-40.30, Requirements for coal exploration; 27-40.31, Requirements for permits and permit processing; 27-40.32, Revision; renewal; and transfer, assignment, or sale of permit rights; 27-40.33, General content requirements for permit applications; 27-40.34, Permit application—minimum requirements for legal, financial, compliance, and related information; 27-40.35, Surface mining permit applications—minimum requirements for information on environmental resources; 27-40.36, Surface mining permit applications—minimum requirements for reclamation and operation plan; 27-40.37, Underground mining permit applications—minimum requirements for information on environmental resources; 27-40.38, Underground mining permit applications—minimum requirements for reclamation and operation plan; 27-40.39, Requirements for permits for special categories of mining; 27-40.41, Permanent regulatory program—small operator assistance program; 27-40.51, Bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs; 27-40.61, Permanent program performance standards—general provisions; 27-40.62, Permanent program standards—coal exploration; 27-40.63, Permanent program standards—surface mining activities; 27-40.64, Permanent program standards—underground mining activities; 27-40.65, Special permanent program standards—auger mining; 27-40.66, Special permanent program standards—operations on prime farmland; 27-40.67, Special permanent program standards—coal preparation plants not located within the permit area of a mine; 27-40.68, Special permanent program standards—in situ processing; 27-40.71, State regulatory authority—inspection and enforcement; 27-40.72, Inspections and monitoring; 27-40.73, Enforcement; 27-40.74, Civil penalties; 27-40.81, Permanent regulatory program requirements—standards for certification of blasters: 27-40.82, Certification of blasters; 27-40.91 Procedural rules: Contested cases and public hearings; 27-40.92, Contested cases; 27-40.93, Commencement of proceeding; 27-40.94, Appeals of division notices and orders; 27-40.95, Prehearing motions; 27-40.96, Issuance of notices of hearings; 27-40.97, Hearing procedures; 27-40.98, Posthearing procedures; and 27-40.99, Decision of the administrative law judge. OSM published a notice in the July 20, 1988, **Federal Register** (53 FR 27362) announcing receipt of the proposed June 9, 1988, amendment and invited public comment on its adequacy (Administrative Record No. IA-332). The public comment period closed on August 4, 1988.

Following a review of the Iowa amendment, OSM notified the State on September 23, 1988, May 5, 1989, and July 13, 1989, of concerns it had with several provisions (Administrative Record Nos. IA-335, 339, and 341, respectively). In a letter dated May 27, 1990 (Administrative Record No. IA-342), Iowa responded by requesting an informal review of proposed changes it made to address the concerns raised by OSM. During its review, OSM identified several provisions that continued to be less effective than the Federal regulations and notified Iowa of the concerns in two letters dated July 19, 1990 (Administrative Record No. IA-351) and August 22, 1990 (Administrative Record No. IA-355).

On December 18, 1990, (Administrative Record No. IA-357) Iowa resubmitted a proposed amendment package that addressed all past issues raised by OSM including several new ones that were identified in a 30 CFR part 732 letter that OSM sent to Iowa on June 22, 1990 (Administrative Record No. IA-353), dealing with subsidence control. OSM published a notice in the January 4, 1991, **Federal Register** (56 FR 398) announcing receipt of the resubmitted proposed amendment and invited public comment on its adequacy (Administrative Record No. IA-359). The public comment period ended February 19, 1991.

III. Director's Findings

1. Provisions Not Discussed

Iowa has chosen to use State regulatory language that is substantially identical to counterpart Federal language throughout its program except for those few areas where it has

retained provisions, unique to the Iowa program, that the Director previously approved in Iowa's original program submission. Provisions that are not discussed contain language that is substantially identical to the corresponding Federal regulations, are nonsubstantive in nature, or add specificity, without adversely affecting other aspects of the program.

The Director, therefore, finds that the Iowa program amendment meets the requirements of SMCRA and 30 CFR chapter VII, except as discussed below. The approved State regulations are identified in the Federal regulations at 30 CFR 915.15—Approval of regulatory program amendments.

2. Iowa Administrative Code (IAC) 27–40.3 General

Iowa proposes to amend its rules at IAC 27–40.3 by incorporating by reference the Federal regulations at 30 CFR part 700 as they existed on July 1, 1987. One of the Federal regulations, 30 CFR 700.11(d), outlines when a regulatory authority may terminate its jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation, or increment thereof.

The U.S. District Court for the District of Columbia found that the Federal regulations at 30 CFR 700.11(d) were contrary to sections 521 (a)(1) and (a)(2) of SMCRA. The Court interpreted the language of section 521 (a)(1) and (a)(2) as imposing an "on-going duty upon the Secretary to correct violations of the Act" and that this duty appears to be "without limitation." Therefore, the Court remanded 30 CFR 700.11(d) (*National Wildlife Federation* v. *Lujan*, 31 ERC 2034 (August 30, 1990)) to the Secretary to be revised or withdrawn.

Based upon the Court's finding that the Federal regulation at 30 CFR 700.11(d) is contrary to the provisions of SMCRA, and the Court's specific instruction to withdraw or revise 30 CFR 700.11(d), the Director finds that IAC 27–40.3 is inconsistent with and less stringent than Sections 521(a)(1) and (a)(2) of SMCRA. Therefore, the Director is not approving IAC 27–40.3 concerning termination of jurisdiction.

The Director will in the future and pursuant to 30 CFR 732.17(d), notify Iowa of the regulatory changes needed for the above rule.

3. IAC 27–40.4 Permanent Regulatory Program

Iowa proposes to amend its rule at IAC 27–40.4 by incorporating by reference the Federal regulations at 30 CFR Part 701, definitions, as they existed on July 1, 1987. Two of these Federal definitions have been affected by subsequent litigation as discussed below.

(a) Previously Mined Area

The definition of "previously mined area" was remanded in *National Wildlife Federation* v. *Lujan*, 21 ERC 1193, 14 ELR 20617 (D.D.C. February 12, 1990) because the court found that the definition was contrary to the Act. The court remanded the definition to the Secretary for revision. The court stated that "While the Secretary's definition cannot be compared to any statutory language, it may be analyzed for its consequences for Congress' goals as stated in the statute. When this is done, it is obvious that the definition is contrary to the Act." The court ruled that the current definition must be rewritten to (1) eliminate the possibility that it could be interpreted to allow an operator to remine an area that had been fully and satisfactorily reclaimed and then reclaim it only to the lesser standards applicable to remining operations and (2) include effective date of SMCRA as the time from which "the temporal concepts of "preexisting" and "previous" are measured." Therefore, to be consistent with the court's decision, any definition must exclude all highwalls created after August 3, 1977, and all fully reclaimed sites. The Director is not approving Iowa's incorporation by reference of OSM's definition of "previously mined area" at IAC 27–40.4. Iowa is required to amend its regulation by providing a definition for "previously mined area" that excludes all highwalls created after August 3, 1977, and all fully reclaimed sites.

(b) Support Facilities

Iowa incorporates by reference the Federal definition of "support facilities" at 30 CFR 701.5 as well as the editorial note located at the end of 30 CFR 701.5 that states the definition of "support facilities" is suspended. The suspension was a result of a previous district court decision in In re: *Permanent Surface Mining Reclamation Litigation*, 21 ERC 1193, 14 ELR 20617 (D.D.C. 1984). This court decision was subsequently appealed and reversed in *National Wildlife Federation, et. al.* v. *Hodel, et. al.*, 839 F.2d 694 (D.D.C. 1988). Therefore, the definition of "support facilities" was upheld. However, OSM has since removed the definition from 30 CFR 701.5 because it determined that "regulatory authorities are capable of identifying off-site facilities that should be subject to the provision of SMCRA without having a definition of support facilities in the Federal regulations" (53 FR 47378, November 22, 1988). OSM believes that the term "resulting from or incident to" in the context of the rest of the language of section 701(28) of SMCRA that defines "surface coal mining operations," provides adequate guidance to regulatory authorities in the identification of facilities that support surface coal mining operations.

The Director finds that Iowa's incorporation of the Federal regulation that states the definition of "support facilities" is suspended is no less effective in view of the fact that OSM has subsequently removed the definition from the Federal regulation. The Director is approving Iowa's proposed incorporation of the Federal definition of "support facilities" as it existed in the Federal regulations on July 1, 1987, for the reasons discussed above.

4. IAC 27–40.6 Exemptions for Coal Extraction Incident to Government-Financed Highway or Other Constructions

Iowa proposes to amend its rules at IAC 27–40.6 by incorporating by reference the Federal regulations at 30 CFR part 707 as they existed on July 1, 1987. Iowa also proposes two changes to the incorporated Federal regulations. The two changes are:

(a) Applicability

At IAC 27–40.6(1) Iowa proposes to add a paragraph (c) to the Federal regulations at 30 CFR 707.11 that requires that any person who conducts or intends to conduct coal extraction incident to government-financed highway or other constructions shall file a letter of intent 60 days prior to surface disturbance. The Federal regulations do not provide for a letter of intent. However, Iowa's proposed requirement will aid in the administration of this provision and does not make the proposed Iowa requirements inconsistent with or less effective than the Federal program requirements. Since Iowa is responsible for the administration of this provision, the Director finds that the State can introduce such administrative aid to its program. Therefore, the Director is approving IAC 27–40.69(1)(c).

(b) Information to be Maintained on Site

Iowa proposes to amend its rule at IAC 27–40.6(2) that sets the maximum amount of tonnage to be removed in order for an operator to be eligible for exception from 250 tons in the Federal regulation to 50 tons in Iowa's proposed rule. Since Iowa's proposed 50 ton maximum places a more limiting ceiling

than the 250 tons allowable by the Federal regulations, Iowa places a more stringent test for an operator to meet in incidental coal extractions. The Federal program allows a State to place more stringent requirements than those of the Federal program section 505 of SMCRA. Therefore, the Director finds that IAC 27–40.6(2) is not inconsistent with SMCRA and the Federal regulation at 30 CFR 707.12 and is approving the proposed changes.

5. IAC 27–40.11 Initial Regulatory Program

Iowa proposes to amend its rules at IAC 27–40.11 by incorporating by reference the Federal regulations at 30 CFR part 710 as they existed on July 1, 1987. Iowa also proposes to make two changes to the incorporated Federal regulations. The additional proposed changes are:

(a) Scope

Iowa incorporates by reference 30 CFR 710.1(b) which introduces the initial regulatory program parts 715 through 718, 720 through 723, and part 725. However, Iowa has not substituted the appropriate State counterpart rules citations for those Federal citations given throughout the incorporated Federal regulations. Therefore, the Director finds that IAC 27–40.11 is less effective than the Federal counterpart regulation at 30 CFR 710.1(b) and is not approving it to the extent that it references Federal regulations rather than the appropriate State counterpart rules. Iowa is required to amend its rule at IAC 27–40.11 by substituting the appropriate State citations for the existing Federal citations.

(b) Iowa proposes, at IAC 20–40.11(2), to delete from incorporation by reference the Federal regulations at 30 CFR 710.3, 710.4(a), 710.10, and 710.11 (b) and (c) that provide requirements for the Federal authority, responsibility, information collection, and applicability on Indian and Federal lands. Iowa needs also to include 30 CFR 710.12, that deals with special exemptions for small operators, to this list of deletions since it is now moot because applications for an exemption had to be submitted to OSM by March 1, 1978. In addition, 30 CFR 710.12 was applicable only to exemptions from Federal regulations. The Director finds that Iowa's proposed rule at IAC 27–40.11(2) is no less effective than the Federal regulation and is approving it. However, the Director is requiring that Iowa delete from incorporation by reference the Federal regulation at 30 CFR 710.12.

6. IAC 27–40.12 General Performance Standards—Initial Program

Iowa proposes to amend its rules at IAC 27–40.12 by incorporating by reference the Federal regulations at 30 CFR part 715 as they existed on July 1, 1987. Iowa also proposes to make two changes to the incorporated Federal regulations. These proposed changes are:

(a) Map Scale

Throughout Iowa's proposed incorporation of Federal regulations it is proposing to add more specificity to the Federal regulations by, in some cases, requiring larger mapping scales and in other cases requiring mapping scales when none were specified. For the sake of brevity, all of these cases will be discussed in this finding. These changes are: At IAC 27–40.12(1), changing the Federal regulation map scale requirement of 1:6000 to 1:2400; at IAC 27–40.30(2), changing the Federal regulation from "A narrative or map describing the exploration area" to "A precise description and map at a scale of 1:2400 or larger of the exploration area * * *"; at IAC 27–40.33(2), changing the Federal map scale requirement of 1:6000 to 1:2400; at IAC 27–40.35(3), changing the Federal regulation from "A map" to "A map or an aerial photo at a scale of 1:2400 or larger"; at IAC 27–40.35(4), by changing the Federal requirement that "The application shall include cross sections, maps, and plans showing—" to "The permit application shall include cross sections at a scale of 1:2400 or larger and plans showing—"; at IAC 27–40.37(2) by changing the Federal requirement for "A map delineating different soils" to "A map, at the scale of 1:2400 or larger, delineating different soils"; at IAC 27–40.37(3) by changing the Federal requirement that "The permit application shall include maps showing" to "The permit application shall include maps at a scale of 1:2400 or larger showing"; at IAC 27–40.37(4) by changing the Federal requirement that "The application shall include cross sections, maps, and plans showing—" to "The application shall include cross sections at a vertical exaggeration of 10:1, maps at a scale of 1:2400, and plans showing—"; and at IAC 27–40.38(4) by changing the Federal requirement that "Each application shall contain maps and plans as follows" to "Each application shall contain maps at a scale of 1:2400 or larger and plans as follows." These proposed changes by Iowa will make the mine maps larger and thus potentially allow for greater detail and clarity. The Director finds that IAC 27–40.12(1), IAC 27–40.30(2), IAC 27–40.33(2), IAC 27–40.35(3), IAC 27–40.35(4), IAC 27–40.37(2), IAC 27–40.37(3), IAC 27–40.37(4), and IAC 27–40.38(4) are not inconsistent with and are no less effective than the Federal regulations at 30 CFR 715.11(c), 30 CFR 772.11(b)(3), 30 CFR 777.14(a), 30 CFR 779.22(a)(1), 30 CFR 779.25(a), 30 CFR 783.21(a)(1), 30 CFR 783.24, 30 CFR 783.25, and 30 CFR 784.23 and is approving them.

(b) Protection of the Hydrologic System

Iowa proposes to amend its rule at IAC 40.12(2) by replacing the Federal requirement at 30 CFR 715.17(h)(3) that ground water levels, infiltration rates, subsurface flow and storage characteristics, and the quality of ground water shall be monitored "in a manner approved by the regulatory authority" with the requirement that ground water levels, infiltration rates, subsurface flow and storage characteristics, and the quality of ground water shall be monitored "monthly, and reported quarterly to the regulatory authority." This proposed change by Iowa more clearly defines the monitoring and reporting rates required. The Director finds that IAC 27–40.12(2) is not inconsistent with and no less effective than the Federal regulation at 30 CFR 715.17(h)(3) and is approving it.

7. IAC 27–40.13 Special Performance Standards—Initial Program

Iowa proposes to amend its rules at IAC 27–40.30 by incorporating by reference the Federal regulations at 30 CFR part 716 as they existed on July 1, 1987. Iowa also proposes to delete the Federal requirements at 30 CFR 716.2, 716.3, 716.4, 716.5, 716.6, and 716.10 from the incorporation by reference. These Federal regulations provide special performance standards for steep slope mining, mountaintop removal, special bituminous coal mines, anthracite coal mines, coal mines in Alaska, and information collection. Iowa does not encounter any of these types of mining operations in its program and therefore such omission is not inconsistent with and no less effective than the deleted Federal regulations cited above. However, in incorporating 30 CFR 716.1, several references to these deleted rules are included. To remedy this inconsistency, the State must delete subparagraphs (1) through (5) from its proposed incorporation of 30 CFR 716.1(a). The Director is approving Iowa's proposed rules at IAC 27–40.30; however, for clarity, the State is required to delete subparagraphs (1) through (5) from its proposed incorporation of 30 CFR 716.1(a).

8. IAC 27–40.21 Areas Designated by an Act of Congress

Iowa proposes to amend its rules at IAC 27–40.21 by incorporating by reference the Federal regulations at 30 CFR part 761 as they existed on July 1, 1987. Iowa also proposes to make two changes to the incorporated Federal regulations. These proposed changes are:

(a) Iowa proposes to incorporate by reference the Federal regulations at 30 CFR 761.3 which authorizes the regulatory authority or the Secretary, under section 522(e) of SMCRA, to prohibit or limit surface coal mining operations on or near certain lands. To be consistent with SMCRA, which does not allow delegation of certain of these responsibilities to the States, Iowa needs to specify that the general word substitutions for "Act" and "Secretary" at IAC 27–40.1 do not apply to the incorporated version of 30 CFR 761.3. The Director finds that the proposed rule at IAC 27–40.21 is less effective than the Federal regulation at 30 CFR 761.3 to the extent that Iowa has improperly substituted its authority for that of the Secretary of the Interior and is not approving it. Iowa is required to amend its rule to specify that the general word substitutions of IAC 27–40.1 do not apply to the incorporated version of 30 CFR 761.3.

(b) IAC 27–40.21(5) proposes to delete from 30 CFR 761.12(c) the phrase "section 522(e)(2) of the Act" from the sentence "Before acting on the permit application, the Director shall ensure that the Secretary's determination has been received and the finding required by section 522(e)(2) of the Act have been made." and insert the phrase "Iowa Code section 83.8." This Federal rule at 30 CFR 761.12(c) pertains only to actions to be taken under section 522(e)(2) of SMCRA by the Director of OSM and the Secretaries of Agriculture and the Interior when processing permit applications for Federal lands within a national forest. These responsibilities cannot be delegated to the States. The Director finds that the proposed rule at IAC 27–40.21(5) is less effective than the Federal regulation at 30 CFR 761.12(c) and is not approving it. Iowa is required to amend its rule by either eliminating the proposed incorporation of this Federal regulation or, since the Iowa Code contains no provisions equivalent to section 522(e)(2) of SMCRA, deleting the proposed replacement of the Federal regulation's reference to section 522(e)(2) of SMCRA.

9. IAC 27–40.30 Requirements for Coal Exploration

Iowa proposes to amend its rules at IAC 27–40.30 by incorporating by reference the Federal regulations at 30 CFR part 772 as they existed on July 1, 1987. Iowa also proposes to make three changes to the incorporated Federal regulations. These proposed changes are:

(a) Notice Requirements for Exploration Removing 250 Tons of Coal or Less

Iowa proposes to amend its rule at IAC 27–40.30(1) that provides for written notice of intent to explore requirement by replacing the words "250 tons" with "50 tons." The Federal regulations at 30 CFR 772.11 provide that any exploration that removes less than 250 tons must provide a written notice of intent. Iowa's proposed "50 tons" maximum would place a more stringent requirement on anyone intending to conduct coal exploration operations. The Federal regulations at 30 CFR 730.11 allow a State to provide more stringent regulations than is required by the Federal regulations, therefore, the Director finds that IAC 27–40.30(1) is not inconsistent with and no less effective than the Federal regulation at 30 CFR 772.11 and is approving it.

(b) Notice Requirements for Exploration Removing 250 tons of Coal or Less

Iowa proposes to amend its rule at IAC 27–40.30(3) by adding a paragraph (6) to the incorporated Federal regulation at 30 CFR 772.11(b) that reads "If the surface is owned by a person other than the person who intends to explore, a description of the basis upon which the person who will explore claims the right to enter such area for the purpose of conducting exploration and reclamation."

The Federal program only requires this information from persons intending to remove more than 250 tons of coal through exploration (30 CFR 772.12(b)(13)). Iowa is placing a more stringent requirement on anyone intending to provide notification for exploration removing 50 tons or less than do the Federal regulations. The Federal regulations at 30 CFR 730.11 allow a State to provide more stringent requirements therefore, the Director finds that IAC 27–40.30(3) is not inconsistent with and no less effective than the Federal regulation at 30 CFR 772.11(b) and is approving it.

(c) Permit Requirements for Exploration Removing More Than 250 Tons of Coal

Iowa proposes to amend its rule at IAC 27–40.30(4) by adopting by reference the Federal regulation at 30 CFR 772.12 as it existed on July 1, 1987. This Federal regulation requires that persons intending to conduct coal exploration outside a permit area during which more than 250 tons of coal will be removed or which will take place on land designated as unsuitable for surface mining shall, before conducting the exploration, submit an application and obtain written approval from the regulatory authority in a written exploration permit. Iowa proposes to modify this regulation by changing the 250 ton limit to 50 tons. This places a more stringent requirement on anyone intending to obtain a permit to conduct coal exploration operations. Federal regulations at 30 CFR 730.11 allows a State to provide more stringent requirements therefore, the Director finds that IAC 27–40.30(4) is not inconsistent with and no less effective than the Federal regulation at 30 CFR 772.12 and is approving it.

10. IAC 27–40.31 Requirements for Permits and Permit Processing

Iowa proposes to amend its rules at IAC 27–40.31 by incorporating by reference the Federal regulations at 30 CFR part 773 as they existed on July 1, 1987. Iowa also proposes to amend its proposed rule at IAC 27–40.31(11) by adding a paragraph (h) to the incorporated Federal regulation at 30 CFR 773.17 requiring that each permit "Shall ensure and contain specific conditions requiring that, as a condition of the permit, the permittee shall not, except as permitted by law, willfully resist, prevent, impede, or interfere with the division or any of its agents in the performance of their duties." The added provision clarifies the rights of the permittee and the division. The Director finds that IAC 27–40.31(11) is not inconsistent with and no less effective than the Federal regulation at 30 CFR 773.17 and is approving it.

11. IAC 27–40.32 Revision; Renewal; and Transfer, Assignment, or Sale of Permit Rights

Iowa proposes to amend its rules at IAC 27–40.32 by incorporating by reference the Federal regulations at 30 CFR part 774 as they existed on July 1, 1987. Iowa also proposes to make additional changes to the incorporated Federal regulations. These changes are:

(a) Permit Revisions

Iowa proposes to amend IAC 27–40.32(1) by deleting the paragraph at 30 CFR 774.13(b) that requires the regulatory authority to establish (1) a time period within which an application

for a permit revision will be approved or disapproved and (2) guidelines establishing the scale or extent of revisions for which all permit application information requirements and procedures of 30 CFR part 774 including notice, public participation, and notice of decision requirements of 30 CFR 773.13 (public participation in permit processing), 773.19(b) (1) and (3), (notification of the decision to the applicant, each person who files a comment or objection to the application, each party to an informal conference, and the local OSM office), and 778.21, (proof of publication) shall apply. In its place, Iowa proposes to insert:

(b) Application requirements and procedures.

(1) The regulatory authority will approve or disapprove an application for a permit revision within 90 days following the completion of the adequacy review.

(2) A revision to a permit shall be obtained:

(a) For changes in the surface coal mining or reclamation operations described in the original application and approved under the original permit, when such changes constitute a significant departure from the method or conduct of mining or reclamation operations contemplated by the original permit. Significant departures would include any change in permit area, mining method or reclamation procedure, which would, in the opinion of the regulatory authority, significantly change the effect the mining operations would have on either those persons impacted by the permitted operation or on the environment;

(b) When a permit is reviewed at midterm, the division may, by order, require reasonable revision or modification of the permit provisions to ensure compliance with the Act and these rules. Any order of the division requiring revision or modification of permits shall be based upon written findings and shall be subject to the provisions for administrative and judicial review of part 9 of this chapter; or

(c) In order to continue operation after the cancellation or material reduction of the liability insurance policy, capability of self-insurance, performance bond, or other equivalent guarantee upon which the original permit was issued; or

(d) As otherwise required under the Act or these rules.

Iowa's proposed rule does not adequately insure that the notice, public participation, and notice of decision requirements of 30 CFR 773.13, 773.19(b), and 778.21 apply at a minimum to all significant permit revisions. Specifically, the Federal program requires, at 30 CFR 773.13, that an applicant for a permit, significant revision of a permit, or renewal of a permit shall place an advertisement in a local newspaper of general circulation in the locality of the proposed surface mining and reclamation operation at least once a week for four consecutive weeks. The advertisement must contain the name and business address of the applicant, a precise map or description of the proposed permit area, and the name and address of the regulatory authority. Part 9 of the Iowa program only requires that notice to the public be published in a local newspaper 14 days prior to the hearing. Included in the notice are the purpose of the hearing and the place, date, and time of the hearing. The Federal program requires, at 30 CFR 773.19(b), that written notification be given to the applicant, each person who files comments or objections to the permit application, each party to an informal conference, and the local governmental officials. The Iowa program does not currently contain, nor does Iowa propose, a counterpart provision. The Federal program requires, at 30 CFR 778.21, that a copy of the newspaper advertisement for the application for a permit, significant revision of a permit, or renewal of a permit be made part of the application. The Iowa program does not currently contain, nor does Iowa propose, a counterpart provision. In addition, these Federal regulations apply to all revisions, not just those required in response to a midterm review. Iowa also does not, at (b)(2)(b), restate that the division may, at any time, as well as at midterm review, require reasonable revisions or modifications. The proposed Iowa rules do not address changes to the permit that would not be significant departures from the method or conduct of mining or reclamation operations. The Director interprets this to mean that all changes to the permit would be considered permit revisions. The Director finds that IAC 27–40.32(1) is no less effective than the Federal regulation at 30 CFR 774.13(b) and is approving it. However, Iowa is required to further amend its rule by (1) requiring that the Federal regulations at 30 CFR 773.13, 773.19(b), and 778.21 apply, at a minimum, to all significant permit revisions, and (2) restating at 774.13(b)(2)(b) that: the division may, at any time, as well as at midterm review, require reasonable revisions or modifications.

(b) Requests to Change Permit Boundary

Iowa proposes to amend its rule at IAC 27–40.32(3) by removing from incorporation by reference the Federal regulation at 30 CFR 774.13(d) that requires that any extensions to the area covered by the permit, except incidental boundary revisions, shall be made by application for a new permit. Iowa proposes to insert similar language; however Iowa defines incidental boundary revisions as not to exceed 20 acres, cumulative. Specifically, Iowa proposes "A total of 20 acres of incidental boundary changes will be allowed over the life of a permit with individual increments being subject to approval by the division. Any change that exceeds the 20-acre maximum must be treated as a new permit application." The Federal regulation at 30 CFR 774.13(d) does not specify what cumulative size area is regarded as an incidental boundary revision. 30 CFR 774.13(b)(2) and section 511(a)(1) of SMCRA requires the regulatory authority to establish guidelines for determining the scale or extent of a revision request for which all permit application information requirements and procedures shall apply. Iowa chose to establish 20 acres as the maximum allowable cumulative incidental boundary change. The Director finds that IAC 27–40.32(3) is no less effective than the Federal regulation at 30 CFR 774.13(d) and is approving it.

12. IAC 27–40.33 General Content Requirements for Permit Applications

Iowa proposes to amend its rules at IAC 27–40.33 by incorporating by reference the Federal regulations at 30 CFR part 777, excluding 30 CFR 777.17, as they existed on July 1, 1987. The Federal regulation at 30 CFR 777.17 requires the State to determine a fee for the actual or anticipated cost of reviewing, administering, and enforcing the permit. Iowa proposes to replace 30 CFR 777.17 with:

An application for a surface coal mining and reclamation permit shall be submitted to the division and accompanied by the appropriate fee. All checks shall be made payable to the treasurer of the State of Iowa.

(1) New permits require a fee of $15 per acre to be permitted with a minimum fee of $100.

(2) Permit revisions within present permit boundaries require a fee of $2 per acre for the total permit area with a minimum of $40. Permit revisions which include additional area require the revision fee plus $5 per acre for the additional area, with a minimum of $40.

(3) Permit renewals require a fee of $100.

(4) Transfer, assignment, or sale by the permit holder requires a fee of $50.

The Federal regulation allows discretion to a State with regard to what fees are charged. Iowa's proposed rule establishes a rate schedule for the fees requirement at 30 CFR 777.17; therefore, the Director finds that IAC 27–40.33(3) is not inconsistent with and no less effective than the Federal regulation and is approving it.

13. IAC 27–40.34 Permit Application—Minimum Requirements for Legal, Financial, Compliance, and Related Information

Iowa proposes to amend its rule at IAC 27–40.34(1) by incorporating by reference the Federal regulation at 30 CFR part 778 as it existed on July 1, 1987. Iowa also proposes to amend IAC 27–40.34(1) by adding the following requirements not contained in the Federal regulations:

778.23 Identification of other licenses and permits.

Each application shall contain a list of all other licenses and permits needed by the applicant to conduct the proposed surface mining activities. This list shall identify each license and permit by:

1. Type of permit or license;
2. Name and address of issuing authority;
3. Identification numbers of applications for those permits or licenses or, if issued, the identification numbers of the permits or licenses;
4. If a decision has been made, the date of approval or disapproval by each issuing authority; and
5. Date of expiration of permits.

Iowa is placing an additional informational requirement on the applicant by requiring the identification of all other licenses and permits needed to conduct surface mining activities. The Director finds that IAC 27–40.34(1) will aid in Iowa's administrative application and is not inconsistent with and no less effective than the Federal regulation at 30 CFR part 778 and is approving the proposed changes.

14. IAC 27–40.35 Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources

Iowa proposes to amend its rules at IAC 27–40.35 by incorporating by reference the Federal regulations at 30 CFR part 779 as they existed on July 1, 1987. Iowa also proposes to make additional changes to the incorporated Federal regulations. These changes are:

(a) Cross Sections, Maps, and Plans

Iowa proposes to amend its rules at IAC 27–40.35(5) by adding to 30 CFR 779.25(a)(1) the words "and a survey coordinate net." The Federal regulation at 30 CFR 779.25(a)(1) requires elevations and locations of test borings and core samplings. Iowa's additional requirement for a survey coordinate net places a more specific requirement on the environmental resources contents of applications for surface mining activities. The Director finds that IAC 27–40.35(5) is not inconsistent with and no less effective than the Federal regulation at 30 CFR 779.25(a)(1) and is approving it.

(b) Cross Sections, Maps, and Plans

Iowa proposes to amend its rules at IAC 27–40.35(6) by adding to 30 CFR 779.25 a paragraph (c) that provides requirements not found in the Federal regulations. The proposed paragraph (c) reads as follows:

Drill logs must contain the following:
(1) Must have survey coordinates (northing and easting) relating them to the map grid in the permit application.
(2) Must show surface elevation.
(3) Must be detailed enough to show all changes in material encountered in both consolidated and unconsolidated overburden.

This places a more specific requirement on the environmental resources contents of applications for surface mining activities. The Director finds that IAC 27–40.35(6) is not inconsistent with and no less effective than the Federal regulation at 30 CFR 779.25 and is approving it.

(c) Cross Sections, Maps, and Plans

Iowa proposes to amend its rules at IAC 27–40.35(8), IAC 27–40.36(3), IAC 27–40.37(3), IAC 27–40.37(6), and IAC 27–40.38(8) by deleting from the incorporated Federal regulation at 30 CFR 779.25(b), 30 CFR 783.24, 30 CFR 783.25(b), and 30 CFR 784.16(a)(i) and (3)(i) the words "or in any State which authorizes land surveyors to prepare and certify such cross sections, maps, and plans, a qualified registered, professional, land surveyor." Also, the comma between "professional engineer" will be replaced with the word "or." The proposed change by Iowa allows only professional engineers or professional geologists to prepare and certify cross sections, maps, and plans. The option to allow land surveyors to conduct certain mapping and design tasks is discretionary to the State regulatory authorities. Their option not to allow land surveyors to perform such duties does not render their program to be any less effective than the Federal program requirements. Therefore, the Director finds that IAC 27–40.35(8), IAC 27–40.36(3), IAC 27–40.37(3), IAC 27–40.37(6), and IAC 27–40.38(8) are no less effective than the Federal regulation requirements at 30 CFR 779.25(b), 30 CFR 780.25(a)(1)(i), 30 CFR 783.24, 30 CFR 783.25(b), and 30 CFR 784.16(a)(i) and (3)(i) and is approving them.

15. IAC 27–40.36 Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan

Iowa proposes to amend its rules at IAC 27–40.36 by incorporating by reference the Federal regulations at 30 CFR part 780 as they existed on July 1, 1987. Iowa also proposes to incorporate by reference the Federal regulations at 30 CFR 780.21(f) and 784.14(e), regarding PHC determinations, as they existed on July 1, 1990. 30 CFR 780.21(f) and 784.14(e) were challenged on the grounds that they were wrongly limited to activities occurring during the "life of the permit" as opposed to the "life of the mine." Rather than ruling on the substance of this argument, the U.S. District Court for the District of Columbia instead remanded the rules on procedural grounds (In re: Permanent Surface Mining Regulation Litigation (PSMRL), 620 F. Supp. 1519 (D.D.C. 1985)). As a result of the court decision, OSM suspended the PHC regulations (51 FR 41952 at 41957, November 20, 1986). OSM reexamined the Federal regulations and on September 19, 1988, promulgated Federal regulations at 30 CFR 780.21(f) and 784.14(e) identical to those that had been previously suspended (53 FR 36394 at 36400).

However, in the preamble to the new Federal regulations, OSM clarified how its interpretation to limit the PHC determination to the permit and adjacent areas ("life of the permit") was appropriate. OSM interprets the PHC determination to apply to all activities authorized under the permit for the permit and adjacent areas. The PHC determination need not consider those activities that may occur during the life of the mine that would be authorized under future permitting activities. A new PHC determination would be required for any additional surface mining activity that could impact the hydrologic regime authorized during the initial permit term or in future permitting actions. A renewal of the initial permit with no changes would not necessitate a new PHC determination. Therefore, OSM considers the PHC determination to be "spatial" rather than "temporal" in nature (53 FR 36394 at 36396–36399, September 19, 1988). A "temporal" PHC determination would apply to all known mining activities associated with the initial permit area and those which may occur during the life of the mine (emphasis added).

Iowa's rules at IAC 27–40.36 and 27–40.38 are identical to the Federal regulations at 30 CFR 780.21(f) and 784.14(e). However, Iowa has not submitted a policy statement specifying its interpretation of the PHC regulations. The Director finds that IAC 27–40.36 and 27–40.38 do not render the Iowa program less effective than the corresponding Federal regulations at 30 CFR 780.21(f) and 784.14(e) and is approving them.

The Director notified Iowa in the November 29, 1989, 732 letter (Administrative Record No. IA-347) that OSM had largely retained the language promulgated on September 26, 1983, but had revised the preamble to clarify that this language means that the PHC determination must address all proposed mining activities associated with the permit area for which authorization is sought, not just those expected to occur during the term of the permit. If Iowa interprets its proposed amendment in a similar fashion, no further revisions will be necessary. Iowa is required to provide its interpretation as instructed in the November 29, 1989, 732 letter.

16. IAC 27-40.33 Underground Mining Permit Applications Minimum Requirements for Reclamation and Operation Plan

Iowa proposes to amend its rules at IAC 27-40.38 by incorporating by reference the Federal regulations at 30 CFR Part 784 as they existed on July 1, 1987. Iowa also proposes to make changes to the incorporated Federal regulations. These proposed changes are:

(a) Hydrologic Information

Iowa proposes to change its rule at IAC 27-40.38(1) by deleting from the incorporated Federal regulation at 30 CFR 784.14(d) the words "information may be required" and inserting the words "information is required." This change would require that, even if modeling techniques, interpolation, or statistical techniques are used, actual surface- and ground-water information must be included for each permit application. The Federal regulation allows for the use of modeling techniques, interpolation or statistical techniques only. Iowa's proposed change would require that applications for underground mining permits meet stricter requirements for providing hydrologic information. Federal regulations at 30 CFR 730.11 allow States to place more stringent requirements in their programs than is required by the Federal program. The Director therefore finds that IAC 27-40.38(1) is not inconsistent with and no less effective than the Federal regulation at 30 CFR 784.14(d) and is approving it.

(b) Iowa proposes to incorporate at IAC 27-40.38(3) the Federal regulations at 30 CFR 784.20(g)(2) without change. In a related court case, *National Wildlife Federation* v. *Lujan*, 733 F. Supp. 419 (February 12, 1990), the court remanded 30 CFR 817.121(c)(2) to the Secretary with instructions to revise it by striking the reference to State law. The court held that the Federal regulations may not limit, by making reference to State law, the duty of an underground operator to correct material damage to structures caused by subsidence. The court did not address 30 CFR 784.20(g)(2), which uses language similar to 30 CFR 817.121(c)(2) in requiring that each subsidence control plan include a description of the measures to be taken to mitigate or remedy any subsidence-related material damage to structures and facilities. However, since the language and intended use of this regulation are essentially identical to that of 30 CFR 817.121(c)(2), OSM believed the phrase "to the extent required under State law" in this rule was similarly invalid. However, this court ruling was recently appealed and overturned in *National Wildlife Federation* v. *Lujan*, Civil Action No. 87-01814, (D.D.C. March 22, 1991). The Court of Appeals ruled that the subsidence regulation is based on a permissible interpretation of SMCRA, and that the Secretary adequately explained the legal and policy grounds for modifying the initial 1979 regulations to make operators' liability for subsidence damage to structures conditional to State law. Therefore, the Director finds that IAC 27-40.38(3) is no less stringent than sections 102(b) and 516(b)(1) of SMCRA and is approving it.

17. IAC 27-40.39 Requirements for Permits for Special Categories of Mining

Iowa proposes to amend its rules at IAC 27-40.39 by incorporating by reference the Federal regulations at 30 CFR part 785 as they existed on July 1, 1987. These Federal regulations are affected by recent court decisions that are discussed below.

(a) The Federal regulation at 30 CFR 785.21 dealing with coal preparation plants not located within the permit area of a specified mine was remanded as a result of decisions of the U.S. District Court for the District of Columbia in *National Wildlife Federation* v. *Lujan*, 31 ERC 2034 (August 30, 1990). The District Court found that the Federal regulation at 30 CFR 785.21 was contrary to the definition of "surface coal mining operations" at section 701(28) of SMCRA that requires regulation of off-site processing and preparation plants, including dry handling facilities such as crushing, sizing, and screening plants. The court remanded the regulation to the Secretary of the Interior to clarify that proximity may not be the decisive factor in deciding to regulate an off-site processing plant.

Based upon (1) the court's finding that the Federal regulations at 30 CFR 785.21 is contrary to SMCRA, and (2) the court's specific instruction to clarify 30 CFR 785.21, the Director finds that Iowa's proposed rule at IAC 27-40.39 makes its program less stringent than section 701(28) of SMCRA and is not approving it to the extent that it incorporates by reference the remanded Federal regulation at 30 CFR 785.21. Iowa is required to amend its program by complying with the court's instructions to clarify that proximity may not be the decisive factor in deciding to regulate an off-site processing plant.

(b) Iowa proposes at IAC 20-40.39(4) to delete paragraphs (d) and (e) from 30 CFR 785.21, which establish jurisdictional cutoff dates, and insert a new paragraph (d) which states "Coal preparation plants were required to obtain permanent program permits under the Iowa Regulatory Program after April 10, 1981, as approved by the U.S. Office of Surface Mining." This modification to Iowa's incorporation by reference of 30 CFR 785.21 is in response to the U.S. District Court for the District of Columbia remand of 30 CFR 827.13 that established July 6, 1984, as the cutoff date for regulation. Although the court did not address 30 CFR 785.21 (d) and (e), which contain provisions related to the jurisdictional cutoff dates of 30 CFR 827.12 and 827.13, OSM believed that a jurisdictional cutoff date other than the effective date of SMCRA was similarly invalid. However, this court ruling was recently appealed and overturned in *National Wildlife Federation* v. *Lujan*, Civil Action No. 87-01814, (D.D.C. March 22, 1991). The Court of Appeals ruled that the Secretary had "reasonably concluded that regulating off-site physical processing plants that ceased operations before July 6, 1984, would not further public policy in light of the nature both of the Surface Mining Act and its application prior to the District Court decision." The Court of Appeals also found that the Secretary based the subsidence control regulations on a reasonable interpretation of the statute and that the Secretary exercised reasonable discretion in regulating off-site physical processing facilities from the date of the district court decision, instead of the effective date of the Act. Because Iowa proposes the effective date of the Iowa permanent regulatory program as the date from which point off-site physical processing facilities would be regulated, it is not inconsistent with the court decision. Iowa may, in future rulemaking, replace its April 10, 1981, date with the Federal cut-off date of July 6, 1984. In addition, as proposed this rule appears to be a nonsubstantive

informal note to OSM rather than a rule requiring observance, it is advised that the word "were" be changed to "are." The Director finds that IAC 27–40.39(4) is no less effective than the Federal regulation and is approving it.

18. IAC 27–40.51 Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations Under Regulatory Programs

Iowa proposes to amend its rules at IAC 27–40.51 by incorporating by reference the Federal regulations at 30 CFR part 800 as they existed on July 1, 1987. Iowa also proposes to make changes to the incorporated Federal regulations. These proposed changes are:

(a) Requirement to File a Bond

Iowa proposes to incorporate by reference the Federal regulation at 30 CFR 800.11 as well as the editorial note located at the end of 30 CFR 800.11. This editorial note states that 30 CFR 800.11(b) is suspended "insofar as it allows the bond to be posted for less than the entire area within the permit area upon which surface coal mining and reclamation operations will be conducted during the initial permit term." This suspension was a result of a previous district court decision in In re: Permanent Surface Mining Reclamation Litigation, 21 ERC 1724, 15 ELR 20481 (D.D.C. 1984). This court decision was subsequently appealed. In *National Wildlife Federation, et. al.* v. *Hodel, et. al.*, 839 F.2d 694 (D.D.C. 1988), the court of appeals found that the Secretary "reasonably construed section 509(c) of the Act, and responsibly determined that the incremental and phased bonding programs he authorized fulfilled the statutory objective * * *." Therefore, 30 CFR 800.11(b) was upheld and the district court's judgment was reversed. OSM reinstated this regulation on June 9, 1988 (53 FR 21764).

The option to allow for incremental bonding is discretionary to the State regulatory authorities. Their option not to allow for incremental bonding does not render their program to be any less effective than the Federal program. Therefore, the Director finds that IAC 27–40.51 is not inconsistent with and no less effective than the Federal regulation and is approving it.

(b) Requirement to Release Performance Bonds

Iowa proposes to change IAC 27–40.51(1) by adding to the incorporated Federal regulation at 30 CFR 800.40(c) a paragraph, (4), that reads:

(4) The maximum liability under performance bonds applicable to a permit which may be released at any time prior to the release of all acreage from the permit area shall be calculated by multiplying the ratio between the acreage on which a reclamation phase has been completed and the total acreage in the permit area, times the total liability under performance bonds applicable to a permit, times 0.6 if the reclamation phase I has been completed, or 0.25 if reclamation phase II has been completed.

Acreage may be released from the permit area only after reclamation phase III has been completed. The maximum performance bond liability applicable to a permit which may be released at any time prior to the completion of reclamation phase III on the entire permit area shall be calculated by multiplying the ratio between the acreage on which reclamation phase III has been completed and the total acreage in the permit area, times the total liability under performance bonds applicable to a permit, times 0.15.

Iowa's incorporation of 30 CFR 800.40(c)(2) insures that sufficient bond will be retained for a third party to complete the projected remaining reclamation. The effect of adding paragraph (4) is to provide a cap on the amount of bond available for release at the completion of Phase II and III.

The Federal regulation at 30 CFR 800.40(c) states that the regulatory authority may release all or part of the bond if satisfied that all the reclamation or a phase of reclamation has been accomplished in accordance with the schedules for reclamation of Phases I, II, and III. The Federal regulation goes on to establish what reclamation needs to be completed before each phase is considered completed. The Federal regulation at 30 CFR 800.40(c)(1) states that 60 percent of the bond for the applicable area may be released at the completion of Phase 1. However, no formulas are provided at 30 CFR 800.40(c) (2) or (3) for determining how much bond may be released at the completion of Phases II and III. The Federal regulations once included formulas for determining Phase II and III bond release (44 FR 15385, March 13, 1979) however these formulas were removed (48 FR 32352, July 19, 1983) because the intent of section 519(c)(2) of SMCRA is to retain that amount of bond which would be sufficient for a third party to complete the projected remaining reclamation.

Iowa's rule at IAC 27–40.51(1) is more stringent than the Federal regulation because it provides a cap on the amount of bond available for release at the completion of Phase II and III. That is, if, upon completion of Phase II, the third party reclamation costs indicate that a dollar amount more than the ratio between the acreage on which a reclamation phase has been completed and the total acreage in the permit area, times the total liability under performance bonds applicable to a permit, times .25 can be released, Iowa is allowed to release only the amount as calculated by using the Phase II formula. If the third party reclamation cost estimate indicates that more money than the Phase II calculation provides is needed to complete the projected reclamation than what would remain after the amount determined by the Phase II calculation was released, then the State must retain enough bond to cover third party reclamation costs and release only the appropriate percentage of the bond (which would be some percentage less than that determined by using the Phase II formula). This same line of reasoning applies to Phase III bond release as well. Federal regulations at 30 CFR 730.11 allow states to place more stringent requirements in their programs than is required by the Federal program. The Director, therefore, finds that IAC 27–40.51(1) is not inconsistent with and no less effective than the Federal regulation at 30 CFR 800.40(c) and is approving it.

(c) Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations Under Regulatory Programs

Iowa proposes, at IAC 27–40.51(5), to delete from 30 CFR 800.40(c)(2) the words "performed pursuant to section 507(b)(16) of the Act and part 823 of this chapter" and insert the words "information included in the permit application and obtained from the official soil survey for the county in which the permit is located." The comparable Federal regulations at 30 CFR 800.40(c)(2) require, in part, that "No part of the bond or deposit shall be released under this paragraph so long as the lands to which the release would be applicable * * * until soil productivity for prime farmland has returned to the equivalent levels of yield as nonmined land of the same soil type in the surrounding area under equivalent management practices as determined from the soil survey performed pursuant to section 507(b)(16) of the Act and part 823 of this chapter." Section 507(b)(16) of the Act contains the requirement to conduct a soil survey to confirm the exact location of prime farmland. 30 CFR part 823 contains the special permanent program performance standards for operations on prime farmland.

In the preamble to the final rule 30 CFR 800.40(c)(2) (48 FR 32953, July 19, 1983), a commentor was concerned that it was OSM's intention to limit proof of

productivity to information contained in soil surveys. They felt that 30 CFR 800.40(c)(2) was too ambiguous and allowed the reader to believe that soil productivity can only be determined through a soil survey. As a result, the final rule was revised to add "and 30 CFR part 823." This reference was specifically added to include, in this rule, the requirements for determining productivity levels on prime farmlands. The Director finds that, although Iowa has provided a substitute for the soil survey requirement of section 507(b)(16) of the Act, it has incorrectly eliminated the performance standards for restoration of soil productivity as per the requirements of 30 CFR part 823. The Director, therefore, finds that IAC 27–40.51(5) is less effective than the Federal regulation at 30 CFR 800.40(c)(2) and is not approving it to the extent that it eliminates the performance standards of 30 CFR part 823. Iowa is required to amend ifs regulation at IAC 27–40.51(5) by incorporating the phrase "and part 823 of this chapter" in its rule.

19. IAC 27–40.61 Permanent Program Performance Standards—General Provisions

Iowa proposes to amend its rules at IAC 27–40.61 by incorporating by reference the Federal regulations at 30 CFR part 810 as they existed on July 1, 1987. The language at 30 CFR 810.4(b) and (c) require that "performance standards and design requirements which are at least as stringent as the standards in this subchapter" be implemented and complied with. The use of the phrase "at least as stringent as" would allow use of performance standards and design requirements other than those in the approved program. This is inconsistent with section 503 of SMCRA and the Federal regulations at 30 CFR 732.17, that require that States adhere to their approved programs. Therefore, the Director finds that IAC 27–40.61 is less stringent than SMCRA and less effective than the Federal regulations and is not approving it to the extent that it incorporates the phrase "at least as stringent as." Iowa is required to amend its rule to require that the performance standards and design requirements of its approved program be followed. It is also suggested that Iowa (1) replace the generic phrases "every State program" and "applicable regulatory program" with phrases specific to the Iowa program and (2) delete the reference to "parts 818 through 828" at 30 CFR 810.11 in both instances where it appears and replace it with "parts 819, 823, 827 and 828." There is no part 818 and Iowa properly has chosen not to incorporate parts 820, 822, 824, and 825 that place special permanent program performance standards for anthracite mines in Pennsylvania, operations in alluvial valley floors, mountaintop removal, and bituminous coal mines in Wyoming.

20. IAC 27–40.63 Permanent Program Performance Standards—Surface Mining Activities

Iowa proposes to amend its rules at IAC 27–40.63 by incorporating by reference the Federal regulations at 30 CFR part 816 as they existed on July 1, 1987. The following discussion concerns changes to the incorporated Federal regulations initiated by Iowa and subsequent court cases that affect the incorporated regulations.

(a) Impoundments

Iowa incorporates by reference the Federal regulations at 30 CFR 816.49 and 30 CFR 817.49 as well as the editorial notes located at the end of 30 CFR 816.49 and 30 CFR 817.49. These editorial notes state that 30 CFR 816.49(a)(9) and 30 CFR 817.49(a)(9) are suspended insofar as they permit the retention of highwalls in permanent impoundments. These suspensions were a result of a previous district court decision in In re: Permanent Surface Mining Reclamation Litigation, 620 F. Supp. 1519 (D.D.C. 1985). This court decision was subsequently appealed. In *National Wildlife Federation, et al.* v. *Hodel, et. al.*, 839 F. 2d 694 (D.D.C. 1988), the court of appeals found "The Act * * * on its face, does not support the district court's interpretation. Unlike the other two AOC variances, the water impoundment grading requirements do not include a highwall elimination requirement. Instead, an operator wishing to create a permanent water impoundment must show, among other things, that 'final grading will provide safety and access for proposed water users.' SMCRA 515(b)(8)(E)." Therefore, 30 CFR 816.49(a)(9) and 30 CFR 817.49(a)(9) were upheld and the district court's judgment was reversed. OSM has since reinstated these regulations (53 FR 21764, June 9, 1988).

Iowa's proposed rules at IAC 27–40.63 and IAC 27–40.64 therefore places more stringent requirements than the Federal regulation at 30 CFR 816.49 and 30 CFR 817.49 because at the time of Federal regulation incorporation, the Federal regulations did not allow the retention of underwater highwalls in permanent impoundments. Therefore, the Director finds that IAC 27–40.63 and IAC 27–40.64 are not inconsistent with and no less effective than the Federal regulations and is approving them.

(b) Coal Mine Waste: General Requirements

Iowa incorporates by reference the Federal regulation at 30 CFR 816.81 and 30 CFR 817.81 as well as the editorial notes located at the end of 30 CFR 816.81 and 30 CFR 817.81. These editorial notes state that 30 CFR 816.81(c)(2) and 30 CFR 817.81(c)(2) are suspended insofar as they allow coal waste refuse piles to be "constructed or modified with compaction which does not attain 90 percent of the maximum dry density determined in accordance with the standard Proctor method." These suspensions were a result of a previous district court decision in In re: Permanent Surface Mining Reclamation Litigation, 620 F. Supp. 1519 (D.D.C. 1985). This court decision was subsequently appealed. In *National Wildlife Federation, et al.* v. *Hodel, et. al.*, 839 F.2d 694 (D.D.C. 1988), the court of appeals stated that "* * * the district judge incorrectly read section 515(f) (of the Act) to mandate design standards for the mine waste at issue, i.e., non-impounding coal mine waste refuse piles. We find that the Secretary did not contravene section 515(f), and that he adequately explained his departures from the earlier regulations." Therefore, 30 CFR 816.81(c)(2) and 30 CFR 817.81(c)(2) were upheld and the district court's judgment was reversed. OSM has since reinstated these regulations (53 FR 21764, June 9, 1988).

Iowa's rules at IAC 27–40.63 and IAC 27–40.64 do not provide any design criteria for the construction or modification of coal waste disposal facilities. The Director finds that IAC 27–40.63 and IAC 27–40.64 are less effective than the Federal regulations and is not approving them to the extent that they incorporate by reference the editorial notes suspending 30 CFR 816.81(c)(2) and 30 CFR 817.81(c)(2). Iowa is required to amend its rules to provide design criteria, specifically, stability requirements; both long-term and under all conditions of construction.

(c) Coal Mine Waste: Refuse Piles

Iowa incorporates by reference tne Federal regulation at 30 CFR 816.83 and 30 CFR 817.83 as well as the editorial notes located at the end of 30 CFR 816.83 and 30 CFR 817.83. These editorial notes state that 30 CFR 816.83 and 30 CFR 817.83 are suspended insofar as they "permit the construction of coal refuse piles using lifts of greater than 2 feet thickness." These suspensions were a result of a previous district court decision in In re: Permanent Surface Mining Reclamation Litigation, 620 F.

Supp. 1519 (D.D.C. 1985). This court decision was subsequently appealed and reversed in *National Wildlife Federation, et al.* v. *Hodel, et al.*, 839 F.2d 694 (D.D.C. 1988). For the same reasoning given in Finding 22b above, the court of appeals reversed the district court's decision. OSM has since reinstated these regulations (53 FR 21764, June 9, 1988).

Iowa's rules at IAC 27–40.63 and IAC 27–40.64 do not provide any design criteria for the construction or modification of coal waste disposal facilities. The Director finds that IAC 27–40.63 and IAC 27–40.64 are less effective than the Federal regulations and is not approving them to the extent that they incorporate the editorial notes that suspend 30 CFR 816.83 and 30 CFR 817.83 insofar as they permit "the construction of coal refuse piles using lifts of greater than 2 feet thickness." Iowa is required to amend its rules to provide design criteria, specifically, for lift thickness and long-term stability.

(d) Contemporaneous Reclamation

Iowa proposes to amend its regulation at IAC 27–40.63(2) by changing the Federal regulation at 30 CFR 816.100 that requires that all land disturbed by surface mining activities be reclaimed as contemporaneously as practicable with mining operations. Specifically, Iowa proposes to change the last sentence of the Federal regulation at 30 CFR 816.100 which reads "The regulatory authority may establish schedules that define contemporaneous reclamation" to "Contemporaneous reclamation shall not exceed 180 days following coal removal and shall not be more than four spoil ridges behind the pit being worked, the spoil from the active pit being considered the first ridge. The regulatory authority may grant additional time for rough backfilling and grading if the permittee can demonstrate, through a detailed written analysis under 30 CFR 780.18(b)(3), that additional time is necessary."

OSM's contemporaneous reclamation regulation at 30 CFR 816.100 (48 FR 24638, June 1, 1983) was remanded by the U.S. District Court for the District of Columbia to the extent that it did not specify both time and distance factors defining contemporaneous reclamation (In re: Permanent Surface Mining Regulation Litigation, 21 ERC 1724, 15 ELR 20481 (D.D.C. 1984)). The Federal regulation at 30 CFR 816.101(a) (44 FR 15321 at 15411, March 13, 1979), which had been in effect prior to OSM's promulgation of the remanded regulation at 30 CFR 816.100, did specify such time and distance factors.

Iowa's proposed rule at IAC 27–40.63(2) contains language substantively identical to the March 13, 1979, Federal regulation at 30 CFR 816.101(a). Thus, IAC 27–40.63(2) is consistent with the Court's decision in that it does specify objective and reasonable time and distance factors defining contemporaneous reclamation. The Director is, therefore, approving IAC 27–40.63(2).

(e) *Backfilling and Grading: Thin Overburden and Thick Overburden.*

Iowa proposes to incorporate by reference the Federal regulations at 30 CFR 816.104(a), backfilling and grading: Thin overburden, and 30 CFR 816.105(a), backfilling and grading: Thick overburden. On October 1, 1984, the U.S. District Court for the District of Columbia remanded OSM's backfilling and grading regulations for thin and thick overburden surface mine at 30 CFR 816.104(a) and 816.105(a) (48 FR 23356 at 23369, May 24, 1983) because they did not provide objective formulae for defining thin and thick overburden (In re: Permanent Surface Mining Regulation Litigation, 21 ERC 1724, 15 ELR 20481 (D.D.C. 1984)). The Federal regulations at 30 CFR 816.104(a) and 816.105(a) (44 FR 15312 at 15411, March 13, 1979) that had been in effect prior to OSM's promulgation of the remanded regulations at 30 CFR 816.104(a) and 816.105(a) did specify such objective formulae.

Although OSM never actually suspended the remanded regulations, OSM may not, because of the Court's remand, use the May 24, 1983, Federal regulation in evaluating the sufficiency of Iowa's program. Accordingly, OSM evaluated the proposed rule based upon its consistency with the court's decision and section 515(b) (3) of SMCRA.

The Director finds that IAC 27–40.63 is inconsistent with the court's decision and less stringent than Section 515(b) (3) of SMCRA. The Director, therefore, is not approving Iowa's proposed rule to the extent that it incorporates 30 CFR 816.104(a) and 816.105(a) by reference. Iowa is required to amend its rule at IAC 27–40.63 by providing objective formulae for defining thin and thick overburden.

(f) *Cessation of Operations: Temporary*

Iowa proposes to amend its rule at IAC 27–40.63(4) by adding to the incorporated Federal regulation at 30 CFR 816.131(b) a paragraph (c) that reads:

(c) The period of temporary cessation shall be a period of two years after which cessation will become permanent cessation and subject to the conditions of 30 CFR 816.132. The applicant may request one 12-month extension of the two-year time period. Approval of the extension request shall be at the discretion of the division administrator.

Iowa's proposed rule establishes the length of time that a mine may temporarily cease operations before it must permanently cease operations. The Federal regulation does not provide such a timeframe thus allowing the States to use their discretion to set a reasonable limit. The Director finds that IAC 27–40.63(4) is no less effective than the Federal regulation at 30 CFR 816.131 and is approving it.

21. IAC 27–40.64 Permanent Program Performance Standards—Underground Mining Activities.

Iowa proposes to amend its rules at IAC 27–40.64 by incorporating by reference the Federal regulations at 30 CFR part 817 as they existed on July 1, 1987. The following discussion concerns changes initiated by Iowa and subsequent court cases that affect the incorporated regulations.

(a) *Cessation of Operations: Temporary*

Iowa proposes to amend its rule at IAC 27–40.64(l) by adding a paragraph (c) to the Federal regulation at 30 CFR 817.131.

This paragraph reads:

The maximum period of temporary cessation shall be a period of two years after which cessation will become permanent cessation and subject to the conditions of 30 CFR 917.132.

However, Iowa also proposes to amend its rule at IAC 27–40.64 (5) by adding, once again, a paragraph (c) to the same Federal regulation at 30 CFR 817.131. This paragraph is identical to the paragraph (c) added at IAC 27–40.64(1) except it allows the applicant to request one 12-month extension to the two-year time period. The surface regulation for temporary cessation at IAC 27–40.63(4) (see Finding no. l4b) also allows for one 12-month extension. The Federal regulation does not discuss timetables or extensions. The Director finds that, while these two amendments proposed by Iowa do not conflict with each other and are both no less effective than the Federal regulation at 30 CFR 817.133, Iowa may want to choose one of the amendments and remove the other one for the sake of clarity. The Director approves these amendments.

(b) Subsidence Control.

Iowa proposes to amend its rule at IAC 27–40.64(6) by removing the phrase "To the extent required under applicable provisions of State law," from the Federal regulation at 30 CFR 817.121(c)

(2). OSM's subsidence control regulation at 30 CFR 817.121(c) (2) was remanded by the District Court for the District of Columbia in *National Wildlife Federation* v. *Lujan*, 733 F. Supp. 419 (February 12, 1990). The court held that the Federal regulations may not limit, by making reference to State law, the duty of an underground operator to correct material damage to structures caused by subsidence. Iowa was informed of this court decision in a 732-letter (Administrative Record No. IA-353) sent on June 22, 1990. However, this court ruling was recently appealed and overturned in *National Wildlife Federation* v. *Lujan*, Civil Action No. 87-01814, (D.D.C. March 22, 1991). The Court of Appeals ruled that the subsidence regulation is based on a permissible interpretation of SMCRA, and that the Secretary adequately explained the legal and policy grounds for modifying the initial 1979 regulations to make operators' liability for subsidence damage to structures conditional to State law. Therefore, the 732-letter sent to Iowa on June 22, 1990, regarding the State law limitation is no longer applicable and may be disregarded. Iowa may want to consider reinstating the State law limitation at IAC 27-40.64 (6) in future rulemaking.

Iowa's proposed rule, as it stands, places a more stringent requirement on the operator to correct material damage caused by subsidence because it does not limit the operator's obligations to those required by State law. The Federal regulation, as reinstated by the court of appeals decision, requires an operator to correct material damage only to the extent required by applicable State laws. Therefore, the Director finds that IAC 27-40.64(6) is no less stringent than 30 CFR 817.121(c) (2) and is approving it.

22. IAC 27-40.66 Special Permanent Program Performance Standards—Operations on Prime Farmland

Iowa proposes to amend its rule at IAC 27-40.66 by incorporating by reference the Federal regulations at 30 CFR Part 823 as they existed on July 1, 1987. The Federal regulation at 30 CFR 823.11, deals with applicability. Specifically, the regulation provides three exemptions to the prime farmland regulations at paragraphs (a), (b), and (c). These exemptions are for (a), coal preparation plants, support facilities, and roads of surface and underground mines that are actively used over extended periods of time and where such uses affect a minimal amount of land, (b), disposal areas containing coal mine waste resulting from underground mines that is not technologically and economically feasible to store in underground mines or on non-prime farmland, and (c), prime farmland that has been excluded in accordance with 785.17(a). However, the U.S. District Court for the District of Columbia remanded paragraph (a) this Federal regulation in In re: Permanent Surface Mining Regulation Litigation, 21 ERC 1724, 15 ELR 20481 (D.D.C. 1984), because the Secretary did not provide guidelines for what constituted an extended period of time or a minimal amount of land. OSM suspended paragraph (a) on February 21, 1985 (50 FR 7278), in response to the court decision. Because of the suspension, the Director is not approving Iowa's rule at IAC 27-40.66 to the extent that it incorporates the suspended Federal regulation at 30 CFR 823.11. Iowa is required to amend its rule to require that prime farmland occupied by all coal preparation plants, support facilities, and roads that are a part of the surface mining activities must meet the applicable prime farmland performance standards.

23. IAC 27-40.67 Permanent Program Performance Standards—Coal Preparation Plants not Located Within the Permit Area of a Mine

Iowa proposes to amend its rule at IAC 27-40.67 by incorporating by reference the Federal regulations at 30 CFR Part 827 as they existed on July 1, 1987. The following discussion describes subsequent court cases that affect the incorporation by reference of this Federal regulation.

(a) Scope

Iowa proposes to incorporate by reference the Federal regulation at 30 CFR 827.1 dealing with coal preparation plants not located within the permit area of a specified mine. This regulation was remanded as a result of decisions of the U.S. District Court for the District of Columbia in *National Wildlife Federation* v. *Lujan*, 31 ERC 2034 (August 30, 1990). The District Court found that the Federal regulation at 30 CFR 827.1 was contrary to the definition of "surface coal mining operations" at section 701(28) of SMCRA that requires regulation of off-site processing and preparation plants, including dry handling facilities such as crushing, sizing, and screening plants. The court remanded the regulation to the Secretary of the Interior to clarify that proximity may not be the decisive factor in deciding to regulate an off-site processing plant (see finding no. 19a).

The Director finds that IAC 27-40.67 makes Iowa's program less stringent than section 701(28) of SMCRA. Therefore, the Director is not approving IAC 27-40.67 to the extent that it incorporates by reference the Federal regulation at 30 CFR 827.1. Iowa is required to amend its program to clarify that proximity may not be the decisive factor in deciding to regulate an off-site processing plant.

(b) Coal Preparation Plants: Interim Performance Standards

Iowa proposes to incorporate by reference the Federal regulation at 30 CFR 827.13 that provides the interim performance standards applicable to crushing and sizing facilities previously not regulated as processing plants. This rule established July 6, 1984, as the cutoff date for regulation. The U.S. District Court for the District of Columbia remanded this Federal regulation in *National Wildlife Federation* v. *Lujan*, 733 F. Supp. 419 (February 12, 1990) because it established July 6, 1984, the date of a previous court decision on off-site coal preparation plants, as the date that persons operating off-site coal preparation plants would be subject to SMCRA's jurisdiction. However, this court ruling was recently appealed and overturned in *National Wildlife Federation* v. *Lujan*, Civil Action No. 87-01814, (D.D.C. March 22, 1991). The Court of Appeals ruled that the Secretary had "reasonably concluded that regulating off-site physical processing plants that ceased operations before July 6, 1984, would not further public policy in light of the nature both of the Surface mining Act and its application prior to the District Court decision." The Court of Appeals also found that the Secretary based the subsidence control regulations on a reasonable interpretation of the statute and that the Secretary exercised reasonable discretion in regulating off-site physical processing facilities from the date of the district court decision, instead of the effective date of the Act.

Additionally, the way that 30 CFR 827.13(a) is written, Iowa does not need to incorporate 30 CFR 827.13(a) (1) through (3). These three subsections list three sets of performance standards to use for preparation plants, of which only one would apply depending upon the State's degree of primacy.

The Director finds that IAC 27-40.67 is no less effective than the Federal regulation at 30 CFR 827.13(a) and is approving it. However, Iowa is required to amend this rule by deleting the subchapters that do not apply.

24. IAC 27–40.71 State Regulatory Authority—Inspection and Enforcement

Iowa proposes to amend its rule at IAC 27–40.71 by incorporating by reference the Federal regulations at 30 CFR Part 840 as they existed on July 1, 1987. Iowa also proposes to amend IAC 27–40.71(4) by deleting from the incorporated Federal regulation at 30 CFR 840.11(g) (3) (ii) the words "section 518 (e) and (f), 521(a) (4) and 521(c) of the Act" and insert the words "Iowa Code sections 83.15, 83.14, and 83.14." There was no section 30 CFR 840.11(g) (3) (ii) in the 1987 30 CFR. That section was added on June 30, 1988 (53 FR 24882). However, the Director finds that this does not render the State rule less effective than the Federal regulation and approves it.

25. IAC 27–40.72 Inspections and Monitoring

(a) Request for Inspection

Iowa proposes to add language at IAC 27–40.72(1) dealing with requests for State inspections. This proposed rule is substantively the same as the Federal requirement at 30 CFR 842.12 which allows a person to request that a Federal inspection be conducted if that person has reason to believe that a violation, condition or practice referred to in 30 CFR 842.11(b) (1) (i) exists. The Director finds that Iowa's rule at IAC 27–40.72(l) is no less effective than the Federal regulations and is approving it.

(b) Review of Adequacy and Completeness of Inspections.

Iowa proposes to add language at IAC 27–40.72(2). This proposed rule is substantively the same as the Federal requirement at 30 CFR 842.14 that allows a person to notify the Director in writing of any alleged failure on the part of OSM to make adequate and complete or periodic Federal inspection. The Director must then determine whether adequate and complete or periodic inspection was performed. The State changes the word "Director" to "administrator." The Director finds that Iowa's rule at IAC 27–40.72(2) is no less effective than the Federal regulations and is approving it.

(c) Review of Decision not to Inspect or Enforce

Iowa proposes to add language at IAC 27–40.72(3). This proposed rule is substantively the same as the Federal requirement at 30 CFR 842.15 that allows a person to ask the Director, in writing, to review informally an authorized representative's decision not to inspect or take action with respect to any violation alleged by that person in a request for Federal inspection under 30 CFR 842.12. Iowa included changes to this rule to make it pertain to Iowa and not OSM. However, paragraph (3)b of this proposed rule states that the person alleged to be in violation shall also be given a copy of the results of the review except that the name of the person who is or may be adversely affected shall not be disclosed "unless closure" is required under Iowa Code section 22.7, subsection 18. The comparable Federal regulation at 30 CFR 842.15(b) requires, in part, that the person alleged to be in violation shall also be given a copy of the results of the review, except that the name of the person who is or may be adversely affected shall not be disclosed "unless confidentiality has been waived or disclosure" is required under the Freedom of information Act or other Federal law. It appears that Iowa may have accidentally deleted the phrase "confidentiality has been waived or disclosure." Iowa does not have any basis for denial of access to information for the permittee if confidentiality is waived, and the Freedom of Information Act requires "disclosure" of information, not "closure."

The Director finds that Iowa's rule at IAC 27–40.72(3) is less effective than the Federal regulations and is not approving it. Iowa must amend its rule by requiring that the name of the person who is or may be adversely affected shall not be disclosed unless confidentiality has been waived or disclosure if required consistent with the Federal regulation at 30 CFR 842.15(b).

26. IAC 27–40.73 Enforcement

Iowa proposes to add language at IAC 27–40.73 dealing with enforcement. The following discussions deal with concerns about the proposed language.

(a) Cessation Orders

At IAC 27–40.73(2)c Iowa proposes a rule similar to the Federal regulation at 30 CFR 843.11(c), that provides that cessation orders shall remain in effect until they expire pursuant to section 521(a)(5) of SMCRA, except that the State references Iowa Code section 83.12 rather than section 521(a)(5) of SMCRA. Section 521(a)(5) of SMCRA concerns notices of violation and cessation orders while section 83.13 of the Iowa Code contains requirements for inspections and monitoring, these Federal and State provisions are not comparable. Therefore, the Director finds that the proposed rule at IAC 27–40.73(2)c is less effective than the Federal regulation at 30 CFR 843.11(c) and is not approving it. Iowa is required to amend its rule by referencing the appropriate counterpart rule to section 521(a)(5) of SMCRA. This appears to be Iowa Code section 83.14, subsection 6.

(b) It is suggested that Iowa correct the spelling of "intervener" to "intervenor" at IAC 27–40.73(4)b.

(c) Informal Public Hearing

Iowa's proposed rule at IAC 27–40.73(6)e is essentially identical to the Federal regulation at 30 CFR 843.15(e) except that Iowa proposes to replace the Federal rule's reference to section 554 of title 5 of the United States Code (USC) with "Iowa Code section 83.14." However, the referenced section of the USC establishes procedural requirements for formal adjudicatory hearings, whereas Iowa Code section 83.14 does not. The Director finds that IAC 27–40.73(6)e is less effective than the Federal regulation at 30 CFR 843.15(e) and is not approving it. Iowa is required to amend its rule by referencing the State statutes or rules that establish procedural requirements for formal adjudicatory hearings instead of Iowa Code section 83.14.

(d) Informal Public Hearing

Iowa's proposed rule at IAC 27–40.73(6)g is essentially identical to the Federal regulation at 30 CFR 843.15(g) that provides that the granting or waiver of an informal public hearing shall not affect the right of any person to formal review under sections 518(b), 521(a)(4), or 525 of SMCRA except that Iowa proposes to replace the Federal rule's references to SMCRA with a reference to Iowa Code 83.15. While Iowa Code section 83.15 is comparable to section 518(b) and portions of section 525 of SMCRA, it contains no provisions corresponding to section 521(a)(4) and remaining portions of section 525. The Director finds that IAC 27–40.73(6)(g) is less effective than the Federal regulation at 30 CFR 843.15(g) and is not approving it. Iowa is required to amend its rule by referencing the appropriate sections of the Iowa Code that contain provisions corresponding to section 521(a)(4) and remaining portions of section 525. This appears to be Iowa Code section 83.14.

27. IAC 27–40.74 Civil Penalties

Iowa proposes to amend its rules at IAC 27–40.74 by incorporating by reference the Federal regulations at 30 CFR Part 845 as they existed on July 1, 1987. Iowa also proposes to make additional changes to the incorporated Federal regulations. These proposed changes are:

(a) Objective

At IAC 27–40.74(3), Iowa proposes to incorporate by reference the Federal

regulation 30 CFR 845.15(b)(2) that identifies what actions must be taken by the regulatory authority after a violation in a daily assessment situation remains unabated for more than 30 days. Iowa also proposes to replace the specific citations included in this regulation, sections 518(e), 518(f), 521(a)(4), and 521(c) of SMCRA, with a general citation to Iowa Code sections 83.14 and 83.15. Sections 83.14 and 83.15 of the Iowa Code corresponds to sections 518 and 521 of SMCRA in their entirety. The Director finds that IAC 27–40.74(3) is no less effective than the Federal regulation at 30 CFR 845.15(b)(2) and is approving it. However, the Director suggests that Iowa provide the specific citations within Iowa Code sections 83.14 and 83.15 that correspond to the specific Federal citations in order to make the intent of this rule clear to the user.

(b) Procedures for Contesting Assessments

Iowa proposes, at IAC 27–40.74(5), to delete from incorporation by reference the Federal regulations at 30 CFR 845.18 thereby removing OSM's provision for assessment conferences. Therefore, all contested assessments are handled through contested case hearings unless there is an informal settlement. IAC 27–40.74(5) also states that "Under Iowa Code section 17A.10 informal settlements are encouraged. The attorney general may negotiate a settlement in consultation with the division." Iowa Code section 17A.10 states that "* * * informal settlements of controversies that may culminate in contested case hearings according to the provisions of this chapter are encouraged. Agencies shall prescribe by rule specific procedures for attempting such informal settlements prior to the commencement of contested case proceedings." Iowa has not provided "rule specific procedures" for conducting informal settlements. This concept of informal settlement appears to be similar in intent to OSM's assessment conference at 30 CFR 845.18 where very specific procedures are provided, including provisions for public participation.

Iowa proposes to delete from incorporation by reference the Federal regulations at 30 CFR 845.19. This Federal rule provides that a person charged with a violation may contest the proposed penalty or the fact of the violation by submitting a petition and an amount equal to the proposed penalty. These funds must be held in escrow pending completion of the administrative or judicial review process. While Iowa's proposed rules do not contain a similar provision, section 83.15 of the Iowa Code includes the escrow prepayment (or posting of a bond) requirement for a judicial review. However, there is no requirement that a bond be posted or an escrow prepayment be made for any administrative review that would include a "contested case hearing" request. Under the Federal rules, a person is entitled to one review of the proposed penalty (the informal assessment conference) without prepayment into escrow. For Iowa, that initial review opportunity is the informal settlement. Therefore, Iowa must require prepayment into escrow prior to the second level of administrative review or the commencement of a "contested case hearing."

The proposed State rule at IAC 27–40.74(6) provides that:

> When a Notice of Assessment is informally settled in advance of the contested case hearing, a final order shall be issued and the civil penalty shall become due and payable within 30 days of the final order. In all other cases, a civil penalty shall become due and payable within 30 days of the final administrative or judicial decision with respect to the Notice of Assessment.

Iowa's proposed rule at IAC 27–40.74(6) is inconsistent with Iowa Code section 83.15, subsection 4, in that it would allow penalty payment to be delayed until 30 days after the final judicial decision whereas the Code requires prepayment into escrow as a condition of granting the judicial review. In addition, the proposed rules are inconsistent with Federal requirements in that they lack escrow account handling provisions corresponding to those set forth at 30 CFR 845.20.

The Director finds that IAC 27–40.74 (5) and (6) are less effective than the Federal regulations at 30 CFR 845.18, 845.19 and 845.20 and is not approving them. Iowa is required to amend its rule to: (1) Provide "rule specific procedures" for conducting informal settlements consistent with 30 CFR 845.18; (2) require that the proposed penalty amount be put in escrow prior to the commencement of the "contested case hearing" review process and (3) establish escrow account handling provisions corresponding to those set forth at 30 CFR 845.20.

28. IAC 27–40.81 Permanent Regulatory Program Requirements—Standards for Certification of Blasters

Iowa proposes to amend its rules at IAC 27–40.81 by incorporating by reference the Federal regulations at 30 CFR part 850 as they existed on July 1, 1987. Iowa also proposes to amend the incorporated Federal regulation at 30 CFR 850.15 by adding paragraph (f) that would allow Iowa to issue an Iowa blaster certificate to: (1) A qualified applicant who holds a valid blasters certification granted by OSM, (2) a qualified applicant that holds a valid state blaster certification granted by a State regulatory authority under OSM approved blaster certification and regulatory program. Paragraph (f) requires that a reciprocal blasters certification issued in Iowa expires on the same date as the expiration of the original State's certification and that renewal will be by reexamination. Finally, paragraph (f) states that blasters from States without OSM approved blaster certification may become certified in Iowa by passing the Iowa certification test. The addition of paragraph (f) provides additional guidance for the administration of Iowa's blaster certification program.

The Director finds that IAC 27–40.81(1) is no less effective than the Federal regulation at 30 CFR 850.15 and is approving it.

29. IAC 27–40.82 Certification of Blasters

Iowa proposes to amend IAC 27–40.82 by incorporating by reference the Federal regulations at 30 CFR part 955 as they existed on July 2, 1987. These regulations establish rules pursuant to part 850 for the training, examination, and certification of blasters. Iowa proposes to make additional changes to these incorporated regulations in order to tailor them to Iowa's program. These changes as well as other issues are discussed below.

(a) Scope and Implementation

Iowa proposes to incorporate 30 CFR 955.1 and 955.2 without change. Since these sections of the Federal regulation define the scope and establish implementation dates for blaster certification programs in Federal program States and on Indian lands, no State counterparts are required. However, if these Federal regulations are to be incorporated, Iowa must make them applicable with its program by deleting the phrase "in States with Federal programs and on Indian lands" from both sections, the phrase "and reciprocity to a holder of a certificate issued by a State regulatory authority" from 30 CFR 955.1, and the reference to "750.19" from 30 CFR 955.2. Also, Iowa would need to change the implementation dates in 30 CFR 955.2 to correspond with the effective date of the State's blaster certification program. In addition, at the incorporated Federal regulation at 30 CFR 955.17(c), Iowa needs to modify the sentence "if the

certificate was granted through reciprocity, OSM shall notify the State regulatory authority of its action" to require that Iowa notify OSM or the appropriate State regulatory authority if it revokes a certificate issued on the basis of a certificate originally granted by OSM or another State.

The Director finds that the proposed rule at IAC 27–40.82 is less effective than the Federal counterpart at 30 CFR part 955 and is not approving it to the extent that it incorporates the phrases (1) "in States with Federal programs and on Indian lands;" (2) "and reciprocity to a holder of a certificate issued by a State regulatory authority;" (3) the reference to "750.19" and (4) the implementation date of the Federal blaster certification program. Iowa is required to amend its rule by making the changes necessary to reflect the Iowa program and not the Federal program.

(b) Application

Iowa proposes at IAC 27–40.82(2) to delete 30 CFR 955.13(a) (1) and (2) from incorporation by reference. These sections discuss sending the application and application fee to OSM. The Director finds that the deletion in IAC 27–40.82(2) provides administrative clarity to Iowa's program and does not render it less effective than the Federal regulation at 30 CFR 955.13 and is approving it.

(c) Definitions and Reciprocity

Iowa proposes at IAC 27–40.82(4) to delete at 30 CFR 955.5, the definition of reciprocity, and at 30 CFR 955.16, the Federal regulations regarding reciprocity, from incorporation by reference. Iowa addresses reciprocity in its proposed rule at IAC 27–40.81 in substantively the same manner as do the Federal regulations at 30 CFR 955.16. However, Iowa has not provided a definition of reciprocity to replace the deleted definition at 30 CFR 955.5. Nevertheless, Iowa provides a similar function definition at IAC 27–40.81(1)(f) by detailing the conditions under which a blaster certificate can be reciprocally issued. Therefore, the Director finds that IAC 27–40.82(4) is no less effective than the Federal regulation at 30 CFR part 955 and is approving it.

30. IAC 27–40.99 Decision of the Administrative Law Judge

At IAC 27–40.99(1)d and 27–40.99(2)a, Iowa proposes to add language regarding an appeal of the decision of the administrative law judge that corresponds to the Federal regulation at 30 CFR 845.19 and 43 CFR 4.1270. At IAC 27–40.99(1)d Iowa provides that appeals of the decisions of administrative law judges to the State Soil Conservation Committee shall be made pursuant to and conducted according to the provisions of Iowa Code section 83.14, subsection 4. However, this subsection pertains only to appeals of agency orders to show cause why a permit should not be suspended or revoked. The Federal regulations at 30 CFR 845.19 allow a person to appeal the penalty or the fact of the violation or, if a conference has been held, the reassessed or affirmed penalty to the Office of Hearings and Appeals. IAC 27–40.99(2)a states that an appeal before the committee shall be conducted according to the provisions of Iowa Code sections 17A15(3) and 83.14(4). These sections do not contain provisions for the conduct of appeals before the Committee such as found at 43 CFR part 4. Section 43 CFR 4.1270 pertains to appeals of the disposition of civil penalties and the conduct of such appeals at 43 CFR 4.1273–4.1276. Therefore the Director finds that IAC 27–40.99(1)d and 27–40.99(2)a are less effective than the Federal counterpart regulations at 30 CFR 845.19 and 43 CFR 4.1270 and is not approving them. Iowa is required to amend its program by deleting the reference to Iowa Code section 83.14, subsection 4, and instead develop or refer to those program provisions that establish procedures for appealing the decision of an administrative law judge and for the conduct of appeals before the Committee in a manner similar to 43 CFR part 4.

IV. Public and Agency Comments

1. Public Comments

The Director solicited public comment on the proposed amendment and provided opportunity for public hearing (March 31, 1988, July 20, 1988, and January 4, 1991, publications of the **Federal Register** at 53 FR 10397, 53 FR 27326, and 56 FR 398, respectively). Because no one requested an opportunity to testify at a public hearing, no hearing was held. No public comments were received.

2. Agency Comments

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(i), comments were solicited from various Federal agencies with an actual or potential interest in the Iowa program. Comments were also solicited from various State agencies. The following comments were received.

Environmental Protection Agency (EPA) Concurrence

Pursuant to section 503(b) of SMCRA and 30 CFR 732.17(h)(11)(ii), concurrence was solicited and received (Administrative Record No. IA–298, 315, 329, and 364) from the EPA Washington, DC, office that the amendment demonstrates the legal authority, administrative capability, and technical conformity to OSM regulations necessary to maintain water quality standards promulgated under the authority of the Clean Water Act, as amended (33 U.S.C. 1251 *et seq.*). However, EPA qualified its concurrence in its comments of April 5, 1991, (Administrative Record No. 364) to the extent that Iowa's rules should not be interpreted so as to provide full authorization for instream treatment of point source discharges.

EPA noted certain situations related to instream treatment which could result in conditions that would not assure compliance with applicable State water quality standards as required by the Clean Water Act. By instream treatment, EPA referred to two activities. The first activity is one in which mine wastes are discharged into waters of the United States for the primary purpose of waste disposal but with the effect of fill. The second activity involves instream waste treatment impoundments. These impoundments are built in waters of the United States for the purpose of creating a waste treatment system. Such impoundments may be used for the chemical treatment of mine waste water as well as solids settling.

EPA's definition of "waters of the United States" at 40 CFR 122.2 includes not only perennial, but also intermittent and ephemeral streams. EPA noted that the creation of any impoundments or sediment ponds in waters of the United States does not itself remove those waters from the definition of "waters of the United States" under the Clean Water Act. The Clean Water Act requires that all discharges of pollutants from point sources into waters of the United States obtain a permit as appropriate under either section 402 or 404 of the Clean Water Act.

The Director acknowledges that nothing in SMCRA supersedes the requirements of the Clean Water Act. The Director's approval of Iowa's proposed rules should not be construed to authorize any actions inconsistent with the Clean Water Act.

Region VII of the EPA also reviewed the amendment and concurred with its approval as meeting the requirements of

Section 309 of the Clean Air Act (Administrative Record No. IA-314, 322, and 330). They offered several nonsubstantive editorial comments to improve the clarity and accuracy of the amendment. Their suggestions were communicated to the Iowa program.

Other Agency Comments

The Mine Safety and Health Administration had no objections to the amendment (Administration Record No. IA-293). The Soil Conservation Service reviewed the amendment and recommended its approval (Administration Record No. IA-297). The Fish and Wildlife Service had no comments on the proposed amendment (IA-333).

In accordance with 30 CFR 732.17(h)(4), comments were also solicited from the State Historic Preservation Officer and the Advisory Council on Historic Preservation. They supported the amendment (Administration Record No. IA-300, IA-316 and IA-328).

V. Director's Decision

Based on the above findings, the Director is approving the proposed amendment submitted by Iowa on February 9, 1988, with subsequent resubmittals on June 9, 1988, and December 19, 1990, with the exception of those provisions found to be inconsistent with SMCRA or the Federal regulations.

As discussed in findings Nos. 2, 3a, 5a, 8a and b, 17a, 18c, 19, 20b, c, and e, 22, 23a, 25c, 26a, c, and d, 27b, 29a, and 30 the Director is not approving IAC 27-40.3, with respect to termination of jurisdiction; IAC 27-40.4, definition of previously mined area; IAC 27-40.11, initial regulatory authority—scope; IAC 27-40.21, and 27-40.21(5), areas designated by an Act of Congress; IAC 27-40.39, requirements for permits for special categories of mining, coal preparation plants not located within the permit area of a mine; IAC 27-40.51(5), bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs—requirement to release performance bonds; IAC 27-40.61, permanent program performance standards—general provisions, responsibility; IAC 27-40.63, permanent program performance standards—surface mining activities, coal mine waste: General requirements and backfilling and grading for thin and thick overburden and IAC 27-40.64, permanent program performance standards—underground mining activities, coal mine waste: General requirements and refuse piles; IAC 27-40.66, special permanent program performance standards—operations on prime farmland, applicability; IAC 27-40.67, permanent program performance standards—coal preparation plants not located within the permit area of a mine, scope and interim performance standards; IAC 27-40.72(3), inspections and monitoring—reviews of decision not to inspect or enforce; IAC 27-40.73(2)c, 27-40.73(6)e, and 27-40.(6)g, enforcement; IAC 27-40.74(6), civil penalties; IAC 27-40.82, certification of blasters, scope and implementation; and IAC 27-40.99(1)d and 27-20.99(2)a, decision of the administrative law judge.

As discussed in findings Nos. 5b, 7, 11a, and 23b the Director is approving these proposed rules. However, the Director is requiring that Iowa submit further regulatory program amendments regarding IAC 27-40.11(2), initial regulatory program, IAC 27-40.30, special performance standards—initial program, IAC 27-40.31(1) revision; renewal; and transfer, assignment, or sale of permit rights—permit revision and IAC 27-40.67, permanent program performance standards—coal preparation plants not located within the permit area of a mine, interim performance standards.

Except as noted above, the Director is approving the Iowa rules with the provision that they be fully promulgated in identical form to the rules submitted to and reviewed by OSM and the public.

The Federal regulations at 30 CFR part 915 codifying decisions concerning the Iowa program are amended to implement this decision. The final rule is being made effective immediately to expedite the State program amendment process and to encourage States to bring their programs into conformance with the Federal standards without undue delay. Consistency of State and Federal standards is required by SMCRA.

VI. Effect of Director's Decision

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

VII. Procedural Determinations

1. Compliance with the National Environmental Policy Act

Pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

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

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for action directly related to approval or conditional approval of State regulatory programs. Accordingly, for this action, OSM is exempt from the requirement to prepare a regulatory impact analysis, and this action does not require regulatory review by OMB.

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

3. Paperwork Reduction Act

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

List of Subjects in 30 CFR Part 915

Intergovernmental relations, Surface mining, Underground mining.

Dated: October 25, 1991.

Allen D. Klein,

Acting Assistant Director Western Support Center.

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

PART 915—IOWA

1. The authority citation of part 915 continues to read as follows:

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

2. Section 915.15 is amended by adding paragraph (i) as follows:

915.15 Approval of regulatory program amendments.

* * * * *

(i) With the exceptions of IAC 27–40.3, regarding termination of jurisdiction; IAC 27–40.4, definition of previously mined area; IAC 27–40.11, initial regulatory authority—scope; IAC 27–40.21 and 27–40.21(5), areas designated by an Act of Congress; IAC 27–40.39, requirements for permits for special categories of mining, coal preparation plants not located within the permit area of a mine; IAC 27–40.51(5), bond and insurance requirements for surface coal mining and reclamation operations under regulatory programs; IAC 27–40.61, permanent program performance standards—general provisions, responsibility; IAC 27–40.63, permanent program performance standards—surface mining activities, coal mine waste: General requirements and backfilling and grading for thin and thick overburden and IAC 27–40.64, permanent program performance standards—underground mining activities, coal mine waste: General requirements and refuse piles; IAC 27–40.66, special permanent program performance standards—operations on prime farmland, applicability; IAC 27–40.67, permanent program performance standards—coal preparation plants not located within the permit area of a mine, scope and interim performance standards; IAC 27–40.72(3), inspections and monitoring—reviews of decision not to inspect or enforce; IAC 27–40.73(2)c, 27–40.73(6)e, and 27–40.73(6)g, enforcement; IAC 27–40.74(6), civil penalties; IAC 27–40.82, certification of blasters, scope and implementation; and IAC 27–40.99(1)d and 27–40.99(2)a, decision of the administrative law judge, the following revisions to the Iowa Administrative Code formally submitted to OSM on December 26, 1990, are approved effective November 6, 1991.

IAC 27–40.1, Authority and Scope
IAC 27–40.2, Rules or subrules are Severable
IAC 27–40.3, General (excluding the incorporation by reference of 30 CFR 700.11(d), termination of jurisdiction)
IAC 27–40.4, Permanent Regulatory Program (excluding the definition of previously mined area)
IAC 27–40.5, Restrictions on Financial Interests of State Employees
IAC 27–40.6, Exemptions for Coal Extraction Incident to Government-Financed Highway or Other Constructions
IAC 27–40.7, Protection of Employees
IAC 27–40.11, Initial Regulatory Program (excluding the incorporation by reference of 30 CFR 710.1(b))
IAC 27–40.12, General Performance Standards—Initial Program
IAC 27–40.13, Special Performance Standards—Initial Program
IAC 27–40.21, Areas designated by an Act of Congress (excluding 27–40.21(5) and the incorporation of 30 CFR 761.3)
IAC 27–40.22, Criteria for Designating Areas as Unsuitable for Surface Coal Mining Operations
IAC 27–40.23, State Processes for Designating Areas Unsuitable for Surface Coal Mining Operations
IAC 27–40.30, Requirements for Coal Exploration
IAC 27–40.31, Requirements for Permits and Permit Processing
IAC 27–40.32, Revision, Renewal, and Transfer, Assignment, or Sale of Permit Rights
IAC 27–40.33, General Content Requirements for Permit Applications
IAC 27–40.34, Permit Application—Minimum Requirements for Legal, Financial, Compliance, and Related Information
IAC 27–40.35, Surface Mining Permit Applications—Minimum Requirements for Information on Environmental Resources
IAC 27–40.36, Surface Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan
IAC 27–40.37, Underground Mining Permit Applications—Minimum Requirements for Information on Environmental Resources
IAC 27–40.38, Underground Mining Permit Applications—Minimum Requirements for Reclamation and Operation Plan
IAC 27–40.39, Requirements for Permits for Special Categories of Mining (excluding the incorporation by reference of 30 CFR 785.21)
IAC 27–40.41, Permanent Regulatory Program—Small Operator Assistance Program
IAC 27–40.51, Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations under Regulatory Programs (excluding IAC 27–40.51(5))
IAC 27–40.61, Permanent Program Performance Standards—General Provisions (excluding the incorporation by reference of 30 CFR 810.4)
IAC 27–40.62, Permanent Program Performance Standards—Coal Exploration
IAC 27–40.63, Permanent Program Performance Standards—Surface Mining Activities (excluding the incorporation by reference of 30 CFR 816.81, 816.83, 816.104(a), and 816.105(a))
IAC 27–40.64, Permanent Program Performance Standards—Underground Mining Activities (excluding the incorporation by reference of 30 CFR 817.81(c)(2) and 817.83)
IAC 27–40.65, Special Permanent Program Performance Standards—Auger Mining
IAC 27–40.66, Special Permanent Program Performance Standards—Operations on Prime Farmland (excluding the incorporation by reference of 30 CFR 823.11)
IAC 27–40.67, Permanent Program Performance Standards—Coal Preparation Plants Not Located Within the Permit Area of a Mine (excluding the incorporation by reference of 30 CFR 827.1 and 827.13(a) (1) through (3))
IAC 27–40.68, Special Permanent Program Performance Standards—In situ Processing
IAC 27–40.71, State Regulatory Authority—Inspection and Enforcement
IAC 27–40.72, Inspections and Monitoring (excluding IAC 27–40.72(3))
IAC 27–40.73, Enforcement (excluding IAC 27–40.73(2)c, (6)e, and (6)g)
IAC 27–40.74, Civil Penalties (excluding IAC 27–40.74(6))
IAC 27–40.81, Permanent Regulatory Program Requirements—Standards for Certification of Blasters
IAC 27–40.82, Certification of Blasters (excluding the incorporation by reference 30 CFR 955.1 and .2
IAC 27–40.91, Procedural Rules: Contested Cases and Public Hearings
IAC 27–40.92, Contested Cases
IAC 27–40.93, Commencement of Proceeding
IAC 27–40.94, Appeals of Division Notices and Orders
IAC 27–40.95, Prehearing Motions
IAC 27–40.96, Issuance of Notices of Hearing
IAC 27–40.97, Hearing Procedures
IAC 27–40.98, Posthearing Procedures
IAC 27–40.99, Decision of the Hearing Officer (excluding IAC 27–40.99(1)d and (2)a)

3. Section 915.16 is added to read as follows:

§ 915.16 Required program amendments.

(a) By January 6, 1992, Iowa must amend its program:

(1) At 27–40.4 by providing a definition for "previously mined area" that excludes all highwalls created after August 3, 1977, and all fully reclaimed sites.

(2) At IAC 27–40.11 by substituting the appropriate State citations for the existing Federal citations and at IAC 27–40.11(2) by deleting from incorporation by reference the Federal regulation at 30 CFR 710.12.

(3) At IAC 27–40.13 by deleting from incorporation by reference subparagraphs (1) through (5) from the Federal regulation at 30 CFR 716.1(a).

(4) At IAC 27–40.21 by specifying that the general word substitutions of IAC 27–40.1 do not apply to the incorporated version of 30 CFR 761.3 and at IAC 27–40.21(5) by either eliminating the proposed incorporation of 30 CFR 761.12(c) or deleting the proposed replacement of the Federal regulation's reference to section 522(e)(2) of SMCRA.

(5) At IAC 27–40.32(1) by requiring that the Federal regulations at 30 CFR 773.13, 773.19(b) (1) and (3), and 778.21 apply, at a minimum, to all significant permit revisions and that the division may, at any time, as well as at midterm review, require reasonable revisions or modifications.

(6) At IAC 27–40.39 to clarify that proximity may not be the decisive factor in deciding to regulate an off-site processing plant.

(7) At IAC 27–40.51(5) by incorporating the phrase "and part 823 of this chapter" in its rule.

(8) At IAC 27–40.61 to require that the performance standards and design requirements of Iowa's approved

program be followed. It is also suggested that Iowa delete the reference to "parts 818 through 826" at 30 CFR 810.11 in both instances where it appears and replacing it with "parts 819, 823, 827 and 828." There is no part 818 and Iowa properly has chosen not to incorporate parts 820, 822, 824 and 825.

(9) At IAC 27–40.63 and IAC 27–40.64 to amend its rule to provide design criteria, specifically, stability requirements; both long-term and under all conditions of construction.

(10) At IAC 27–40.63 and IAC 27–40.64 to amend its rule to provide design criteria, specifically, for lift thickness and long-term stability.

(11) At IAC 27–40.63 by providing objective formulae for defining thin and thick overburden.

(12) At IAC 27–40.66 to require that prime farmland occupied by all coal preparation plants, support facilities and roads that are a part of the surface mining activities must meet the applicable prime farmland performance standards.

(13) At IAC 27–40.67 by clarifying that proximity may not be the decisive factor ineciding to regulate an offsite processing plant.

(14) At IAC 27–40.67 by deleting from incorporation by reference subchapters 30 CFR 827.13 (a) (1) through (3) that do not apply to Iowa's program.

(15) At IAC 27–40.72(3) by requiring that the name of the person who is or may be adversely affected shall not be disclosed unless confidentiality has been waived or disclosure if required consistent with the Federal regulation at 30 CFR 842.15(b).

(16) At IAC 27–40.73(2)c by referencing the appropriate counterpart rule to section 521(a)(5) of SMCRA.

(17) At IAC 27–40.73(6)e by referencing the State statutes or rules that establish procedural requirements for formal adjudicatory hearings instead of Iowa Code section 83.14.

(18) At IAC 27–40.73(6)(g) by referencing the appropriate sections of the Iowa Code that contain provisions corresponding to section 521(a)(4) and remaining portions of section 525 of SMCRA.

(19) At IAC 27–40.74(6) require that the proposed penalty amount be put in escrow pending the completion of the administrative or judicial review process. Iowa must also establish escrow account handling provisions corresponding to those set forth at 30 CFR 845.20.

(20) At IAC 27–40.82 by making the changes necessary to reflect the Iowa program and not the Federal program.

(21) At IAC 27–40.99(l)d and 27–40.99(2)a by deleting the reference to Iowa Code section 83.14, subsection 4, and instead develop or refer to those program provisions that establish procedures for appealing the decision of an administrative law judge and for the conduct of appeals before the Committee in a manner similar to the Federal regulations at 43 CFR part 4.

[FR Doc. 91–26387 Filed 11–5–91; 8:45 am]
BILLING CODE 4310–05–M

DEPARTMENT OF DEFENSE

Defense Intelligence Agency

32 CFR Part 292a and 319

[DIA Regulation 12–12]

Defense Intelligence Agency Privacy Program

AGENCY: Defense Intelligence Agency (DIA), DOD.

ACTION: Final rule.

SUMMARY: The Defense Intelligence Agency is redesignating 32 CFR part 292a as part 319 and revising its exemption rules to reflect inaccuracies which have been discovered during a review process. Also, DIA is updating an address listed in the CFR where individuals may send Privacy Act requests. These changes are made subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a).

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Mr. Michael J. Timko, FOIA/PA Office, ATTN: RTS–1, Defense Intelligence Agency, Washington, DC 20340–3299. Telephone (202) 373–8361 or Autovon 243–8361.

SUPPLEMENTARY INFORMATION: Defense Intelligence Agency published the final rule on December 8, 1986 (51 FR 44064).

List of Subjects in 32 CFR Part 319

Privacy.

PART 319—DEFENSE INTELLIGENCE AGENCY PRIVACY PROGRAM

For the reasons set forth in the preamble, 32 CFR part 319 is amended as follows:

1. Authority citation for 32 CFR part 319 is revised to read as follows:

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

2. Newly redesignated § 319.5 is amended in paragraph (b) by changing "§ 292a.5" to "§ 319.5", paragraph (d) by changing "§ 292a.7" to "319.7", and by revising paragraph (e) as follows:

§ 319.5 Procedures for requests pertaining to individual records in a record system.

* * * * *

(e) Individuals should mail their written request to the Defense Intelligence Agency, DSP–1A, Washington, DC 20340–3299 and indicate clearly on the outer envelope "Privacy Act Request".

* * * * *

§ 319.7 [Amended]

3. Newly redesignated § 319.7 is amended by changing "§ 292a.5" to "§ 319.5".

4. Newly redesignated § 319.8 is amended by revising paragraph (b) as follows:

§ 319.8 Request for correction or amendment to record.

* * * * *

(b) Such requests shall be in writing and may be mailed to DSP–1A as indicated in § 319.5

* * * * *

§ 319.10 [Amended]

5. Newly redesignated § 319.10(b) is amended by changing "§ 292a.5" to "319.5".

6. Newly redesignated § 319.11(d) is amended by changing "§ 292a.5(e)" to "§ 319.5(e)".

7. Newly redesignated § 319.13 is revised to read as follows:

§ 319.13 Specific exemptions.

(a) All systems of records maintained by the Director Intelligence Agency shall be exempt from the requirements of 5 U.S.C. 552a(d) pursuant to 5 U.S.C. 552a(k)(1) to the extent that the system contains any information properly classified under Executive order to be kept secret in the interest of national defense or foreign policy. This exemption, which may be applicable to parts of all systems of records, is necessary because certain record systems not specifically designated for exemption may contain isolated information which has been properly classified.

(b) The Director, Defense Intelligence Agency, designated the systems of records listed below for exemptions under the specified provisions of the Privacy Act of 1974, as amended (Pub. L. 93–579):

(c) *System identification and name:* LDIA 0271, Investigations and Complaints.

(1) *Exemption:* Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(k) (2) and (5) may be exempt from the following

subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

(2) *Authority:* 5 U.S.C. 552a(k) (2) and (5).

(3) *Reasons:* The reasons for asserting these exemptions are to ensure the integrity of the Inspector General process within the Agency. The execution requires that information be provided in a free and open manner without fear of retribution or harassment in order to facilitate a just, thorough and timely resolution of the complaint or inquiry. Disclosures from this system can enable individuals to conceal their wrongdoing or mislead the course of the investigation by concealing, destroying or fabricating evidence or documents. Also, disclosures can subject sources and witnesses to harassment or intimidation which may cause individuals not to seek redress for wrongs through Inspector General channels for fear of retribution or harassment.

(d) *System identification and name:* LDIA 0275, DoD Hotline Referrals.

(1) *Exemption:* Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(k) (2) and (5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

(2) *Authority:* 5 U.S.C. 552a(k) (2) and (5).

(3) *Reason:* The reasons for asserting these exemptions are to ensure that informants can report instances of fraud and mismanagement without fear of reprisal or unauthorized disclosure of their identity. The execution of this function requires that information be provided in a free and open manner without fear of retribution of harassment in order to facilitate a just, thorough and timely resolution of the case. These records are privileged Director, DIA, documents and information contained therein is not routinely released or disclosed to anyone.

(e) *System identification and name:* LDIA 0660, Security Files.

(1) *Exemption:* Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(k) (2) and (5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

(2) *Authority:* 5 U.S.C. 552a(k) (2) and (5).

(3) *Reason:* The reasons for asserting these exemptions are to ensure the integrity of the adjudication process used by the Agency to determine the suitability, eligibility or qualification for Federal service with the Agency and to make determinations concerning the questions of access to classified materials and activities. The proper execution of this function requires that the Agency have the ability to obtain candid and necessary information in order to fully develop or resolve pertinent information developed in the process. Potential sources, out of fear or retaliation, exposure or other action, may be unwilling to provide needed information or may not be sufficiently frank to be a value in personnel screening, thereby seriously interfering with the proper conduct and adjudication of such matters.

(f) *System identification and name:* LDIA 0800, Operation Record System.

(1) *Exemption:* Any portion of this record system which falls within the provisions of 5 U.S.C. 552a(k) (2) and (5) may be exempt from the following subsections of 5 U.S.C. 552a: (c)(3), (d), (e)(1), (e)(4)(G), (e)(4)(H), and (e)(4)(I).

(2) *Authority:* 5 U.S.C. 552a(k) (2) and (5).

(3) *Reason:* The reasons for asserting these exemptions are to ensure the integrity of ongoing foreign intelligence collection and/or training activities conducted by the Defense Intelligence Agency and the Department of Defense. The execution of these functions requires that information in response to national level intelligence requirements be provided in a free and open manner without fear of retribution or unauthorized disclosure. Disclosures from this system can jeopardize sensitive sources and methodology.

Dated: October 31, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26694 Filed 11-5-91; 8:45 am]

BILLING CODE 3810-01

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 62

RIN 0905-AD58

National Health Service Corps Special Repayment Program

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Final rule.

SUMMARY: The National Health Service Corps Special Repayment Program interim rule, published in the **Federal Register** on April 3, 1989, responded to certain requirements of the "Public Health Service Amendments of 1987," which were enacted on December 1, 1987. The interim rule established requirements for a new Special Repayment Program for persons in default of National Health Service Corps (NHSC) Scholarship obligations. The statute requires that the Secretary establish guidelines regarding monetary payments under the Special Repayment Program and issue regulations providing for the allowance of partial credit for service performed under this program.

This rule corrects an error in the formula used in the interim rule (54 FR 13458) to credit Special Repayment Program participants for partial service completed under the NHSC Scholarship Program. The formula which was published in the interim rule inadvertently provided Program participants with double credit for prior approved service. This change more accurately reflects the intent of the program and is needed since there are a number of defaulters in the program.

Section 62.73 of the interim rule, which establishes the procedures for participation in the Special Repayment Program, has been revised to be consistent with the notice that was provided directly to eligible defaulters. This section now specifies what the Secretary considers evidence of a scholar's intent to enter into the Special Repayment Program. A signed contract is evidence of a scholar's intent to enter into the Program. The statute also requires the Secretary to determine if an individual will not be relieved of his or her liability to the U.S. under the NHSC Scholarship Program through the Special Repayment Program. The rule has been modified to conform to the statute.

EFFECTIVE DATE: These amendments will be effective November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Ms. Rhoda Abrams, Acting Associate Bureau Director for Policy, BHCDA, 5600 Fishers Lane, room 7-15, Rockville, Maryland 20857, or (301) 443-2330.

SUPPLEMENTARY INFORMATION: On April 3, 1989, the Secretary published an interim rule, titled the National Health Service Corps Loan Repayment Program; three Grants for State Loan Repayment Programs; and Special Repayment Program, with request for comments, to implement certain requirements of the "Public Health Service Amendments of 1987," which were enacted on December 1, 1987, as Public Law 100-177. The Department received eighteen comments on the rule. One comment was directed to the Special Repayment Program (subpart D of the interim rule) from a national membership organization and was considered in the development of this final rule. The remaining comments on

the other sections of the rule (subparts B and C) will be included in a revised rule which will reflect the National Health Service Corps (NHSC) Revitalization Amendments of 1990, Public Law 101-597, which were enacted November 16, 1990. The NHSC Revitalization Amendments do not affect the Special Repayment Program. The Department will publish a revised rule incorporating the NHSC Revitalization Amendments early in 1992.

It is necessary to revise and finalize subpart D of the interim rule at this time because this section contains an incorrect formula for determining partial credit for Program participants. The interim rule of April 3, 1989 provided a time-limited opportunity for persons who were in default or otherwise in breach of any written obligation under the present NHSC Scholarship Program or the former Public Health and NHSC Scholarship Training Program to repay these obligations through clinical service. The interim rule provided allowance for partial credit to NHSC Scholarship Program recipients who had completed a portion of their Special Repayment Program service. The formula for determining the partial credit was incorrectly stated in the interim rule and has been amended so the rule can be implemented properly.

The public comment, the Department's response to the comment, and modifications made to conform the regulation more closely to the statute are discussed below. For clarity, the comment, the response, and discussion of revisions are arranged according to the section number and title of the interim rules to which they pertain.

Subpart D—Special Repayment Program

Section 62.72 Definitions

The respondent commented that "the practice of selecting only a few specialties to be eligible for the Special Repayment Program each year discriminates against participants from all other specialties and disciplines." This comment is based on a faulty assumption that a scholar's specialty was a consideration in determining eligibility for the Special Repayment Program (SRP). The definition of "eligible defaulter" does not contain any provision limiting the eligibility of defaulters to scholars of a certain discipline or specialty. In fact, all scholars who met the requirements of the definition were eligible to participate, regardless of their discipline or specialty.

Section 62.73 What are the procedures for participation in the Special Repayment Program?

Two paragraphs have been revised in this section. Paragraph (b) has been amended to specify what the Secretary considered to be evidence of a scholar's intent to enter into the Special Repayment Program (i.e., a signed Special Repayment Program contract). With this amendment, the regulations now coincide with the directions in the notice provided directly to eligible defaulters. Paragraph (f) has been revised to conform more closely with the statutory provision which requires the Secretary to determine if an individual will not be relieved of his or her liability to the United States under the NHSC scholarship programs through the Special Repayment Program. See section 204(a)(4) of Public Law 100-177.

Section 62.74 Will individuals serving under the Special Repayment Program receive credit for partial service?

Two technical corrections have been made to this section. First, the heading of this section has been renumbered as § 62.75. Previously, there were two sections numbered "62.74". Second, the definition of "t" set out at § 62.74(a) has been revised to conform with the stated intent in the preamble to the interim rule—to provide NHSC Scholarship Program recipients with half credit for partial service under an SRP agreement. The formula for calculating partial credit in the interim rule had inadvertently provided the Program participant with double credit for prior approved service.

Paperwork Reduction Act of 1980

This final rule contains no information collection.

Regulatory Flexibility Act and Executive Order 12291

The rule affects only private individuals. Therefore, the Department of Health and Human Services has determined that this rulemaking will not significantly impact on a substantial number of small entities and does not require preparation of a regulatory flexibility analysis under the Regulatory Flexibility Act, Public Law 96-354.

The Department also has determined that this rule is not a "major rule" under Executive Order 12291. Thus, a regulatory impact analysis is not required because it will not: (1) Have an annual effect on the economy of $100 million or more; (2) impose a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies; or geographic regions; or (3) result in significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 42 CFR Part 62

Health professions, Loan programs—health, Grant programs—health, scholarships and fellowships.

Dated: May 24, 1991.

James O. Mason,

Assistant Secretary for Health.

Approved: August 15, 1991.

Louis W. Sullivan,

Secretary.

For the reasons set out in the preamble, 42 CFR part 62, subpart D is revised as set forth below.

PART 62—NATIONAL HEALTH SERVICE CORPS SCHOLARSHIP AND LOAN REPAYMENT PROGRAMS

Subpart D—Special Repayment Program

Sec.

62.71 What is the scope and purpose of the Special Repayment Program?
62.72 Definitions
62.73 What are the procedures for participation in the Special Repayment Program?
62.74 How much credit will a Program participant receive for monetary repayments made, or approved service performed, before beginning service under the Special Repayment Program?
62.75 Will individuals serving under the Special Repayment Program receive credit for partial service?
62.76 How will amounts of money due under the option under section 204(c)(1) of Public Law 100-177 be required to be repaid.

Subpart D—Special Repayment Program

Authority: Sec. 215 of the Public Health Service Act 58 Stat. 690, as amended, 63 Stat. 35 (42 USC 216); Sec. 204, Pub. L. 100-177, 101 Stat. 1000.

§ 62.71 What is the scope and purpose of the Special Repayment Program?

These regulations apply to the Special Repayment Program authorized under section 204 of Public Law 100-177, which provides a time-limited opportunity for persons who were, on November 1, 1987, in breach of a written contract under the Public Health and National Health Service Corps Scholarship Training Program or the National Health Service Corps Scholarship Program to satisfy their scholarship obligations through full-time clinical service. These regulations do not apply to any Public

Health and National Health Service Corps Scholarship Training Program or National Health Service Corps Scholarship Program obligation which the Secretary has determined was completely satisfied through service or monetary payment prior to November 1, 1987. The purpose of this program is to supply trained health professionals for the National Health Service Corps, which is used by the Secretary to improve the delivery of health services in health manpower shortage areas.

§ 62.72 Definitions.

In addition to the definitions in § 62.2 of this part, the following definitions will apply for purposes of this subpart:

Eligible defaulters means those individuals who, as of November 1, 1987, were:

(1) In breach of a written contract entered into under section 338A of the Act and liable to the United States under section 338E(b) of the Act and/or in breach of a written contract entered into under section 225 of the Act (as in effect on September 30, 1977) and liable to the United States under section 225(f)(1) of the Act (as in effect on September 30, 1977); and

(2) Not already serving their obligations on December 1, 1987, under a judgment, forbearance agreement, or other written agreement to serve.

HPOL means the Health Manpower Shortage Area Placement Opportunity List described in section 204(b) of Public Law 100–177.

Match means that the Secretary has received documentation of:

(1) An offer of employment from a HPOL or SHPOL site which specifies at least the agreed upon salary and start date; and

(2) The Program participant's acceptance of that offer. Provided, however, that if the program participant would be self-employed, a *match* means that the Secretary has approved a program participant's private practice option application under section 338D(a) of the Act.

Prior approved service means service performed prior to a Program participant's service start date under the Special Repayment Program:

(1) As a member of the National Health Service Corps pursuant to an assignment by the Secretary under section 333 of the Act;

(2) Under a written private practice option agreement signed by the Secretary pursuant to section 338D of the Act; or

(3) In compliance with section 338C(e) of the Act.

Program participant means an eligible defaulter whose contract under section 204 of Public Law 100–177 has been accepted and signed by the Secretary.

Scholarship amount means the sum of any amounts paid to, or on the behalf of, a scholarship recipient under the PH/NHSC Scholarship Training Program and/or the Scholarship Program.

SHPOL means the Supplemental Health Manpower Shortage Area Placement Opportunity List described in section 204(d) of Public Law 100–177.

Special Repayment Program or *Program* means the program authorized by section 204 of Public Law 100–177.

Total debt means the debt that would be owed by a Program participant under section 225(f)(1) of the Act, as in effect on September 30, 1977, and/or section 338E(b) of the Act, as if no payments had been made on the debt.

§ 62.73 What are the procedures for participation in the Special Repayment Program?

(a) *Notice of eligibility for participation in the program.* On or before February 29, 1988, the Secretary will, subject to paragraph (h) of this section, send written notice to each eligible defaulter of the opportunity provided under this Program. The notice will be sent to the last known address of each eligible defaulter and will describe the special repayment options available under the Program.

(b) *Selection of repayment method.* On or before May 29, 1988, eligible defaulters who wish to participate in this Program must sign and submit to the Secretary a written contract to provide service in accordance with either section 204(b) or section 204(c) of Public Law 100–177. The election between section 204(b) and section 204(c) of Public Law 100–177 is binding on the eligible defaulters.

(c) *Service sites.* Program participants will receive a listing of approved sites appropriate to the service option they have selected. Program participants electing service under section 204(b) of Public Law 100–177 will receive a HPOL. Program participants electing service under section 204(c) of Public Law 100–177 will receive a SHPOL. The HPOL or SHPOL sent to the Program participant will be specific to the Program participant's profession and his or her specialty training which is most needed by the National Health Service Corps. The Secretary is not required to identify placements for Program participants in a medical specialty for which the National Health service Corps has no need.

(d) *Time frames for matching and commencing service.* If a program participant electing to serve under section 204(b) of Public Law 100–177 chooses to serve at a remaining site on the 1988 HPOL, such participant must match to a site and must begin serving at the site by October 1, 1988. If a Program participant electing to serve under section 204(b) of Public Law 100–177 chooses to serve at a site on the 1989 HPOL, such participant must match to a HPOL site by February 15, 1989, and must begin service at the site by October 1, 1989. If a Program participant has elected to serve under section 204(c) of Public Law 100–177, such participant must match to a SHPOL site by May 15, 1989, and must begin service at that site by October 1, 1989.

(e) *Site visits.* The Program participant is responsible for the costs of any site visit(s) and any other contact with the site to obtain employment at the site.

(f) *Effect of failure to meet established time frames.* If a Program participant does not match to a site or begin service at that site within the time frames described in paragraph (d) of this section, the Secretary will determine that such individual is not relieved of his or her liability to the United States under the PH/NHSC Scholarship Training Program and/or Scholarship Program (including accrued interest and/or damages).

(g) *Service.* Service must be performed in accordance with subpart II of part D of title III of the Act. Service credit will begin after a Program participant has matched to a HPOL or SHPOL site and has commenced service at that site in accordance with subpart II of part D of title III of the Act.

(h) *Secretary's exclusion authority.* The Secretary is authorized, at any time, to deny or terminate an individual's participation in the Program for reasons related to the individual's professional competence or conduct.

§ 62.74 How much credit will a Program participant receive for monetary repayments made, or for approved service performed, before beginning service under the Special Repayment Program?

(a) Prior approved service performed by a Program participant will be credited to the Program participant for the purpose of calculating the Program participant's remaining service obligation under this Program. Thus, the Program participant's remaining service obligation will be calculated by subtracting the number of days of the Program participant's prior approved service from the number of days of the Program participant's original service obligation under the PH/NHSC Scholarship Training Program and/or the Scholarship Program. If a Program participant has made monetary payments, his or her remaining service

obligation will be reduced by converting the monetary payments into days of service credit as set forth in paragraph (b) or (c) of this section, whichever is applicable.

(b) Program participants who elect to serve pursuant to section 204(b) and section 204(c)(2) of Public Law 100–177, will not receive a refund of any amounts previously paid but will receive service credit for those payments as follows:

(1) The number of days of service credit will be calculated by dividing the total amount paid by the Program participant prior to the Program participant's service start date by the total debt as of the service start date and multiplying the result of that division by the number of days of the participant's remaining service obligation (as determined by the formula set forth in the second sentence of paragraph (a) of this section).

(2) If the Program participant defaults on a contract under this Program, prior monetary payments will not be credited to service but will be applied to the monetary debt owed by the Program participant.

(c) Program participants who elect to serve under section 204(c)(1) of Public Law 100–177 must pay an amount equal to the scholarship amount. Any amounts paid by the Program participant prior to or after entry into the Program, in accordance with § 62.76 of this subpart, will be used to reduce the Program participant's financial obligation incurred under section 204(c)(1) of Public Law 100–177. In some cases, the amounts paid before or after entry into the Program will exceed the scholarship amount. These payments in excess of the scholarship amount will be converted into days of service credit under the formula set forth in paragraph (b)(1) of this section. If a Program participant defaults on a contract under this option, the monies paid in excess of the scholarship amount will not be credited to service but will be credited toward the monetary debt owed by the Program participant under section 338E(b) of the Act or section 225(f)(1) of the Act, as in effect on September 30, 1977. The scholarship amount paid upon entering this option will be forfeited.

§ 62.75 Will individuals serving under the Special Repayment Program receive credit for partial service?

(a) With respect to obligations under the Scholarship Program, a credit will be allowed for partial service under the Special Repayment Program and will result in a reduction of the Program participant's financial obligation in accordance with the following formula:

$$A = 30\ \frac{[t-(s+\frac{1}{2}r)]}{t}$$

In which:

'A' is the amount the United States is entitled to recover;

'0' is the sum of the amounts paid to or on behalf of the Program participant under the Scholarship Program and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

't' is the sum of (1) the number of months of prior approved service plus (2) the number of months of the Program participant's period of obligated service under the Program including any additional months of service incurred pursuant to section 204(c)(2) of Public Law 100–177;

's' is the number of months of prior approved service performed by the Program participant before commencing service under this Program; and

'r' is the number of months of service performed by the Program participant in compliance with this Program.

However, where a judgment has been entered against a Program participant, the formula will be revised such that:

'30' is the amount of the judgment representing the Program participant's liability under the Scholarship Program, including any accrued post judgment interest and excluding any monetary payments on the judgment which may have been made by the Program participant;

't' is the sum of (1) the number of months of prior approved service performed by the Program participant after entry of the judgment but before commencing service under this Program plus (2) the number of months of the Program participant's period of obligated service under the Program including any additional months of service incurred pursuant to section 204(c)(2) of Public Law 100–177; and

's' is the number of months of prior approved service performed by the Program participant after the entry of the judgment but before commencing service under this Program.

(b) With respect to obligations under the PH/NHSC Scholarship Training Program, if a Program participant fails to complete the period of obligated service under the Program (including any additional months of service incurred pursuant to section 204(c)(1) of Public Law 100–177), no credit for partial service under this Program will be allowed.

(c) Where participants have obligations under both the Scholarship Program and the PH/NHSC Scholarship Training Program, credit for service will be applied against the scholarship obligations in the order in which they were incurred.

§ 62.76 How will amounts of money due under the option under section 204(c)(1) of Public Law 100–177 be required to be repaid?

Program participants who elect to serve under section 204(c)(1) of Public Law 100–177 will be required to pay the full scholarship amount at least 60 days prior to the service start date specified in the documentation submitted to the Secretary.

[FR Doc. 91–26348 Filed 11–5–91; 8:45 am]
BILLING CODE 4160–15–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1 and 13

[Gen. Docket 86–285; FCC 91–298]

Fee Collection Program (Fees II)

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission has generally upheld its fee collection program, Establishment of a Fee Collection Program to Implement the Provisions of the Consolidated Omnibus Budget Reconciliation Act of 1989, (Fees II), 55 FR 19148, May 8, 1990, 5 FCC Rcd 3558 (1990), which it adopted to implement the provisions of the Consolidated Omnibus Budget Reconciliation Act of 1989. In response to the issues raised by petitioners concerning the fee filing procedures adopted by the FCC and the applicability of specific fees, the Commission has made some clarifications and modifications to its rules. The intended effect of this action is to address any concerns raised by petitioners in order to provide service to the public in the most efficient, uncomplicated, timely and courteous manner possible.

EFFECTIVE DATE: October 10, 1991.

FOR FURTHER INFORMATION CONTACT: Martin Blumenthal (202) 254–6530 or Sharon B. Kelley, Office of General Counsel, Federal Communications Commission (202) 632–6990.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order adopted September 23, 1991 and released October 10, 1991. The full text of this Commission Memorandum Opinion and Order is availabl for

inspection and copying during normal business hours in the FCC Docket Branch (room 230), 1919 M Street, NW., Washington, DC. The full text of this item may also be purchased from the Commission's copy contractor.

I. Implementation of Fees II

1. As indicated in Fees II, although we originally intended to seek comment on proposed implementing regulations, the decision to proceed directly to the adoption of implementing rules, without benefit of notice and comment rulemaking, was driven by two important factors: (1) A strongly stated congressional intention that the new fees be implemented within 150 days of enactment of the 1989 Budget Act; and (2) a desire to achieve a smooth transition to the new fee amounts and procedures by giving the public sufficient advance notice of the changeover. In addition, we have given full and careful consideration to the petitions for reconsideration to assess whether adjustments should be made to the new rules. Hence, we believe the public has been afforded a complete and fair opportunity to comment on the new procedures.

II. Fee Filing Procedures

A. The Use of a Lockbox Bank

2. A number of petitioners take issue with the use of a lockbox bank, arguing that the Commission could and should accept and process all fee submissions itself. The Commission explains that the Department of the Treasury lockbox bank program offers a means to accomplish fee processing without significant delays in the substantive processing at virtually no cost to the Commission. Because the functions performed by the Mellon Bank are paid for by Department of the Treasury, not the Commission, the lockbox filing also provides the most cost-effective cash management techniques for the government as a whole.

B. Alternative Lockbox Locations

3. Although the Commission did not abolish the use of a lockbox bank for fee processing, or, alternatively, change lockbox bank locations to Philadelphia or establish a lockbox bank in Washington, we note that, if the Treasury Department, which has primary jurisdiction over the appropriate criteria for lockbox banks, were to enter into a lockbox agreement with a Washington bank, the Commission will revisit this issue to consider the use of a Washington facility for receipt of FCC fees.

C. Other Filing Procedures

Split Filings

4. A number of petitioners propose that applicants be given the option of "split" filings by sending the fee check and FCC Form 155 to the lockbox bank, while the underlying application or other filing is submitted directly to the FCC. The Commission considered this system in Fees II, including the use of bar coded or pre-numbered fee forms. Since this option would require the matching up of fee payments and underlying filings, it would use substantial Commission resources, delay substantive processing, and create a potentially significant source of errors. Nevertheless, because of continued interest in filing in Washington, DC, we are looking into a split filing procedure that would minimize the Commission's resources involved.

Deposit Account

5. A petitioner suggests that we adopt a deposit account procedure similar to those used by the Patent & Trademark Office or U.S. Copyright Office. The Commission's staff and the Mellon Bank will be exploring the feasibility of such a system in the future.

Back-up Filings

6. Petitioners recommend extending the voluntary back-up filing procedure set out in Fees II to all fee filings, or at least to all "deadline" filings. Fees II established a back-up filing procedure under which applicants may submit an unofficial copy of certain time critical applications, together with evidence of timely shipments to Pittsburgh, to the Commission in Washington to be date stamped and retained by the Secretary's Office. The Commission explains that to extend the back-up procedure to all deadline filings would so substantially increase the burden on the Commission's record keeping and storage resources that it could not feasibly adopt this proposal. We agree with commenters that it is appropriate to reduce documentation provided with the backup filing procedure, and amend the Commission's rules accordingly.

Date/Stamp Receipts

7. A petitioner seeks clarification of the date stamp/receipt procedures by which the Bank returns a copy of the filing to the applicant. While there may have been some problems with this procedure during the early phases of the implementation of Fees II, we issued a June 21, 1990 Public Notice providing further clarification and the process is now operating smoothly.

Fee Form Correction Policy

8. A petitioner recommends adopting a policy of permitting applicants one opportunity to correct fee form errors and permitting corrected fee portions of filings to be accepted *nunc pro tunc*. However, as the Commission explained in Fees II, the submission of an error-free Form 155 is essential to the efficient processing of fees. It would tie up substantial, additional Commission and government resources to implement Petitioner's proposal to date stamp and return such filings with a letter explaining the reason for return. Thus, we find no basis for permitting applicants the opportunity to correct fee form errors.

Multiple, Related Applications

9. One petitioner asks that the filing procedure for multiple, related applications be clarified. A number of petitioners propose that a single check be used when an applicant files multiple applications in the same radio service. The Commission concludes that the better approach would be to require a separate check for each application so that there is no question as to which fee covers which application.

Microfiche Requirement and Form 155

10. A petitioner asks that the Commission reconsider the need to microfiche FCC Form 155 with mobile services filings. Because controversies may arise concerning fees, we believe it is necessary to retain the fee form with the application form. Exempting Form 155 from the microfiche requirement would defeat the very purpose underlying the microfiche requirement—the reduction of storage space requirements. Accordingly, FCC Form 155 will continue to be included in the five page count minimum until such time as the forms are revised to incorporate this information in the application itself and the filing of a separate Form 155 is no longer necessary.

III. Applicability of Specific Fees (Requests for Waivers, Exemptions, and/or Clarifications)

A. Part 69

11. The Commission also agrees with a petitioner that Congress did not intend the accounting and audit waiver fee to apply to requests for waiver of tariff rules and requirements included in part 69. The Commission notes that the costs of such waivers will generally be included in the fees established for tariff filings and it amends the Commission's rules accordingly.

B. Field Audit/Attestation Audit

12. The Commission concurs with a petitioner's request for the issuance of guidelines to clarify what constitutes a field audit and an attestation audit.

C. Low Earth Orbit Satellite Systems

13. VITA, a non-profit entity that provides developing countries with a variety of information and technical resources, argues that, because of their purpose and non-profit status, they are analogous to entities currently exempted from fees under 47 U.S.C. 158(d)(1). Because VITA does not fall within, nor is it analogous to, the types of radio services listed in the statute to which fees do not apply, and since non-profit entities are not exempted, the Commission finds no basis upon which to grant an exemption, VITA also questions whether fees should apply because so many more satellites must be put up for the type of satellite system they are providing. While we agree that the filling fees involved are significant, such fees represent only a small fraction of the cost of each satellite, and the Commission must still do the same amount of work for each application. Accordingly, we find no basis for exempting LEO satellite systems from filing fees.

D. Certification in Annual Ownership Report

14. A petitioner argues that the Commission should not require a fee from a broadcast licensee who, in compliance with § 73.3615 of the Commission's rules, annually files a simple statement indicating "no change" in the ownership structure of the licensee. In describing the ownership report fee, the legislative history specifically provides that the fee applies to both a full report and the certification of "no change." Thus, the Commission finds no basis for granting such an exemption herein.

E. Noncommercial International Broadcasters

15. Because Congress did not create an exemption for noncommercial educational international broadcasters, the Commission believes this indicates an intention that these fees apply to all broadcasters. Thus, the Commission will not create an exemption for this service.

F. Rulemaking Petitions

16. A petitioner proposes the deletion of any fee for a rulemaking petition, labeling it "an unconstitutional tax on the ability of the public to participate in the process of government." However, the Commission notes that fees are not assessed for routine rulemakings of general applicability, nor are there fees for rulemakings to amend the FM or TV tables. The fee applies only to petitions for rulemaking which, if granted, would effectuate the upgrading of a particular station by changing its community of license or its channel (FM). These rulemakings are the first step in an effort to upgrade a station, and the fee is only payable if the licensee is successful in achieving the upgrade.

G. Fee Refunds

Hearing Fee Refunds

17. A petitioner proposes that section 1.1111(c)(2) of the Commission's rules be amended to require a refund of a hearing fee in a comparative broadcast proceeding if only one applicant files a Notice of Appearance and the only outstanding issue precluding a grant of the application is an air hazard issue.The Commission's decision in the Fees I Reconsideration Order, 3 FCC Rcd at 5990, to retain hearing fees whenever the sole surviving applicant had to satisfy a directive specified in the designation order, is no longer warranted. The Commission, amends on its own motion, section 1.1111 of the Commission's rules, 47 CFR 1.1111, to provide for the retention of the fee only where a decision on the merits is required to resolve an outstanding issue.

Ship and Aircraft Stations

18. Petitioners argue that applying a waiver fee involving ship and aircraft stations on a per unit basis is inconsistent with the Budget Act. In amending the Schedule of Charges, Congress explained in the legislative history that "[r]equests for a fleet license will be charged according to the number of stations requested." Moreover, petitioners request that routine waivers be assessed a single fee, regardless of the number of stations or rule sections involved, is also inconsistent with congressional intent. The legislative history explicitly provides that nonroutine waivers "involve more than one rule section or station."

Construction Permits

19. The Commission agrees with a petitioner that applicants for a vacant FM allotment in the mass media services under the "first-come, first-served" rule, 47 CFR 73.3573(f)(3), should be entitled to a fee refund where such applicants request the dismissal of their application for the same vacant channel. The Commission concludes that a refund is warranted in these situations, where, at the time an application is filed, the Commission's data base does not indicate that there is pending any previously submitted application for the same vacant allotment. Accordingly, the Commission amends § 1.1111 of the Commission's Rules, 47 CFR 1.1111, to permit fee refunds to such applicants filing under the "first-come, first-served" procedure in 47 U.S.C. 73.3573(f)(3). The refund request must be filed within fifteen days of issuance of an FCC Public Notice indicating that the first such previously filed pending application was received but not yet accepted for tender, and the applicant requesting the refund must also have requested dismissal of its application.

H. Sea Scout Program Vessels

20. A petitioner requests a waiver of the ship radio inspection fee because the boat is owned and operated by a tax exempt organization for the benefit of youth members. However, Congress did not create any specific exemption for youth organizations or all not-for-profit organizations, and the imposition of a $320 ship inspection fee would not appear to preclude petitioner from carrying out its organization's activities. Further, Congress directed that the waiver provision be construed "narrowly," and grant of the waiver would render it virtually impossible for us to deny waivers to a multitude of similar groups who may have equally laudable purposes. In these circumstances, and consistent with the clear congressional intent that we grant waivers only in a very narrow class of cases, the Commission concludes that grant of petitioner's waiver request would not promote the public interest.

I. Modification of PPMRS Licenses

21. The Commission endorses petitioners' position that neither the statute nor its legislative history indicates an intent to charge a fee for previously licensed Point-to-Point Microwave facilities that are subsequently modified, where the modification does not involve a new frequency. The Commission clarifies that its rules do not contemplate a fee in such circumstances.

Restricted Radiotelephone Operator Permits

22. A number of petitioners argue that Congress intended to exempt noncommercial educational (NCE) broadcast stations from payment of a $35 fee with applications for Restricted Radiotelephone Operator Permits (RPs) when such applications are filed by persons intending to work at NCE stations. The Commission states that although the RP application fee is to be

paid by the individual applicant, not the station, it appears that the imposition of the fee will ultimately inure to the detriment of NCE stations that rely heavily on volunteers who may be unwilling or unable to pay the fee. The Commission agrees that an exemption from the RP application fee for persons at NCE stations would be consistent with the intent of Congress in exempting NCE stations from fees. Because the RP is a lifetime permit to operate certain radio transmitting equipment in addition to transmitters at NCE stations, the Commission feels that the exemption will have to be tailored to prevent fee exempt applicants from using the permit for other purposes.

IV. Publication of Fee Decisions and Public Notices

23. The Commission has made editorial changes to the rules to correct incorrect references to FCC numbers and fee amounts. A petitioner recommends that we issue notices at least once a week, and publish the entire text of all determinations in the FCC Record, rather than just list what determinations have been placed in the fee docket. The Commission has periodically issued Public Notices clarifying fee procedures, summarizing FCC fee decisions of significance or addressing other issues that it felt needed to be addressed. The Commission has also held a number of workshops and so-called "brown bag lunches" on a variety of fee-related topics. Fee Filing Guides are available through the Commission's Office of Public Affairs and Field Offices and additional information may be obtained through the Fees Hotline at (202) 632-FEES. We will also begin publishing the full text of all fee decisions in the FCC Record within 60 days.

24. Authority for this action is contained in section 4(i) and 8(f) of the Communications Act of 1934, as amended, 4 U.S.C. 154(i) and 158(f).

List of Subjects

47 CFR Part 1

Administrative practice and procedure.

47 CFR Part 13

Radio.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

47 CFR parts 1 and 13 are amended as follows:

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

Authority: Sec. 3001(a), Pub. L. 101-239, 103 Stat. 2106, 47 U.S.C. 158.

2. Section 1.1111 is amended by redesignating paragraph (b) as paragraph (a)(6), by redesignating paragraphs (c) through (c)(5) as paragraphs (b) through (b)(5), by revising newly redesignated paragraphs (b), (b)(3) and (b)(4) and adding a new paragraph (c) to read as follows:

§ 1.1111 Return or refund of charges.

* * * * *

(b) Applicants in the Mass Media Services designated for comparative hearings will be entitled to a grant without payment of the hearing fee or a refund of the hearing fee paid in the following circumstances.

* * * * *

(3) When only one applicant files a Notice of Appearance and pays the hearing fee, that single remaining applicant will be entitled to a refund of the hearing fee upon request if it is immediately grantable or if all issues specified in the designation order and requiring resolution can be deleted. See § 1.229 of this part.

(4) When a settlement agreement filed with the presiding judge by the Notice of Appearance deadline (see § 1.221 of this part) provides for the dismissal of all but one of the applicants, and the single remaining applicant is immediately grantable, no hearing fee is due. However, if the applicant cannot be granted without resolution of issues specified in the designation order, it must pay the hearing fee. That payment will be refunded upon request if all outstanding issues can be deleted. See § 1.229 of this part.

* * * * *

(c) Applicants in the Mass Media Services for first-come, first-served construction permits will be entitled to a refund of the fee, if, within fifteen days of the issuance of a Public Notice indicating that there is a previously filed pending application for the same vacant channel, such application notifies the Commission that they no longer wish their application to remain on file behind the first applicant and any other applicants filed before his or her application, and the applicant specifically requests a refund of the fee paid and dismissal of his or her applicant.

§ 1.1102 [Amended]

3. Section 1.1102 is amended by removing the words "FCC 155" in paragraph (3)(a).

4. Section 1.1112 is amended by adding a new paragraph (g) to read as follows:

§ 1.1112 General exemptions to charges.

* * * * *

(g) Applications for Restricted Radiotelephone Operator Permits where the applicant intends to use the permit solely in conjunction with duties performed at radio facilities qualifying for fee exemption under paragraphs (c), (d), or (e) of this section.

* * * * *

2. The authority citation for part 13 continues to read as follows:

Authority: Secs. 4, 303, 48 Stat. 1066, 1082 as amended; 47 U.S.C. 154, 303.

1. Section 13.5 is amended by adding a new paragraph (d) to read as follows:

§ 13.5 Eligibility for new license.

* * * * *

(d) Any eligible individual may apply for a Restricted Radiotelephone Operator Permit authorizing only the performance of the permissible duties at noncommercial educational stations. Application for such a limited use Restricted Radiotelephone Operator Permit should be made on the appropriate FCC form and submitted directly to the Commission's Offices in Gettysburg, Pennsylvania. Applications claiming this fee exemption under 47 CFR 1.1112 of this chapter, should be accompanied by the following certification, signed by the applicant; "The Restricted Radio Telephone Operator Permit being applied for will be used only at a noncommercial educational station." The holder of a Restricted Radiotelephone Operator Permit limited to use at noncommercial educational broadcast stations may request the termination of that limitation by filing an application for a new permit, together with the payment of the fee, in the manner set forth in § 1.1103 of this chapter.

[FR Doc. 91-25893 Filed 11-5-91; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 91-223; RM-7758]

Radio Broadcasting Services; Rozel, KS

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This document substitutes Channel 254C1 for Channel 254A at Rozel, Kansas, and modifies the construction permit for Station KGZE to specify opration on the hihger class channel, in response to a petition filed by Lee E. Scott. *See* 56 FR 40590, August 15, 1991. The coordination for Channel 254C1 at Rozel are 38-20-00 and 99-40-

00. With this action, this proceeding is terminated.

EFFECTIVE DATE: December 16, 1991.

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. 91–223, adopted October 21, 1991, and released November 1, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452–1422.

List of Subjects in 47 CFR Part 73

Radio broadcasting.

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 254A and adding Channel 254C1 at Rozel.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91–26796 Filed 11–5–91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 216 and 247

[Docket No. 910777–1177]

Taking and Importing of Marine Mammals; "Dolphin Safe" Tuna Labeling

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

ACTION: Notice of postponement of effectiveness and delay in compliance date of a collection-of-information requirement.

SUMMARY: Notice is hereby given that the requirement for NOAA Form 370 "Fisheries Certificate of Origin" to accompany certain fish and fish products (originally published September 19, 1991, at 56 FR 47418) is postponed until December 1, 1991, for all product forms of tuna and other fish subject to the provisions of 50 CFR 216.24(e)(3) and 50 CFR 247.4, except for those canned tuna products subject to those provisions that are entered into a bonded warehouse prior to December 1, 1991, which need not be accompanied by NOAA Form 370 until January 8, 1992. The collection-of-information requirements to be made effective November 1, 1991, as published in a notice of October 4, 1991 (56 FR 50278), are postponed until December 1, 1991, and the compliance date for canned tuna products entered into a bonded warehouse prior to December 1, 1991, is delayed to respond to concerns of importers. The former collection-of-information requirements contained in 50 CFR 216.24(e)(3) will remain in effect through November 30, 1991.

DATES: The effective date for §§ 216.24(e)(3) and 247.4 announced on October 4, 1991, at 50 FR 50278 is postponed until December 1, 1991. The provisions of § 216.24(e)(3) as published on September 19, 1991, at 56 FR 47418 will not be applicable to canned tuna products entered into a bonded warehouse prior to December 1, 1991, until January 8, 1992.

ADDRESSES: Copies of NOAA Form 370 and instruction sheets for the form are available by contacting: E.C. Fullerton, Director, Southwest Region, NMFS, 300 South Ferry Street, room 2005, Terminal Island, CA 90731.

FOR FURTHER INFORMATION CONTACT: E.C. Fullerton, Director, Southwest Region, (213) 514–6196; FAX (213) 514–6194.

SUPPLEMENTARY INFORMATION: On September 19, 1991, NMFS published an interim final rule (56 FR 47418) to implement the Dolphin Protection Consumer Information Act. NOAA Form 370 "Fisheries Certificate of Origin" required by those regulations will allow NMFS to determine the origin and method of harvest of yellowfin tuna potentially harvested by purse seine in the eastern tropical Pacific Ocean, and of several species of fish, including species of tuna, potentially harvested by large-scale driftnet. The form will also facilitate enforcement of the standards for use of "dolphin safe" labels on tuna products. Notice was given on October 4, 1991, (56 FR 50278) that NOAA Form 370, as described in 50 CFR 216.24(e)(3)(iii), must accompany all shipments of the products listed under 50 CFR 216.24(e)(2) beginning November 1, 1991, as required by 50 CFR 216.24(e)(3) and 50 CFR 247.4.

NMFS originally intended to give 45 to 60 days notice for requirement of NOAA Form 370. However, delays in approval and publication of the notice allowed less than 30 days notice. Several importers and import brokers have notified NMFS that there are shipments already in transit that do not have the required certification, but that are not due to arrive in the United States until sometime after November 1, 1991. Additionally, several importers have large stockpiles of canned tuna products in storage for entry in the United States that do not have the required certification, and have no way of obtaining it.

The intention of this requirement is to discourage large-scale driftnet fishing and to enable the consumer to be confident that a tuna product labeled "dolphin safe" is truly a product containing tuna that was harvested in a manner that is not injurious to dolphin. It was not the intention to impose these requirements on importers and deny entry of products into the United States before the importers were given adequate notice of the new procedures.

Therefore, the requirement that NOAA Form 370 must accompany all shipments of the products listed under 50 CFR 216.24(e)(2), as required by 50 CFR 216.24(e)(3) and 50 CFR 247.4, is postponed until December 1, 1991, except that compliance with these collection-of-information requirements for those products listed under 50 CFR 216.24(e)(2)(i)(B) and 216.24(e)(2)(ii)(B) (canned tuna) that, prior to December 1, 1991, were entered into a bonded warehouse designated by the Secretary of the Treasury pursuant to 19 U.S.C. 1551 *et seq.*, is delayed until January 8, 1992. The former requirement at § 216.24(e)(3) that SF 370–1 "Yellowfin Tuna Certificate of Origin" must accompany yellowfin tuna will remain effective through November 30, 1991.

Dated: October 31, 1991.

William W. Fox, Jr.,

Assistant Administrator for Fisheries.

[FR Doc. 91–26683 Filed 10–31–91; 4:01 pm]

BILLING CODE 3510-22-M

50 CFR Parts 611 and 663

[Docket No. 901078–0345]

Pacific Coast Groundfish Fishery

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

ACTION: Notice of final reassessment.

SUMMARY: NMFS announces the final reassessment of domestic processing needs, which indicates that the quotas for jack mackerel (north of 39° N.

latitude) and shortbelly rockfish should be designated entirely for domestic processing in 1991. Amounts currently specified for joint venture processing, foreign fishing, and the reserve are made available for domestic processing in order to fully utilize the 1991 jack mackerel and shortbelly rockfish resources off the coasts of Washington, Oregon, and California, and to provide preference for domestic processors. This action is intended to carry out the objectives of the Pacific Coast Groundfish Fishery Management Plan (FMP).

EFFECTIVE DATE: December 2, 1991.

FOR FURTHER INFORMATION CONTACT: William L. Robinson at (206) 526–6140; or Rodney R. McInnis at (213) 514–6199.

SUPPLEMENTARY INFORMATION: At the beginning of the year, annual specifications are announced for domestic annual harvest (DAH), which consists of estimates of domestic annual processing (DAP) and joint venture processing (JVP). If DAH is less than the species quota, the remainder may be designated for the total allowable level of foreign fishing (TALFF). In addition, if DAP is less than the species quota, a reserve of 20 percent of the quota is set aside to accommodate unexpected expansion of domestic processing needs.

The regulations at section II.I(c) of the appendix to 50 CFR part 663 provide for the inseason reassessment of DAH, with a mechanism to make adjustments to apportionments within DAH (to DAP and/or JVP) or to TALFF, and to release the reserve. Adjustments are made in order to achieve full utilization of the resource and to ensure that the preference for domestic processing is achieved.

The final reassessment announced in this notice is based on a survey of domestic processing needs conducted by the Northwest Regional Director, NMFS (Regional Director), in June 1991, consultation with the Pacific Fishery Management Council at its July an September 1991 meetings, and public testimony at those meetings. No comments were received during the public comment period that followed publication of the preliminary reassessment in the **Federal Register** (October 3, 1991; 56 FR 50084). The final reassessment is the same as proposed and the final specifications are repeated below. These final specifications replace those published in Table 2 at 56 FR 645, January 8, 1991, for jack mackerel and shortbelly rockfish.

I. Jack Mackerel	Initial specification	Change	Final specification
1991 Quota	46,500	0	46,500
DAH	25,000	+21,500	46,500
DAP	0	+46,500	46,500
JVP	25,000	−25,000	0
Reserve	9,300	−9,300	0
TALFF	12,200	−12,200	0

II. Shortbelly rockfish	Initial specification	Change	Final specification
1991 Quota	13,000	0	13,000
DAH	10,400	+2,600	13,000
DAP	0	+13,000	13,000
JVP	10,400	−10,400	0
Reserve	2,600	−2,600	0
TALFF	0	0	0

Classification

This action is promulgated under the Pacific Coast Groundfish FMP and its implementing regulations at 50 CFR 611.70 and part 663 and section II.I(c) of the appendix to part 663.

The reassessment of the needs of the domestic industry and the reapportionment of jack mackerel and shortbelly rockfish to DAP are based upon the most recent data available. This action is covered by the regulatory flexibility analysis and environmental impact statement prepared for the authorizing regulations. The action contains no additional collection of information requirement for purposes of the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 611

Fisheries, Foreign relations, Reporting and recordkeeping requirements.

List of Subjects in 50 CFR Part 663

Fisheries, Fishing, Administrative practice and procedure, Reporting and recordkeeping requirements.

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

Dated: October 31, 1991.

David S. Crestin,

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

[FR Doc. 91–26712 Filed 10–31–91; 5:02 pm]
BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 56, No. 215
Wednesday, November 6, 1991

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

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation

7 CFR Chapter IV

[Doc. No. 0294s]

Sales Closing, Cancellation, Termination for Indebtedness, and Contract Change Dates

AGENCY: Federal Crop Insurance Corporation, USDA.

ACTION: Advance notice of proposed rulemaking with request for comments.

SUMMARY: The Federal Crop Insurance Corporation (FCIC) hereby publishes this notice to solicit public comment regarding the changing of the sales closing, cancellation, termination and contract change dates to dates earlier than those presently established.

The Corporation believes it has experienced adverse selection by allowing producers to apply for insurance under adverse weather conditions and to cancel coverage when conditions appear more optimal for crop production. This creates an unsound actuarial structure since rates are based on long term averages, not single year adverse situations.

The resulting need to increase premium rates to accomplish actuarial soundness penalizes insureds who regularly carry crop insurance as part of their risk management program.

The adverse conditions are weather related and the adverse selection occurs because the sales closing, cancellation, and termination dates give a producer an opportunity to judge the degree of risk during the insurance period.

For example, there may be no moisture in either the topsoil or subsoil on the current sales closing date. Some acreage may have already been planted and the chance of loss is greater than average. Consequently, new sales of crop insurance increase. Conversely, there may be a high rate of cancellations, or producers may elect not to purchase crop insurance, whenever soil moisture conditions are more conducive to producing a crop.

The Corporation wishes to receive comments concerning the impact of changing sales closing, cancellation and termination dates for all crops and counties that are 30 to 120 days earlier than the currently established dates.

The Corporation also requests comments concerning the need for, and impact of, permitting sales for 30 days after the revised sales closing date, but limiting applications during this period to the 50% coverage level and high price election.

FCIC plans to issue a proposed rule regarding these date changes effective for the 1993 crop year.

DATES: Written comments, data, and opinions must be submitted not later than December 6, 1991, to be sure of consideration.

ADDRESSES: Written comments should be sent to Peter F. Cole, Secretary, Federal Crop Insurance Corporation, room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250.

Written comments received pursuant to this notice will be available for public inspection and copying in room 4096, South Building, U.S. Department of Agriculture, Washington, DC 20250, during regular business hours, Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Peter F. Cole, Secretary, Federal Crop Insurance Corporation, U.S. Department of Agriculture, Washington, DC 20250, telephone (703) 235-1168.

Done in Washington, DC, on October 28, 1991.

James E. Cason,

Manager, Federal Crop Insurance Program.

[FR Doc. 91-26618 Filed 11-5-91; 8:45 am]

BILLING CODE 3410-08-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Parts 21 and 25

[Docket No. NM-64, Notice No. SC-91-11-NM]

Special Conditions: Modified McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed special conditions.

SUMMARY: This notice proposes special conditions for the McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) series airplanes modified by E-Systems, Inc. for design of Civil Reserve Air Fleet Aeromedical Evacuation Ship Set kits. Removal of existing passenger seats and installation of the kits will result in these airplanes being equipped with an aeromedical evacuation interior that can accommodate up to 45 litter patients and their attendants. The aeromedical evacuation ship set kit includes an additional oxygen system, utilizing liquid oxygen for storage, that provides medical oxygen for the litter patients. The applicable regulations do not contain adequate or appropriate safety standards for the design and installation of medical oxygen systems utilizing liquid oxygen for storage. This notice contains the additional safety standards which the Administrator considers necessary to ensure that the design and installation of the medical oxygen system utilizing liquid oxygen for storage is such that a level of safety equivalent to that established by the airworthiness standards of Part 25 of the Federal Aviation Regulations (FAR) is provided.

DATES: Comments must be received on or before November 25, 1991.

ADDRESSES: Comments on this proposal may be mailed in duplicate to: Federal Aviation Administration, Office of the Assistant Chief Counsel, Attention: Rules Docket (ANM-7), Docket No. NM-64, 1601 Lind Avenue SW, Renton, Washington 98055-4056; or delivered in duplicate to the Office of the Assistant Chief Counsel at the above address. Comments must be marked: Docket No. NM-64. Comments may be inspected in the Rules Docket weekdays, except Federal holidays, between 7:30 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT: William Schroeder, FAA, Standardization Branch, ANM-113, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW, Renton, Washington 98055-4056; telephone (206) 227-2148.

SUPPLEMENTARY INFORMATION:

Comments invited

Interested persons are invited to participate in the making of these

proposed special conditions by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket or notice number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before further rulemaking action on this proposal is taken. The proposals contained in this notice may be changed in light of the comments received. All comments received will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested parties. A report summarizing each substantive public contact with FAA personnel concerning this rulemaking will be filed in the docket. Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must include a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. NM-64." The postcard will be date/time stamped and returned to the commenter.

Background

On August 16, 1989, E-Systems, Inc. applied for a supplemental type certificate (STC) to modify McDonnell Douglas DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) series airplanes by removing the existing seats and installing a conversion kit that provides an interior for transportation of sick or wounded persons. The conversion kits are being developed to meet the needs of the United States Military Airlift Command Civil Reserve Air Fleet program involving quick conversion of U.S. civil air carrier passenger airplanes for transportation of sick and wounded personnel. The conversion kit includes a patient transport interior system (provisions for up to 45 litters), aeromedical operations system (60 cycle AC electric power supply and distribution system and one nurse station including seat and desk), and a medical oxygen system (liquid oxygen dewars/converters, valves, evaporating coils, lines, regulators, indicators, fittings, etc.) utilizing liquid oxygen for storage. Approval of the performance of the medical oxygen system (flow rate, percent oxygen delivered, delivery temperature, etc.) is not included as part of the STC approval except that the system performance shall not result in any unsafe condition as related to the airplane. The proposed modification incorporates a novel or unusual design feature, in the form of a medical oxygen system, utilizing liquid oxygen for storage, that provides oxygen for up to 45 litter patients. Existing applicable regulations in the McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) series certification basis do not provide adequate or appropriate safety standards for the design and installation of medical oxygen systems that utilize liquid oxygen for storage.

Supplemental Type Certification Basis

Under the provisions of § 21.115, Subchapter C, of the FAR, E-Systems, Inc. must show that the modified DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) airplanes meet the regulations incorporated by reference in Type Certificate No. A6WE, as specified in § 21,101 (a), unless: (1) Otherwise specified by the Administrator; (2) compliance with later effective amendments is elected or required under §§ 21.101 (a) or (b); or (3) special conditions are prescribed by the Administrator.

Under the provisions of §§ 21.101(a) and (b), E-Systems, Inc. must show that the Models DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) as changed, continue to meet the applicable provisions of the regulations incorporated by reference in the Type Certificate No. A6WE or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the "original type certification basis." In addition, the certification basis includes certain special conditions, exemptions and optional requirements that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (part 25 requirements) do not contain adequate or appropriate safety standards for the Model DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) series because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by § 11.28 and § 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Discussion

There are no specific regulations that address the design and installation of medical oxygen systems that utilize liquid oxygen for storage. Existing requirements such as §§ 25.1309, 25.1441(b) and (c), 25.1451, and 25.1453 in the McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) series certification basis applicable to this STC project provide some design standards appropriate for medical oxygen system installations. However, additional design standards for medical oxygen systems utilizing liquid oxygen are needed to supplement the existing applicable requirements. The quantity of medical liquid oxygen involved in this installation and the potential for unsafe conditions that may result when the oxygen content of an enclosed area becomes too high because of system leaks, malfunction, or damage from external sources, make it necessary to assure adequate safety standards are applied to the design and installation of the system in McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) series airplanes.

To ensure that a level of safety is achieved for McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) series airplanes, utilizing liquid oxygen as a storage medium for a medical oxygen system, equivalent to that intended by the regulations incorporated by reference, special conditions are needed which require those oxygen systems to be designed and installed to preclude or minimize the existence of unsafe conditions that can result from system leaks, malfunction, installation, or damage from external sources.

Application by E-Systems for approval of medical oxygen systems utilizing liquid oxygen as a storage medium installed in transport airplanes and the unsafe conditions that can exist when the oxygen content of an enclosed area becomes too high because of system leaks, malfunction, installation or damage from external sources make development and application of appropriate additional design and installation standards necessary.

As the intended STC date for the first DC-9/MD-80 series airplane to be equipped with these medical oxygen systems is imminent, the FAA has

shortened the public comment period to 20 days in order to make the final special conditions effective prior to the STC date.

Conclusion: This action affects only certain novel or unusual design features on one model series of airplanes. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

These special conditions provide necessary additional safety standards for design and installation of medical oxygen systems utilizing liquid oxygen as a storage medium in McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) series airplanes called into service under the U.S. Military Airlift Command Civil Reserve Air Fleet program for the purpose of transporting sick and wounded military personnel within the continental United States. The recent certification of an identical but larger capacity medical oxygen system utilizing liquid oxygen provides the military an intercontinental capability to transport sick and wounded military personnel. The utilization of McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) series airplanes will enhance and expedite the military capability to transport the sick and wounded military personnel to medical facilities best equipped to handle the particular illness or injury.

List of Subjects in 14 CFR Parts 21 and 25 25

Air transportation, Aircraft, Aviation safety, Safety.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 1344, 1348(c), 1352, 1354(a), 1355, 1421 through 1431, 1502, 1651(b)(2); 42 U.S.C. 1857f-10, 4321 et seq.; E.O. 11514; 49 U.S.C. 106(g).

The Proposed Special Conditions

Accordingly, the Federal Aviation Administration (FAA) proposes the following special conditions as part of the type certification basis for Civil Reserve Air Fleet Aeromedical Evacuation Ship Set kits for modification of McDonnell Douglas Model DC-9-81 (MD-81), DC-9-82 (MD-82) and DC-9-83 (MD-83) series airplanes.

The medical oxygen system utilizing liquid oxygen for storage must be designed and installed to ensure that no failure of the system, including a leak in any part of the medical oxygen system, would prevent continued safe flight and landing of the aircraft. In addition, the following design criteria apply with respect to these special conditions.

a. The liquid oxygen converter and other oxygen equipment shall not be installed in compartments where baggage, cargo or loose equipment is stored.

b. The liquid oxygen converter shall be located in the aircraft so as to minimize damage to the liquid oxygen converter due to an uncontained rotor or fan blade failure.

c. The pressure relief valves on the liquid oxygen converters shall be vented overboard through a drain at the bottom of the aircraft. There shall be no hydrocarbon filling or drain provisions forward, above or in proximity to the vent outlet.

d. The system installation shall include provisions to assure complete conversion of the liquid oxygen to gaseous oxygen.

e. Check valves shall be installed in systems where multiple converters are manifolded together so a leak in one converter will not allow leakage of oxygen from any other converter.

f. Oxygen lines shall consist of rigid tubing or flexible hoses. The rigid tubing shall be of aluminum alloy conforming to AMS 4071 or corrosion resistant annealed steel type 304. Flexible hoses shall be qualified for oxygen service and, where applicable, cryogenic service.

g. Flexible hoses shall be used for the aircraft system connections to shock mounted converters where movement relative to the aircraft will occur.

h. Condensation from system components or lines shall be collected by drip pans, shields or other suitable collection means and drained overboard through a drain fitting separate from the liquid oxygen vent fitting.

i. Oxygen components and systems shall meet the requirements of § 25.1438(b) and be installed in accordance with the recommended practices of FAA Advisory Circular 43.13-1A, chapter 8, section 3, paragraph 363; chapter 10, section 1, paragraph 393, and Advisory Circular 43.13-2A, chapter 6, paragraph 86 through paragraph 89. The oxygen system components shall be electrically bonded to aircraft structure.

j. A means shall be provided to indicate system pressure and the quantity of liquid oxygen in the converters.

Issued in Renton, Washington, on October 28, 1991.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM-100.

[FR Doc. 91-26604 Filed 11-5-91; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 87-AWA-31]

Proposed Alteration of the Los Angeles Terminal Control Area; CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws the Notice of Proposed Rulemaking (NPRM), Airspace Docket No. 87-AWA-31, which was published in the **Federal Register** on August 10, 1987. That NPRM proposed to alter the Los Angeles, CA, Terminal Control Area (TCA). That action proposed to raise the upper limits of the TCA to 12,500 feet mean sea level (MSL) and extend the lateral boundaries east and south of the TCA to 30 miles. Additionally, that action proposed to consolidate several subareas of the TCA. The NPRM is being withdrawn pending a new effort by the FAA Western Pacific Region to consider a general revision of all of the airspace designations in the Los Angeles Basin.

DATES: The NPRM, Airspace Docket No. 87-AWA-31, which was published August 10, 1987 (52 FR 29612), is withdrawn November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Alton D. Scott, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9252.

The Proposed Rule

On August 10, 1987, a Notice of Proposed Rulemaking was published in the **Federal Register** to alter the Los Angeles, CA, TCA. That action proposed to raise the upper limits of the TCA to 12,500 feet MSL and extend the lateral boundaries east and south of the TCA to 30 miles. Additionally, that action proposed to consolidate several existing subareas of the TCA.

The Los Angeles Basin airspace is composed of 1 TCA, 6 airport radar service areas, 25 control tower facilities, and 4 military facilities. The amount of regulatory airspace and its complexity dictate a need to modify the entire Los Angeles Basin airspace to make it more compatible with the increasing amount of general aviation and air carrier activity. The NPRM, which involved only the Los Angeles TCA, is being withdrawn pending a new effort by the FAA Western Pacific Region to consider a general revision of the airspace designations in the Los Angeles Basin. Future rulemaking, which will provide full opportunity for public and user comment, is planned to help relieve congestion, reduce complexity, reduce controller workload, and make the airspace configuration more efficient for both instrument flight rule and visual flight rule users in this region.

List of Subjects in 14 CFR Part 71

Aviation safety, Terminal control areas.

The Withdrawal

Accordingly, pursuant to the authority delegated to me, the Notice of Proposed Rulemaking, Airspace Docket No. 87-AWA-31, as published in the **Federal Register** on August 10, 1987, (52 FR 29612) is hereby withdrawn.

(Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69)

Issued in Washington, DC, on October 25, 1991.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 91-26607 Filed 11-5-91; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 75

[Airspace Docket No. 89-ACE-12]

Proposed Alteration of Jet Route J-233

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This notice withdraws the notice of proposed rulemaking (NPRM), Airspace Docket No. 89-ACE-12, which was published in the **Federal Register** on July 17, 1989. That NPRM proposed to alter the description of Jet Route J-233 by extending the route from St. Louis, MO, to Vulcan, AL. Due to the distance between navigational aids, the jet route extension would not pass flight check at any altitude. Therefore, the NPRM is withdrawn. The jet route will remain as now chartered.

DATES: The NPRM, Airspace Docket No. 89-ACE-12, which was published July 17, 1989 (54 FR 29908), is withdrawn November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Obstruction Evaluation Branch (ATP-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Rules and Procedures Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267-9250.

The Proposed Rule

On July 17, 1989, a notice of proposed rulemaking was published in the **Federal Register** to alter the description of Jet Route J-233 from St. Louis, MO, to Vulcan, AL (54 FR 29908). The proposed action would provide aircraft with a route to descend without encountering opposite direction traffic.

Conclusion

FAA's Central Region Office, which requested the realignment of J-233, has been notified by FAA's Flight Inspection Office that due to the distance between the navigational aids, J-233 could not pass the required flight inspection. Based on this information, with NPRM to Airspace Docket No. 89-ACE-12 is being withdrawn.

List of Subjects in 14 CFR Part 75

Aviation safety, Jet routes.

The Withdrawal

Accordingly, pursuant to the authority delegated to me, the notice of proposed rulemaking, Airspace Docket No. 89-ACE-12, as published in the **Federal Register** on July 17, 1989 (54 FR 29908) is hereby withdrawn.

Authority: 49 U.S.C. App. 1348(a), 1354(a), 1510; Executive Order 10854, 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.69.

Issued in Washington, DC, on October 25, 1991.

Jerry W. Ball,

Manager, Airspace-Rules and Acting Aeronautical Information Division.

[FR Doc. 91-26606 Filed 11-5-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Parts 141 and 142

Advance Notice of Proposed Customs Regulations Amendments Concerning Prefiling of Entry Documentation

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Advance notice of proposed rulemaking.

SUMMARY: This document provides advance notice of a proposal to amend the Customs Regulations that would limit the privilege of prefiling entry documentation to entry filers who are either participants in the Automated Broker Interface or who file entries manually for merchandise which is transported on carriers that are participants in the Automated Manifest System. If the proposal is adopted, within six months after its adoption, selectivity results will be released prior to carriers' arrival only to entry filers whose merchandise is transported on carriers that are participants in the Automated Manifest System. The purpose of these proposals will be to provide incentive for carriers to automate.

DATES: Comments must be received on or before January 6, 1991.

ADDRESSES: Written comments (preferably in triplicate) may be addressed to and inspected at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Ernest Cunningham, Office of Inspection and Control, (202) 566-5354.

SUPPLEMENTARY INFORMATION:

Background

Generally, merchandise for which entry is required shall be entered by the consignee within 5 working days after the entry of the importing vessel or aircraft, report of the vehicle, or arrival at the port of destination in the case of merchandise transported in bond. After the merchandise is entered, Customs generally determines, after examining the entry documentation, whether the merchandise merits examination and whether to release the merchandise.

Pursuant to § 142.2(b), Customs Regulations (19 CFR 142.2(b), Customs has permitted entry documentation to be submitted before the merchandise arrives within the limits of the port where entry is to be made. In these cases, Customs has reviewed the submitted documentation and determined whether the merchandise is releasable even before the merchandise arrives. The merchandise is actually released at the time it arrives within the port limits.

With the onset of automation at Customs—the development of the Automated Broker Interface (ABI), the Automated Manifest System (AMS), and Cargo Selectivity, all components of Customs Automated Commercial System (ACS)—it is easier than ever to submit entry documentation before the merchandise arrives within the limits of the port where entry is to be made.

ABI refers to a module of ACS that allows entry filers to transmit immediate delivery, entry and entry summary data electronically to Customs through ACS and to receive transmissions from ACS. AMS refers to a module of ACS that allows carriers to transmit their manifest information electronically to Customs through ACS and receive transmissions from ACS. The Cargo Selectivity module allows Customs to evaluate and assess the risk of an immediate delivery, entry or entry summary transaction by examining the transmitted data for certain selectivity criteria to determine whether a general examination or an intensive

examination of the merchandise is necessary.

Currently, ABI allows the electronic submission of entry data up to 60 days prior to the arrival of a vessel or aircraft. Customs is then able to process the advance data through the Cargo Selectivity module prior to the arrival of the carrier and determine whether the merchandise requires physical examination. If Customs determines that physical examination of the merchandise or presentation of written documentation is not necessary, it can transmit a message to the carrier through AMS that the merchandise is provisionally released. While Customs maintains the discretion to override the provisional release, the carrier can generally expect that when the merchandise which receives the provisional release arrives at its port of arrival, the merchandise will be released.

There are advantages to prefiling entries. The carrier, by receiving a provisional release by Customs is able to make decisions on staging the cargo and the importer can arrange for examination or release and further distribution of the merchandise, all before the merchandise actually arrives.

Currently, any filer can prefile entries arriving on any carrier. This document gives advance notice of a proposal to amend the Customs Regulations that will limit prefiling privileges to ABI filers and to entries filed by non-ABI filers for merchandise that is transported on carriers that are participants in AMS. This proposal would involve amendments principally to parts 141 and 142, Customs Regulations. This document also gives advance notice that if the proposal is adopted, within six months of its adoption, selectivity results will be released prior to carriers' arrival only to entry filers whose merchandise is transported on carriers that are participants in AMS. This would mean, in effect, that provisional releases will only be issued by Customs for merchandise transported on AMS carriers. The purpose of these proposed actions will be to provide incentive for carriers to automate.

Comments

In order to assist Customs in determining whether to proceed with these proposals, this notice invites written comments. Consideration will be given to any comments that are timely submitted to Customs. Comments submitted will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C. 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11)(b), on regular business days between the hours of 9 a.m. and 4:30 p.m. at the Regulations and Disclosure Law Branch, room 2119, U.S. Customs Service Headquarters, 1301 Constitution Avenue, NW., Washington, DC.

Carol Hallett,

Commissioner of Customs.

Approved: October 17, 1991.

Peter K. Nunez,

Assistant Secretary of the Treasury.

[FR Doc. 91-26775 Filed 11-5-91; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

26 CFR Part 1

[FI-19-85]

RIN 1545-AQ03

Treatment of Certain Stripped Bonds and Stripped Coupons; Hearing Cancellation

AGENCY: Internal Revenue Service, Treasury.

ACTION: Cancellation of notice of public hearing on proposed regulations.

SUMMARY: This document provides notice of cancellation of a public hearing on proposed Income Tax Regulations that apply to taxpayers holding stripped bonds and stripped coupons under section 1286 of the Internal Revenue Code.

DATES: The public hearing originally scheduled for Thursday, November 7, 1991, beginning at 10 a.m. is cancelled.

FOR FURTHER INFORMATION CONTACT: Bob Boyer of the Regulations Unit, Assistant Chief Counsel (Corporate), 202-377-9231, (not a toll-free number).

SUPPLEMENTARY INFORMATION: The subject of the public hearing is proposed regulations providing guidance on the treatment of original issue discount (OID) that arises under Code section 1286(a). A notice appearing in the **Federal Register** for Tuesday, August 13, 1991, (56 FR 38399), announced that the public hearing on the proposed regulations would be held on Thursday, November 7, 1991, beginning at 10 a.m. in the IRS Commissioner's Conference Room, room 3313, Internal Revenue Building, 1111 Constitution Avenue NW., Washington, DC.

The public hearing schedule for Thursday, November 7, 1991, has been cancelled.

By direction of the Commissioner of Internal Revenue:

Dale D. Goode,

Federal Register Liaison Officer, Assistant Chief Counsel (Corporate).

[FR Doc. 91-26678 Filed 10-31-91; 3:01 pm]

BILLING CODE 4830-01-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD1 91-156]

Drawbridge Operation Regulations, Saugus River, MA

AGENCY: Coast Guard, DOT.

ACTION: Public hearing on proposed regulation.

SUMMARY: In light of comments received on a proposed regulation which was published in the **Federal Register** (56 FR 28733), governing the Massachusetts Bay Transit Authority (MBTA)/AMTRAK Bridge, mile 2.1, and MDPW's Belden Bly (Foxhill) Bridge, mile 2.5, both between Lynn and Saugus, Massachusetts, all over the Saugus River, the Commander, First Coast Guard District, has decided to hold a public hearing to gather information and data necessary to attempt to resolve differences between various factions who support or oppose the proposed regulation.

DATES: Hearing to be held on Wednesday, December 11, 1991, beginning at 7 p.m.

ADDRESSES: (a) The hearing will be held at the Belmonte Middle School, Dow Street at Saugus, Massachusetts. (b) Written comments may be submitted at the hearing or mailed to Commander (obr), First Coast Guard District, Bldg. 135A, Governors Island, NY 10004-5073 or to the John Foster Williams Building, 408 Atlantic Ave., Boston, Massachusetts. Normal office hours are between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to these addresses.

FOR FURTHER INFORMATION CONTACT: William C. Heming, Bridge Administrator, First Coast Guard District, (212) 668-7170.

SUPPLEMENTARY INFORMATION: A proposed change to the regulations governing the Belden Bly Bridge and the MBTA/AMTRAK Bridge was published in the **Federal Register** (56 FR 28733), and was distributed as Public Notice 1-752 by the Commander, First Coast

Guard District, on July 3, 1991. The Coast Guard is conducting a Public Hearing to gather information and data necessary to attempt to resolve differences between various factions who support or oppose the proposed regulation.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed regulation, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Contact Officer listed above. Such notification should include the approximate time required to make the presentation.

A transcript will be made of the hearing and may be purchased by the public. Interested persons who are unable to attend this hearing may also participate in the consideration of this proposed regulation by submitting their comments in writing. Each comment should state reasons for support or opposition, suggest any proposed changes to the regulation, and include the name and address of the person or organization submitting the comment.

All comments received will be considered before final action is taken on the proposed regulation. After the time set for the submission of comments, the Commander First Coast Guard District will determine a final course of action. If significant differences still remain, the district commander will forward the record, including all written comments and his recommendations, to the Commandant, United States Coast Guard, for final action.

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

Dated: October 22, 1991.

J.D. Sipes,

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

[FR Doc. 91–26753 Filed 11–5–91; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 117

[CGD2–91–07]

Drawbridge Operation Regulations; Green River, KY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to change the regulations governing the Paducah and Louisville Railroad Drawbridge on the Green River, Mile 94.8, at Rockport, Kentucky, to permit operation of the bascule span from a remote location.

DATES: Comments must be received on or before December 23, 1991.

ADDRESSES: Comments should be mailed to Commander (ob), Second Coast Guard District, 1222 Spruce Street, Room 2.107b, St. Louis, Missouri 63103–2398. The comments and other materials referenced in this notice will be available for inspection and copying at the above address during office hours. Normal office hours are from 7:45 a.m. to 4:15 p.m., Monday though Friday, except holidays. Comments may also be hand delivered to this address.

FOR FURTHER INFORMATION CONTACT: Roger K. Wiebusch, Bridge Administrator, Second Coast Guard District, 314–539–3724.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice [CGD2–91–07] and the specific section of the proposal to which their comments pertain, identify the bridges, and give reasons for each comment. Receipt of comments will be acknowledged if the comment so requests.

The proposed regulations may be changed in light of comments received. All comments received before the end of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held if sufficient written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Wanda G. Renshaw, Project Officer, and Lieutenant Michael A. Suire, Project Attorney.

Discussion of Proposed Regulations

Under the existing regulations, when the vertical clearance beneath the closed drawspan is less than 34 feet, the drawspan must be raised and maintained in the open-to-navigation position. In this position, bridge closures are automatically activated by approaching trains. When a train approaches the open bridge, it activates a series of sound and visual signals that warn approaching vessels that the drawspan will close. When there is 34 feet or more beneath the closed drawspan the drawspan is maintained in the closed-to-navigation position. In order to open the drawspan, mariners must provide eight hours advance notice to the railroad. The advance notice is required to enable the railroad sufficient time to send a drawtender to the bridge from Central City, Kentucky.

The Paducah and Louisville Railroad has requested Coast Guard approval to install equipment at the bridge and in the train dispatcher's office that would permit operation of the span from the rail facility in Paducah, Kentucky. The drawspan would be maintained in the closed position at all river stages and would be remotely opened upon receipt of a request from an approaching vessel Direct radio contact between the vessel and the train dispatcher would be established and maintained until the vessel had cleared the bridge. Communications would be accomplished with a full frequency range VHF radio in the dispatcher's office. Communications between the vessel and the dispatcher would be enhanced with a directional VHA antenna installed on a 275-foot tower in the Paducah and Louisville rail yard located at Central City, Kentucky. The tower and antenna are about seven miles southwest of the bridge, and the antenna would be linked to the radio at Paducah by microwave. The radio would be continuously monitored by trained dispatchers on duty 24 hours a day.

The drawspan in the closed position provides 41.3 feet vertical clearance at pool stage. The majority of vessels navigating the Green River are able to pass under the closed span at pool stage. The Railroad has calculated that train crossings exceed vessel transits by a ratio of ten to one. During periods when vertical clearance is less than 34 feet and the drawspan is maintained in the open position, the span is opened and closed from 10 to 14 times each day for train crossings, resulting in high energy consumption as well as increased wear and tear on the bridge structure and machinery. Remote operation of the bridge will eliminate delays to vessels caused by late arrival of the drawtender as well as eliminate the need for vessels that are delayed by weather or mechanical causes to provide an additional 8 hour notification for a bridge opening. The proposal is expected to improve the operation of the drawbridge because the vessel operator will be in direct communication with the person that will open the bridge.

Federalism Assessment and Certification

This action is being analyzed in accordance with the principles and criteria outlined in Executive Order 12612, and it is expected that the proposed action does not have sufficient

federalism implications to warrant preparation of a Federalism Assessment. The proposed rulemaking will simplify operation of the drawspan by always maintaining the span in the closed to navigation position and only opening the span when requested by radio from an approaching vessel. The proposal will eliminate the requirement for providing advance notification to open the bridge at low water stages, and enable the bridge to be operated like a manned drawspan by establishing constant communication between the vessel operator and the person who controls the bridge opening.

Environmental Assessment and Certification

This action has been reviewed by the Coast Guard. This action qualifies as a Categorical Exclusion in accordance with paragraph 2.B.2.g.(5) of the NEPA Implementing Procedures, COMDTINST M16475.1B. A copy of the Categorical Exclusion Certification is available for review on the docket.

Economic Assessment and Certification

The proposed action has been reviewed under the provisions of Executive Order 12291 and determined not to be a major rule. In addition, these regulations are considered to be nonsignificant under the guidelines of DOT Order 2100.5 dated May 22, 1980, Policies and Procedures for Simplification, Analysis, and Review of Regulations. An economic evaluation has not been conducted and is deemed unnecessary as the impact of these regulations is expected to be minimal. The proposed regulation will allow the span to always be maintained in the closed to navigation position, and only be opened for the passage of vessels after a request is made by radio. It will eliminate the need for advance notice to open the bridge at low water stages, and enable the bridge to be operated like a manned drawspan by establishing constant communication between the vessel operator and the person who controls the bridge opening. Pursuant to 5 U.S.C. 601, *et seq.*, Regulatory Flexibility Act, it is certified that these regulations will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal contains no collection of information requirement under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

List of Subjects in 33 CFR Part 117

Bridges

Proposed Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g).

2. In § 117.415 paragraph (c) is revised to read as follows:

§ 117.415 Green River.

* * * * *

(c) The bascule span of the Paducah and Louisville Railroad Bridge, Mile 94.8 at Rockport, is maintained in the closed position and is remotely operated. Bridge clearance in the closed position is 41.3 feet at pool stage. Vessels requiring more clearance for passage must contact the remote bridge operator by radiotelephone to request opening. The bridge operator will confirm by radiotelephone whether the bridge will be opened safely and promptly. If rail traffic is on or approaching the bridge, the bridge operator will advise the vessel that the bridge cannot be opened, and provide an approximate time when the bridge can be opened safely. Continuous radio contact between the bridge operator and the vessel shall be maintained until the vessel has transited and cleared the bridge.

Dated: October 25, 1991.

N. T. Saunders,

Rear Admiral (Lower Half), U.S. Coast Guard Commander, Second Coast Guard District.

[FR Doc. 91–26754 Filed 11–5–91; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2 and 90

[PR Docket No. 91–295; RM–7182, FCC 91–315]

Private Land Mobile Radio Services; Additional Frequencies in the 72–76 MHz Band for Low-Power Mobile Use

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission has adopted a notice of proposed rule making that proposes amending § 90.257 of the Rules, 47 CFR 90.257. This will provide 20 additional frequencies in the 72–76 MHz band for low-power mobile use in the Manufacturers Radio Service.

DATES: Comments must be submitted on or before December 23, 1991, and reply comments on or before January 7, 1992.

ADDRESSES: Federal Communications Commission, 1919 M Street NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Eugene Thomson, Rules Branch, Land Mobile and Microwave Division, Private Radio Bureau (202) 634–2443.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's notice of proposed rule making (notice), PR Docket No. 91–295, RM–7182, adopted October 3, 1991, and released October 31, 1991. The full text of the notice is available for inspection and copying during normal business hours in the FCC Dockets Branch, room 230, 1919 M Street NW., Washington, DC. The complete text may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, telephone (202) 452–1422.

Summary of Notice of Proposed Rule Making

1. Section 2.106 of the Rules, 47 CFR 2.106 assigns the frequency 75.0 MHz for aeronautical marker beacon use and provides that until December 31, 1989, internationally, administrations should refrain from assigning frequencies to stations of other services in the adjacent bands of 74.6–74.8 MHz and 75.2–75.4 MHz (guard bands).

2. With the expiration of the constraint, a petition for rule making was filed by the Manufacturers Radio Frequency Advisory Committee (MRFAC) requesting that the 74.6–74.8 MHz and 75.2–75.4 MHz guard bands be channelized to create additional frequencies for Part 90 low-power mobile use.

3. This *Notice* proposes a channeling plan that contains ten 20 kHz-wide channels in each guard band, resulting in a total of 20 additional channels. The additional channels would be subject to the 1-watt power limitation and TV interference requirements outlined in § 90.257(b) of the Rules. While the *Notice* proposes that the additional channels be designated for use only in the Manufacturers Radio Service, it requests comments on shared use of these frequencies.

Initial Regulatory Flexibility Analysis

4. The Commission certifies that the Regulatory Flexibility Act of 1980 does not apply to this rule making proceeding because 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.

Paperwork Reduction Act Statement

5. The proposals contained herein have been analyzed with respect to the Paperwork Reduction Act of 1980 and found to contain no new or modified form, information collection and/or recordkeeping, labeling, disclosure or record retention requirements, and will not increase burden hours imposed upon the public.

List of Subjects in 47 CFR Parts 2 and 90

Radio.

Amendatory Text

It is proposed to amend 47 CFR parts 2 and 90 as follows:

PART 2—[AMENDED]

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

Authority: Sections 4, 302, 303, and 307, of the Communications Act of 1934, as amended, 47 U.S.C. 154, 302, 303, and 307, unless otherwise noted.

2. 47 CFR 2.106 is amended by adding entries in the FCC use designators column for the frequency bands 74.6–74.8 and 75.2–75.4 as listed in the United States table column to read as follows:

§ 2.106 Table of Frequency Allocations.

International table			United States table		FCC use designators	
• • •	• • •	• • •	• • •	• • •	• • •	• • •
(1)	(2)	(3)	(4)	(5)	(6)	(7)
• • •	• • •	• • •	• • •	• • •	• • •	• • •
			74.6–74.8 FIXED. MOBILE. 572 US273	74.6–74.8 FIXED. MOBILE. 572 US273	PRIVATE LAND. MOBILE (90).	
			• • •	• • •	• • •	• • •
			75.2–75.4 FIXED. MOBILE. 572 US273	75.2–75.4 FIXED. MOBILE. 572 US273	PRIVATE LAND. MOBILE (90).	

* * * * *

PART 90—[AMENDED]

3. The authority citation for part 90 continues to read as follows:

Authority: Secs. 4, 303, and 331, 48 Stat. as amended, 1066, 1082, 47 U.S.C. 154, 303 and 332, unless otherwise noted.

4. In 47 CFR 90.79 the frequency table in paragraph (c) is amended by adding the frequencies 74.61, 74.63, 74.65, 74.67, 74.69, 74.71, 74.73, 74.75, 74.77, 74.79, 75.21, 75.23, 75.25, 75.27, 75.29, 75.31, 75.33, 75.35, 75.37, and 75.39 MHz together with their associated class of station(s) and limitations to read as follows:

§ 90.79 Manufacturers Radio Service.

* * * * *

(c) * * *

MANUFACTURERS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
•	•	•
74.61	do	2
74.63	do	2
74.65	do	2
74.67	do	2
74.69	do	2
74.71	do	2
74.73	do	2

MANUFACTURERS RADIO SERVICE FREQUENCY TABLE—Continued

Frequency or band	Class of station(s)	Limitations
74.75	do	2
74.77	do	2
74.79	do	2
75.21	do	2
75.23	do	2
75.25	do	2
75.27	do	2
75.29	do	2
75.31	do	2
75.33	do	2
75.35	do	2
75.37	do	2
75.39	do	2

* * * * *

5. 47 CFR 90.257 is amended by revising the first sentence in paragraph (b)(1) to read as follows:

§ 90.257 Assignment and use of frequencies in the band 72–76 MHz.

* * * * *

(b) * * *

(1) Mobile operations on frequencies in the 72–76 MHz band (see §§ 90.67(b), 90.73(c), 90.79(c), and 90.91(b)) is subject to the condition that no interference is caused to the reception of television stations operating on channel 4 or 5.

* * *

* * * * *

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-26671 Filed 11-5-91; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

42 CFR Parts 400, 420, and 421

[BPO-102-P]

RIN 0938-AF59

Medicare Program; Carrier Jurisdiction for Claims for Durable Medical Equipment, Prosthetics, Orthotics and Supplies, and Other Issues Involving Suppliers

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Proposed rule.

SUMMARY: We are proposing to modify Medicare regulations to provide that claims for durable medical equipment, prosthetics, orthotics and other part B supplies be processed by designated carriers. The designation of carriers and the jurisdictions they will serve will be included in the final rulemaking for this proposed rule. We also propose to establish certain minimum standards for

suppliers for purposes of submitting the above claims, and incorporate in regulations certain supplier disclosure requirements imposed under section 4164 of the Omnibus Budget Reconciliation Act of 1990, as part of a periodic enrollment process. We would expect the above changes to lead to more efficient and economical administration of the Medicare program.

DATES: Written comments will be considered if we receive them at the appropriate address, as provided below, no later than 5 p.m. on January 6, 1992.

ADDRESSES: Mail written comments to the following address:

Health Care Financing Administration, Department of Health and Human Services, Attention: BPO–102–P, P.O. Box 26676, Baltimore, Maryland 21207

If you prefer, you may deliver your written comments to one of the following addresses:

Room 308–G, Hubert H. Humphrey Building, 200 Independence Ave., SW., Washington, DC 20201, or

Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland 21207

Due to staffing and resource limitations, we cannot accept audio, visual or facsimile (FAX) copies of comments.

In commenting, please refer to file code BPO–102–P. Written comments received timely will be available for public inspection as they are received, beginning approximately three weeks after publication of this document, in room 309–G of the Department's office at 200 Independence Ave., SW., Washington, DC on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202–245–7890).

Organizations and individuals desiring to submit comments on the reporting requirements discussed under the "Collection of Information Requirements" of this preamble should direct them to the Health Care Financing Administration at one of the addresses cited above, and to the Office of Information and Regulatory Affairs, Attention: Allison Herron Eydt, Office of Management and Budget, New Executive Office Building (room 3201), Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Lisanne Bradley, (301) 966–3359.

SUPPLEMENTARY INFORMATION:

I. Background

A. General

The Medicare Supplementary Medical Insurance (SMI or Part B) program is a voluntary program that pays all or part of the costs for physicians' services, outpatient hospital services, certain home health services, services furnished by rural health clinics, ambulatory surgical centers, and comprehensive outpatient rehabilitation facilities, and certain other medical and hospital health services not covered by the Medicare Hospital Insurance program (HI or Part A). The Part B program is available, upon payment of a premium, to individuals who are entitled to Part A and to others who are residents of the United States who have attained age 65 and are citizens, or aliens who were lawfully admitted for permanent residence and have resided in the United States for five consecutive years.

B. Use of Fiscal Intermediaries and Carriers

Statutory Basis—Under sections 1816(a) and 1842(a) of the Social Security Act (the Act), public and private organizations and agencies may participate in the administration of the Medicare program under agreements or contracts entered into with the Secretary. These Medicare contractors are known as fiscal intermediaries (section 1816(a) of the Act) and carriers (section 1842(a) of the Act). Intermediaries primarily perform Part A bill processing and benefit payment functions, and carriers perform Part B claims processing and benefit payment functions.

Our regulations at 42 CFR part 421, subpart B—Intermediaries, and subpart C—Carriers, set forth the functions to be performed by intermediaries and carriers.

Section 1842(a) of the Act authorizes the Secretary to enter into contracts with carriers for the payment of claims for Medicare covered services and items. The statute does not place any restriction on the area which any carrier must serve. Consequently, we have contracts for carriers to process claims in areas that are regional, State-wide, or lesser areas. The Committee Report from the Committee on Finance which accompanied the amendments that established the Medicare program explicitly stated that—

> "It is your committee's intent that the Secretary shall, to the extent possible, enter into contracts with a sufficient number of carriers, *selected on a regional or other geographical basis* (emphasis added), to permit comparative analysis of their performance." (H.R. Rept. No. 404, 89th Cong., 1st sess. 54 (1965))

HCFA may restrict the types of claims each of these carriers must process, i.e., all carriers need not process the full range of claims. In addition, section 1834(a)(12) of the Act authorizes the Secretary to designate, by regulation under section 1842 of the Act, one carrier for one or more entire regions to process all claims within the region for covered items. In section 1834(a)(13) of the Act, a covered item is defined as "durable medical equipment (as defined in section 1861(n), including such equipment described in section 1861(m)(5)." Section 1834(h)(3) of the Act specifies that section 1834(a)(12) will also "apply to prosthetic devices, orthotics, and prosthetics in the same manner as such provisions apply to covered items * * *."

Claims and Bill Processing—When bills are submitted by providers, and claims by beneficiaries, physicians, and suppliers of services, intermediaries and carriers are responsible for: (1) Determining the eligibility status of a beneficiary; (2) determining whether the services on the submitted claims or bills are covered under Medicare, and if so, the correct payment amounts; and (3) making correct payment to the beneficiary, physician, provider, or supplier of services, as appropriate.

Most of the items paid for under Part B are "medical and other health services." These include such items as: home dialysis supplies and equipment; immunosuppressive drugs; surgical dressings; splints, casts, and other devices used for reduction of fractures and dislocations; durable medical equipment (including oxygen and oxygen delivery systems); parenteral and enteral nutrients, equipment and supplies; and other prosthetic devices (other than dental) which replace all or part of an internal body organ (including colostomy bags and supplies directly related to colostomy care). Medicare Part B also pays for appropriate replacements of such devices as leg, arm, back, and neck braces, and artificial legs, arms and eyes, including replacements, if required because of a change in a patient's physical condition.

Allocation of Claims—Ordinarily, claims for the items listed above are submitted to the carrier responsible for paying claims in the geographic area where the sale occurs, i.e., "the point of sale." (There are 34 carriers nationally which process claims for 56 sites and most of them service an area that coincides with the States in which they are located.) The point of sale is generally the store where the item is purchased, but in a small percentage of cases, can be located in another State, e.g., if telemarketing is used. In addition, when some of these items are provided as Part B items by Medicare Part A providers, such as hospitals, skilled nursing facilities and home health agencies (HHAs), the bills for the items

are processed and paid by the intermediary.

Medicare Part B claims are allocated among carriers on a number of different bases, e.g., claims for physicians are allocated to the carriers within whose areas the physicians' offices are located, and claims for laboratory services are allocated to carriers within whose areas the laboratory services occurred. Claims for medical care items, such as durable medical equipment, prosthetics, orthotics, etc., are currently allocated to the carriers within whose areas the point of sale of the item occurs. The only items allocated under different claims jurisdiction theories are claims for parenteral and enteral nutrients, supplies and equipment, which are currently allocated between two specialty carriers on the basis of the location of the home office of the supplier, and claims for electronic bone growth stimulators which are allocated to the carrier for New Jersey.

For consistency of administration, claims allocation methods must be based on ascertainable locations. Since beneficiary addresses are included on each claim and are kept on file by the carriers to which claims have been submitted on their behalf by physicians and suppliers, the most easily ascertained location is that of beneficiary residence. In approximately 90 percent of all claims for medical care items, the beneficiary residence and the point of sale methods allocate claims to the same carriers.

C. Supplier Standards

Claims for durable medical equipment, prosthetics, orthotics and supplies are primarily submitted by suppliers. The term "supplier" is defined in § 400.202 as "a physician or other practitioner, or an entity *other than a provider*, that furnishes health care services under Medicare" (emphasis supplied).

For program integrity purposes, "supplier" means "an individual, agency, or organization from which a provider purchases goods and services used in carrying out its responsibilities under Medicare (e.g., a commercial laundry, a manufacturer of hospital beds, or a pharmaceutical firm." This definition is located in § 420.201, Definitions. Although the term "supplier" is the same, in actuality the entities defined are different, as Part B suppliers furnish supplies and services to Medicare beneficiaries directly and the supplier identified in § 420.201 furnishes items to providers. "Provider" is defined in § 400.202 as a hospital, a skilled nursing facility, a comprehensive outpatient rehabilitation facility, a home health agency, or effective November 1, 1983 through September 30, 1986, a hospice that has in effect an agreement to participate in Medicare, or a clinic, a rehabilitation agency, or a public health agency that has a similar agreement but only to furnish outpatient physical therapy or speech pathology services.

Suppliers provide a wide variety of services and items, including laboratory, radiological and ambulance services, durable medical equipment and other medical care items. There is no further definition of "furnishes health care services" so that, in practice, an entity who wishes to become a supplier to Medicare beneficiaries does so merely by submitting bills to Medicare. Most carriers require some enrollment information from a supplier before it receives a billing number, but there have been no standard form nor national requirements as to what information would be collected.

The absence of specific standards for becoming a supplier occasionally leads to situations where business entities may qualify as suppliers without actually functioning in the role commonly associated with suppliers. For example, several companies actually purchased accounts receivable from equipment or supply vendors which were Medicare suppliers, established a business office in the jurisdiction of a carrier with either a higher fee schedule or more favorable utilization parameters, and billed that carrier an inflated rate for Medicare payments.

D. Beneficiary Data Used to Pay Claims and Bills

Traditionally, HCFA has maintained centralized files containing certain eligibility and utilization data for each Medicare beneficiary. All intermediaries and carriers would query this single central file in order to determine beneficiary eligibility status and deductible status necessary to process claims.

In 1987, we began implementing a new system, called the Common Working File (CWF), that regionalized (i.e., reversed the centralization of) the compilation of beneficiary claims history and utilization data. CWF is a Medicare Part A/Part B benefit coordination and prepayment claims validation system that uses a local data base to maintain specific information on beneficiaries in a particular geographic area.

The geographic areas for which CWF data bases are maintained are referred to as CWF sectors. There are currently nine CWF sectors throughout the United States. The Northeast sector includes the States of Connecticut, Maine, Massachusetts, New York, New Hampshire, Rhode Island and Vermont. The Keystone sector includes Pennsylvania, New Jersey and Delaware. The Mid-Atlantic sector includes the District of Columbia, Indiana, Ohio, Maryland, Virginia and West Virginia. The Southeast sector includes Kentucky, Tennessee, North Carolina, South Carolina, Puerto Rico, Virgin Islands, Mississippi and Alabama. The South sector services claims for Florida, Georgia and the Railroad Retirement Board. The Great Lakes sector includes the States of Michigan, Minnesota, Illinois and Wisconsin. The Southwest sector includes Colorado, Arkansas, Texas, Oklahoma, Louisiana and New Mexico. The Great Western sector includes the States of Alaska, Washington, Oregon, Idaho, Utah, Montana, Wyoming, North Dakota, South Dakota, Nebraska, Kansas, Iowa and Missouri. The Pacific sector includes California, Arizona, Nevada, Hawaii, Guam and the Northern Mariana Islands.

CWF serves two primary purposes: (1) To make Medicare beneficiary entitlement and utilization data available to Medicare contractors; and (2) to provide intermediaries and carriers with prepayment approval of Part A bills and Part B claims of all types.

II. Program Experience

As noted earlier, a claim for an item normally is allocated to the carrier within whose area the item was purchased or rented, i.e., based on the point of sale. This policy has been in effect since 1976. It was formulated so that Medicare payment would reflect the prices and prescribing patterns in the locality where the item would be used, assuming that most beneficiaries had the item prescribed locally and purchased or rented such items from a supplier located near where they resided. The policy also was believed to promote competition between local and chain suppliers operating within the same community. (The "point of sale" policy was formulated to correct a problem that arose when chain organizations, primarily in business to rent equipment items, were becoming popular. These chains billed one carrier for all items rented by the company, regardless of the sales outlet from which beneficiaries had rented the items).

For some years this policy served HCFA interests. Gradually, some suppliers realized that, because of variations between localities, the amounts paid for an item differed from carrier to carrier. They also noted that

interpretation of coverage rules, generally accepted local medical practices and individual carrier utilization screens similarly differed. For example, an item for which a supplier could, without additional documentation, be paid without limit at one carrier might be approved only for a limited quantity, or only upon submission of additional medical justification, at another carrier.

As a result, a number of suppliers now accept orders exclusively on toll free telephone numbers located within the service area of a carrier which in the past has allowed higher fee schedule amounts, taken a more liberal interpretation of coverage rules, or had less stringent utilization screens or medical review process. For example, one company that marketed seat lift chairs nationally accepted telephone orders exclusively in one State. (See Department of Health & Human Services Office of the Inspector General report "Audit of Medicare Part B Payments for Seat Lift Chairs to Queen City Home Health Care" CIN: A-05-87-00138). These practices, while consistent with our point of sale rule, defeat its intent. We believe that it is time to reconsider our carrier jurisdiction policy for durable medical equipment, prosthetics, orthotics and supplies (DMEPOS) claims.

In addition, during the past several years, we have received complaints about perceived incorrect payments by Medicare for DMEPOS claims. Beneficiaries, as well as suppliers, perceive as inappropriate the differing fee schedules, interpretations of coverage rules, utilization screens and medical review requirements.

We believe that one reason for the inconsistency among carriers is that each carrier processes only a relatively small number of claims for a given item. DMEPOS claims amount to only about 5 percent of most carriers' workload. Only a few large carriers have the claims volume to justify establishing special processing units or undertaking the extensive training needed to develop expertise in pricing claims and establishing comprehensive medical review guidelines. Most carriers find it inefficient to devote significant resources to the relatively few claims they process.

Carriers with higher reimbursement amounts or more generous utilization parameters for common supply items, such as catheters, surgical dressings, etc., have told us that some suppliers which submit claims to them are fragmenting charges, billing for excessive amounts of supplies, and violating carrier jurisdiction policies. When carriers identify abusive suppliers of DMEPOS, they generally place the supplier's claims on special review. At that point, the more questionable suppliers tend to abandon their corporate identities and reconstitute themselves as new suppliers. As a new supplier, the entity obtains a billing number and, often, continues the previous fraudulent or abusive activity. Such unscrupulous suppliers should be identified before there has been a substantial loss to the program. One way we could link the old and new suppliers would be to collect data on the identities of the individuals in control of the former and new companies.

As stated above, there are currently no standards for becoming a supplier. Companies which actually were only "third party billers" purported to be suppliers. These billers have been among the most flagrant abusers of "point of sale" jurisdiction.

When a problem of program abuse was suspected (prior to enactment of section 1124A of the Act on November 5, 1990), it often was very difficult for carriers to obtain ownership and control data, especially if a questionable supplier suspected that an audit or an investigation had begun. Also, carriers suspecting a major problem have not always been able to identify early new companies as potentially abusive, because they lacked the information that individuals known to participate in abusive practices were influential in the new company.

Section 4164(b) of the Omnibus Budget Reconciliation Act of 1990 (OBRA 90) enacted section 1124A of the Act (42 U.S.C. 1320a-3a), "Disclosure Requirements for Other Providers under Part B of Medicare." This new section provides that all Part B entities receiving payment on an assignment-related basis, except for those which are already covered by the existing provisions of section 1124A, must disclose the identities of all individuals with a 5 percent or more ownership or control interest and the identities of all managing employees. Failure to provide the information will result in nonpayment of the provider's claims and can be used as the basis for exclusion from the Medicare program. We propose that the information be due within 35 days of the request for the information. Also, the statute mandates that information be reported within 180 days of a change in any of the pertinent information provided. Section 1124A will be fully effective January 1, 1993.

The provision is designed to assist the Health Care Financing Administration and the Office of Inspector General in the identification of key persons who are involved in abusive or fraudulent actions. It also will be of great utility in understanding the relationship of companies which appear to be cooperating in questionable ventures.

III. Proposed Regulations

General—We propose, under the provisions of sections 1834(a)(12) and 1834(h)(3) of the Act, to designate regional carriers to process DMEPOS claims. Section 1834(a)(12) gives authority for this plan with regard to claims for durable medical equipment, and, by reference in section 1834(h)(3) to prosthetic devices, prosthetics and orthotics. In addition to these items, we are also proposing under the authority of sections 1102, 1842, and 1874(a) of the Act to include within the jurisdiction of these new carriers all claims for parenteral and enteral nutrients, supplies and equipment, surgical dressings, splints, etc., immunosuppressive drugs and dialysis supplies and equipment. The processing of claims for all these items is quite similar, involving examination of prescriptions, certificates of medical necessity, and other medical documentation. Compared to processing of claims for physician or laboratory services, the processing of DMEPOS claims are time consuming and relatively expensive.

We are proposing to designate four carriers as DMEPOS regional carriers and designate their boundaries to coincide with the boundaries of one or more CWF sectors. One carrier would process claims for beneficiaries in the Northeast and Keystone sectors; another carrier would process claims for the Mid-Atlantic and Great Lakes sectors; a third carrier would process claims for the Southwest, Southeast, and South sectors; and a fourth carrier would process claims for the Great Western and Pacific sectors. This proposed designation would result in four approximately equal workload areas, using current data on claims volumes and beneficiary distribution. These carriers would process electronically submitted claims in one standard national electronic media format. We would expect that these carriers would have exclusive authority over all DMEPOS claims currently paid for by Part B general and specialty carriers, and those Part B claims processed by fiscal intermediaries (FIs). Currently, the items processed by the FIs include those provided by an HHA, including home health services under Part B, intraocular lenses, and medical supplies excluded from the definition of covered services in section 1834(a)(13) of the Act. The

regional carriers, however, would not process any DMEPOS claims that are specifically constrained by statute to be paid for under Part A by an FI or which are bundled into a Part A bill.

To ease our administration of claims processing functions, Part B claims for DMEPOS filed by a Part A provider other than an HHA and currently paid by FIs might be moved to regional DMEPOS carriers at a time later than the transition of claims currently paid by Part B carriers.

We are also proposing to change our "point of sale" claims jurisdiction policy to one based on beneficiary residence. This would mean that all claims for beneficiaries residing within the geographic area of a regional carrier would be processed by that regional carrier. It would also mean that claims would be paid at the rates and utilization parameters applicable for a beneficiary's State of residence.

We also propose to establish certain minimum standards which DMEPOS suppliers must meet, and certify that they meet, before a billing number could be issued to them. Failure of an approved DMEPOS supplier to continue to meet the standards would be reason for revocation of a billing number as of date the standards were not met. Carriers will be responsible for the validation of complaints that suppliers are not meeting standards. We are proposing these standards because of the proliferation of companies which contract with other suppliers to perform their marketing, order taking, servicing, etc. These companies perform no supplier functions, *per se*. They "buy" Medicare claims at face value and must inflate the amounts they bill to Medicare in order to make a profit.

A supplier must also supply information as to the identities of persons with ownership or control interests and of managing employees. An individual who has been previously sanctioned, or who was an owner, had a controlling interest, or was a managing employee of a company that has been sanctioned, will also need to be identified. We would require the information include the Unique Physician Identification Number (UPIN) for any involved physicians. Failure to provide this information will result in the non-enrollment or termination of a supplier. Additional updated information will be requested as needed. Failure to provide this information will also result in supplier termination.

We propose to make a number of changes to our rules in part 420 which concern disclosure of information to reflect the changes made by section 1124A of the Act and, under our general rulemaking authority found at sections 1102 and 1874(a) of the Act, to ensure consistent and efficient program administration. We would revise the title of subpart C to, Disclosure of Ownership and Control Information.

First, in § 420.201, Definitions, we delete the definition of "supplier", as the definition is not essential to the application of the program integrity rules in part 420 and could possibly lead to confusion.

Second, also in § 420.201, we modify the definition of "disclosing entity" to include a Part B supplier, as defined in proposed § 400.202, that is eligible to receive Medicare payment for items or services. We believe this definition comports with the requirements of new section 1124A of the Act, as added by section 4164(b) of OBRA 90, but is not reliant on that authority.

While section 1124A imposes disclosure of ownership requirements only on entities "* * * receiving payment on an assignment-related basis * * *," we intend to apply those requirements to all suppliers. Such a restriction would encourage suppliers to refuse assignment. We believe that the general authority at section 1833(e) to collect information "necessary to determine amounts due," and the implied authority at section 1128 to gather information necessary to determine whether a supplier should be excluded, allow the extension of the requirement for disclosure of ownership to all suppliers. We believe this is a reasonable basis for subjecting all suppliers to disclosure requirements as a means of forestalling the program abuses identified earlier.

Section 1124A is effective January 1, 1993 for all suppliers and January 1, 1992 for suppliers that furnished items or services for which payment may be made under Medicare Part B prior to November 6, 1990. Thus we will require disclosure of ownership upon the effective date of these final regulations for new suppliers and for all current suppliers in 1993. Suppliers will be reinstated when they meet all statutory and regulatory requirements. We plan to collect the disclosure of ownership information and the certification of compliance with supplier standards as part of the supplier enrollment, i.e., when billing numbers are issued. All suppliers would need to enroll at the regional carriers to obtain billing numbers described in § 424.55. Re-enrollment would be required every 2 to 3 years. Supplier re-enrollment would allow us to update our information files on suppliers and to purge files of any inactive suppliers. Suppliers which fail to comply with Medicare requirements risk not being re-enrolled.

We would make a number of revisions to § 420.204, Principals convicted of a program-related crime and § 420.205, Disclosure by providers of business transaction information. In these sections, which currently discuss requirements of providers, we make revisions to apply the requirements to Part B suppliers. We also make minor editorial changes.

In § 420.206, Disclosure of persons having ownership, financial, or control interest, we make similar revisions to apply the requirements to suppliers. We make further revisions, under authority of sections 1102 and 1833 of the Act, to enhance the efficient and effective administration of the program. Consequently, we add to § 420.206(a)(1), the requirement that any Medicare enrolled physician provide his or her Unique Physician Identification Number (UPIN). The UPIN is used in numerous other activities related to identifying physicians with ownership or control or otherwise having a financial interest in an entity that also provides health services (See, for example, section 1877 of the Act related to physician ownership and referral prohibitions). We expect this change to enhance our ability to properly identify physicians with ownership or control interest. In paragraph (b)(3), we add a requirement that suppliers report changes in ownership or control within 180 days. This change would make our reporting requirements consistent with those of section 1124A of the Act. We would apply to this new information, for consistency, the current requirement that responses to requests for ownership information be made within 35 days.

To implement provisions of section 1834(a)(12), we would amend our current regulations at § 421.1, Basis and scope, by adding the statutory basis for the new provision. We would modify §§ 421.200(j) and 421.202(c) to include, under the sections dealing with carrier functions and requirements and conditions, respectively, specific mention of requirements and conditions applicable to regional carriers for DMEPOS claims under new § 421.210. We would add a new § 421.210 Designation of regional carriers to process claims for durable medical equipment, prosthetics, orthotics and supplies. We would specify the types of criteria which would be used for designating these carriers, including experience in processing DMEPOS claims and establishing DMEPOS local medical policy and pricing, as well as quality, timeliness and cost per claim.

More detailed standards will be contained in the regional carriers' time-limited contracts. HCFA will consider renewal of these contracts if contractual standards are met.

We would change both the way we allocate claims among carriers and the number of carriers which would process these claims. As noted earlier, we anticipate designating 4 regional DMEPOS carriers that would be named in the final rule, along with the designated areas in which they would operate. Each area must contain one or more CWF sectors. We believe that claims for beneficiaries with a legal residence within these sectors (whose claims records are, therefore, stored in the host sites for these sectors) can be most efficiently processed if they were assigned to the regional carrier for that sector. We would expect that claim pricing activities at these carriers will be performed following current guidelines, i.e., each State will be a locality. A claim will be paid the rate applicable for the State in which the beneficiary resides. We also expect that interpretation of coverage rules, in the absence of national policy, or as an adjunct to national policy, will continue to occur at each carrier.

In order to enhance consistent claims processing among regional carriers, our contracts with the regional carriers will provide that utilization screens, medical review guidelines and medical policy for the most frequently used codes will be recommended by a national committee composed of carrier medical directors and medical review staff. With HCFA's concurrence, the committee's recommendations and utilization guidelines will be distributed to all regional carriers. Carrier commitment to adopt national recommendations and utilization guidelines will be considered in the designation of the regional carriers.

Below, we explain how we determined that use of 4 carriers might be the best way to achieve efficient and economical program administration. We considered a number of options including: (1) Leaving claims where they are currently processed but changing the way we allocated them among the carriers, (2) designating regional carriers based on HCFA administrative regions, and (3) designating one regional carrier per CWF sector, i.e., designating 9 or 10 carriers, instead of the proposed 4.

Leaving DMEPOS claims at all carriers was rejected because of the problems cited under current program experience. Using HCFA's 10 regions as a basis was rejected because of claims processing disadvantages resulting from not having the regions coincide with the CWF sectors. We believe that having beneficiary claims eligibility and claims payment records situated in CWF host sites with direct linkage to the regional carriers is desirable. Designating more than 4 carriers was rejected after evaluating workload data because optimal claims processing efficiency could not reasonably be expected to be achieved with the number of claims which each carrier would process if more than 4 were designated.

Claims for parenteral and enteral nutrition (PEN) are very similar to those for DMEPOS. We would reallocate these claims currently processed by two regional carriers to the 4 regional carriers for DMEPOS. This action is necessitated because the number of PEN claims, less than a million per year, is insufficient to achieve the desired economies of scale in claims processing administrative cost.

At some point after the initial allocation of DMEPOS claims to the regional carriers, we anticipate that we will consider transferring to them DMEPOS claims processed by fiscal intermediaries, not constrained by statute to be processed by them. This would require contract changes for all intermediaries.

Since unassigned claims are now completed by the suppliers, the interface between carriers and beneficiaries is normally limited to inquiries and appeals. We plan and educational initiative for beneficiaries but anticipate some transitional questions from beneficiaries which would impact both the old and the new carriers. An important part of this initiative would be to emphasize that beneficiaries should report unresolved complaints against suppliers to the regional carriers.

Specific regulations changes—Because claims for DMEPOS are primarily submitted by suppliers, we would revise § 424.55, which concerns payment to suppliers. We would change the title to Payment to a supplier and issuance of certain billing numbers. To establish minimum standards for receipt of a supplier billing number for purposes of DMEPOS, we would require a supplier to meet, and certify that it meets, the following standards: It receives and fills orders for DMEPOS from its own inventory or inventory in other companies with which it has contracted to fill such orders; it is responsible for delivering Medicare covered items to Medicare beneficiaries or arranging for their delivery to an outlet convenient to the beneficiary; it honors any warranties and answers any questions and complaints the beneficiaries might have; and it maintains and repairs rental items and accepts returns of substandard or unsuitable items from beneficiaries. These requirements would be located at § 424.55(c) and (d). Suppliers would be required to maintain a complaint file on any written or oral complaints received which relate to supplier standards. The file should explain the date and nature of the compliant, the identity of the complainant, and the date and nature of the response of the supplier. Records should be kept in chronological order. It should include descriptions of all complaints regarding delivery of Medicare covered items to Medicare beneficiaries; maintenance and repair of items that have been rented to Medicare beneficiaries; honoring of warranties; and acceptance of returns of substandard and unsuitable items from beneficiaries. The supplier shall determine whether or not an investigation is necessary, and when no investigation is made, the supplier shall maintain a record that includes the reason and the name of the individual responsible for the decision not to investigate.

Copies of the complaint log, or applicable portions, must be sent to the carriers upon request. Carriers will request copies when investigating beneficiary complaints and in other situations in which there is a question as to whether the supplier meets the applicable standards. Failure to maintain such a log or to provide log information to a carrier in a timely fashion will be considered evidence that supplier standards have not been met. Comments are requested on the cost-effectiveness of the complaint log as compared to other means of investigating beneficiary complaints.

We also make minor changes to § 424.56, Payment to a beneficiary and to a supplier, to assure consistent reference to approved suppliers with a billing number, where required.

IV. Regulatory Impact Statement

Executive Order 12291 (E.O. 12291) requires us to prepare and publish an initial regulatory impact analysis for any notice that meets one of the E.O. criteria for a "major rule"; that is, would be likely to result in—

An annual effect on the economy of $100 million or more;

A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or Significant adverse effects on competition, employment, investment productivity, innovation, or on the ability of the United States based enterprises to compete with Foreign-based enterprises in domestic or export markets.

In addition, we generally prepare an initial regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612), unless the Secretary certifies that a proposed rule would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, we do not consider carriers as small entities. Therefore, a RFA will not be required.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside a Metropolitan Statistical Area and has fewer than 50 beds. Unless claims for DMEPOS submitted by hospitals are moved to regional carriers, there will be no impact on hospitals. At this time, there are no definite plans to move these claims.

Nevertheless, in the spirit of E.O. 12291 and the RFA, we are voluntarily providing the following information.

We anticipate transitional questions from physicians who prescribe, and hospital discharge planners who help patients to obtain, DMEPOS. Educational campaigns would be conducted for these groups. There would also be an aggressive education campaign directed to both small and large suppliers, both about the changes in the program, and the desirability of submitting bills via electronic media claims (EMC) or in a format compatible for optical character readers.

We also anticipate questions from beneficiaries. An educational campaign is being designed to describe for them the change to regional carriers and to emphasize their role in the successful control of fraud and abuse in the DMEPOS industry. Since suppliers will no longer be able to choose the carrier to which they submit their bills, some beneficiaries whose bills had been submitted to carriers with relatively high payments for supplier items will be subject to smaller copayments. In some few cases, suppliers may no longer accept assignment, which may result in balance billing. There will also be a few beneficiaries, whose claims will now be priced at higher rates, for whom there will be larger copayments. In addition, the new supplier standards, including recordkeeping and disclosure requirements, may discourage some small suppliers from participating in the Medicare program, thus, limiting access for some beneficiaries living in small towns or rural areas to catalog sales.

Most small suppliers which now bill a local carrier with which they are familiar would have to bill an unfamiliar carrier. Large suppliers which now have set up their businesses so that they may bill only one carrier, may have to bill up to four carriers. Large suppliers which bill many local carriers may have the number of carriers which they bill reduced from as many as over 40 to four.

All suppliers would be paid the same amounts for similar products used by beneficiaries residing within the same States. Their claims would also be subject to similar local medical policies. HCFA would no longer be giving an unfair competitive advantage to larger suppliers which, under the current "point of sale" system, structure their businesses so that the "point of sale" is located within the area of a carrier with favorable interpretation rules, utilization screens, local medical review policy or pricing for their products.

Most suppliers currently filing electronic media claims (EMC) and suppliers that are not currently using the standard EMC format to bill their local carriers would have to adapt their billing formats to the standard HCFA format. This may result in an initial reduction in the total number of claims to be processed by EMC. We expect, however, that, with aggressive EMC marketing and the reduced number of carriers, more suppliers will choose to utilize EMC. Suppliers using the standardized format already would be able to bill their regional carriers immediately via EMC.

Since all suppliers will need to be re-enrolled at the new carriers, we expect to develop a standard enrollment form. Suppliers would be required to submit, as part of their enrollment, certification that they meet supplier standards and information on those individuals with ownership and control interests or who are managing employees, and further identify any that have had any penalties, assessments or exclusions against them or against other suppliers with which they have been, or are, associated. Re-enrollment of suppliers will be required every 2 to 3 years.

We expect all but 4 carriers to experience a decrease of about 5 percent of their current claims workload. We expect these 4 carriers would each gain approximately 6 million claims. Increased start up costs for the first few years are expected. However, these costs would be partly offset by the reduced cost per claim resulting from economies of scale.

There may be some administrative savings, both for the carriers losing DMEPOS claims, which must be handled quite differently from other claims, and for the regional carriers which will be handling an optimum number of claims for efficient processing. There would, however, be initial one time transition costs, for the first 1 to 2 years after implementation, as well as initial temporary increases in professional and beneficiary relations costs. While there would be some savings from increased use of EMC, these savings would primarily be achieved as the result of separate EMC initiatives. EMC claims for DME are currently processed at half the cost of hard copy claims. Some additional savings may be possible with increased use of optical character readable claims With use of these techniques and suppliers preparing and submitting unassigned claims for beneficiaries (as required by section 1848(g)(4) of the Act, as enacted by section 6102 of Pub. L. 101-239), we expect that a minimum number of claims should be processed in hard copy at the higher price.

V. Collection of Information Requirements

Sections 420.206 and 421.210 of this proposed rule contain information collection requirements that are subject to the Office of Management and Budget review under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 et seq.). The information collection requirements concern disclosure of ownership and control and the identities of managing employees. The respondents who will provide the information will be the suppliers. Public reporting burden for this collection of information is estimated to be 160,000 hours. We estimate that 160,000 suppliers will complete the information which is estimated at one hour per supplier. A notice will be published in the **Federal Register** when approval is obtained.

Section 424.55(g) of the proposed rule seeks to establish an additional information collection requirement on suppliers, the maintenance of a beneficiary complaint log. The information to be collected would include the date and nature of a beneficiary's complaint about a supplier's perceived noncompliance with supplier standards, the identity of the complainant and the date and nature of the response to the complaint. If a complaint is not investigated by the supplier, then the reason for the lack of investigation should be noted along with the identity of the person making the decision not to investigate. We estimate that 160,000 suppliers will each receive an average of 15 complaints per year

and that each complaint will take about ten minutes to write into the complaint log. Public reporting burden for this collection of information is estimated to be 400,000 hours per year.

Organizations and individuals desiring to submit comments on the information collection and recordkeeping requirements should direct them to us and the OMB at the locations indicated in the "**ADDRESSES**" section of this preamble.

VI. Response to Public Comments

Because of the large number of items of correspondence we normally receive on a proposed rule, we are unable to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "**COMMENT PERIOD**" section of this preamble, and we will respond to comments in the preamble to the final rule.

List of Subjects

42 CFR Part 420

Administrative practice and procedure, Fraud, Health facilities, Health professions, Medicare.

42 CFR Part 421

Administrative practice and procedure, health facilities, health professions, Medicare, reporting and recordkeeping requirements.

42 CFR Part 424

Emergency medical services, Health facilities, Health professions, Medicare.

42 CFR Chapter IV would be amended as follows:

A. Part 420 is amended as follows:

PART 420—PROGRAM INTEGRITY: MEDICARE

1. The authority citation for part 420 is revised to read as follows:

Authority: Secs. 1102, 1124, 1124A, 1126, 1833(e), 1866 and 1871 of the Social Security Act (42 U.S.C. 1302, 1320a–3, 1320a–3a, 1320a–5, 13951, 1395cc, and 1395hh).

2. The heading of Subpart C is revised to read as follows:

Subpart C—Disclosure of Ownership and Control Information

3. Section 420.200 is revised to read as follows:

§ 420.200 Purpose.

This subpart implements sections 1124, 1124A, 1126, 1861, and 1866 of the Social Security Act. It sets forth requirements for providers, Part B suppliers, intermediaries, and carriers to disclose ownership and control information. It also sets forth requirements for disclosure of information about a provider's or Part B supplier's owners and controlling or managing employees convicted of criminal offenses against Medicare, Medicaid, or the Title XX social services program.

4. In § 420.201, the definition of "Disclosing entity" is revised and the definition of "Supplier" is removed to read as follows:

§ 420.201 Definitions.

* * * * *

Disclosing entity means:

(1) A provider of services, an independent clinical laboratory, a renal disease facility, or health maintenance organization (as defined in section 1301(a) of the Public Health Service Act);

(2) A carrier or other agency or organization that is acting for one or more providers of services for purposes of Part A and Part B of Medicare; and

(3) A Part B supplier, as defined in § 400.202 of this chapter, eligible to receive Medicare payment for items or services.

* * * * *

5. Section 420.204 is revised to read as follows:

§ 420.204 Principals convicted of a program-related crime.

(a) *Information required.* Prior to HCFA's acceptance of a provider agreement or supplier enrollment, or re-enrollment, or at any time upon written request by HCFA, the provider or Part B supplier must furnish HCFA with the identity of any person who has an ownership or control interest in the provider or Part B supplier, or who is an agent or managing employee of the provider, and either has been convicted of, or was an owner, had a controlling interest in, or was a managing employee of a corporation that has been convicted of a criminal offense, subjected to any civil monetary penalty, or excluded from the programs relating to involvement in Medicare, Medicaid, Title V of the Title XX social services program since the inception of those programs.

(b) *Refusal to enter into or renew agreement.* HCFA may refuse to enter into or renew an agreement with a provider of services or enroll, or re-enroll, a Part B supplier if any person who has an ownership or control interest in the provider or supplier, or who is an agent or managing employee, has been convicted of a criminal offense or subjected to any civil penalty related to the involvement of that person in Medicare, Medicaid, Title V or the Title XX social services programs. In making this decision, HCFA will consider the facts and circumstances of the specific case, including the nature and severity of the crime and the extent to which it adversely affected beneficiaries and the programs involved. HCFA will also consider whether it has been given reasonable assurance that the person will not commit any further criminal or civil offense against the programs.

(c) *Notification of Inspector General.* HCFA promptly notifies the Inspector General of the Department of the receipt of any application or request for participation, certification, re-certification, or enrollment, or re-enrollment, that identifies any person described in paragraph (a) of this section and the action taken on that application or request.

6. The heading and introductory language in § 420.205 are revised to read as follows:

§ 420.205 Disclosure by providers and Part B suppliers of business transaction information.

A provider or Part B supplier must submit to HCFA, within 35 days after the date of a written request, full and complete information—

* * * * *

7. In § 420.206, paragraphs (a) introductory text, (a)(1), (a)(3), (b)(2), (b)(3), and (c) are revised to read as follows:

§ 420.206 Disclosure of persons having ownership, financial, or control interest.

(a) *Information that must be disclosed.* A disclosing entity must submit the following information in the manner specified in paragraph (b) of this section:

(1) The name and address of each person with an ownership or control interest in the entity or in any subcontractor in which the entity has direct or indirect ownership interest totaling 5 percent or more. Any Medicare enrolled physician must provide his or her Unique Physician Identification Number.

(2) * * *

(3) The name of any other disclosing entity in which any person with an ownership or control interest, or who is a managing employee in the reporting disclosing entity, has an ownership or control interest or position as managing employee, and the nature of the relationship with the other disclosing entity. If any of these other disclosing entities have been convicted of a criminal offense or received a civil monetary or other administrative sanction related to participation in Medicare, Medicaid, Title V or Title XX

social services programs, that information must also be provided.

* * * * *

(b) *Time and manner of disclosure.* (1) * * *

(2) Any disclosing entity that is not subject to periodic survey and certification must supply the information specified in paragraph (a) of this section to HCFA before entering into a contract or agreement to participate in Medicare or before enrolling, or reenrolling, as a Part B supplier.

(3) Updated information must be furnished to HCFA at intervals between recertification, or re-enrollment, or contract renewals, within 35 days of a written request. In the case of a Part B supplier, the supplier must report also within 180 days, on its own initiative, any changes in the information it previously supplied.

(c) *Consequences of failure to disclose.* (1) HCFA will not approve an agreement or contract with, or make determination of eligibility for, or enroll, or re-enroll, in the case of a Part B supplier, any disclosing entity that fails to comply with paragraph (b) of this section.

(2) HCFA will terminate any existing agreement or contract with, or withdraw a determination of eligibility for or, in the case of a Part B supplier, terminate enrollment of, any disclosing entity that fails to comply with paragraph (b) of this section.

B. Part 421 is amended as follows:

PART 421—INTERMEDIARIES AND CARRIERS

1. The authority citation for Part 421 is revised to read as follows:

Authority: Secs. 1102, 1815, 1816, 1833, 1834(a), 1834(h), 1842, 1861(u), 1871, 1874, and 1875 of the Social Security Act (42 U.S.C. 1302, 1395g, 1395h, 1395l, 1395m(a), 1395m(h), 1395u, 1395x(u), 1395hh, 1395kk, and 1395ll), and 42 U.S.C. 1395b–1.

Subpart A—Scope, Definitions, and General Provisions

2. Section 421.1 is revised to read as follows:

§ 421.1 Basis and scope.

(a) This part is based on sections 1124A, 1815, 1816, 1834, 1842, and 1874 of the Social Security Act and 42 U.S.C. 1395b–1 (experimental authority).

* * * * *

3. Section 421.200(j) is revised to read as follows:

§ 421.200 Carrier functions.

* * * * *

(j) *Other terms and conditions.* The carrier must comply with any other terms and conditions included in its contract, including any imposed under § 421.210 of this subpart relating to designated regional carriers.

4. In § 421.202, the introductory text is republished and paragraph (c) is revised to read as follows:

§ 421.202 Requirements and conditions.

Before entering into or renewing a carrier contract, HCFA will determine that the carrier—

* * * * *

(c) Will be able to meet any other requirements HCFA considers pertinent, including processing the claims workload if designated as a regional carrier under § 421.210 of this subpart.

5. New § 421.210 is added to read as follows:

§ 421.210 Designation of regional carriers to process claims for durable medical equipment, prosthetics, orthotics and supplies.

(a) *Basis.* This section is based on sections 1834(a) and 1834(h) of the Act which authorize the Secretary to designate one or more carriers by specific regions to process claims for durable medical equipment, prosthetic devices, prosthetics, orthothics and other supplies (DMEPOS).

(b) *Types of claims.* Claims for the following are processed by the designated carrier for its designated region and not by other carriers—

(1) Durable medical equipment (and related supplies) as defined in section 1861(n) of the Act;

(2) Prosthetic devices (and related supplies) as described in section 1861(s)(8), including parenteral and enteral nutrients, supplies, and equipment; and

(3) Orthotics and prosthetics (and related supplies) as described in section 1861(s)(9), including intraocular lenses;

(4) Home dialysis supplies and equipment as described in section 1861(s)(2)(F);

(5) Surgical dressings and other devices as described in section 1861(s)(5); and

(6) Immunosuppressive drugs as described in section 1861(s)(2)(J).

(c) *Region designation.* The boundaries of regions for processing claims coincide with the boundaries of 1 or more Common Working File sectors. (In the final rule the designated regions will be identified here.)

(d) *Criteria for designating carriers.* HCFA designates carriers to achieve a greater degree of effectiveness and efficiency in the administration of the Medicare program as measured by—

(1) Timeliness of claim processing;

(2) Cost per claim;

(3) Claim processing quality;

(4) Experience in claim processing; and

(5) Other criteria that HCFA believes to be pertinent.

(e) *Carrier designation.* (1) Each carrier designated a regional carrier is responsible, using the payment rates applicable for a beneficiary's State of residence, for processing claims for items listed in paragraph (b) of this section for beneficiaries whose legal address for tax purposes is within the area designated in paragraph (c) of this section.

(2) (The identities of the regional carriers will be specified in the final rule).

(f) *Collecting information of ownership.* Carriers designated as regional claims processors must obtain from each supplier of items listed in paragraph (b) of this section information concerning ownership and control as required by section 1124A of the act and Part 420 of this chapter.

C. Part 424 is amended as set forth below:

PART 424—CONDITIONS FOR MEDICARE PAYMENT

1. The authority citation for part 424 continues to read as follows:

Authority: Secs. 216(j), 1102, 1814, 1815(c), 1835, 1842(b), 1861, 1866(d), 1870 (e) and (f), 1871 and 1872 of the Social Security Act (42 U.S.C. 416(j), 1302, 1395(f), 1395g(c), 1395n, 1395u(b), 1395x, 1395cc(d), 1395gg (c) and (f), 1395hh and 1395ii).

2. In section 424.55, the heading and paragraph (a) are revised, and new paragraphs (c) through (g) are added to read as follows:

§ 424.55 Payment to a supplier and issuance of certain billing number.

(a) Medicare pays a supplier with a billing number for covered services if the beneficiary (or the person authorized to request payment on the beneficiary's behalf) assigns the claim to the supplier and the supplier accepts assignments.

* * * * *

(c) Medicare cannot issue a billing number to a supplier that submits claims for the items listed in § 421.210(b) of this subchapter until that supplier meets, and certifies that it meets, the following standards:

(1) Fills those orders from its own inventory or inventory in other companies with which it has contracted to fill such orders, in response to those orders which it receives;

(2) Is responsible for delivery of Medicare covered items to Medicare beneficiaries; and

(3) Honors any warranties, answers any questions or complaints the beneficiaries might have, maintains and repairs items it has rented to beneficiaries, and accepts returns of substandard or unsuitable items from beneficiaries.

(d) A supplier must also comply with the disclosure provisions found in § 420.206 of this subchapter before a billing number can be issued.

(e) If a supplier is found not to meet the standards in paragraphs (c) and (d) of this section, its billing number will be revoked as of the date the standards are not met or information is not supplied in a timely fashion.

(f) Re-enrollment will be required every 2 to 3 years.

(g) Suppliers will also be required to maintain complaint logs which include the nature of complaints which relate to the supplier standards in paragraph (c) of this section; information on maintenance and repair of rental items; that warranties have been honored; that substandard and unsuitable items have been accepted as returns; whether an investigation of the complaint was conducted; and if an investigation was not conducted, the name of the person making the decision and the reason for the decision. Failure to maintain such a log or to provide log information to a carrier in a timely fashion will be considered evidence that supplier standards have not been met.

3. In § 424.56, paragraph (a) is revised to read as follows:

§ 424.56 Payment to a beneficiary and to a supplier.

(a) *Conditions for split payment.* If the beneficiary assigns the claim after paying part of the bill, payment may be made partly to the beneficiary and partly to a supplier with a billing number.

* * * * *

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare—Hospital Insurance and No. 93.774 Supplementary Medical Insurance Program)

Dated: July 25, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

Approved: September 30, 1991.

Louis W. Sullivan,

Secretary.

[FR Doc. 91-26677 Filed 11-1-91; 11:00 am]

BILLING CODE 4120-01-M

DEPARTMENT OF ENERGY

48 CFR Part 935

Acquisition Regulation

AGENCY: Department of Energy (DOE).

ACTION: Proposed rule.

SUMMARY: DOE proposes to amend the Department of Energy Acquisition Regulation (DEAR) to change certain internal DOE procedures applicable to its Research Opportunity Announcement (ROA) solicitation mechanism. These changes are aimed at streamlining various aspects of the solicitation, evaluation, and award processes for both the DOE offices administering an ROA process and offerors submitting proposals in response to an ROA.

DATES: Written comments on this proposed rule must be received by December 6, 1991.

ADDRESSES: Comments should be addressed to: Edward Simpson, Office of Policy (PR-121), Office of Procurement, Assistance, and Program Management, U.S. Department of Energy, 1000 Independence Avenue, SW., Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT:

Edward Simpson, Office of Policy (PR-121), Office of Procurement, Assistance and Program Management, U.S. Department of Energy, Washington, DC 20585, (202) 586-8246.

Mary Ann Masterson, Office of the Assistant General Counsel for Procurement and Finance (GC-34), U.S. Department of Energy, Washington, DC 20585, (202) 586-1526.

SUPPLEMENTARY INFORMATION:

I. Background.
II. Procedural Requirements.
A. Review Under Executive Order 12291.
B. Review Under the Regulatory Flexibility Act.
C. Review Under the Paperwork Reduction Act.
D. Review Under the National Environmental Policy Act (NEPA).
E. Review Under Executive Order 12612.
III. Public Comments.

I. Background

On August 15, 1990, DOE published a final rule in the **Federal Register** (55 FR 33311) which amended DEAR by, among other things, adding a new subpart 935.106 to provide specific regulatory coverage on the use of ROAs. ROAs are DOE's designation for its broad agency announcement solicitations. That final rule supplemented the Federal Acquisition Regulation (FAR) coverage of broad agency announcements and implemented DOE's policies and procedures regarding the solicitation, evaluation, and selection of basic and applied research proposals by DOE using the ROA solicitation mechanism.

This proposed rule, when final, will amend subpart 935.016 by changing internal DOE procedures concerning the use of ROAs. These changes are intended to improve the ROA process by clarifying certain existing regulatory language, and by providing the DOE program office using the ROA solicitation greater control and flexibility over its activities. A summary of the significant proposed changes is provided below.

Item I. Subsection 935.016-4(d) is being eliminated because the requirements that evaluation plans are developed prior to release of the solicitation and that such plans correspond to the evaluation criteria are well-founded in Government acquisition policies and existing FAR coverage.

Item II. Subsection 935.016-4(g) is being amended to delete the reference to the Contracting Officer. The coverage relating to the synopsis of broad agency announcements at FAR 35.016(c) and of general synopsis requirements for solicitations at FAR 5.101 is applicable.

Item III. Subsection 935.016-5(a) is being changed to remove the requirement that proposal information be segregated into three discrete sections of the proposal.

Item IV. Subsection 935.016-5(b) is being changed to add a separate evaluation element for business organization to which the offeror must respond, if the offeror represents an educational or other nonprofit organization. This change is added to simplify the proposal information requirement on those educational and nonprofit organizations. The change is effected through the addition of a new paragraph (6) to the subsection. For-profit and not-for-profit organizations will continue to provide the information required by subsection 935.016-5(b)(5).

Item V. Subsection 935.016-5(c) is being changed to allow for the initial submission of cost information from an offeror in the form of either a cost proposal or a Standard Form (SF) 1411. This change recognizes an alternative to the submission of an SF-1411 as part of the initial proposal. The regulatory requirement for submission of an SF-1411 will still be satisfied at the time the awarding contracting office notifies the offeror of its selection (see 935.016-9(c)), if it has not been previously provided.

Item VI. Subsection 935.016-6(a) is being revised by adding language to clarify that program offices administering the ROA process may use

the resources of the cognizant contracting office for receiving proposals.

Item VII. Subsection 935.016–6(c) is being changed to eliminate the reference to FAR 15.412, regarding late proposals, to improve the clarity and understanding of the language.

Item VIII. Subsection 935.016–7(a) is being revised to recognize that it is sufficient for the cognizant program office to oversee the ROA administration process and ensure that the duties set out in the subsection are performed in a satisfactory manner, consistent with the regulation.

Item IX. Subsection 935.016–7(d)(5) is being revised to clarify that both individual reviewers and review groups are permitted under 10 CFR 600.16(d), and are acceptable for purposes of satisfying the requirements for scientific and/or peer reviewers under the ROA process.

Item X. Subsection 935.016–7(f) is being changed to delete the first sentence of the subsection. The requirement of FAR 35.016(d) applies.

Item XI. Subsection 935.016–7(i) is being revised to delete paragraph (3). That an offeror must be able to submit a proposal that is responsive to the solicitation is already required by the FAR.

Item XII. Subsection 935.016–7(j) is being changed to require that only the significant findings of the scientific and peer reviewers be included in the consolidated written report concerning a proposal.

Item XIII. Subsection 935.016–8(c)(4) is being changed to recognize that the Contracting Officer may authorize the incurrence of pre-contract costs by an offeror.

II. Procedural Requirements

A. Review Under Executive Order 12291

This Executive order, entitled "Federal Regulation," requires that regulations be reviewed by the Office of Management and Budget (OMB) prior to their promulgation. Accordingly, this rule was submitted to OMB for review in accordance with Executive Order 12291. OMB has completed its review of the rule and has approved its publication.

B. Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Public Law 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have significant economic impact on a substantial number of small entities. DOE certifies that this rule will not have a significant economic impact on a substantial number of small entities, and, therefore, no regulatory flexibility analysis has been prepared.

C. Review Under the Paperwork Reduction Act

No new information or recordkeeping requirements are imposed by this proposed rulemaking. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, *et seq.*).

D. Review Under the National Environmental Policy Act (NEPA)

DOE has concluded that promulgation of this rule would not represent a major Federal action having significant impact on the human environment under NEPA of 1969 (42 U.S.C. 4321 *et seq.* (1976)), or the Council on Environmental Quality regulations (40 CFR parts 1500–1508), and the DOE Guidelines (40 CFR part 1021). Therefore, this proposed rule does not require an environmental impact statement or environmental assessment pursuant to NEPA.

E. Review Under Executive Order 12612

Executive Order 12612 requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the national government and the States, or in the distribution of power and responsibilities among the various levels of government. If there are sufficient substantial direct effects, then the Executive order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action.

This proposed rule, when finalized, will merely change existing policies and procedures internal to DOE governing the use of DOE's ROAs. States which contract with DOE will be subject to this rule. However, DOE has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of the States.

III. Public Comments

Interested persons are invited to participate by submitting data, views, or arguments with respect to the proposed DEAR amendments set forth in this notice. Three copies of written comments should be submitted to the address indicated in the "**ADDRESS**" section of this notice. All written comments received by December 6, 1991 will be carefully assessed and fully considered prior to publication of the proposed amendment as a final rule.

DOE has concluded that this proposed rule does not involve a substantial issue of fact or law, and that the proposed rule should not have a substantial impact on the nation's economy or large numbers of individuals or businesses. Therefore, pursuant to Public Law 95–91, the DOE Organization Act, and the Administrative Procedure Act (5 U.S.C. 553), DOE does not plan to hold a public hearing on this proposed rule.

List of Subjects in 48 CFR Part 935

Government contracts, Government procurement.

For the reasons set out in the preamble, part 935 of title 48 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, DC on October 28, 1991.

Berton J. Roth,

Acting Director, Office of Procurement, Assistance and Program Management.

The regulations in 48 CFR part 935 are proposed to be amended as set forth below:

PART 935—RESEARCH AND DEVELOPMENT CONTRACTING

1. The authority citation for part 935 continues to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

2. Section 935.016–4 is amended by removing the existing paragraph (d) in its entirety; by redesignating paragraphs (e) through (g) as paragraphs (d) through (f), respectively; and, by revising the newly redesignated paragraph (f) to read as follows:

§ 935.016–4 Issuance of Research Opportunity Announcements.

* * * * *

(f) The full text of the ROA will be published in the **Federal Register** and its availability announced in the Commerce Business Daily in accordance with FAR 35.016(c). Information concerning the availability of the ROA may also be published in scientific, technical, or engineering publications. The full text of any amendments to the ROA shall be published in the **Federal Register** and concurrently announced in the Commerce Business Daily.

3. Section 935.016–5 is amended by: revising the second sentence of the introductory paragraph; removing the words "Section I:," "Section II:," and "Section III:" from paragraphs (a) introductory text, (b) introductory text, and (c) introductory text, respectively; revising paragraph (a)(3); revising paragraph (b)(5); adding a new

paragraph (b)(6); and, revising paragraph (c)(1) to read as follows:

935.016-5 Content of proposal submissions.

* * * Each proposal will contain, at a minimum, the following information:

(a) * * *

(3) The date of submission of the proposal and the offer acceptance period, if so conditioned;

* * * * *

(b) * * *

(5) Where the offeror is either a for-profit or a not-for-profit organization, a description of the structure and lines of authority (both technical and administrative) of the offeror's organization and the relation thereto to the proposed research effort.

(6) Where the offeror is either an educational institution or other nonprofit organization, the identification of key technical and business personnel responsible for the preparation and approval of the proposal as well as the proposed research effort.

* * * * *

(c) * * *

(1) A cost proposal or a fully executed Standard Form (SF) 1411;

* * * * *

4. Section 935.016-6 is amended by adding a sentence to the end of paragraph (a); and, by revising paragraph (c) to read as follows:

935.016-6 Receipt and handling of proposals and late proposal submissions.

(a) * * * The cognizant DOE program office, in any event, may elect to have proposals received by the cognizant contracting activity.

* * * * *

(c) Proposals received for evaluation subsequent to the close of the proposal submission period will not be considered under the ROA. However, a proposal may be considered under a succeeding ROA provided that the proposal falls within the scope of such ROA, and that the offeror affirms, in writing, that it desires its proposal evaluated under the succeeding ROA.

* * * * *

5. Section 935.016-7 is amended by revising paragraphs (a)(1), (a)(2), and (a)(4); by revising the second sentence in the undesignated paragraph following paragraph (d)(5); by removing the first sentence of paragraph (f); by removing the word "and" at the end of paragraph (i)(2) and replacing the semicolon with a period; by removing paragraph (i)(3) in its entirety; and by revising the first sentence in paragraph (j) to read as follows:

935.016-7 Evaluaton of proposals.

(a) * * *

(1) Serve as the primary point of contact on matters concerning the ROA;

(2) Ensure that evaluations are based directly on the evaluation criteria set forth in the ROA;

* * * * *

(4) Oversee or perform the process for selection of scientific or peer reviewers and the evaluations of proposals;

* * * * *

(d) * * *

(5) * * * In instances where the cognizant program office has established a procedure for the review of financial assistance applications using a published merit review system (see 10 CFR 600.16(d)), the types of reviewers and review groups allowed by 10 CFR 600.16(d) may be used for the purposes of satisfying the requirements for scientific and/or peer review under this subpart, subject to any other requirements stated herein.

* * * * *

(j) For each proposal, a consolidated written report shall be prepared and shall include the significant findings of all reviewers. * * *

6. Section 935.016-8 is amended by revising paragraph (c)(4) to read as follows:

935.016-8 Selection of proposals.

* * * * *

(c) * * *

(4) That the offeror shall not begin performance of the effort, or any part thereof, until such time as a contract has been awarded, or unless otherwise authorized by the contracting officer. Notices to unsuccessful offerors should provide the general basis for elimination of that offeror's proposal from further competition.

* * * * *

[FR Doc. 91-26532 Filed 11-5-91; 8:45 am]
BILLING CODE 6450-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

Groundfish of the Gulf of Alaska and the Bering Sea and Aleutian Islands Area

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

ACTION: Notice of availability of amendments to fishery management plans and request for comments.

SUMMARY: NMFS issues this notice that the North Pacific Fishery Management Council has submitted Amendment 25 to the Fishery Management Plan (FMP) for Groundfish for the Gulf of Alaska and Amendment 20 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area for review by the Secretary of Commerce and is requesting comments from the public. Copies of the amendments may be obtained from the address below.

DATES: Comments on the FMP amendments should be submitted on or before December 30, 1991.

ADDRESSES: Comments on the FMP amendments should be submitted to Steven Pennoyer, Director, Alaska Region, National Marine Fisheries Service, P.O. Box 21668, Juneau, AK 99802.

Copies for the amendments with the Environmental Assessment/Regulatory Impact Review/Initial Regulatory Flexibility Analyses are available from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510.

FOR FURTHER INFORMATION CONTACT: Dale R. Evans, Chief, Fishery Management Division, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION: The Magnuson Fishery Conservation and Management Act (Magnuson Act) requires that each Regional Fishery Management Council submit any fishery management plan or plan amendment it prepares to the Secretary of Commerce (Secretary) for review and approval or disapproval. The Magnuson Act also requires that the Secretary, upon reviewing the plan or amendment, must immediately publish a notice that the plan or amendment is available for public review and comment. The Secretary will consider the public comments in determining whether to approve the plan or amendment. NMFS will propose regulations that would implement Amendment 25 to the FMP for Groundfish of the Gulf of Alaska and Amendment 20 to the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area. These regulations will be proposed to implement the following amendment measures: (1) Year-round trawl closures in the Gulf of Alaska and Bering Sea and Aleutian Islands within 10 nautical miles of key Steller sea lion rookeries; and (2) new Gulf of Alaska pollock management districts, and a limitation on pollock seasonal harvest allowances specified for these districts. Proposed regulations to implement these amendments are scheduled to be

published within 15 days of the receipt date of the amendments.

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

Dated: November 1, 1991.

David S. Crestin,

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

[FR Doc. 91-26771 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 56, No. 215
Wednesday, November 6, 1991

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Types and Quantities of Agricultural Commodities to be Made Available for Donation Overseas under Section 416(b) of the Agricultural Act of 1949 in Fiscal Year 1992.

AGENCY: Office of the Secretary, USDA.

ACTION: Notice.

SUMMARY: This notice sets forth the determination of the Secretary of Agriculture of the types and quantities of agricultural commodities to be made available for donation overseas under section 416(b) of the Agricultural Act of 1949, as amended, during fiscal year 1992.

FOR FURTHER INFORMATION CONTACT: Mary Chambliss, Director, Program Analysis Division, Office of the General Sales Manager, FAS, USDA (202) 720–3573.

Determination

The kinds and quantities of commodities that shall be made available for donation under section 416(b) of the Agricultural Act of 1949 are as follows:

Commodity	Quantity (metric tons)
Corn	760,000
Sorghum	255,000
Butter/Butter Oil	80,000
Nonfat Dry Milk	75,000
Total	1,170,000

Done at Washington, DC this 31st day of October 1991.

Edward Madigan,

Secretary of Agriculture.

[FR Doc. 91–26758 Filed 11–5–91; 8:45 am]

BILLING CODE 3410–10–M

Forest Service

National Commission on Wildlife Disasters

AGENCY: Forest Service, USDA.

ACTION: Notice of rescheduled meeting.

SUMMARY: The first meeting for the National Commission on Wildlife Disasters scheduled for November 4–8, 1991 (56 FR 50553) has been canceled. The first meeting for this Commission is rescheduled for January 27–31, 1992. The Commission is authorized by the Wildlife Disaster Recovery Act of 1989.

DATES: The meeting will convene at 1 o'clock on Monday, January 27, 1992, and adjourn by noon on Friday, January 31, 1992.

ADDRESSES: The meeting will be held at the Hyatt Hotel, 1325 Wilson Blvd., Arlington, Virginia 22209.

FOR FURTHER INFORMATION CONTACT: Dennis W. Pendelton, Fire and Aviation Management Staff, Forest Service, (202) 205–1511.

SUPPLEMENTARY INFORMATION: The Wildlife Disaster Recovery Act of 1989 established a Commission to study the effects of disastrous wildfires, resulting from natural or other causes, and to make recommendations concerning the steps necessary for a smooth and timely transition from the loss of natural resources due to such fires. The Commission is composed of 25 members, 13 appointed by the Secretary of Agriculture and 12 appointed by the Secretary of the Interior. The Act directs the Commission to submit to the Secretaries of Agriculture and the Interior a report containing its findings and recommendations.

The purpose of the meeting is to:

(1) Elect a chairperson from among the 25 members;

(2) Evaluate the accrued contributions for the Commission from interested persons, groups, and entities to determine if there is a sufficient amount to support the work of the Commission;

(3) Determine the process, duties, and course of action needed to complete the work of the Commission;

(4) Appoint and fix the compensation of a Director for the business of the Commission;

(5) Appoint and fix the compensation of such additional personnel as the Commission determines necessary to assist it to carry out its duties and functions.

(6) Determine and appoint work assignments for the Commission members; and

(7) Set a date and place for the next meeting of the Commission.

Dated: October 31, 1991.

James R. Moseley,

Assistant Secretary, Natural Resources and Environment.

[FR Doc. 91–26766 Filed 11–5–91; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Maryland State Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Maryland State Advisory Committee to the Commission will convene at 2 p.m. and adjourn at 5 p.m. on Friday, November 22, 1991, Omni Hotel, Douglass Room, 101 West Fayette Street, Baltimore, MD 21201. The purpose of the meeting is to conduct program planning and an orientation for new members.

Persons desiring additional information, or planning a presentation to the Committee, should contact John I. Binkley, Director, Eastern Regional Division at (202) 523–5264, TDD (202) 376–8117. Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC November 1, 1991.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91–26768 Filed 11–5–91; 8:45 am]

BILLING CODE 6335–01–M

South Carolina Advisory Committee; Agenda and Notice of Public Meeting

Notice is hereby given, pursuant to the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the South Carolina Advisory Committee to the Commission will

convene at 2 p.m. on Wednesday, December 4, 1991, at the Marriott Hotel, 1200 Hampton Street, Columbia, South Carolina, and adjourn at 4 p.m.

The purposes of the meeting are: to orientate SAC; to discuss the follow-up plans to the report on minority political participation in the State; and to adopt program plans for FY 1992.

Persons desiring additional information, or planning a presentation to the Advisory Committees, should contact South Carolina Chairperson Gilbert Zimmerman (803/525-7538), or Southern Regional Division Director Bobby Doctor at (404/730-2476; TDD 404/730-2481). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Southern Regional Division at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the Rules and Regulations of the Commission.

Dated at Washington, DC, October 29, 1991.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 91-26732 Filed 11-5-91; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: Bureau of the Census.

Title: 1992 Census of Transportation Truck Inventory and Use Survey.

Form Number(s): TC-9501, TC-9502.

Agency Approval Number: None.

Type of Request: New Collection.

Burden: 112,130 hours.

Number of Respondents: 151,000.

Avg Hours Per Response: 45 minutes.

Needs and Uses: The Census Bureau will conduct the 1992 Census of Transportation-Truck Inventory and Use Survey (TIUS) as part of the 1992 Economic Censuses. The survey will be mailed to a sample of approximately 151,000 owners of trucks and truck-tractors registered and on file with motor vehicle departments in the 50 States and the District of Columbia. The survey will measure physical and operational characteristics of more than 50 million trucks in the United States. Federal, state, and local transportation agencies use information from the TIUS to analyze various aspects of the Federal-aid highway program. The Federal Government uses TIUS information as part of the framework for the gross national product and input-output tables, as well as for program analysis and evaluation. TIUS information is used by the private sector for market studies, product evaluation, and to assess the effects of deregulation on transportation industries.

Affected Public: Individuals or households, farms, businesses or other for-profit institutions, non-profit institutions, and small business or organizations.

Frequency: Every 5 years.

Respondent's Obligation: Mandatory.

OMB Desk Officer: Maria Gonzalez, 395-7313.

Copies of the above information collection proposal can be obtained by calling or writing Edward Michals, DOC Forms Clearance Officer, (202) 377-3271, Department of Commerce, room 5312, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Maria Gonzalez, OMB Desk Officer, room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 31, 1991.

Edward Michals,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 91-26777 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-07-F

Bureau of Export Administration

Initiation of National Security Investigation of Imports of Gears and Gearing Products

AGENCY: Office of Industrial Resource Administration, Bureau of Export Administration, U.S. Department of Commerce.

ACTION: Notice of initiation of an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), and request for comments.

SUMMARY: This notice is to advise the public that an investigation is being initiated under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of gears and gearing products. Interested parties are invited to submit written comments, opinions, data, information, or advice relative to the investigation to the Strategic Analysis Division, Office of Industrial Resource Administration, U.S. Department of Commerce.

EFFECTIVE DATE: Comments must be received not later than January 8, 1992.

ADDRESSES: Send all comments to Brad I. Botwin, Director, Strategic Analysis Division, Office of Industrial Resource Administration, room H-3878, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Edward Levy, section 232 Program Manager, Strategic Analysis Division, Office of Industrial Resource Administration, room H-3878, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, (202) 377-3795.

SUPPLEMENTARY INFORMATION: In an application submitted by the American Gear Manufacturers Association on October 17, 1991, the Department of Commerce was requested to initiate an investigation under section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), to determine the effects on the national security of imports of gears and gearing products.

On October 31, 1991 the Department of Commerce formally accepted the application and initiated an investigation. The findings and recommendations of the investigation are to be reported by the Secretary of Commerce to the President no later than July 27, 1992 (*i.e.*, within 270 days).

The items to be investigated are currently described by Standard Industrial Classification (SIC) Codes. They include Vehicular Non-Automotive Gearing SIC Codes 3714, 3566, and 3523; Industrial Gearing, SIC Code 3566; Aerospace Gearing, SIC Codes 3724, 3728, 3764 and 3663; and Marine Gearing, SIC Codes 3566 and 3568.

This investigation is being undertaken in accordance with part 705 of title 15 of the Code of Federal Regulations (15 CFR part 705) ("Regulations"). Interested parties are invited to submit written comments, opinions, data, information, or advice relevant to this investigation to the Office of Industrial Resource Administration, U.S. Department of Commerce, not later than January 8, 1992.

The Department is particularly interested in comments and information directed to the criteria listed in § 705.4 of the regulations (15 CFR 705.4) as they affect national security, including the following:

(a) Quantity of and circumstances related to the importation of the articles subject to the investigation;

(b) Domestic production and productive capacity needed for these articles to meet anticipated national security requirements;

(c) Existing and potential availability of skilled labor, raw materials, production equipment, and facilities to produce these items;

(d) Growth requirements of domestic industries (if any) to meet national security requirements and/or requirements to assure such growth;

(e) The impact of foreign competition on the economic welfare and on the capacity of the domestic industry to meet national security needs; and

(f) The impact of imports on domestic competition, productivity, and the strength of the domestic industry to meet national security requirements.

All materials should be submitted with 10 copies. Public information will be made available at the Department of Commerce for public inspection and copying. Material that is national security classified information or business confidential information will be exempted from public disclosure as provided for by § 705.6 of the regulations (15 CFR 705.6). Anyone submitting business confidential information should clearly identify the business confidential portion of the submission and also provide a non-confidential submission which can be placed in the public file. Communications from agencies of the United States Government will not be made available for public inspection.

The public record concerning this investigation will be maintained in the Bureau of Export Administration's Freedom of Information Records Inspection Facility, Bureau of Export Administration, U.S. Department of Commerce, room H-4525, 14th Street and Constitution Avenue, NW., Washington, DC 20230. The records in this facility may be inspected and copied in accordance with the regulations published in part 4 of title 15 of the Code of Federal Regulations (15 CFR 4.1 *et. seq.*). Information about the inspection and copying of records at the facility may be obtained from Ms. Margaret Cornejo, the Bureau of Export Administration's Freedom of Information Officer, at the above address or by calling (202) 377-5653.

Dated: October 31, 1991.

Michael P. Galvin,

Assistant Secretary for Export Administration.

[FR Doc. 91-26706 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-DT-M

Foreign-Trade Zones Board

[Docket No. 52-91]

Foreign-Trade Zone 112—Colorado Springs, CO; Application for Subzone; Apple Computer, Fountain, CO; Extension of Public Comment Period

The comment period for the above case, requesting authority for special-purpose subzone status for the electronic data processing and communications equipment manufacturing plant of Apple Computer, Inc., in Fountain, Colorado (56 FR 48156, 9/24/91), is extended to November 15, 1991, to allow interested parties additional time in which to comment on the proposal.

Comments in writing are invited during this period. Submissions should include 5 copies. Material submitted will be available at: Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: October 31, 1991.

John J. Da Ponte, Jr.

Executive Secretary.

[FR Doc. 91-26778 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 540]

Approval for Expansion of Foreign-Trade Zone 64; Jacksonville, FL

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign Trade Zones Board (the Board) adopts the following Resolution and Order:

Whereas, the Jacksonville Port Authority, Grantee of Foreign-Trade Zone No. 64, has applied to the Board for authority to expand its general-purpose zone in Jacksonville, Florida, within the Jacksonville Customs port of entry;

Whereas, the application was accepted for filing on July 18, 1990, and notice inviting public comment was given in the **Federal Register** on July 30, 1990 (Docket 29-90, 55 FR 30946);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to improve and expand zone services in the Jacksonville area; and,

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed on July 18, 1990. The grant does not include authority for manufacturing operations, and the Grantee shall notify the Board for approval prior to the commencement of any manufacturing or assembly operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the Army District Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, DC, this 29th day of October, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates; Foreign-Trade Zones Board.

[FR Doc. 91-26779 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-DS-M

[Order No. 539]

Resolution and Order Approving the Application of the South Louisiana Port Commission for a Special-Purpose Subzone at the Shipbuilding Facility of North American Shipbuilding, Inc., in LaFourche Parish, LA; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the South Louisiana Port Commission, grantee of Foreign-Trade Zone 124, filed with the Foreign-Trade Zones Board (the Board) on August 21, 1990, requesting special-purpose subzone status at North American Shipbuilding, Inc.'s, facility in Lafourche Parish, Louisiana, adjacent to the Gramercy Customs port of entry, the Board, finds that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations would be satisfied, and that the proposal would be in the public interest, if approval is subject to certain conditions, approves the application subject to the following conditions: (1) Any steel mill products,

including steel plate, angles, shapes, channels, rolled steel stock, bars, pipes and tubes, and not incorporated into merchandise otherwise classified, and which is used in manufacturing, shall be subject to the Customs duties in accordance with applicable law, if the same item is then being produced by a domestic steel mill; and, (2) in addition to the annual report, North American Shipbuilding, Inc., shall advise the Board's Executive Secretary as to significant new contracts, with appropriate information concerning foreign purchases otherwise dutiable, so that the Board may consider whether any foreign dutiable items are being imported for manufacturing in the subzone primarily because of subzone status and whether the Board should consider requiring Customs duties to be paid on such items.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in LaFourche Parish, LA

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the South Louisiana Port Commission, Grantee of Foreign-Trade Zone No. 124, has made application (filed August 21, 1990, FTZ Docket 36–90, 55 FR 35915, 09–04–90) in due and proper form to the Board for authority to establish a special-purpose subzone at the shipbuilding facility of North American Shipbuilding, Inc., in Lafourche Parish, Louisiana;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

Whereas, the Board has found that the requirements of the Act and the Board's regulations would be satisfied and that the proposal would be in the public interest if approval were given subject to the restrictions in the resolution accompanying this section;

Now, therefore, in accordance with the application filed August 21, 1990, the Board hereby authorizes the establishment of a subzone at the shipbuilding facility of North American Shipbuilding, Inc., in Lafourche Parish, Louisiana, designated on the records of the Board as Foreign-Trade Subzone 124B, at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitation:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC, this 29th day of October, 1991, pursuant to Order of the Board.

Marjorie A. Chorlins,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates; Foreign-Trade Zones Board.

[FR Doc. 91–26780 Filed 11–5–91; 8:45 am]

BILLING CODE 3510–DS–M

[Docket 33-90]

Foreign-Trade Zone 45—Portland, OR; Application for Subzone, Continental Mills, Pendleton, OR; Amendment of Application

The application submitted to the Foreign-Trade Zones Board (the Board) by the Port of Portland, grantee of FTZ 45, requesting special-purpose subzone status for the food products processing plant of Contnental Mills, Inc. (Docket 33–90, FR 34040, 08–21–90), located in Pendelton, Oregon, has been amended to include ex-quota foreign sugar among the ingredients used to produce premix baking mixes for export.

Zone procedures would allow the company to purchase world-price sugar for use only in products that are exported. They would also exempt the company from Customs duty payments on the foreign sugar used in export production. The application remains otherwise unchanged.

Comments concerning the subzone proposal are invited from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 9, 1991.

A copy of the application is available for public inspection at the following locations:

U.S. Department of Commerce, District Office, 1220 SW Third Avenue, room 618, Portland, Oregon 97204.

Office of the Executive Secretary, Foreign-Trade Zones Board, room 3716, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Dated: October 29, 1991.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 91–26781 Filed 11–5–91; 8:45 am]

BILLING CODE 3510–DS–M

[Order No. 541]

Resolution and Order Approving the Application of the Dallas/Fort Worth International Airport Board for a Special-Purpose Subzone at the Automobile Manufacturing Plant of General Motors Corporation in Arlington, TX; Proceedings of the Foreign-Trade Zones Board, Washington, DC

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Dallas/Fort Worth International Airport Board, grantee of Foreign-Trade Zone 39, filed with the Foreign-Trade Zones Board (the Board) on October 22, 1990, requesting special-purpose subzone status for the

automobile manufacturing plant of General Motors Corporation in Arlington, Texas, adjacent to the Dallas/Fort Worth Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant of Authority To Establish a Foreign-Trade Subzone in Arlington, Texas

Whereas, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

Whereas, the Board's regulations (15 CFR 400.304) provide for the establishment of special-purpose subzones when existing zone facilities cannot serve the specific use involved, and where a significant public benefit will result;

Whereas, the Dallas/Fort Worth International Airport Board, Grantee of Foreign-Trade Zone No. 39, has made application (filed October 22, 1990, FTZ Docket 41–90, 55 FR 46695, 11–06–90) in due and proper form to the Board for authority to establish a special-purpose subzone at the automobile manufacturing plant of General Motors Corporation in Arlington, Texas;

Whereas, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and,

Whereas, the Board has found that the requirements of the Act and the Board's regulations are satisfied and that the proposal is in the public interest;

Now, therefore, in accordance with the application filed October 22, 1990, the Board hereby authorizes the establishment of a subzone at the automobile manufacturing plant of General Motors Corporation in Arlington, Texas, designated on the records of the Board as Foreign-Trade Subzone 39B, at the location mentioned above and more particularly described on the maps and drawings accompanying the application, said grant of authority being subject to the provisions and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Activation of the subzone shall be commenced within a reasonable time from the date of issuance of the grant, and prior thereto, any necessary permits shall be obtained from Federal, State, and municipal authorities.

Officers and employees of the United States shall have free and unrestricted access to and throughout the foreign-trade subzone in the performance of their official duties.

The grant shall not be construed to relieve responsible parties from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said subzone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

In witness whereof, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer or his delegate at Washington, DC, this 29th day of October, 1991, pursuant to Order of the Board.

Marjorie A. Chorlins,

Acting Assistant Secretary of Commerce for Import Administration, Chairman, Committee of Alternates, Foreign-Trade Zones Board.

[FR Doc. 91–26782 Filed 11–5–91; 8:45 am]

BILLING CODE 3510–DS–M

[Docket No. 67–91]

Foreign-Trade Zone 129—Bellingham, WA; Application for Expansion

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Port of Bellingham of Whatcom County, grantee of FTZ 129, requesting authority to expand its zone in the Whatcom County, Washington, area. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on October 25, 1991.

FTZ 129, approved September 4, 1986 (Board Order 335, 51 FR 32238, 9/10/86), consists of three general-purpose zone sites in Whatcom County, Washington: *Site 1* (140 acres) within the Airport Industrial Development Area at the Bellingham International Airport, including the Noranda Industrial Area, and the Port-owned Airport Industrial Park; *Site 2* (60 acres) within the Cordata Industrial Park at Guide Meridian and Bakerview Roads; and, *Site 3* (30 acres) a temporary site within the 270-acre Cherry Point Industrial Park located at Gulf Park Road, Whatcom County, some 11 miles northwest of Bellingham, approved as a boundary modification for a period ending May 1, 1993 (A–6–91).

The grantee is now requesting authority to expand the zone to include the entire 270-acre Cherry Point Industrial Park. The facility is a new development with frontage on Puget Sound at the Straits of Georgia, and there are plans to develop deepwater terminal facilities. It is owned by Cherry Point Industrial Park Ltd. and will be operated by Cherry Point Foreign-Trade Zone Operators, Inc. The proposal also includes a request to restore zone status to a 160-acre parcel within the Airport Development area (Site 1) which was deleted in the boundary modification for the Cherry Point Site. No manufacturing requests are being made at this time. Such approvals would be requested from the Board on a case-by-case basis.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consists of: Dennis Puccinelli (Chairman), Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Daniel C. Holland, District Director, U.S. Customs Service, Pacific Region, 1000 Second Avenue, suite 2200, Seattle, Washington 98104–1049, and, Colonel Milton Hunter, District Engineer, U.S. Army Engineer District Seattle, P.O. Box 3755, Seattle, WA 98124–2255.

Comments concerning the proposed expansion are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before December 23, 1991.

A copy of the application is available for inspection at each of the following locations:

U.S. Customs Service, Pacific Region, Cornwall & Magnolia Streets, room 101, Bellingham, Washington 98225.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th & Pennsylvania Avenue, NW., Washington, DC 20230.

Dated: October 29, 1991.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 91-26783 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[A-475-059]

Pressure Sensitive Plastic Tape From Italy; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On July 16, 1991 the Department of Commerce published the preliminary results of its administrative review of the antidumping finding on pressure sensitive plastic tape (PSPT) from Italy. The review covers one manufacturer/exporter of this merchandise to the United States, NAR, and the period October 1, 1989 through September 30, 1990. Based on our analysis of the comments received, and correction of certain clerical errors, we determine the dumping margin for NAR to be 1.24 percent.

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Todd Peterson or Tom Futtner, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4106.

SUPPLEMENTARY INFORMATION:

Background

On July 16, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 32402) the preliminary results of its administrative review of the antidumping finding on pressure sensitive plastic tape from Italy (42 FR 56110, October 21, 1977). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 (the Tariff Act).

Scope of Review

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS), as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered, or withdrawn from warehouse, for consumption on or after that date is now classified solely according to the appropriate HTS item number(s).

Imports covered by this review are shipments of PSPT measuring over 1⅝ inches in width and not exceeding 4 mils in thickness. During this review period such merchandise was classified under items 790.5530, 790.5545, and 790.5555 of the Tariff Schedules of the United States Annotated (TSUSA), or numbers 3919.90.20 and 3919.90.50 of the Harmonized Tariff Schedules (HTS). The TSUSA and HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of Italian PSPT to the United States and the period October 1, 1989 through September 30, 1990.

Analysis of Comments Received

We invited interested parties to comment on the preliminary results. We received timely comments from the petitioner, Minnesota Mining and Manufacturing Company (3M).

Comment 1: The petitioners argue that best information available (BIA) should be used, either in whole or in part, because NAR's initial questionnaire response was untimely and incomplete. Specifically, NAR's response did not include its most recent set of financial statements.

Department's Position: It is the Department's view that NAR's initial response and supplemental response were both timely and, except as noted in our response to comment 3, complete. NAR received its questionnaire on January 3, 1991. The Department in turn received NAR's response on March 4, 1991, within the 60-day time limit.

NAR did not include its most recent financial statements in its March 4 questionnaire response because the accounting period for 1990 had not yet been finalized. In response to the Department's September 23, 1991 supplemental questionnaire, however, NAR submitted its certified financial statement applicable to the period of review.

Comment 2: The petitioners argue that the Department should reject NAR's response and calculate a dumping margin based on BIA because NAR failed to (1) submit the certification required by 19 CFR 353.31(i) (1991); (2) request confidential treatment or identify with brackets information it considers confidential; and (3) list the items of confidential information that have been deleted from the APO version of the response.

Department's Position: Certification is present on page 3 of the response as required by 19 CFR 353.31(i) 1991. Similarly, the first page of the response states, "No documents contain confidential information," which would eliminate the need for brackets or an APO version.

Comment 3: The petitioners argue that the Department should use BIA for difference in merchandise (DIFMER) calculations because NAR reported only selected material and labor costs for selected tape products.

Department's Position: The Department agrees. The Department requested additional information to clarify the material and labor costs reported in the original response. The Department requested that NAR provide a breakdown of the material and labor cost elements. Specifically, the Department requested that NAR confirm that costs for dyes, tabs, fabrication, variable overhead and adhesives were included in the reported costs. In its supplemental response, however, NAR merely referred to the costs reported in the original questionnaire response. It did not confirm that all the applicable costs were included in the reported DIFMER data. Therefore, the Department determined that there was insufficient valid information to calculate a DIFMER adjustment. As BIA, the Department eliminated those DIFMER values beneficial to NAR as requested by petitioners in their comments dated August 15, 1991.

Comment 4: The petitioners argue that BIA should be used for NAR's brokerage and handling expenses because NAR did not present enough evidence to support that the charges were the same for both markets.

Department's Position: We disagree. The Department requested additional information to determine whether NAR's brokerage and handling expenses were the same in both markets. NAR has demonstrated that the brokerage and handling are indeed the same for the two markets by providing documentation to show that the same six workers prepare, handle and store the tape in exactly the same manner and at the same costs. Thus, these expenses are the same in both markets.

Comment 5: The petitioners argue that the Department should use BIA for NAR's advertising and promotion expenses as they presented no evidence to support its claim that there were no advertising costs attributable to these products.

Department's Position: The Department requested additional information to support NAR's statement that there are no advertising costs attributable to these products. NAR has shown that there is no direct advertising attributable to the product under investigation in either market, and that

all advertising expenses are indirect in nature. Accordingly, under purchase price transactions, the Department would not consider these indirect advertising expenses in its calculation.

Comment 6: The petitioners argue that the Department should use BIA for NAR's credit expenses because they neglected to include currency commissions, stamps and the origin of the interest rate applied. The petitioners point out that there is no meaningful explanation as to why the rates vary from the computer printout to the response.

Department's Position: The Department requested additional information to clarify the origins of the interest rates found in the submission and those found on the computer printout. NAR submitted credit expense data that accurately reflects their credit expense. NAR fully reported currency commissions, stamps and explained the origin of the interest rates by reconciling the computer printout with the response.

Final Results of Review

As a result of the comments received and correction of certain clerical errors, we have revised our preliminary results, and the margin for NAR for the period October 1, 1989 through September 30, 1990 is 1.24%.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. Individual differences between the United States price and foreign market value may vary from the percentage stated above. The Department will issue appraisement instructions directly to the Customs Service.

Furthermore, the following deposit requirements will be effective upon publication of the final results of this administrative review for all shipments of pressure sensitive plastic tape from Italy 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 NAR will be 1.24 percent; (2) for merchandise exported by manufacturers or exporter not covered in this review but covered in previous reviews or the original less-than-fair-value investigation, the cash deposit rate will continue to be the rate published in the most recent final results or determination for which the manufacturer or exporter received a company-specific rate; (3) 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 review firm or any previously reviewed firm, will be 1.24 percent. This is the most current non-BIA rate for any firm in this proceeding.

This administrative review and this notice are in accordance with sections 751(a) (1) and (c) of the Tariff Act (19 U.S.C. 1675(a)(1)(c)) and 19 CFR 353.22.

Dated: October 30, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-26784 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-813]

Postponement of Final Antidumping Duty Determination and Rescheduling of Public Hearing: Refined Antimony Trioxide From the People's Republic of China

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Carole Showers or Susan Strumbel, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, as (202) 377-3217 or 377-1442, respectively.

Postponement of Final Determination

On October 17, 1991, China National Nonferrous Import and Export Corporation and China National Metals Import and Export Corporation, the respondents in this proceeding, requested that the Department postpone the final determination until not later than 135 days after the date of publication of the preliminary determination, in accordance with section 735(a)(2) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)). The respondents account for a significant proportion of exports of the subject merchandise from the People's Republic of China ("PRC") to the United States. Pursuant to 19 CFR 353.20(b), if exporters who account for a significant proportion of exports of the merchandise under investigation request an extension subsequent to an affirmative preliminary determination, we are required, absent compelling reasons to the contrary, to grant the request. Accordingly, we are postponing our final determination as to whether sales of refined antimony trioxide from the PRC have been made at less than fair value until not later than February 21, 1992.

Public Comment

We are rescheduling the public hearing announced in the Preliminary Determination of Sales at Less Than Fair Value: Refined Antimony Trioxide from the People's Republic of China 56 FR 50849, (October 9, 1991) to February 14, 1992, at 10 a.m. at the U.S. Department of Commerce, room 1411, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone the time, date, and place of the hearing 48 hours prior to the scheduled time. Consequently, in accordance with 19 CFR 353.38, case briefs or other written comments in at least ten copies must now be submitted to the Assistant Secretary no later than February 5, 1992, and rebuttal briefs no later than February 12, 1992. Oral presentations will be limited to issues raised in the briefs in accordance with 19 CFR 353.38(b).

This notice is published pursuant to section 735(d) of the Act and 19 CFR 353.20(b)(2).

Dated: October 30, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-26785 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-DS-M

[C-351-604]

Brass Sheet and Strip From Brazil; Final Results of Countervailing Duty Administrative Review

AGENCY: International Trade Administration/Import Administration, Department of Commerce.

ACTION: Notice of final results of countervailing duty administrative review.

SUMMARY: On July 19, 1991, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on brass sheet and strip from Brazil (56 FR 33252; July 19, 1991). We have now completed that review and determine that the rate of cash deposit of estimated countervailing duties will remain unchanged at zero for the period January 1, 1990 through December 31, 1990.

EFFECTIVE DATE: November 6, 1991.

FOR FURTHER INFORMATION CONTACT: Elizabeth Levy or Michael Rollin, Officer of Countervailing Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On July 19, 1991, the Department of Commerce (the Department) published in the **Federal Register** (56 FR 33252) the preliminary results of its administrative review of the countervailing duty order on brass sheet and strip from Brazil (52 698; January 8, 1987). The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Tariff Act).

Scope of Review

Imports covered by this review are shipments of brass sheet and strip, other than leaded brass and tin brass sheet and strip. This merchandise is currently classifiable under item numbers 7409.21.00 and 7409.29.00 of the Harmonized Tariff Schedule (HTS). The HTS item numbers are provided for convenience and Customs purposes. The chemical composition of the products under review are currently defined in the Copper Development Association (C.D.A.) 200 series or the United Numbering Systems (U.N.S.) C20000 series. Products whose chemical compositions are defined by other C.D.A. or U.N.S. series are not covered by this review.

The physical dimensions of the products covered by the order are brass sheet and strip of solid rectangular cross section over 0.006 inches (0.15 millimeters) through 0.188 inches (4.8 millimeters) in finished thickness or gauge, regardless of width. Coiled, wound on reels (traverse wound) and cut-to-length products are included. The written description remains dispositive.

The review covers the period January 1, 1990 through December 31, 1990 and four programs.

In its questionnaire response, the Government of Brazil reported no shipments of the subject merchandise to the United States during the review period. We subsequently confirmed with the United States Customs Service that there were no unliquidated entries of subject merchandise exported from Brazil during the review period.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received written comments from the Copper & Brass Fabricators Council (the Council), an interested party

Comment 1: The Council claims that Brazil did export subject merchandise to the United states during the 1990 period of review. The Council cites Bureau of the Census statistics to support its argument. The Council requests that the Department confirm that there were no exports of subject merchandise before issuing the Department's final result of the 1990 administrative review and instruction to the Customs Service.

Department's Position: We disagree with the Council's claim that there were exports of subject merchandise from Brazil, during the 1990 period of review. The HTS numbers cited by the Council are basket categories that include not only the subject merchandise but also brass other than C.D.A. 200 and copper plates.

We conducted three independent examinations of unliquidated entries of subject merchandise entered through U.S. Customs during the review period. Prior to issuing the preliminary results on July 19, 1991, we used the Bureau of Census statistics to determine which ports reported entries of the HTS numbers which include the subject merchandise. These ports were contacted and reported no unliquidated entries of subject merchandise during the review period. We therefore, issued our preliminary results based on no shipments of subject merchandise.

Upon receiving the above comment from the Council, we issued two additional inquiries to all Customs ports. From these inquiries, one shipment of subject merchandise was found to have been exported to the United States by a Canadian firm.

The Department solicited further information about this shipment from the parties connected to it. The Brazilian Government and the manufacturer confirmed that there were no shipments of subject merchandise to the United States during the review period. The Canadian exporter supplied the Department with a copy of the purchase order for this shipment dated September 1, 1989. Since this shipment was purchased and exported from Brazil before the period of review, the Department determines that this shipment is outside the review period. Therefore, the Department will instruct the Customs Service to liquidate this shipment at the 1989 liquidation rate of 3.14 percent of the f.o.b. invoice price.

Comment 2: The Council believes that the countervailable subsidy programs remain, and requests that the Department confirm that they were in fact terminated and not replaced with other countervailable subsidy programs.

Department's Position: The Department disagrees with the Council. The Department has substantial documentation, including verification reports confirming the termination without replacement of the countervailable subsidy programs in this review. (See e.g., Final Negative Countervailing Duty Determination; Silicon Metal From Brazil (56 FR 26988, June 12, 1991) and the Final Affirmative Countervailing Duty Determination; Steel Wheels From Brazil (54 FR 15523, April 18, 1989)).

Final Results of Review

After considering the comments received, we recommended that the rate of cash deposit of estimated countervailing duties remain unchanged at zero.

Due to the termination of all programs under review, the Department will instruct the Customs Service to waive the collection of cash deposit of estimated countervailing duties on all shipments of the subject merchandise from Brazil entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final result of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and 19 CFR 355.22.

Dated: October 31, 1991.

Marjorie A. Chorlins,

Acting Assistant Secretary for Import Administration.

[FR Doc. 91-26786 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-DS-M

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897; 15 CFR part 301), we invited comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with subsections 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined between 8:30 a.m. and 5 p.m. in room 4204, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC.

Docket Number: 91-154. *Applicant:* University of Washington, Pulmonary Division, room 12, BB1253 Health Sciences Building, Seattle, WA 98195. *Instrument:* Lung Function Analyzer, Model AMIS 2000. *Manufacturer:* Innovision, Denmark. *Intended use:* This instrument will be used in a research

program which involves investigation of interrelated aspects of respiratory gas exchange of trace inert indicator gases with differing physical properties. The major thrust of the research is to identify the mechanism responsible for impaired elimination of higher molecular weight gases from the lung. In order to accomplish the aims, it is necessary to measure trace concentrations of various inert and respiratory gases in blood and in exhaled gas. *Application Received by Commissioner of Customs:* October 16, 1991.

Docket Number: 91-155. *Applicant:* Michigan State University, Department of Geological Sciences, 206 Natural Science Building, East Lansing, MI 48824-1115. *Instrument:* Gas Chromatograph Interface, Model Isochrom I. *Manufacturer:* Fisons Instruments, United Kingdom. *Intended Use:* The instrument is an accessory to an existing mass spectrometer which is being used for molecular level research, i.e., analysis of individual compounds. The research will involve isotopic studies of specific individual organic molecules isolated from fossils, to determine the pathways of carbon cycling through analysis of specific carbon molecules within particulates and dissolved organic carbon and its individual molecules isolated from aqueous or marine environments. In addition, the instrument will be used in various geochemistry courses to demonstrate techniques associated with isotopic analysis or for completion of laboratory exercises. *Application Received by Commissioner of Customs:* October 17, 1991.

Docket Number: 91-156. *Applicant:* Columbia University, Biological Sciences, 500 Fairchild Building, New York, NY 10027. *Instrument:* (2) Micromanipulators, Models WR-90-R and WR-90-L. *Manufacturer:* Narishige Scientific Instruments, Japan. *Intended Use:* The instruments will be used to microposition microelectrodes that will be inserted into neurons of the brains of leech embryos of different ages in order to examine the kind of electrical activity that is present. *Application Received by Commissioner of Customs:* October 18, 1991.

Docket Number: 91-157. *Applicant:* University of Virginia, Department of Environmental Sciences, Clark Hall, Charlottesville, VA 22903. *Instrument:* GC Interface, Model Isochrom I. *Manufacturer:* VG Instruments, United Kingdom. *Intended Use:* The instrument will be used for studies of stable isotopes currently derived from oceanography projects—particularly from sedimentary beds in the North Atlantic. There are also planned projects to analyze chemical and isotopic properties of Arctic and high latitude Atlantic Ocean layers, deep sea communities of Louisiana continental slope, also analyses of other organic matter preserved within the geosphere. *Application Received by Commissioner of Customs:* October 22, 1991.

Docket Number: 91-159. *Applicant:* Centers for Disease Control, CEHIC, 4770 Buford Highway, Building C-17, Chamblee, GA 30341. *Instrument:* Mass Spectrometer, Model AutoSpec. *Manufacturer:* VG Analytical Ltd., United Kingdom. *Intended Use:* The instrument will be used for research that focuses on analyzing human body burden of toxic organic compounds and correlating these levels with environmental exposure. *Application Received by Commissioner of Customs:* October 24, 1991.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 91-26787 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Sea Grant Review Panel Meeting

AGENCY: National Oceanic and Atmospheric Administration, (NOAA) Commerce.

ACTION: Notice of open meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Sea Grant Review Panel. The meeting will have several purposes. Panel members will provide and discuss follow-up reports of business transacted at the last Sea Grant Review Panel Meeting in the areas of long-term strategic planning, new technology, law and policy, program management, coastal business initiatives, developing new business initiatives with the Sea Grant Program for enhancement of Department of Commerce goals, and new business.

DATES: The announced meeting is scheduled during two days: Tuesday, November 19, 1991 (8 a.m.-10 a.m. and 1:30-5 p.m.), and Wednesday, November 20, 1991, 1-3 p.m.

ADDRESSES: Silver Spring Metro Center 1 Building, 1335 East-West Highway, Conference Room—Lobby Level, Silver Spring, Maryland 20910.

FOR FURTHER INFORMATION CONTACT: Mr. Robert Shephard, National Sea Grant College Program, National Oceanic & Atmospheric Administration, 1335 East-West Highway, #5104, Silver Spring, Maryland 20910, (301) 427-2431.

SUPPLEMENTARY INFORMATION: The Panel, which consists of balanced representation from academia, industry, state government, and citizens groups, was established in 1976 by Section 209 of the Sea Grant Improvement Act (Public Law 94-461, 33 U.S.C. 1128) and advises the Secretary of Commerce, Under Secretary, NOAA, and the Director of the National Sea Grant College Program with respect to operations under the act, and such other matters as the Secretary refers to the Panel for review and advice. The agenda for the meeting is:

Tuesday, November 19, 1991—8 a.m.-10 a.m.

Introduction and Welcome
Memoriam to Dr. Wayne Burt
Approval of Minutes
Old Subcommittee Reports
  New Technology
  Program Management
  Coastal Business
  State Advisory and Private Industry
  U.S.D.A. National Extension Committee
  Other Agencies
  Administrative/Jurisdictional
  Law and Policy
  Long Range Planning
New Standing Committee Organization
Report on San Francisco Sea Grant Directors Meeting

Tuesday, November 19, 1991—1:30-5 p.m.

National Sea Grant Director's Report
  Office of Management and Budget Review Procedures
  NOAA Strategic Plan
  Deliverables & National Responsiveness
  Other Issues
Council of Sea Grant Director's Report
Specific National Office Issues
  International Program
  The California Petition
  Involvement in Long Range Planning Development
  Sea Grant Planning Task Force Update
  Task Force on Industry Funding
  Issues for Secretary and Administrator, NOAA
Other Issues
  Reports
  Communications and Public Relations

Wednesday, November 20, 1991—1-3 p.m.

Site Review Reports
Committee Reports
  Law and Policy
  New Technology

Economic Development
Management
Long Range Planning
Specific Actions and Motions
Next Meeting
New Business

The meeting will be open to the public.

Dated: November 1, 1991.

Ned A. Ostenso,

Assistant Administrator, Oceanic and Atmospheric Research.

[FR Doc. 91-26665 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-12-M

National Oceanic and Atmospheric Administration

Western Pacific Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

The Western Pacific Fishery Management Council's Pelagic Review Board (Board) will hold a public meeting on November 7, 1991, beginning at 2 p.m. The meeting will be held at the Hawaii Maritime Center, in the conference room, Pier 7, Honolulu, HI.

The Board's meeting agenda is as follows: (1) Introduction of members; (2) review of the responsibilities and operating procedures for the Board; (3) discussion of permit transfer and replacement rules: (4) preliminary discussion of area closure exemption criteria; and (5) discussion of other business.

For more information contact Kitty M. Simonds, Executive Director, Western Pacific Fishery Management Council, 1164 Bishop Street, suite 1405, Honolulu, HI 96812; telephone: 808-523-1368.

Dated: October 31, 1991.

David S. Crestin,

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

[FR Doc. 91-26713 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Malaysia

November 1, 1991.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing limits.

EFFECTIVE DATE: November 1, 1991.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6496. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for Categories 338/339 and 638/639 are being increased for carryforward.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 55 FR 50756, published on December 10, 1990). Also see 55 FR 49675, published on November 30, 1990.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 1, 1991.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 26, 1990, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1991 and extends through December 31, 1991.

Effective on November 1, 1991, you are directed to amend further the directive dated November 30, 1990, to increase the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and Malaysia:

Category	Adjusted twelve-month limit [1]
338/339	863,024 dozen.
638/639	384,966 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1990.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 91-26776 Filed 11-5-91; 8:45 am]

BILLING CODE 3510-DR-F

DEPARTMENT OF DEFENSE

Strategic Defense Initiative Organization; Notice of Intent (NOI) To Prepare a Draft Programmatic Environmental Impact Statement (EIS), for the Proposed Action To Conduct Research and Development Activities Which Would Give the United States the Capability To Produce and Deploy an Integrated, Comprehensive Theater Missile Defense (TMD)

AGENCIES: Department of Defense—Strategic Defense Initiative Organization (SDIO), United States Army (USA), United States Air Force (USAF), and United States Navy (USN).

SUMMARY: The TMD program is being developed by the Department of Defense (DOD)—SDIO through a joint Army, Air Force, and Navy effort. Theater missile defense is the ability of the United States to defend its Armed Forces deployed abroad, and its friends and allies, against hostile missile attack in any theater of operations. Theater missiles defined as a ballistic missile (e.g., Scud), cruise missile, or air-to-surface guided missile armed with conventional, chemical, biological, or nuclear warheads. The purpose of the TMD program is to: Deter/prevent the launch of theater missiles against United States forces and allies, protect United States forces and allies from theater missiles launched against them, reduce the probability of and minimize the effects of damage caused by a theater missile attack, and manage a coordinated response to a theater missile attack and integrate it with other combat operations. The integrated, comprehensive TMD would have three components: (1) Active Defense to destroy enemy missiles in flight; (2) Counterforce to destroy an enemy's

ability to launch missiles; and (3) Passive Defense to evade detection and otherwise enhance survival from missile attack. The specific mix of these components is still to be determined. Supporting each of these components individually, and providing a means of managing and integrating the overall TMD system, would be a network of Command, Control, Communications, and Intelligence (C3I) elements.

Activities and Related Environmental Documentation

Organizational Approach

SDIO is the proponent and the decision maker for the EIS. The EIS is being prepared by the USA as Lead Agent. The SDIO, USN, and USAF are Cooperating Agencies.

Programmatic EIS

The Programmatic EIS will provide a description of the potential environmental impacts over the entire life-cycle of the proposed TMD program and alternatives. As such it will address, to the extent possible, the potential environmental impacts of the proposed development and testing, production, basing, and eventual decommissioning activities supporting all three TMD components (i.e., Active Defense, Counterforce, and Passive Defense). Possible significant environmental impacts are in the areas of air quality, hazardous waste, and health and safety. The Programmatic EIS will provide environmental planning guidance for decision makers at all levels. The Record of Decision for the completed EIS is expected to be available not earlier than January 1993.

Future Documentation

The Programmatic EIS is intended to be a first tier document and to serve as a foundation from which future, more detailed environmental documentation can be prepared. As the program matures and the possible location of the individual actions that are necessary to implement the proposed action and alternatives are known, supplemental and/or tiered environmental documentation will be prepared to assess the site-specific environmental impacts.

Proposed Action

To conduct research and development activities for all three components which would give the United States the capability to produce and deploy an integrated theater missile defense. Beyond a near term decision on the Proposed Action is the potential for subsequent decisions to implement those activities associated with the life-cycle development of the integrated, comprehensive TMD program. The Programmatic EIS will also contain an evaluation of four alternatives to the proposed action: (1) Improve Active Defense only, (2) Improve Counterforce only, (3) Improve Passive Defense only, and (4) No Action.

The first three alternatives individually would provide the United States with the capability to produce and deploy a more limited TMD than the fully integrated comprehensive TMD under the Proposed Action. Although research and development efforts would be focused on only one of the three TMD components, currently existing systems and support capabilities for the remaining two components would still be maintained and available for deployment and wartime operations as necessary. For example, under the first alternative (Improve Active Defense only), research and development would be concentrated to improve the capability to destroy inflight theater missiles. Also under Alternative 1, existing Counterforce systems and Passive Defense systems would be maintained, but not improved through further research and development. Under the No Action alternative (Alternative 4), no research and development activities would be undertaken which would result in new theater anti-missile weapons, sensors and C3I. Normal improvements and maintenance of existing systems would occur.

Scoping Process

The scoping process is intended to determine the significant issues to be analyzed in depth in the environmental analysis, and to eliminate insignificant issues or those issues covered by prior environmental documents. Comments received as a result of the scoping process will be used to assist in identifying potential impacts to the quality of the human environment. Separate meetings with federal agencies which have an interest in this program will be held in Washington, DC. Individuals or organizations may participate in the scoping process through any or all of the following means:

(1) Record requests for background information by calling the following toll free number: 1-800-726-4TMD; for the hearing impaired, the toll free number is 1-800-827-4TMD and will be available 29 October to 13 December.

(2) Record telephone comments by calling the following toll free number: 1-800-729-4TMD.

(3) Send written comments to the address below.

(4) Offer verbal comments at Scoping Meetings at the listed times and locations:

SCOPING MEETINGS

Date	Time	Location
November 19	1 pm	Savoy Suites Hotel, 2505 Wisconsin Ave., Washington, DC.
December 3	7 pm	Harvey Hotel—Dallas Airport 4545 W. John Carpenter Frwy., Irving, TX.
December 5	7 pm	Los Angeles Airport Hilton and Towers, 5711 W. Century Boulevard, Los Angeles, CA.

Submit written comments and questions about the Proposed Action and Programmatic EIS to: Mr. Randy Callien, US Army Strategic Defense Command, attention: CSSD-EN, Post Office Box 1500, Huntsville, AL 35807-3801.

Written and verbal comments will be considered in preparing the Programmatic EIS.

Comments should be received by December 13, 1991.

Dated: October 31, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26696 Filed 11-5-91; 8:45 am]

BILLING CODE 3810-01-M

Office of the Secretary

Contract Administration Statutes; Review of by the DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of public comment.

SUMMARY: The DOD Advisory Panel is initially looking at acquisition statutes by categories. One of the categories is the impact of contract administration laws on the acquisition process. Currently the Panel is reviewing U.S. Code and those Public Laws relevant to the following contract administration issues:

(1) Administration of contract provisions relating to price, delivery, and product quality;

(2) Contract payment, including progress payments, the Prompt Payment Act, and deferred payment;

(3) Cost principles;

(4) Cost Accounting Standards;

(5) Contract audit and access to records;

(6) Claims and disputes; and

(7) Extraordinary Contractual Relief.

The Advisory Panel welcomes inputs from the acquisition community and the public at large. The most useful information will be any data allowing the Panel to analyze the practical effects of those laws applicable to defense procurement from both industry and government perspectives. Anyone with such information on the Panel's contract administration areas of concentration is encouraged to contact; Ms. Joanne Barreca, Defense Systems Management College/CM-AL, 8580 Cinder Bed Road, Newington, Virginia 22122, (703) 355-2666.

Dated: October 31, 1991.

Linda M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26697 Filed 11-5-91; 8:45 am]

BILLING CODE 3810-01-M

Contract Formation Statutes; Review of by the DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Office of the Secretary, DoD.

ACTION: Notice of public comment.

SUMMARY: The DoD Advisory Panel is initially looking at acquisition statutes by categories. One of the categories is the impact of contract formation laws on the acquisition process. Currently, the Panel is reviewing U.S. Code and those Public Laws relevant to the following contract formation issues:

(1) The Truth in Negotiations Act;

(2) The Competition in Contracting Act;

(3) Bid Protests;

(4) Contract formation issues involving:

(a) Major Defense Acquisition Programs.

(b) Acquisition of Commercial and Nondevelopmental Items.

(c) Acquisition of Automated Data Processing Equipment; and

(5) Research and Development in Major Acquisition Programs.

The Advisory Panel welcomes inputs from the acquisition community and the public at large. The most useful information will be any data allowing the Panel to analyze the practical effects of those laws applicable to defense procurement from both industry and government perspectives. Anyone with such information on the Panel's contract formation area of concentration is encouraged to contact: Mr. John J. Pavlick, Jr., Venable, Baetjer, Howard & Civiletti, suite 1000, 1201 New York Avenue, NW., Washington, DC 20005, (202) 962-4800.

Linda M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

October 31, 1991.

[FR Doc. 91-26698 Filed 11-5-91; 8:45 am]

BILLING CODE 3810-01-M

Intellectual Property Statutes; Review of by the DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Office of the Secretary, DOD.

ACTION: Notice of public comment.

SUMMARY: The DoD Advisory Panel is initially looking at acquisition statutes by categories. One of the categories is the impact of intellectual property laws on the acquisition process. Currently, the Panel is reviewing U.S. Code and those Public Laws relevant to the following intellectual property issues:

(1) Government and contractor sharing of rights in patents, copyrights, and technical data pertaining to federal contracts;

(2) Government acquisition of data, software, and items covered by patents, copyrights, and trade secrets;

(3) Facilitation of transfer of technology from the government to the private sector;

(4) Government disclosure of proprietary information to the public; and

(5) Redress by owners for government use of patents, copyrights, or trade secrets.

The Advisory Panel welcomes inputs from the acquisition community and the public at large. The most useful information will be any data allowing the Panel to analyze the practical effects of those laws applicable to defense procurement from both industry and government perspectives. Anyone with such information on the Panel's intellectual property area of concentration is encouraged to contact: Ms. Susan Alesi, New Executive Office Building, room 9001, 725 17th Street, NW., Washington, DC 20503, (202) 395-3300.

Dated: October 31, 1991.

Linda M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26699 Filed 11-5-91; 8:45 am]

BILLING CODE 3810-01-M

Other Acquisition Statutes; Review of by the DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Office of the Secretary, DOD.

ACTION: Notice for Public Comment.

SUMMARY: The DOD Advisory Panel is initially looking at acquisition statutes by categories. One of the categories is the impact of other acquisition laws on the acquisition process. Currently, the Panel is reviewing U.S. Code and those Public Laws relevant to the following other acquisition issues:

(1) Programmatic issues;

(2) Testing and evaluation;

(3) Service specific procurement;

(4) Generic Research and development; and

(5) Miscellaneous.

The Advisory Panel welcomes inputs from the acquisition community and the public at large. The most useful information will be any data allowing the Panel to analyze the practical effects of those laws applicable to defense procurement from both industry and government perspectives. Anyone with such information on the Panel's other acquisition area of concentration is encouraged to contact: Mr. Donald M. Remy, Office of the General Counsel, Pentagon, room 2E725, Washington, DC 20310, (703) 697-5155.

Dated: October 31, 1991.

Linda M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26700 Filed 11-5-91; 8:45 am]

BILLING CODE 3810-01-M

Socio-Economic Statutes; Review of by the DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Office of the Secretary, DOD.

ACTION: Notice for public comment.

SUMMARY: The DoD Advisory Panel is initially looking at acquisition statutes by categories. One of the categories is the impact of socio-economic laws on the acquisition process. Currently, the Panel is reviewing U.S. Code and those Public Laws relevant to the following socio-economic issues:

(1) Equal employment, and labor standards;

(2) Set-asides and preferences in contract and subcontract award;

(3) Restrictions on product sources;

(4) Environmental requirements; and

(5) Miscellaneous socio-economic concerns.

The Advisory Panel welcomes inputs from the acquisition community and the public at large. The most useful information will be any data allowing the Panel to analyze the practical effects of those laws applicable to defense procurement from both industry and government perspectives. Anyone with such information on the Panel's socio-economic area of concentration is encouraged to contact: Mr. Pete A. Bryan, OUSD(A) CPC, Pentagon, room 3C838, Washington, DC 20301, (703) 697-0895.

Dated: October 31, 1991.

Linda M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26701 Filed 11-5-91; 8:45 am]

BILLING CODE 3810-01-M

Standards of Conduct Statutes; Review of by the DOD Advisory Panel on Streamlining and Codifying Acquisition Laws

AGENCY: Office of the Secretary, DOD.

ACTION: Notice for public comment.

SUMMARY: The DoD Advisory Panel is initially looking at acquisition statutes by categories. One of the categories is the impact of standards of conduct laws on the acquisition process. Currently, the Panel is reviewing U.S. Code and those Public Laws relevant to the following standards of conduct issues:

(1) Ethics;

(2) Standards of Conduct; and

(3) Fraud.

The Advisory Panel welcomes inputs from the acquisition community and the public at large. The most useful information will be any data allowing the Panel to analyze the practical effects of those laws applicable to defense procurement from both industry and government perspectives. Anyone with such information on the Panel's standards of conduct area of concentration is encouraged to contact: Mr. Robert D. Wallick, Steptoe and Johnson, 1330 Connecticut Ave., NW., Washington, DC 20036, (202) 429-8111.

Dated: October 31, 1991.

Linda M. Bynum,

Alternative OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26702 Filed 11-5-91; 8:45 am]

BILLING CODE 3810-01-M

Navy Exchange Advisory Committee; Charter Amendment

ACTION: Amendment of charter of the Navy Exchange System Advisory Committee.

SUMMARY: The charter of the Navy Exchange System Advisory Committee has been amended, effective October 31, 1991, to reflect minor changes in the title and scope of responsibilities of the Committee devolving from the exclusion of commissaries. Recently, functions and responsibilities related to commissary management were consolidated into the newly established Defense Commissary Agency.

For further information, please contact Ms. Wanda Rhea, office of the Under Secretary of the Navy, telephone: 703-697-5545.

Dated: October 31, 1991.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 91-26695 Filed 11-5-91; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board (SAB) Ad Hoc Committee on Hypersonic Technologies will meet from 8 a.m. to 5 p.m. on 3-4 December 1991 at ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA.

The purpose of this meeting is to work on the study final briefing. The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4).

For further information, contact the SAB Secretariat at (703) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-26684 Filed 11-5-91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

28 October 1991.

The USAF Scientific Advisory Board Air Combat Cross-Matrix Panel will meet on 12 December 1991 from 8 a.m. to 5 p.m. at Headquarters, Tactical Air Command (TAC), Langley AFB, Virginia.

The purpose of this meeting is to exchange information among SAB Panel members and TAC personnel on technical developments and tactical operations issues. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-26685 Filed 11-5-91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

28 October 1991.

The USAF Scientific Advisory Board Ad Hoc Committee on Science and Technology (S&T) Broad Program Appraisal (BPA) will meet December 16-17, 1991, from 8 a.m. to 5 p.m. at ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA 22202.

The purpose of this meeting is to review the technology area plans for the programs in the Air Force S&T base. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-26686 Filed 11-5-91; 8:45 am]

BILLING CODE 3910-01-M

USAF Scientific Advisory Board; Meeting

The USAF Scientific Advisory Board (SAB) Ad Hoc Committee on Hypersonic Technologies will meet from 8 a.m. to 5 p.m. on 18 December 1991 at ANSER Corporation, 1215 Jefferson Davis Highway, Arlington, VA, and on 19 December 1991, in The Pentagon, Washington, DC.

The purpose of this meeting is to finalize and present the study final briefing. The meeting will be closed to the public in accordance with section 552b(c) of title 5, United States Code, specifically subparagraphs (1) and (4).

For further information, contact the SAB Secretariat at (703) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 91-26687 Filed 11-5-91; 8:45 am]

BILLING CODE 3910-01-M

Department of the Army

Intent To Prepare a Draft Environmental Impact Statement (DEIS) for the Relocation of the Los Angeles District Corps of Engineers, Los Angeles, CA

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

ACTION: Notice of intent.

SUMMARY:

1. *Proposed Action.* The Los Angeles District's proposal to relocate out of the downtown Los Angeles area is based on an existing high turnover rate for staff, and persistent difficulties in recruiting and retaining professional staff in the downtown Los Angeles area. Both of these problems are associated with salary and quality of life issues such as length of commute, lack of parking, availability of affordable housing, quality of the work environment, and personal safety. Program disruptions associated with a high turnover rate (16.1 percent for FY89) have been magnified by the fact that some positions remain vacant for long periods (up to one year or more) due to the difficulty in recruiting qualified personnel willing to accept employment at the current office location.

2. *Alternatives.* A full range of alternatives to the proposed action will be addressed and evaluated, including the No Action Alternative. The development of alternatives will consider project feasibility, the ability to meet required program requirements and the mitigation of environmental impacts. Quality of life factors will also be addressed (i.e., commute length, proximity to home, parking availability, affordable housing, personal safety at work and home, public transportation and freeway access).

3. *Scoping Process.* Potential impacts associated with the proposed action and alternatives will be fully evaluated. Resource categories that will be analyzed are: Socioeconomics, earth resources, air quality, biological resources, noise, land use, transportation, public services and utilities, and cultural resources. The Corps public involvement program will include a scoping meeting. The scoping meeting is scheduled for November 1991.

A public meeting will be held and a mailing list will also be established so that pertinent data may be distributed to interested agencies, interest groups and individuals.

ADDRESSES: Questions about the proposed action and Draft Environmental Impact Statement can be answered by Mr. Ed Louie, Environmental Support Section, U.S. Army Corps of Engineers, P.O. Box 2711, Los Angeles, California 90053-2325, telephone (213) 894-0239.

Dated: October 29, 1991.

Charles S. Thomas,

Colonel, Corps of Engineers, District Engineer.

[FR Doc. 91-26707 Filed 11-5-91; 8:45 am]

BILLING CODE 3710-KF-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of proposed information collection requests.

SUMMARY: The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before December 6, 1991.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Mary P. Liggett (202) 708-5174.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: October 31, 1991.

Mary P. Liggett,

Acting Director, Office of Information Resources Management.

Office of Elementary and Secondary Education

Type of Review: Revision.
Title: State Annual Performance Report for Dwight D. Eisenhower Mathematics and Science Educatio Act.
Frequency: Annually.
Affected Public: State or local governments; Federal agencies or employees.
Reporting Burden—Responses: 104.
Burden Hours: 3,120.
Recordkeeping Burden—Recordkeepers: 0.
Burden Hours: 0.
Abstract: State agencies for higher education and State educational agencies that have participated in programs under the Dwight D. Eisenhower Mathematics and Science Education Act are required to submit this report. The Department uses the information to assess the accomplishments of project goals and objectives, and to aid in effective program management.

Office of Elementary and Secondary Education

Type of Review: Revision.
Title: Performance Report for High School Equivalency Program (HEP) and College Assistance Migrant Program (CAMP).
Frequency: Annually.
Affected Public: State or local governments; non-profit institutions.
Reporting Burden—Responses: 30.
Burden Hours: 60.
Recordkeeping Burden—Recordkeepers: 30.
Burden Hours: 90.
Abstract; The HEP and CAMP grantees that have participated in the College Assistance Migrant Program are to submit these reports to the Department. The Department uses the information to assess the accomplishments of project goals and

objectives, and to aid in effective program management.

[FR Doc. 91-26765 Filed 11-5-91; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER91-597-000, et al.]

Union Electric Company, et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

October 30, 1991.

Take notice that the following filings have been made with the Commission:

1. Union Electric Co.

[Docket No. ER91-597-000]

Take notice that on October 4, 1991, Union Electric Company (Union) tendered for filing a Notice of Termination of the Wholesale Electric Service Agreement between Union and Arkansas Power and Light Company.

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 November 13, 1991. 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.

Comment date: November 13, 1991 in accordance with Standard Paragraph E at the end of this notice.

2. Fitchburg Gas and Electric Light Co.

[Docket No. EC92-2-000]

Take notice that on October 24, 1991, Fitchburg Gas and Electric Light Company ("Fitchburg") filed an application for approval under section 203 of the Federal Power Act of the merger of Fitchburg with UMC Electric Company, Inc., which has been organized solely for the purposes of the merger, and for the exchange of stock between Fitchburg and UNITIL Corporation, all for the purpose of allowing Fitchburg to become a subsidiary of UNITIL Corporation.

Fitchburg states that it has submitted the information required by part 33 of the Commission's regulations in support of the application.

Comment date: November 19, 1991, in accordance with Standard Paragraph E at the end of this notice.

3. Iowa Power and Light Co.

[Docket No. ER89-670-000]

Take notice that on October 23, 1991, Iowa Power Inc. (Iowa Power) tendered for filing a request that the Commission resume its review of an Interchange Agreement between Iowa Power and the City of Ames, Iowa, dated February 14, 1989.

Iowa Power states that it had by letter dated November 13, 1989, requested that the Commission defer action on this proceeding pending resolution of similar issues in ER89-391-000. With the conclusion of that proceeding Iowa Power is now dropping its prior request to defer further review.

Iowa Power renews its request for an effective date of February 14, 1989, and therefore requests a waiver of the Commission's notice requirements.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

4. Central Vermont Public Service Corporation

[Docket No. ER91-151-000]

Take notice that Central Vermont Public Service Corporation (Central Vermont) on October 25, 1991, tendered for filing additional cost support for the contracts previously submitted in this docket.

Central Vermont requests the Commission to waive its notice of filing requirements to permit the contracts to become effective in accordance with their terms.

Comment date: November 13, 1991, in accordance with Standard Paragraph E end of this notice.

5. Central Maine Power Company

[Docket No. ER92-60-000]

Take notice that on October 25, 1991, Central Maine Power Company (CMP) tendered for filing the following agreement in the above referenced docket:

Amendment, dated October 24, 1991, to Support Services Agreement, dated March 28, 1988, between CMP and Maine Yankee Atomic Power Company (the "Amendment").

Pursuant to the Amendment, Article IV of the Support Services Agreement is amended to provide for an automatic renewal of the term of the contract in order to lessen contract administration burdens. CMP has requested that the Commission disclaim jurisdiction over this Amendment or, in the alternative, accept the Amendment for filing pursuant to section 205 of the Federal Power Act.

If the Commission asserts jurisdiction over the Amendment, CMP requests that the Commission waive its notice and filing requirements so as to permit the Amendment to become effective as of March 28, 1988.

CMP has served a copy of the filing on the affected customer and on the Maine Public Utilities Commission.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

6. Iowa Southern Utilities Company

[Docket No. ER91-559-000]

Take notice that Iowa Southern Utilities Company (ISU) on October 25, 1991, tendered for filing an amendment to its July 29, 1991 filing in this docket. The amendment provides additional information relating to and justification for the rate charged in the Transmission Agreement between ISU and the City of Pella, Iowa (Pella).

Copies of the filing were served upon Pella and upon the Iowa State Utilities Board.

Comment Date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

7. Tampa Electric Company

[Docket No. ER92-130-000]

Take notice that on October 24, 1991, Tampa Electric Company (Tampa Electric) tendered for filing a Letter of Commitment providing for the sale by Tampa Electric to the Reedy Creek Improvement District (RCID) of 10 megawatts of capacity and energy from Tampa Electric's Big Bend Station coal-fired generating resources. The Letter of Commitment is submitted as a supplement to Service Schedule D under Tampa Electric's contract for interchange service with RCID.

Tampa Electric proposes an effective date of January 1, 1992, for the Letter of Commitment.

Copies of the filing have been served on RCID and the Florida Public Service Commission.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

8. Pacific Gas and Electric Company

[Docket No. ER92-132-000]

Take notice that on October 28, 1991, Pacific Gas and Electric Company (PG&E) tendered for filing Amendment #4 to the Comprehensive Agreement

Between State of California Department of Water Resources And Pacific Gas And Electric Company.

Amendment #4 establishes a Remedial Action System (RAS), which allows PG&E to automatically interrupt service at various California Department of Water Resources (DWR) pumping plants and hydroelectric generators. Amendment #4 also provides a mechanism for keeping DWR whole in the event operation of the RAS exceeds agreed-to limits. There are no rates for services discussed in this filing.

Copies of this filing have been served on DWR and the California Public Utilities Commission.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

9. Madison Gas and Electric Company

[Docket No. ER91-131-000]

Take notice that on October 25, 1991, Madison Gas and Electric Company (MGE) tendered for filing with the Federal Energy Regulatory Commission an Agreement between it and Wisconsin Public Service Corporation (WPSC). MGE and WPSC request waiver of the notice requirements to permit the Agreement to become effective October 25, 1991.

MGE states that a copy of the filing has been provided to WPSC and also to the Public Service Commission of Wisconsin.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

10. The Washington Water Power Co.

[Docket No. ER92-129-000]

Take notice that on October 25, 1991, The Washington Water Power Company ("WWP"), tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.11 a rate revision for the Transmission Agreement ("Agreement") between the Washington Water Power Company and PacifiCorp Electric Operations ("PacifiCorp"), rate schedule FERC Number 125. WWP states that this rate schedule is related to transmission wheeling service for borderline customer loads provided only to PacifiCorp.

An amendment to the existing Agreement changes the current method used to calculate the borderline rate (Compensation Factor) to a method based on PacifiCorp's allocated share of WWP's transmission system annual costs.

A copy of the filing was served upon PacifiCorp.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

11. PacifiCorp Electric Operations

[Docket No. ER92-134-000]

Take notice that PacifiCorp Electric Operations ("PacifiCorp"), on October 28, 1991, tendered for filing, in accordance with 18 CFR 35.13 of the Commission's Rules and Regulations, Tenth Revised Sheet No. 7 superseding Ninth Revised Sheet No. 7 (Index of Purchasers) under PacifiCorp's FERC Electric Tariff, Original Volume No. 7 ("Tariff") and Third Revised Sheet No. 25 superseding Second Revised Sheet No. 25 (Index of Purchasers) under the Tariff.

PacifiCorp's filing hereunder is to delete the City of Anaheim, California ("Anaheim") from the Index of Purchases under the Service Schedules Utah 1-B and Utah 1-C of the Tariff.

PacifiCorp respectfully requests, pursuant to 18 CFR 35.11 of the Commission's Rules and Regulations, that a waiver of prior notice be granted and that an effective date of September 30, 1991 be assigned to deletion of the Service Agreements from the Tariff. This date is consistent with notice provisions under the Service Agreements. The waiver will have no effect upon purchasers under other rate schedules.

Copies of this filing were supplied to Anaheim and the Public Utilities Commission of the State of California.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

12. Iowa Power Inc.

[Docket No. ER92-8-000]

Take notice that on October 28, 1991, Iowa Power Inc. ("Iowa Power") tendered for filing an Amendment to the Interchange Agreement between Iowa Power and the City of Pella ("Pella") filed in this docket on October 1, 1991.

Iowa Power states that the Amendment to the Interchange Agreement filing provides a new Service Schedule K which includes a provision that any changes to the rate specified in Service Schedule K would be filed with the Commission.

Iowa Power requests an effective date of May 1, 1991, and therefore requests a waiver of the Commission's notice request requirements.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

13. Iowa Power Inc.

[Docket No. ER92-6-000]

Take notice that on October 28, 1991, Iowa Power Inc. (Iowa Power) tendered for filing an amendment to the original filing for this docket dated October 1, 1991.

Iowa Power states that the amended filing provides additional information concerning Iowa Power's transactions under the Interchange Agreement between Iowa Power and the City of Pella, Iowa from August 26, 1980 through April 30, 1991.

Iowa Power requests an effective date of August 26, 1980, and therefore requests a waiver of the Commission's notice requirements.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

14. Central Vermont Public Service Corp.

[Docket No. ER91-573-000]

Take notice that on October 7, 1991, Central Vermont Public Service Corporation tendered for filing an amendment to its August 5, 1991 filing in this docket.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

15. Central Louisiana Electric Co.

[Docket No. ER90-39-004]

Take notice that on September 9, 1991, Central Louisiana Electric Company (CLECO) tendered for filing its compliance filing in this docket pursuant to the Commission's order issued July 26, 1991.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

16. Central Louisiana Electric Co., Inc.

[Docket No. ER90-39-003]

Take notice that on October 25, 1991, Central Louisiana Electric Company (CLECO) tendered for filing its second supplement to its refund report filed with the Commission on August 12, 1991.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

17. Pacific Gas and Electric Co.

[Docket No. ER92-133-000]

Take notice that on October 28, 1991, Pacific Gas and Electric Company (PG&E) tendered for filing rate schedule changes to PG&E's Rate Schedule FERC No. 97, the Agreement of Cotenancy in the Castle Rock-Lakeville 230 kV Transmission Line among PG&E, the State of California Department of Water Resources (DWR), the Northern California Power Agency (NCPA), and the City of Santa Clara (CSC), dated June 1, 1984. The initial rate schedule was filed in FERC Docket No. ER86-364-000 and included the Cotenancy Agreement with all but DWR's

signature. The reasons given by PG&E for this filing are to establish that DWR is now a signatory to the Cotenancy Agreement and thereby a Contenant under it, to provide final accounting and construction costs under the Cotenancy Agreement, to revise calculations for both annual charges for the operation and maintenance of the transmission line and associated facilities, for the period 1984–1991, pursuant to the terms of the Cotenancy Agreement, and to adjust charges for certain services rendered by PG&E under the Comprehensive Agreement between DWR and PG&E in order to reflect the fact of DWR becoming a Cotenant after the Transmission Line was completed.

Copies of this filing have been served upon NCPA, CSC, DWR and the California Public Utilities Commission.

Comment date: November 13, 1991, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 91–26704 Filed 11–5–91; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. EL92–6–000]

PSI Energy, Inc. v. Kentucky Utilities Co.; Filing

October 30, 1991.

Take notice that on October 16, 1991, PSI Energy, Inc. (PSI) tendered for filing a complaint against Kentucky Utilities Company (KU). PSI seeks an order from the Commission directing compliance with two contracts to make support payments for transmission facilities.

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 November 29, 1991. 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. Answers to the complaint shall be due on or before November 29, 1991.

Lois D. Cashell,

Secretary.

[FR Doc. 91–26705 Filed 11–5–91; 8:45 am]

BILLING CODE 6717–01–M

Office of Fossil Energy

[FE Docket No. 91–75–NG]

Continental Energy Marketing Ltd.; Application for Authorization To Import Natural Gas

AGENCY: Office of Fossil Energy, Department of Energy.

ACTION: Notice of application for blanket authorization to import natural gas from Canada.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on September 11, 1991, by Continental Energy Marketing Ltd. (Continental) requesting blanket authorization to import up to 75 Bcf of Canadian natural gas for a term of two years beginning on date of first delivery. Continental intends to use existing facilities to import the gas and to file quarterly reports with FE giving the details of each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene or notices of intervention, as applicable, requests for additional procedures and written comments are to be filed at the address listed below no later than 4:30 p.m., eastern time, December 6, 1991.

ADDRESS: Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–50, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478.

FOR FURTHER INFORMATION CONTACT:

Larine A. Moore, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3F–056, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–9478.

Diane Stubbs, Office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E–042, GC–14, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 586–6667.

SUPPLEMENTARY INFORMATION: Continental is a corporation with its principal place of business in Calgary, Alberta, Canada. Continental requests authority to import natural gas from a variety of Canadian suppliers for sale to various U.S. purchasers, including local distribution companies, pipelines, marketers and end-users. Continental would import gas for its own account as well as for the accounts of Canadian suppliers and U.S. purchasers. The specific terms of each import and sale would be responsive to competitive market forces.

The decision on the application for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that the proposed imports will be competitive. Parties opposing the arrangement bear the burden of overcoming this assertion.

NEPA Compliance

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.*, requires DOE to give appropriate consideration to the environmental effects of its proposed actions. No final decision will be issued in this proceeding until DOE has met its NEPA responsibilities.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have their written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make

the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR part 590. Protests, motions to intervene, notices of intervention, requests for additional procedures, and written comments should be filed with the Office of Fuels Programs at the above address.

It is intended that a decisional record will be developed on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or trail-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of Continental's application is available for inspection and copying in the Office of Fuels Programs Docket Room, 3F-056 at the above address. The docket room is open between the hours of 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC., October 28, 1991.

Anthony J. Como,

Director, Office of Coal & Electricity, Office of Fuels Programs, Fossil Energy.

[FR Doc. 91-26790 Filed 11-5-91; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPP-30326; FRL 3950-4]

Fenthion: Deletion of Certain Uses and Directions for Use

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This Notice announces that Mobay Chemical Corporation, the registrant of the technical active ingredient Fenthion (*0,0*-Dimethyl *0*-[3-methyl-4-(methylthio)phenyl] phosphorothioate) in the United States, has requested to amend its registrations of Baytex® Technical for Use Only in Manufacturing (EPA Reg. No. 3125-197), and Baytex® Liquid Insecticide (EPA Reg. No. 3125-148) by deleting all uses and directions for use on the following: alfalfa, clover, pasture grasses, rice, ornamental plants, all indoor uses, and all outdoor uses of fenthion (including Bird Repellent uses), except for Ultra Low Volume (ULV) and thermal fog applications in Florida for adult mosquito control. Notice is given of the intent of the Environmental Protection Agency to approve the proposed amendments for this pesticide. EPA is at this time soliciting comments on the proposed amendments.

DATES: Written comments must be submitted on or before February 4, 1992.

ADDRESSES: Send three copies of your written comments identified by the docket control number OPP-30326, to: Public Response and Program Resources Branch, Field Operations Division (H7506C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person, deliver comments to: Room 1128, CM #2, 1921 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: By mail: Richard W. King, Special Review and Reregistration Division (H7508C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Reregistration Branch, Crystal Station 1, WF32F6, 2801 Jefferson Davis Highway, Arlington, Virginia, (703) 308-8052.

SUPPLEMENTARY INFORMATION: Fenthion is the commonly accepted name for (*0,0*-Dimethyl *0*-[3-methyl-4-(methylthio)phenyl] phosphorothioate). It is a contact and systemic organophosphate insecticide/acaricide that was initially registered as a pesticide under FIFRA in 1965 by Mobay Chemical Corporation. Fenthion is primarily used in the formulation of insecticide products for mosquito and insect control on swamps, standing water, recreational areas, alfalfa, pasture grass, forests, barns, poultry houses, nonfood areas of commercial buildings and restaurants, and homes; for lice control on cattle (beef and non-lactating dairy) and hogs; for control of ants, mites, leafhoppers, and aphids on ornamental plants, and flowers; for bird control; and for use on rice to control mosquitoes (in the State of California only). Fenthion is marketed by Mobay Chemical Corporation under the trade name Baytex®. Mobay Chemical Corporation, the only registrant of technical grade fenthion, has requested to amend their registrations for Baytex® products by deleting all uses and directions for use on alfalfa, clover, pasture grasses, rice, ornamental plants, all indoor uses, and all outdoor uses of fenthion (including Bird Repellent uses), except for Ultra Low Volume (ULV) and thermal fog applications in Florida for adult mosquito control. EPA intends to approve this request. Since there will no longer be a Baytex® manufacturing use product available from which to formulate registered end-use fenthion products on the crops and specific use patterns listed in this Notice, all other registrants of product containing fenthion are being notified by certified mail that they are being given the opportunity to generate data in support of the reregistration of fenthion for the crops and use patterns listed in this Notice. In addition, all end-use registrants of fenthion are being notified by certified mail that their generic data exemption must be revised.

EPA is now soliciting comments on the proposed amendments. Interested persons are invited to submit their written comments to the address given above.

Dated: October 24, 1991.

Allan S. Abramson,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 91-26326 Filed 11-5-91; 8:45 am]

BILLING CODE 6560-50-F

[OPP-36178; FRL-3845-8]

Pesticides and Ground-Water Strategy; Availability of Documents

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Policy Statement.

SUMMARY: This notice announces the availability of EPA's final "Pesticides and Ground-Water Strategy" (Strategy). The Strategy describes the Agency's goals, policies, management programs, and regulatory approaches for protecting the nation's ground-water resources from risks of contamination by pesticides. The general goal of this Strategy is to manage the use of pesticides to prevent unreasonable adverse effects to human health and the environment and to protect the environmental integrity of the nation's ground-water resources. In determining appropriate prevention and protection strategies, EPA will consider the use, value and vulnerability of the resource, as well as social and economic values.

ADDRESSES: The Strategy may be obtained from EPA's Public Information Center at the following address: U. S. Environmental Protection Agency, Public Information Center (PM-211B), 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Regional contacts listed in Table 1 (below) or, by mail: Arden Calvert, Office of Pesticide Programs (H-7501C), U. S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1115, CM #2, 1921 Jefferson Davis Highway, Arlington, Virginia, (703) 557-7102.

SUPPLEMENTARY INFORMATION: In February 1988, EPA released for public comment the proposed strategy entitled, "Agricultural Chemicals in Ground Water: Proposed Pesticide Strategy" and distributed the document widely to Congressional representatives, governors, Federal and State agency officials, members of the agricultural and environmental communities, and many other interested parties. The final Strategy announced here today reflects many of the comments received. The Agency has summarized and responded to the public comments in a separate document filed in the Public Docket for the Strategy (OPP-00256). The Public Docket is available for inspection from 8 a.m. to 4:30 p.m., Monday through Friday, except legal holidays in the Public Information Section, Field Operations Division, Office of Pesticide Programs, Environmental Protection Agency, 1921 Jefferson Davis Highway, Arlington, VA. A copy of EPA's response to comments is available by contacting the Public Information Section at (703) 557-2805. Interested persons may obtain further information about the Strategy by contacting the EPA regional office listed below.

TABLE 1.—EPA REGIONAL CONTACTS

If you Reside in	Please contact
Connecticut, Massachusetts, Maine, New Hampshire, Rhode Island, Vermont.	EPA Region 1, Office of Public Affairs, John F. Kennedy Federal Building, Room 2203 Boston, Massachusetts 02203, Contact: Dr. Robert Koethe (617) 565-3932
New Jersey, New York, Puerto Rico, Virgin Islands.	EPA Region 2, Pesticides and Toxic Substances Branch, 2890 Woodbridge Ave., Building 209, Edison, New Jersey 08837-3679, Contact: Fred Kozak (MS-105) (908) 321-6769
Delaware, District of Columbia, Maryland, Pennsylvania, Virginia West Virginia.	EPA Region 3, Toxics and Pesticide Branch, 841 Chestnut Street, Philadelphia, Pennsylvania 19107, Contact: Donald J. Lott (3-AM-32) (215) 597-9870
Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina.	EPA Region 4, Public Affairs Branch, 345 Courtland Street, N.E. Atlanta, Georgia 30365, Contact: Lila Koroma, (404) 347-3222
Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin.	EPA Region 5, Pesticides and Toxic Substances Branch, 230 Dearborn Street, Chicago, Illinois 60604, Contact: Bruce Wilkinson (312) 886-6002
Arkansas, Oklahoma, Louisiana, New Mexico, Texas.	EPA Region 6, Pesticides and Toxic Texas Substances Branch, 445 Ross Avenue, Dallas, Texas 75202, Contact: John Larson (6T-PP) (214) 655-7239
Iowa, Kansas, Missouri, Nebraska.	EPA Region 7, Toxics and Pesticides Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101, Contact: Kenneth Bucholtz, (913) 551-7473
Colorado, Montana, North Dakota, South Dakota, Wyoming, Utah.	EPA Region 8, Toxic Substances Branch, Suite 500, 999 18th Street/Denver Place, Denver, Colorado 80202-2405, Contact: Edward Stearns (8AT-TS) (303) 293-1741
Arizona, California, Hawaii, Nevada, American Samoa, Guam.	EPA Region 9, Pesticides and Toxic Substances Branch, 75 Hawthorne St. San Francisco, California 94105, Contact: Tom Broz (415) 744-1065
Alaska, Idaho, Oregon, Washington.	EPA Region 10, Pesticides and Toxic Substances Branch, 1200 Sixth Avenue, Seattle, Washington 98101, Contact: Garrett Wright (206) 553-1495

Summary of the Strategy

EPA's Pesticides and Ground-Water Strategy describes the policies and regulatory approaches the Agency will use in order to protect the Nation's ground-water resources from risks of contamination by pesticides. The Strategy focuses on the protection of the resource through source reduction and controls, rather than clean-up of contaminated water in the ground or at the point of use.

Although the focus of this strategy is primarily on applying the regulatory authorities available under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to specific pesticides of concern, it also describes a significant new role for States in managing the use of pesticides to protect ground water from pesticide contamination. Primary responsibility for developing and implementing comprehensive groundwater protection programs continues to be and should be vested with the States. In certain cases, when it has sufficient evidence that a particular use of a pesticide has the potential for ground-water contamination to the extent it may cause unreasonable adverse effects, EPA may (through the use of existing statutory authority and

regulations) limit legal use of the product to those States with an acceptable State Pesticide Management Plan, approved by EPA. Absent such an approved Plan, the pesticide could not be legally sold or used in the State.

In practical terms, the objective of this strategy is prevention of ground-water contamination by regulating the normal use of certain pesticides (i.e., use according to the EPA- approved labeling) in order to reduce, and if necessary, eliminate releases of pesticides in areas vulnerable to contamination. Priority for protection will be on currently used and reasonably expected drinking water supplies and ground water that is closely hydrogeologically connected to surface waters. The Agency will use Maximum Contaminant Levels (MCLs) under the Safe Drinking Water Act as "reference points" for water resource protection efforts when the groundwater in question is a current or reasonably expected source of drinking water.

EPA's prevention strategy will include the following policies:

(1) EPA will actively encourage the adoption of less environmentally burdensome practices in agriculture and other sectors where pesticides are used in order to reduce the general risk of ground-water contamination.

(2) EPA will determine the appropriate regulatory approach under FIFRA for individual chemicals that may threaten ground water. If EPA does not determine that State management measures would sufficiently reduce the risks to human health and the environment, such that an unreasonable risk remains, then EPA would resort to cancellation of the pesticide.

(3) If EPA finds it necessary, legal sale and use may be confined to states with acceptable State Management Plans approved by EPA.

(4) EPA and other Federal agencies, in particular the U.S. Department of Agriculture (USDA) and the U.S. Geological Survey, will provide research and technical assistance in the assessment of ground-water problems, the delineation of valuable/vulnerable ground waters, and the choice of management measures.

(5) Because pesticide users remain responsible for directly controlling their use of pesticides in the field, clear instructions must be provided. Working with the States and USDA's cooperative Extension Service, EPA is improving training and certification programs so that more users are aware of ground-water issues and measures to protect this resource.

(6) EPA believes that registrants should make a greater commitment to "product stewardship" by informing distributors and applicators how their products should be managed to prevent degradation of ground water, by conducting more monitoring studies, and by developing safer alternative pesticides.

Dated: October 29, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 91-26649 Filed 11-5-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-59920; FRL 4002-9]

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). 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 one such PMN(s) and provides a summary of each.

DATES: Close of review periods:

Y 92-28, November 11, 1991.

FOR FURTHER INFORMATION CONTACT: David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, 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 Public Docket Office, NE-G004 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 92-28

Importer. Confidential.

Chemical. (G) Polyurethane, *N,N*-dimethylamino ethanol salt.

Use/Import. (G) Paint. Import range: Confidential.

Dated: October 31, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-26751 Filed 11-5-91; 8:45 am]

BILLING CODE 6560-50-F

[OPTS-51775; FRL 4003-2]

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 13 such PMNs and provides a summary of each.

DATES: Close of review periods:

P 92-143, 92-144, 92-145, 92-146, 92-147, 92-148, 92-149, 92-150, January 19, 1992.

P 92-151, January 20, 1992.

P 92-152, January 21, 1992.

P 92-153, 92-154, January 22, 1992.

P 92-155, January 25, 1992.

Written comments by:

P 92-143, 92-144, 92-145, 92-146, 92-147, 92-148, 92-149, 92-150, December 20, 1991.

P 92-151, December 21, 1991.

P 92-152, December 22, 1991.

P 92-153, 92-154, December 23, 1991.

P 92-155, December 26, 1991.

ADDRESSES: Written comments, identified by the document control number "(OPTS-51775)" and the specific PMN number should be sent to: Document Processing Center (TS-790), Office of Toxic Substances, Environmental Protection Agency, 401 M St., SW., rm. L-100, Washington, DC, 20460, (202) 260-3532.

FOR FURTHER INFORMATION CONTACT: Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, 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 Public Docket Office NE-G004 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 92-143

Importer. Confidential.
Chemical. (G) Blocked diisocyanate.
Use/Import. (S) Crosslinking agent for durable water repellant articles. Import range: Confidential.
Toxicity Data. Static acute toxicity: time LC50 96h260 ppm species (killifish).

P 92-144

Manufacturer. Confidential.
Chemical. (G) Crosslinked resorcinal resin.
Use/Production. (G) Adhesion promoter. Prod. range: Confidential.

P 92-145

Importer. Confidential.
Chemical. (G) Styrenated acrylic copolymer.
Use/Import. (G) Paint. Import range: confidential.

P 92-146

Manufacturer. Confidential.
Chemical. (G) Fatty amine salt of a sulfonated aromatic compounds.
Use/Production. (G) Coating additive. Prod. range: Confidential.

P 92-147

Manufacturer. Confidential.
Chemical. (G) Fatty amine salt of a C_{18} fatty ester of amineral acid.
Use/Production. (G) Coating additive. Prod. range: Confidential.

P 92-148

Manufacturer. Confidential.
Chemical. (G) Fatty amine salt of a C_{12}-C_{15} fatty ester of a mineral acid.
Use/Production. (G) Coating additive. Prod. range: Confidential.

P 92-149

Manufacturer. Shin-Etsu Silicone of America.
Chemical. (G) Organopolysiloxane metal salt.
Use/Production. (S) Catalyst for silicone rubber companies. Prod. range: 100-600 kg/yr.

P 92-150

Importer. Confidential.
Chemical. (G) Acrylic copolymer.
Use/Import. (S) Paint for light trucks and automobiles. Import range: Confidential.

P 92-151

Manufacturer. Confidential.
Chemical. (G) Modified gelatin.
Use/Production. (G) Contained use in article. Prod. range: 68,100-198,000 kg/yr.
Toxicity Data. Acute oral toxicity: LD50 > 5,000 mg/kg species (rat). Eye irritation: slight species (rabbit). Skin irritation: slight species (rabbit).

P 92-152

Manufacturer. The Dow Chemical Company.
Chemical. (G) Isocyanate terminated polyether polyol.
Use/Production. (G) Paper board additive. Prod. range: Confidential.

P 92-153

Importer. Confidential.
Chemical. (G) Pyridinyl azo substituted benzole acid ester.
Use/Import. (S) Textile dye. Import range: Confidential.
Toxicity Data. Acute oral toxicity: LD50 > 2,200 mg/kg species (rat). Acute dermal toxicity: LD50 > 2,000 mg/kg species (rabbit). Eye irritation: none species (rabbit). Mutagenicity: positive. Static acute toxicity: time LC50 96h > 1,000 mg/l species (zebra fish). Skin irritation: negligible species (rabbit).

P 92-154

Manufacturer. Minnesota Mining & Manufacture (3M).
Chemical. (G) Substituted polyethylene oxide polymer.
Use/Production. (S) Photoinitiator. Prod. range: Confidential.

P 92-155

Manufacturer. U.S. Polymers Inc.
Chemical. (G) Reaction product of-aliphatic oils and acids, pentaerythritol, ethylene glycol, glycerine, trimethylolpropane, trimethylolethane, sorbitol, ck1281 phenolic phthalic anhydride, maleic anhydride, fumart c acid, isophthalic acid, hexahydrophathalic anhydride trimellitic anhydride, styrene, methyl methacrylate, vinyl toluene, polyethylenaterephthalate, methyl glucoside and neopenty glycol.
Use/Production. (S) Resin used to make industrial enamel. Prod. range: 20,000-100,000 kg/yr.

Dated: October 31, 1991.

Steven Newburg-Rinn,

Acting Director, Information Management Division, Office of Toxic Substances.

[FR Doc. 91-26750 Filed 11-5-91; 8:45 am]
BILLING CODE 6560-50-F

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice Concerning Issuance of Powers of Attorney

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Public notice.

SUMMARY: In order to facilitate the discharge of its responsibilities as a conservator and liquidator of insured depository institutions in the State of Oklahoma, the Federal Deposit Insurance Corporation ("FDIC") publishes the following notice. The publication of this notice is intended to comply with title 16, section 20 of the Oklahoma Statutes (16 O.S. 20) which, in part, declares Federal agencies that publish notices in the **Federal Register** concerning their promulgation of powers of attorney, to be exempt from the statutory requirement of having to record such powers of attorney in every county of Oklahoma in which the agencies wish to effect the conveyance or release of interests in land.

NOTICE: Pursuant to section 11 of the Federal Deposit Insurance ("FDI") Act (12 U.S.C. 1821), as amended by section 212 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 ("FIRREA"), the FDIC is empowered to act as conservator or receiver of any state or federally chartered depository institution which it ensures. Furthermore, under section 11A of the FDI Act (12 U.S.C. 1821a), as enacted under section 215 of FIRREA, the FDIC is also appointed to manage the FSLIC Resolution Fund.

Upon appointment as a conservator or receiver, the FDIC by operation of law becomes successor in title to the assets of the depository institutions on behalf of which it is appointed. As Manager of the FSLIC Resolution Fund, the FDIC became successor in title to both the corporate assets formerly owned by the now defunct Federal Savings and Loan Insurance Corporation ("FSLIC"), as well as to the assets of the depository institutions for which the FSLIC was appointed receiver prior to January 1, 1989. In addition, pursuant to section 13(c) of the FDI Act (12 U.S.C. 1823(c)), the FDIC also acquires legal title in its corporate capacity to assets acquired in furtherance of providing monetary assistance to prevent the closing of insured depository institutions or to expedite the acquisition by assuming depository institutions of assets and liabilities from closed depository institutions of which the FDIC is receiver.

In order to facilitate the conservation and liquidation of assets held by the FDIC in its aforementioned capacities, the FDIC has provided powers of attorney to selected employees of its Oklahoma City Consolidated Office. These employees include: Teresa R. Koechel, Deborah N. Biggers, Tommy K. Sears, John H. Fisher and Gary R. Belair.

Each employee to whom a power of attorney has been issued is authorized and empowered to: sign, seal and deliver as the act and deed of the FDIC any instrument in writing, and to do every other thing necessary and proper for the collection and recovery of any and all monies and properties of every kind and nature whatsoever for and on behalf of the FDIC and to give proper receipts and acquittances therefor in the name and on behalf of the FDIC; release, discharge or assign any and all judgments, mortgages on real estate or personal property (including the release and discharge of the same record in the office of any Prothonotary or Register of Deeds wherever located where payments on account of the same redemption or otherwise may have been made by the debtor(s)), and to endorse receipt of such payments upon the records in any appropriate public office; receipt, collect and give all proper acquittances for any other sums of money owing to the FDIC for any acquired asset which the attorney-in-fact may sell or dispose of; execute any and all transfers and assignments as may be necessary to assign any securities or other choses in action; sign, seal, acknowledge and deliver any and all agreements as shall be deemed necessary or proper by the attorney-in-fact in the care and management of acquired assets; sign, seal, acknowledge and deliver indemnity agreements and surety bonds in the name of and on behalf of the FDIC; sign receipts for the payment of all rents and profits due or to become due on acquired assets; execute, acknowledge and deliver deeds of real property in the name of the FDIC; extend, postpone, release and satisfy or take such other action regarding any mortgage lien held in the name of the FDIC; execute, acknowledge and deliver in the name of the FDIC a power of attorney wherever necessary or required by law to any attorney employed by the FDIC; foreclose any mortgage or other lien on either real or personal property, wherever located; do and perform every act necessary for the use, liquidation or collection of acquired assets held in the name of the FDIC; and sign, seal, acknowledge and deliver any and all documents as may be necessary to settle any action(s) or claim(s) asserted against the FDIC, either in its Receivership or Corporate capacity, or as Manager of the FSLIC Resolution Fund.

Dated: October 31, 1991.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 91-26721 Filed 11-5-91; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 202-007540-057.

Title: United States Atlantic and Gulf/Southeastern Caribbean Conference.

Parties:

Puerto Rico Maritime Shipping Authority
Sea-Land Service, Inc.
Trailer Marine Transport Corp.
Kirk Line, Ltd.
Bernuth Lines
Seaboard Marine, Ltd.
Tecmarine Line, Inc.

Synopsis: The proposed amendment (1) provides for a limit of two, rather than one container yards and container freight stations; (2) permits a member line to vote in ratemaking sections 1 through 4 whether or not they provide service, and to vote in section 5 only if the Member Line serves that section. The parties are also restating the Agreement.

Agreement No.: 203-011038-012.

Title: Southeastern Caribbean Discussion Agreement.

Parties:

United States Atlantic and Gulf/Southeastern Caribbean Conference
West Indies Shipping Corporation

Synopsis: The amendment adds Blue Caribe Line as an independent carrier party to the agreement. The parties have requested a shortened review period.

Agreement No.: 224-011089-002.

Title: Port of Galveston/Union Equity Co-Operative Exchange Agreement.

Parties:

Port of Galveston
Union Equity Co-Operative Exchange

Synopsis: The Agreement, filed October 20, 1991, decreases the lessor's share amount, from fifty percent to thirty six percent, of the dockage collected for any calendar month during which lessee ships outbound at least three million bushels of grain from the leased premises.

Agreement No.: 224-200268-002.

Title: City of Los Angeles/Stevedoring Services of America Nonexclusive Terminal Lease Agreement.

Parties:

City of Los Angeles (LA)
Stevedoring Services of America (SSA)

Synopsis: The amendment authorizes LA to extend the use of a certain area of terminal property to SSA on a month-to-month basis, subject to termination by the Executive Director of SSA on 30 days written notice.

Agreement No.: 224-200588.

Title: Port of Oakland/Hanjin Shipping Company Terminal Agreement

Parties:

City of Oakland ("Port")
Hanjin Shipping Company, Ltd. ("Hanjin")

Synopsis: The proposed agreement would permit Hanjin nonexclusive use of "certain assigned premises" at the Port's Seventh Street Marine Container Terminal.

By Order of the Federal Maritime Commission.

Dated: October 31, 1991.

Joseph C. Polking,

Secretary.

[FR Doc. 91-26682 Filed 11-5-91; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

[Docket R-0739]

Federal Reserve Bank Services

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice.

SUMMARY: The Board has approved a Private Sector Adjustment Factor ("PSAF") for 1992 of $79.9 million, as

well as 1992 fee schedules for Federal Reserve priced services. These actions were taken in accordance with the requirements of the Monetary Control Act of 1980, which requires that fees for Federal Reserve priced services be established on the basis of all direct and indirect costs, including the PSAF. The Board also has authorized Reserve Banks to make certain minor price and service level changes within specified parameters during 1992 without prior Board review.

EFFECTIVE DATE: The PSAF, the fee schedules, and the price and service level change categories subject to the modified approval procedures become effective January 1, 1992.

FOR FURTHER INFORMATION CONTACT: For questions regarding the Private Sector Adjustment Factor: Gregory Evans, Senior Accounting Analyst, (202/452-3945), Division of Reserve Bank Operations and Payment Systems; for questions regarding fee schedules: Kathleen M. Connor, Senior Financial Services Analyst, Check Payments (202/452-3917), Tina Slater, Senior Financial Services Analyst, Electronic Payments (202/452-2539), Felicia Cataldo, Financial Services Analyst, Securities (202/452-2223) or James Epps, Senior Financial Services Analyst, Cash (202/452-2222), Division of Reserve Bank Operations and Payment Systems; for the hearing impaired only: Telecommunications Device for the Deaf, Dorothea Thompson (202/452-3544).

Copies of the 1992 fee schedules for check collection, automated clearing house, funds transfer and net settlement, book-entry securities, definitive safekeeping, noncash collection, special cash services, and electronic connections to the Federal Reserve, are available from the Reserve Banks

SUPPLEMENTARY INFORMATION:

Private Sector Adjustment Factors (PSAF)

The Board has approved a 1992 Private Sector Adjustment Factor (PSAF) for Federal Reserve Bank priced services of $79.9 million. This amount represents a decrease of $5.9 million or 6.8 percent under the PSAF of $85.8 million targeted for 1991.

The Monetary Control Act of 1980 requires that fee schedules for the Federal Reserve's priced services include an allocation of imputed costs for "taxes that would have been paid and the return on capital that would have provided had the services been furnished by a private business firm." These imputed costs are based on data developed in part from a model comprised of the nation's 50 largest bank holding companies (BHCs).

Briefly stated, the methodology, which is unchanged from last year, first entails determining the value of Federal Reserve assets that will be used directly in producing priced services during the coming year, including the net effect of assets planned to be acquired or disposed of during the year. Short-term assets are assumed to be financed by short-term liabilities; long-term assets are assumed to be financed by a combination of long-term debt and equity.

Imputed capital costs are determined by applying related interest rates and rates of return on equity derived from the bank holding company model to the assumed debt and equity values. The rates drawn from the BHC model are based on consolidated financial data for the 50 largest BHCs (in terms of asset size) in each of the last five years. Because short-term debt, by definition, matures within one year, only data for the most recent year are used for computing the short-term debt rate.

Capital costs, together with imputations for estimated sales taxes, FDIC insurance assessment on clearing balances held with the Federal Reserve to settle transactions, and expenses of the Board of Governors related to priced services, comprise the PSAF.

Details regarding the derivation of the PSAF are as follows:

Asset Base

The estimated value of Federal Reserve assets to be used in providing priced services in 1992 is reflected in Table 1. Table 2 shows that the value of assets assumed to be financed through debt and equity are projected to total $563.6 million. As shown in Table 3, this represents a net increase of $32.9 million or 6.2 percent from 1991. This increase results primarily from planned 1992 capital expenditures for Reserve Bank building projects and the full year effect of 1991 bank premises capital expenditures.

Cost of Capital, Taxes and Other Imputed Costs

Table 3 shows the financing and tax rates as well as the other required PSAF recoveries proposed for 1992 and compares them with the rates used for developing the PSAF for 1991. The large decrease in the pre-tax return on equity rate from 14.5 percent in 1991 to 10.7 percent for 1992 is attributed to the weaker 1990 financial performance of the BHCs included in the model relative to the 1985 BHC performance that was included in the 1991 calculation.

Capital Adequacy

A shown in table 4, the amount of capital imputed for the proposed 1992 PSAF totals 30.9 percent of risk-weighted assets, well above the 8 percent capital guideline for state member banks and BHCs.

1992 Fee Schedules

The Monetary Control Act requires that, over the long run, fees for Federal Reserve priced services be established on the basis of all direct and indirect costs incurred in providing the priced services, including the PSAF. Total revenue for all Federal Reserve services must, in the aggregate, recover all costs, including the PSAF. The Board's pricing principles state that fees will be set so that revenues match costs (including the PSAF) for major service categories. The Board may set fees for a service line that do not fully recover costs, in the interest of providing an adequate level of services nationwide.

Last year the Board approved fees that were set to recover 101.0 percent of the costs of providing priced services in 1991, including the PSAF and the cost of float. Through the first eight months of 1991, the System recovered 102.0 percent of total costs. The Reserve Bank estimate that total 1991 costs, including the PSAF, will be $754.4 million. Total revenue is estimated to be $758.3 million, which would result in a 100.5 percent recovery rate.[1]

In 1992, total priced services costs, including the PSAF, are projected to be $781.3 million. Total revenue is projected to be $785.6 million, which would result in a 100.6 percent recovery rate. Since 1984, as the table below shows, the System experience has moved closer to a targeted 100 percent recovery of costs.

[1] The magnitude of the revenue and cost data reflected in this memorandum differs from that reported in the Board's Annual Report. In this memorandum, income on clearing balances and the cost of earnings credits are included on a net basis while they are reflected in gross amounts in the Annual Report. In addition, the credit to expenses resulting from accounting for pensions in accordance with FASB 87 is not reflected in price setting for individual services and is not included in this memorandum.

TOTAL PRICED FINANCIAL SERVICES

	($ millions)		Recovery rate (percent)	Variation from 100 (percent)
	Total cost	Total revenue		
1984	519.1	559.8	107.8	7.8
1985	571.2	603.8	105.7	5.7
1986	599.3	627.7	104.7	4.7
1987	627.3	649.7	103.5	3.5
1988	674.7	667.7	99.0	1.0
1989	730.3	718.7	98.4	1.6
1990	735.3	746.5	101.5	1.5
1991 est.	754.4	758.3	100.5	0.5
1992 proj.	781.3	785.6	100.6	0.6

The total costs in the table do not include special projects, which are projected to total $4.5 million in 1992 and which are not considered when establishing priced service fees. Inclusion of special project costs would reduce the estimated 1991 and projected 1992 recovery rates to 100.3 percent and 100.0 percent, respectively.

Following is a discussion of estimated 1991 and projected 1992 financial performance, and 1992 fees for the individual priced services.

Check Collection

Estimated 1991 and projected 1992 cost recovery performance for the commercial check service is shown in the table below.

	($ million)		Recovery rate
	Total cost	Total revenue	
1991	572.7	578.2	101.0%
1992	588.2	592.7	100.8%

Inclusion of special project costs would reduce the 1991 and 1992 recovery rates to 100.6 percent and 100.2 percent, respectively. Special project costs in 1991 relate to research and development of the application of image technology to the check service. Special project costs in 1992 relate to automation consolidation [2] and the check image project.

Overall, 1992 check collection costs, including PSAF, are expected to increased 2.8 percent, while 1992 volume is expected to be flat, with a projected increase of 0.1 percent from 1991. Forward check collection processed volume is projected to increase 0.2 percent in 1992, compared to an estimated 0.5 percent decrease in 1991. Accordingly, the Board anticipates that unit costs will begin to increase in the future.

Fifty-four percent of the 1992 fees for the check collection service (excluding ITS fees, which are discussed below) are the same as those currently in effect. The 1992 fees result in a 3.0 percent weighted average increase in forward and return check collection fees; the increase in forward collection fees is 1.3 percent, while the increase in return items fees is 13.6 percent. Systemwide, 768 processed forward collection fees would remain unchanged, 350 fees would increase, and 132 fees would decrease.

The forward collection per item fees include tiered pricing for selected check deposit products in twenty Federal Reserve offices. Under a tiered pricing structure, different fees are assessed depending on whether a check is presented to a high-cost or low-cost endpoint in a given check collection zone. The Board approved tiered pricing as a permanent fee structure in the Minneapolis and Kansas City offices in 1986. In January 1991, seven additional offices implemented tiered pricing. In May 1991, the Board adopted modifications to the criteria for offering a tiered pricing structure in the Federal Reserve's check collection service (56 FR 22168, May 14, 1991). The revised criteria are as follows:

(1) Tiered pricing may be applied to deposits in any collection zone, provided clear cost differences exist between groups of checks within that collection zone;

(2) Tiered prices may be used only where they have the potential to provide net savings for a substantial number of depositing institutions or a substantial amount of deposited volume;

(3) A blended per item fee will be offered as an alternative to tiered prices for each deposit category; and

(4) Federal Reserve Banks may offer more than two tiers within a collection zone, provided clear cost differences exist to justify them.

The revised criteria will enable Federal Reserve Banks to set fees that more precisely reflect their costs to collect checks drawn on paying banks within a given check collection zone. These costs are generally based on the location of, and volume of checks presented to, each endpoint.

An additional eleven offices will implement tiered pricing in 1992. All twenty offices implementing 1992 tiered fees meet the Board's criteria of offering a tiered pricing structure. Beginning in 1992, there Reserve Bank offices will automatically assess tiered fees unless the blended fee is requested by the depositor. A tiered pricing structure will be applicable to approximately 30 percent of total Federal Reserve check volume in 1992.

The weighted average increase in returned check fees is 13.7 percent, excluding fine sort, compared to an increase in 1991 fees of 8.9 percent. Of the 848 returned check fees, excluding fine sort, 270 would remain unchanged, 553 would increase, and 25 would decrease. Return item volume is projected to decrease 0.7 percent, with the proportion of total returns that are qualified, rather than deposited as raw returns, increasing slightly from an estimated 90.7 percent in 1991 to 91.4 percent in 1992.

A weighted average fine sort fee increase of 2.5 percent for both forward collection and return items was also approved. Of the fine sort fees, 353 would remain unchanged, 94 would increase, and 24 would decrease. Fine sort volume is projected to decrease 0.2 percent in 1992, compared to an increase of 1.1 percent in 1991.

A new payor bank services fee structure will be fully implemented in all twelve Reserve Bank offices in 1992. The fee structure, approved in June 1990, will result in a uniform approach to pricing of payor bank services, including extended MICR capture and truncation

[2] The Federal Reserve Banks are consolidating their general purpose, mainframe-based data processing at three sites. The proposed special project for automation consolidation will capture the transitional expenses associated with the automation consolidation sites.

services.[3] Seven Reserve Banks implemented the new structure in 1991. The Boston, New York, Philadelphia, Chicago, and San Francisco Reserve Banks will implement the new structure in 1992.

With regard to the Interdistrict Transportation System (ITS), 15 percent of the 4,512 prices would not change from those currently in effect, 33 percent would increase, and 52 percent would decrease. The weighted average ITS weekday fee will increase 15.9 percent, compared to 7.7 percent decrease in weekend fees. ITS fees are charged explicitly to consolidated shippers and are imbedded in the mixed or Other Fed per-item check collection fees charged by Federal Reserve Bank offices. ITS volume is projected to increase approximately 2.5 percent in 1992.

The Board has approved modifying 52 check collection deadlines for 1992. Most deadline changes will extend the current deadlines by times ranging from 15 minutes to 1 hour.

Automated Clearing House (ACH)

Estimated 1991 and projected 1992 cost recovery performance for the commercial ACH service is shown in the following table.

	($ millions)		
	Total cost	Total revenue	Recovery rate
1991.....	58.9	58.8	99.9%
1992.....	64.7	64.8	100.1%

Total 1992 costs do not include the automation consolidation special project, which would reduce the Reserve Banks' 1992 projected recovery rate to 99.4 percent.

The Reserve Banks expect commercial ACH volume to increase 17.6 percent in 1992, which is lower than the estimated 19.7 percent growth rate for 1991. A slower growth rate has been the general trend over the years, as the ACH volume base has grown. ACH unit costs have steadily declined over the past few years, resulting primarily from scale economies and increased automated processing, as depository institutions convert to an electronic environment.

The majority of the 1992 ACH price changes involves nonautomated fees. Although nonelectronic input and output fees have increased in recent years to better reflect the cost of providing these ACH services, current tape and paper fees still do not fully recover the costs incurred. In conjunction with the all-electronic ACH initiative adopted in June 1991, the Board approved a change to the ACH price structure for nonautomated input and output, in which the tape input, nonelectronic delivery, and messenger pickup fees would be replaced by tape input and output and paper output fees. For 1992, the Board has approved a $15.00 fee for tape input and output, and an $8.00 fee for paper output (compared to $4.50 or $5.25 for output or $6.00 for input in 1991). These fees are within the estimated price ranges included in the Board's action on the all-electronic ACH proposal. The Board also has approved an increase in the diskette output fee to $15.00, since the costs to provide this form of output are similar to those for tape output. The Board approved elimination of the $0.75 differential between messenger pickup and courier delivery of output, which penalizes customers that are not located near Reserve Bank offices and thus cannot easily use messenger pickup.

The Board has approved an increase in the off-line telephone-originated return and telephone advice fees (currently $6.00 and $4.00, respectively) to $7.00, and an increase from $4.00 to $5.00 in the fee for commercial returns and notifications of change converted by the Federal Reserve from paper to electronic form. These fees more fully reflect the actual costs of providing these nonelectronic services.

Finally, the Board has approved establishment of a standard national fee of $1.50 for return items and notifications of change that are submitted through a Reserve Bank's voice response system. This service is presently offered by several Reserve Banks, and the fee currently varies by Reserve Bank. All Reserve Banks will implement voice response systems by year-end 1992.

There are no changes to the basic ACH transaction fees. However, since analysis has shown that the additional cost to provide most night cycle payment services is negligible, the Board has approved elimination of the night cycle credit surcharge and the non-value debit surcharge of $0.01. The Board also approved a reduction in the night cycle value debit surcharge from $0.02 to $0.01. In addition to better reflecting the costs and risks of night cycle processing, the Board believes that these fee changes will encourage the use of the night cycle for certain ACH payments.

Funds Transfer and Net Settlement

Estimated 1991 and projected 1992 cost recovery performance for the funds transfer and net settlement service is shown in the following table.

	$ millions	Recovery rate	
		Total cost	Total revenue
1991.....	81.1	79.6	98.2%
1992.....	86.8	87.2	100.4%

The costs in the table do not include the automation consolidation special project, which would reduce the Reserve Banks' 1992 projected recovery rate to 99.5 percent. Total funds transfer costs, including the PSAF, are projected to increase 7.0 percent in 1992. Funds transfer volume is estimated to increase 4.5 percent in 1991 and a 4.8 percent increase is projected in 1992. The Board believes the 1992 forecast is optimistic in light of banking industry consolidations, which may limit the future growth of funds transfers. The unit cost of funds transfer has declined over the past years due to scale economies from automated processing. In 1992, however, projected costs associated with relocating the New York and Dallas Federal Reserve Banks' computer data centers, as well as initiatives to improve contingency backup and reliability, will increase unit costs approximately 4 percent. To recover the projected costs for the funds transfer service in the upcoming year, the Board has approved an increase in the basic transfer fee from $.50 to $.53 in 1962.

In addition, the Board has approved an increase in various fees associated with handling transfers for off-line institutions. The off-line origination surcharge, telephone surcharge, and net settlement telephone advice surcharge (currently $6.00, $4.00, and $4.00, respectively) will be set at $7.00 to better reflect the expense of continuing to provide these labor-intensive services. The fee increases also reflect the cost of the more stringent security procedures recently implemented in response to Article 4A of the Uniform Commercial Code.

Book-Entry Securities

Estimated 1991 and projected 1992 cost recovery performance for the book-

[3] Under the extended MICR capture service, presentment is made to the paying bank by electronic delivery of the MICR-line data. The physical checks are retained by the Federal Reserve Bank office for several days prior to delivery to the paying bank so the Federal Reserve can return those checks that have not been paid, following instructions received from the paying bank. Under the truncation service, presentment to the paying bank is also made by electronic delivery of the MICR-line data, and the Federal Reserve provides return services. Unlike the extended MICR capture service, the physical checks are not delivered to the paying bank, other than on an exception basis under the Federal Reserve's retrieval service.

entry securities service [4] is shown in the following table.

	($ millions)		Recovery rate
	Total cost	Total revenue	
1991	11.6	11.6	100.0%
1992	12.2	12.3	101.1%

The costs do not include the automation consolidation special project, which would reduce the Reserve Banks' 1992 projected recovery rate to 99.9 percent. Book-entry securities on-line origination volume is estimated to increase 9.1 percent in 1991 and is projected to increase 6.4 percent in 1992. Costs are projected to increase approximately 5 percent in 1992; this increase is primarily attributable to costs for development of a new book-entry system, data communication costs, and accounting-related overhead costs, offset by a decrease in automation costs.

The Board has approved a fee increase from $7.00 to $8.50 for off-line transfers originated or received, and for off-line reversals received, that will more accurately reflect the cost of processing off-line securities transfers. The increase also is consistent with Treasury's plans to increase off-line fees for the transfer of Treasury securities. The increased fees also may serve as an incentive to large volume off-line customers to convert to on-line access methods. All other book-entry fees will remain unchanged from their 1991 levels.

Electronic Connections

Fees are charged for electronic connections to the Reserve Banks for Federal Reserve priced services. Cost and revenue associated with electronic access are allocated to the various priced services based on usage.

The 1992 electronic access fees are unchanged from 1991, except for the "gateway" access fee. Gateway is a service by which depository institutions with operations in multiple Federal Reserve districts funnel their data communications traffic through one physical access point, or gateway, to access a single service in multiple Federal Reserve districts. A $100 monthly surcharge per participating district was established for gateway access in 1991. The Board has approved a modification of the surcharge for gateway access to more closely recover the associated costs. The Board has approved a "stair-step" pricing policy, in which the gateway surcharge increases by $25.00 increments, depending on progressive volume thresholds. Under this pricing policy, a $25.00 per district surcharge will apply for every 100,000 ACH or check items, or 20,000 funds transfers, or any combination thereof, transmitted per month via the gateway connection. Each increment of these volume thresholds will result in additional monthly surcharge of $25.00 per district.

Definitive Safekeeping and Noncash Collection

Estimated 1991 and projected 1992 cost recovery performance for the definitive safekeeping and noncash collection service is shown in the following table.

	($ millions)		Recovery rate
	Total cost	Total revenue	
1991	15.4	15.0	97.6%
1992	14.3	13.2	92.3%

There are no 1992 special project costs related to the definitive safekeeping and noncash collection service. Definitive safekeeping and noncash collections costs are estimated to decrease by 3.6 percent in 1991 and are projected to decrease by 7.2 percent in 1992 as the Reserve Banks continue to address volume declines by reducing costs through consolidation of noncash collection processing sites. Definitive safekeeping volume is estimated to decrease 30 percent in 1991 and is projected to decrease 22.4 percent in 1992. Noncash collection volume is estimated to decrease by 14 percent in 1991 and is projected to decrease by 13.6 percent in 1992. Unit costs for this service have been increasing steadily over the past several years. Excluding one-time costs for a new automated system in the Atlanta Reserve Bank, the System recovery rate for the combined service is projected to be 93.2 percent.

For definitive safekeeping, the Board has approved 1992 fee increases for nine districts. The approved 1992 fees range from $18.00 to $40.00 for deposit and withdrawal transactions, including fee increases of $2.00 to $8.00. The 1992 fees for receipts or issues maintained range from $1.70 to $7.20, including fee increases of $.20 to $1.40. For purchases and sales, the fees are $23.00 to $40.00, including fee increases of $2.00 to $5.00. Lastly, the reregistration fees are $11.00 to $40.00, including fee increases of $2.00 to $8.00.

For noncash collection, the Board has approved fee increases for nine districts in 1992. For the collection of local coupons, the approved fees are $2.00 to $5.00, including increases of $.15 to $.55. For the collection of interdistrict coupons, the fees are $4.00 to $6.75, including increases of $.30 to $1.00. The Board has approved add-on fees to the nonmixed deposit product for interdistrict coupons ranging from $3.25 to $6.60, including increases of $.50 to $1.10. For return item processing and collection of matured or called bonds, the fees are $20.00 to $40.00, including fee increases of $2.00 to $6.00. The Board has approved a reduction in the Cleveland Reserve Bank's fee for local coupons submitted by out-of-region customers from $4.50 to $4.25.

Definitive securities volumes have been declining since the mid-1980s because there are virtually no new issues of bearer securities and there is continued immobilization of outstanding definitive securities. Effective January 2, 1991, the Minneapolis Reserve Bank began to consolidate its noncash collection functions at the Federal Reserve Bank of Cleveland and its Twelfth District noncash connection functions [5] at the Federal Reserve Bank of Atlanta (Jacksonville Branch). In July 1991, the Board approved further consolidation of the noncash collection function at the Federal Reserve Banks of Cleveland and Atlanta (Jacksonville Branch), beginning in the fourth quarter of 1991. Effective October 1, 1991, Tenth District noncash collection volume has been processed at the Federal Reserve Bank of Cleveland.[6]

The Reserve Banks have found it increasingly difficult to match costs and revenue in the noncash collection service in light of declining volumes and high fixed costs. The consolidation of the noncash collection service will reduce overall costs and enable Reserve Banks to offer this service nationwide and to recover costs for the foreseeable future. Under consolidation, depository institutions experience little change to the service received because consolidation sites generally charge the same or lower prices and offer the same or improved availability. In the near future, the Board anticipates that it will request public comment on a proposed plan for management of the definitive safekeeping service in future years in

[4] These financial data relate only to book-entry transfers of Government agency securities, which are priced by the Federal Reserve. The U.S. Treasury establishes fees for book-entry transfers of Treasury securities.

[5] Twelfth District noncash collection volumes were consolidated at the Federal Reserve Bank of Minneapolis in 1984.

[6] Tenth District volume from the state of New Mexico is processed at the Federal Reserve Bank of Atlanta (Jacksonville Branch).

light of the changing marketplace and the cost structure for safekeeping of physical securities.

Cash

Special cash services that are priced by the Federal Reserve Banks include cash transportation, coin wrapping, nonstandard packaging of currency orders and deposits, and nonstandard frequency of access to cash services. Estimated 1991 and projected 1992 cost-recovery performance of the special cash priced services is shown in the table below.

[$ millions]

	Total cost ($)	Total revenue ($)	Recovery rate (%)
1991	14.7	15.1	103
1992	15.1	15.4	102

The 1992 prices for special cash services are unchanged from their 1991 levels.

Price and Service Level Changes

The Board has approved a modification of the approval procedures for price and service level changes under which the Board will authorize the Reserve Banks to make, without prior Board review, certain minor price and service level changes that are within specified parameters established by the Board. These categories of price and service level changes are currently approved under delegated authority from the Board to the Director of the Division of Reserve Bank Operations and Payment Systems. This modification of the approval procedures will lower administrative burdens and costs and will permit the Reserve Banks to fine tune services to meet customer needs in a more timely manner. The approved preauthorized categories of 1992 price and several level changes are as follows:

(1) Addition or deletion of an institution from an existing forward collection group sort program, provided that the addition or deletion does not result in an item pass ratio that is supported by a different floor cost;

(2) Deletion of a forward collection group sort where the volume of deposits is very low and the service is not viable;

(3) Addition of a new group sort at the existing fee if the new group sort has a comparable item-pass ratio and deposit deadline to current group sorts;

(4) Improvement of a forward collection or return deposit deadline by one hour or less; and

(5) Addition or deletion of an institution from a check collection price tier.

Competitive Impact Analysis

All operational and legal changes considered by the Board that have a substantial effect on payments system participants are subject to the competitive impact analysis described in the March 1990 policy statement "The Federal Reserve in the Payments System" (55 FR 11648, March 29, 1990). In this analysis, the Board assesses whether the proposed change would have a direct and materials adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services due to differing legal powers or constraints or due to a dominant market position of the Federal Reserve deriving from such legal differences. All operational or legal changes having a substantial effect on payments system participants are subject to a competitive impact analysis. The Board believes that the proposed changes would not have a substantial effect on payments system participants and would not have a direct and material adverse effect on the ability of other service providers to compete effectively with the Federal Reserve in providing similar services.

By order of the Board of Governors of the Federal Reserve System, October 31, 1991.

William W. Wiles,

Secretary of the Board.

TABLE 1—COMPARISON OF PRO FORMA BALANCE SHEETS FOR FEDERAL RESERVE PRICED SERVICES

[millions of dollars—average for year]

	1992	1991
Short-term assets:		
Imputed reserve requirement on clearing balances	$372.0	$244.1
Investment in marketable securities	2,728.0	1,790.4
Receivables[1]	32.7	32.8
Materials and supplies[1]	5.6	8.2
Prepaid expenses[1]	11.2	13.7
Items in process of collection	2,868.1	3,637.5
Total short-term assets	$6,017.6	$5,726.7
Long-term assets:		
Premises [1 2]	341.0	305.3
Furniture and equipment[1]	139.2	146.8
Leasehold improvements and long-term prepayments[1]	33.9	23.9
Capital leases	0.1	0.3
Total long-term assets	514.2	476.3
Total assets	$6,531.8	$6,203.0
Short-term liabilities:		
Clearing balances and balances arising from early credit of uncollected items	3,511.4	2,466.7
Deferred credit items	2,456.7	3,205.3
Short-term debt [3]	49.5	54.7
Total short-term liabilities	$6,017.6	$5,726.7
Long-term liabilities:		
Obligations under capital leases	0.1	0.3
Long-term debt [3]	170.4	154.8
Total long-term liabilities	170.5	155.1
Total liabilities	$6,188.1	$5,881.8
Equity [3]	343.7	321.2
Total liabilities and equity	$6,531.8	$6,203.0

[1] Financed through PSAF; other assets are self-financing.

[2] Includes allocations of Board of Governors' assets to priced services of $0.3 million for 1992 and $0.5 million for 1991.

[3] Imputed figures; represent the source of financing for certain priced services assets.

Note: Details may not add to totals due to rounding.

TABLE 2—DERIVATION OF THE 1992 PSAF

[million of dollars]

A. Assets to be Financed[1]			
Short-term	$ 49.5		
Long-term[2]	514.1		$563.6
B. Weighted Average Cost			
1. Capital Structure[3]			
Short-term Debt	8.8%		
Long-term Debt	30.2%		
Equity	61.0%		

TABLE 2—DERIVATION OF THE 1992 PSAF—Continued

[million of dollars]

2 Financing Rates/Costs[3]			
Short-term Debt	7.9%		
Long-term Debt	9.2%		
Pre-tax Equity[4]	10.7%		
3. Elements of Capital Costs			
Short-term Debt	$ 49.5	× 7.9%	= $ 3.9
Long-term	170.4	× 9.2%	= 15.7
Equity	343.7	× 10.7%	= 36.8
			$ 56.4
C. Other Required PSAF Recoveries			
Sales Taxes	$ 10.2		
Federal Deposit Insurance Assessment	11.4		
Board of Governors Expenses	1.9		$ 23.5
D. Total PSAF Recoveries			$ 79.9
As a percent of capital			14.2%
As a percent of expenses [5]			13.2%

[1] Priced service asset base is based on the direct determination of assets method.
[2] Consists of total long-term assets less capital leases, which are self financing.
[3] All short-term assets are assumed to be financed by short-term debt. Of the total long-term assets, 33 percent are assumed to be financed by long-term debt and 67 percent by equity.
[4] The pre-tax rate of return on equity is based on the average after-tax rate of return on equity, adjusted by the effective tax rate to yield the pre-tax rate of return on equity for each bank holding company for each year. These data are then averaged over five years to yield the pre-tax return on equity for use in the PSAF.
[5] Systemwide 1992 budgeted priced service expenses less shipping are $605.4 million.

TABLE 3—CHANGES BETWEEN 1992 AND 1991 PSAF COMPONENTS

	1992	1991
A. Assets to be Financed (millions of dollars)		
Short-term	$49.5	$54.7
Long-term	514.1	476.0
Total	$563.6	$530.7
B. Cost of Capital		
Short-term Debt Rate	7.9%	8.6%
Long-term Debt Rate	9.2%	9.4%
Pre-tax Return on Equity	10.7%	14.5%
Weighted Average Long-term		
Cost of Capital	10.2%	12.9%
C. Tax Rate	29.4%	30.5%
D. Capital Structure		
Short-term Debt	8.8%	10.3%
Long-term Debt	30.2%	29.2%
Equity	61.0%	60.5%
E. Other Required PSAF Recoveries (millions of dollars).		
Sales Taxes	$10.2	$8.7
Federal Deposit Insurance Assessment	11.4	9.2
Board of Governors Expenses	1.9	2.0
F. Total PSAF		
Required Recovery	$79.9	$85.8
As Percent of Capital	14.2%	16.2%
As Percent of Expenses	13.2%	14.7%

TABLE 4—COMPUTATION OF CAPITAL ADEQUACY FOR FEDERAL RESERVE PRICED SERVICES

[millions of dollars]

	Assets	Risk weight	Weighted assets
Imputed reserve requirement on clearing balances	$372.0	0.0	$0.0
Investment in marketable securities	2,728.0	0.0	0.0
Receivables	32.7	0.2	6.5
Materials and supplies	5.6	1.0	5.6
Prepaid expenses	11.2	1.0	11.2
Items in process of collection	2,868.1	0.2	573.6
Premises	341.0	1.0	341.0
Furniture and equipment	139.2	1.0	139.2
Leases & long-term prepayments	34.0	1.0	34.0
Total	$6,531.8		$1,111.1
Imputed Equity for 1992	$343.7		
Capital to Risk-Weighted Assets	30.9%		

[FR Doc. 91-26714 Filed 11-5-91; 8:45 am]
BILLING CODE 6210-01-M

First National Corporation; Notice of Application to Engage de novo in Permissible Nonbanking Activities

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for

processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 27, 1991.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. First National Corporation, Strasburg, Virginia; to engage *de novo* in investing in community development projects for construction and/or rehabilitating residential housing units to provide housing for low income and/or physically handicapped persons pursuant to § 225.25(b)(6) of the Board's Regulation Y. These activities will be conducted in Frederick County, Virginia.

Board of Governors of the Federal Reserve System, October 31, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-26717 Filed 11-5-91; 8:45 am]

BILLING CODE 6210-01-F

Leachville State Bancshares, Inc., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than November 27, 1991.

A. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Leachville State Bancshares, Inc., Leachville, Arkansas; to acquire 100 percent of the voting shares of Caraway Bancshares, Inc., Caraway, Arkansas, and thereby indirectly acquire Caraway Bank, Caraway, Arkansas.

B. Federal Reserve Bank of Minneapolis (James M. Lyon, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480:

1. Elkton Holding Company, Elkton, South Dakota; to become a bank holding company by acquiring 97 percent of the voting shares of Corn Exchange Bank, Elkton, South Dakota.

Board of Governors of the Federal Reserve System, October 31, 1991.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 91-26718 Filed 11-5-91; 8:45 am]

BILLING CODE 6210-01-F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Alcohol, Drug Abuse, and Mental Health Administration

Current List of Laboratories Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: National Institute on Drug Abuse, ADAMHA, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services notifies Federal agencies of the laboratories currently certified to meet standards of Subpart C of Mandatory Guidelines for Federal Workplace Drug Testing Programs (53 FR 11979, 11986). A similar notice listing all currently certified laboratories will be published during the first week of each month, and updated to include laboratories which subsequently apply for and complete the certification process. If any listed laboratory's certification is totally suspended or revoked, the laboratory will be omitted from updated lists until such time as it is restored to full certification under the Guidelines.

FOR FURTHER INFORMATION CONTACT: Denise L. Goss, Program Assistant, Drug Testing Section, Division of Applied Research, National Institute on Drug Abuse, room 9-A-53, 5600 Fishers Lane, Rockville, Maryland 20857; tel.: (301)443-6014.

SUPPLEMENTARY INFORMATION: Mandatory Guidelines for Federal Workplace Drug Testing were developed in accordance with Executive Order 12564 and section 503 of Public Law 100-71. Subpart C of the Guidelines, "Certification of Laboratories Engaged in Urine Drug Testing for Federal Agencies," sets strict standards which laboratories must meet in order to conduct urine drug testing for Federal agencies. To become certified an applicant laboratory must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification a laboratory must participate in an every-other-month performance testing program plus periodic, onsite inspections.

Laboratories which claim to be in the applicant stage of NIDA certification are not to be considered as meeting the minimum requirements expressed in the NIDA Guidelines. A laboratory must have its letter of certification from HHS/NIDA which attests that it has met minimum standards.

In accordance with subpart C of the Guidelines, the following laboratories meet the minimum standards set forth in the Guidelines:

AccuTox Analytical Laboratory, 427 Fifth Avenue, NW., Attalla, AL 35954-0770, 205-538-0012

Aegis Analytical Laboratories, Inc., 624 Grassmere Park Road, Suite 21, Nashville, TN 37211, 615-331-5300

Alpha Medical Laboratory, Inc., 405 Alderson Street, Schofield, WI 54476, 800-627-8200

American Medical Laboratories, Inc., 11091 Main Street, P.O. Box 188, Fairfax, VA 22030, 703-691-9100

Associated Pathologists Laboratories, Inc., 4230 South Burnham Avenue, Suite 250, Las Vegas, NV 89119-5412, 702-733-7866

Associated Regional and University Pathologists, Inc. (ARUP), 500 Chipeta

Way, Salt Lake City UT 84108, 801–583–2787
Bayshore Clinical Laboratory, 4555 W. Schroeder Drive, Brown Deer, WI 53223, 414–355–4444/800–877–7016
Bellin Hospital-Toxicology Laboratory, 2789 Allied Street, Green Bay, WI 54304, 414–496–2487
Bioran Medical Laboratory, 415 Massachusetts Avenue, Cambridge, MA 02139, 617–547–8900
Cedars Medical Center, Department of Pathology, 1400 Northwest 12th Avenue, Miami, FL 33136, 305–325–5810
Center for Human Toxicology, 417 Wakara Way-Room 290, University Research Park, Salt Lake City, UT 84108, 801–581–5117
Columbia Biomedical Laboratory, Inc., 4700 Forest Drive, Suite 200, Columbia, SC 29206, 800–848–4245/803–782–2700
Clinical Pathology Facility, Inc., 711 Bingham Street, Pittsburgh, PA 15203, 412–488–7500
Clinical Reference Lab, 11850 West 85th Street, Lenexa, KS 66214, 800–445–6917
CompuChem Laboratories, Inc., 3308 Chapel Hill/Nelson Hwy., P.O. Box 12652, Research Triangle Park, NC 27709, 919–549–826/800–833–3984
Damon Clinical Laboratories, 140 East Ryan Road, Oak Creek, WI 53154, 800–365–3840 (name changed: formerly Chem-Bio Corporation; CBC Clinilab)
Damon Clinical Laboratories, 8300 Esters Blvd., Suite 900, Irving, TX 75063, 214–929–0535
Doctors & Physicians Laboratory, 801 East Dixie Avenue, Leesburg, FL 32748, 904–787–9006
Drug Labs of Texas, 15201 I 10 East, Suite 125, Channelview, TX 77530, 713–457–3784
DrugScan, Inc., P.O. Box 2969, 1119 Mearns Road, Warminster, PA 18974, 215–674–9310
Eagle Forensic Laboratory, Inc., 950 North Federal Highway, Suite 308, Pompano Beach, FL 33062, 305–946–4324
Eastern Laboratories, Ltd., 95 Seaview Boulevard, Port Washington, NY 11050, 516–625–9800
ElSohly Laboratories, Inc., 1215½ Jackson Ave., Oxford, MS 38655, 601–236–2609
General Medical Laboratories, 36 South Brooks Street, Madison, WI 53715, 608–267–6267
Laboratory of Pathology of Seattle, Inc., 1229 Madison St., Suite 500, Nordstrom Medical Tower, Seattle, WA 98104, 206–386–2672
Laboratory Specialists, Inc., 113 Jarrell Drive, Belle Chasse, LA 70037, 504–392–7961
Mayo Medical Laboratories, 200 SW. First Street, Rochester, MN 55905, 800–533–1710/507–284–3631
Med-Chek Laboratories, Inc., 4900 Perry Highway, Pittsburgh, PA 15229, 412–931–7200
MedExpress/National Laboratory Center, 4022 Willow Lake Boulevard, Memphis, TN 38175, 901–795–1515
MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 9176 Independence Avenue, Chatsworth, CA 91311, 818–718–0115/800–331–8670 (outside CA)/800–464–7081 (CA only) (name changed: formerly Laboratory Specialists, Inc., Abused Drug Laboratories)
MedTox Bio-Analytical, a Division of MedTox Laboratories, Inc., 2356 North Lincoln Avenue, Chicago, IL 60614, 312–880–6900
MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 612–636–7466/800–832–3244
Mental Health Complex Laboratories, 9455 Watertown Plank Road, Milwaukee, WI 53226, 414–257–7439
Methodist Medical Center Toxicology Laboratory, 221 NE. Glen Oak Avenue, Peoria, IL 61636, 800–752–1835/309–671–5199
MetPath, Inc., 1355 Mittel Boulevard, Wood Dale, IL 60191, 708–595–3888
MetPath, Inc., One Malcolm Avenue, Teterboro, NJ 07608, 201–393–5000
MetWest-BPL Toxicology Laboratory, 18700 Oxnard Street, Tarzana, CA 91356, 800–492–0800/818–343–8191
National Center for Forensic Science, 1901 Sulphur Spring Road, Baltimore, MD 21227, 301–247–9100 (name changed: formerly Maryland Medical Laboratory, Inc.)
National Drug Assessment Corporation, 5419 South Western, Oklahoma City, OK 73109, 800–749–3784 (name changed: formerly Med Arts Lab)
National Health Laboratories Incorporated, 13900 Park Center Road, Herndon, VA 22071, 703–742–3100/800–572–3734 (inside VA)/800–336–0391(outside VA)
National Health Laboratories Incorporated, d.b.a. National Reference Laboratory, Substance Abuse Division, 1400 Donelson Pike, Suite A–15, Nashville, TN 37217, 615–360–3992/800–800–4522
National Health Laboratories Incorporated, 2540 Empire Drive, Winston-Salem, NC 27103–6710, 919–760–4620/800–334–8627 (outside NC)/800–642–0894 (NC only)
National Psychopharmacology Laboratory, Inc., 9320 Park W. Boulevard, Knoxville, TN 37923, 800–251–9492
National Toxicology Laboratories, Inc., 1100 California Avenue, Bakersfield, CA 93304, 805–322–4250
Nichols Institute Substance Abuse Testing (NISAT), 8985 Balboa Avenue, San Diego, CA 92123, 800–446–4728/619–694–5050; (name changed: formerly Nichols Institute)
Northwest Toxicology, Inc., 1141 E. 3900 South, Salt Lake City, UT 84124, 800–322–3361
Oregon Medical Laboratories, P.O. Box 972, 722 East 11th Avenue, Eugene, OR 97440–0972, 503–687–2134
Parke DeWatt Laboratories, Division of Comprehensive Medical Systems, Inc., 1810 Frontage Rd., Northbrook, IL 60062, 708–480–4680
Pathlab, Inc., 16 Concord, El Paso, TX 79906, 800–999–7284
Pathology Associates Medical Laboratories, East 11604 Indiana, Spokane, WA 99206, 509–926–2400
PDLA, Inc., 100 Corporate Court, So. Plainfield, NJ 07080, 201–769–8500
PharmChem Laboratories, Inc., 1505–A O'Brien Drive, Menlo Park, CA 94025, 415–328–6200/800–446–5177
Poisonlab, Inc., 7272 Clairemont Mesa Road, San Diego, CA 92111, 619–279–2600
Precision Analytical Laboratories, Inc., 13300 Blanco Road, Suite #150, San Antonio, TX 78216, 512–493–3211
Regional Toxicology Services, 15305 N.E. 40th Street, Redmond, WA 98052, 206–882–3400
Roche Biomedical Laboratories, 1801 First Avenue South, Birmingham, AL 35233, 205–581–3537
Roche Biomedical Laboratories, 1957 Lakeside Parkway, Suite 542, Tucker, GA 30084, 404–939–4811
Roche Biomedical Laboratories, Inc., 1912 Alexander Drive, P.O. Box 13973, Research Triangle Park, NC 27709, 919–361–7770
Roche Biomedical Laboratories, Inc., 69 First Avenue, Raritan, NJ 08869, 800–437–4986
Roche Biomedical Laboratories, 6370 Wilcox Road, Dublin, OH 43017, 614–889–1061
Roche Biomedical Laboratories, Inc., 1120 Stateline Road, Southaven, MS 38671, 601–342–1286
S.E.D. Medical Laboratories, 500 Walter NE Suite 500, Albuquerque, NM 87102, 505–848–8800
Sierra Nevada Laboratories, Inc., 888 Willow Street, Reno, NV 89502, 800–648–5472
SmithKline Beecham Clinical Laboratories, 7600 Tyrone Avenue, Van Nuys, CA 91045, 818–376–2520
SmithKline Beecham Clinical Laboratories, 3175 Presidential Drive, Atlanta, GA 30340, 404–934–9205; (name changed: formerly SmithKline Bio-Science Laboratories)

SmithKline Beecham Clinical Laboratories, 506 E. State Parkway, Schaumburg, IL 60173, 708–885–2010; (name changed: formerly International Toxicology Laboratories)
SmithKline Beecham Clinical Laboratories, 11636 Administration Drive, St. Louis, MO 63146, 314–567–3905
SmithKline Beecham Clinical Laboratories, 400 Egypt Road, Norristown, PA 19403, 800–523–5447; (name changed: formerly SmithKline Bio-Science Laboratories)
SmithKline Beecham Clinical Laboratories, 8000 Sovereign Row, Dallas, TX 75247, 214–638–1301; (name changed: formerly SmithKline Bio-Science Laboratories)
South Bend Medical Foundation, Inc., 530 North Lafayette Boulevard, South Bend, IN 46601, 219–234–4176
Southgate Medical Laboratory, Inc., 21100 Southgate Park Boulevard, 2nd Floor, Maple Heights, OH 44137, 800–338–0166 outside OH/800–362–8913 inside OH
St. Anthony Hospital (Toxicology Laboratory), P.O. Box 205, 1000 North Lee Street, Oklahoma City, OK 73102, 405–272–7052
St. Louis University Forensic Toxicology Laboratory, 1205 Carr Lane, St. Louis, MO 63104, 314–577–8628
Toxicology & Drug Monitoring Laboratory, University of Missouri Hospital & Clinics, 301 Business Loop 70 West, Suite 208, Columbia, MO 65203, 314–882–1273
Toxicology Testing Service, Inc., 5426 N.W. 79th Avenue, Miami, FL 33166, 305–593–2260

Charles R. Schuster,

Director, National Institute on Drug Abuse.

[FR Doc. 91–26857 Filed 11–5–91; 8:45 am]

BILLING CODE 4160–20–M

Food and Drug Administration

[Docket No. 91N–0444]

Animal Drug Export; IVOMEC® Premix (Ivermectin) for Swine

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Merck Sharp & Dohme Research Laboratories has filed an application requesting approval for export of the animal drug IVOMEC® Premix (ivermectin) for Swine to the Netherlands to be repackaged and re-exported to the United Kingdom for sale in Ireland.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Drive, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of food animal drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person below.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–295–8646.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Merck Sharp & Dohme Research Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065, has filed an application requesting approval for export of the animal drug IVOMEC® Premix (ivermectin) for Swine to the Netherlands to be repackaged and re-exported to the United Kingdom for sale in Ireland. The product is intended for use in swine, feed for the treatment and control of swine parasites. The application was received and filed in the Center for Veterinary Medicine on October 10, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 am. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 18, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.44).

Dated: October 30, 1991.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 91–26798 Filed 11–5–91; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 91N–0443]

Animal Drug Export; IVOMEC® Premix (Ivermectin) for Swine

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Merck Sharp & Dohme Research Laboratories has filed an application requesting approval for export of the animal drug IVOMEC® Premix (ivermectin) for Swine to the Netherlands to be repackaged and re-exported to the United Kingdom.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 1–23, 12420 Parklawn Drive, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of food animal drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person below.

FOR FURTHER INFORMATION CONTACT: Benjamin A. Puyot, Center for Veterinary Medicine (HFV-130), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20846, 301–295–8646.

SUPPLEMENTARY INFORMATION: The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B)

have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Merck Sharp & Dohme Reseach Laboratories, Division of Merck & Co., Inc., Rahway, NJ 07065, has filed an application requesting approval for export of the animal drug IVOMEC® Premix (ivermectin) to the Netherlands to be repackaged and re-exported to the United Kingdom. The product is intended for use in swine feed for the treatment and control of swine parasites. The application was received and filed in the Center for Veterinary Medicine on October 10, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this documents. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 18, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Veterinary Medicine (21 CFR 5.44).

Dated: October 30, 1991.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 91-26799 Filed 11-5-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91F-0390]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of C_7-C_9 branched alkyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant in lubricants that have incidental food contact.

FOR FURTHER INFORMATION CONTACT: Mitchell Cheeseman, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 1B4290) has been filed by Ciba-Geigy Corp., Seven Skyline Dr., Hawthorne, NY 10532-2188. The petition proposes to amend § 178.3570 Lubricants with incidental food contact (21 CFR 178.3570) to provide for the safe use of C_7-C_9-branched alkyl 3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate as an antioxidant for use in lubricants that have incidental contact with food.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 24, 1991.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-26800 Filed 11-5-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91F-0392]

Phoenix Medical Technology, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Phoenix Medical Technology, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2,4,4'-trichloro-2-hydroxydiphenyl ether as an antimicrobial agent in the manufacture of polyvinyl chloride gloves for food-contact use.

FOR FURTHER INFORMATION CONTACT: Julius Smith, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (Sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 1B4273) has been filed by Phoenix Medical Technology, Inc., P.O. Box 346, Andrews, SC 29510. The petition proposes to amend the food additive regulations to provide for the safe use of 2,4,4'-trichloro-2-hydroxydiphenyl ether as an antimicrobial agent in the manufacture of polyvinyl chloride gloves for food-contact use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 24, 1991.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-26801 Filed 11-6-91; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 91F-0389]

Quantum Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Quantum Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for an alternate method of determining the maximum extractable fraction of the polyolefins in *n*-hexane.

FOR FURTHER INFORMATION CONTACT: Daniel N. Harrison, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 1B4291) has been filed by Quantum Chemical Corp., USI Division, 8805 North Tabler Rd., Morris, IL 60450. The petition proposes to amend the food additive regulations in § 177.1520 *Olefin polymers* (21 CFR 177.1520) to provide for an alternate method of determining the maximum extractable fraction of the polyolefins in *n*-hexane.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: October 24, 1991.

Douglas L. Archer,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 91-26802 Filed 11-5-91; 8:45 am]

BILLING CODE 4160-01-M

Health Resources and Services Administration

Filing of Annual Report of Federal Advisory Committee

Notice is hereby given that pursuant to section 13 of Public Law 92-463, the Annual Report for the following Health Resources and Service Administration's Federal Advisory Committee has been filed with the Library of Congress:

HRSA AIDS Advisory Committee

Copies are available to the public for inspection at the Library of Congress Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue SE., Washington, DC, or weekdays between 9:00 a.m. and 4:30 p.m. at the Department of Health and Human Services, Department Library, HHS North Building, room G-619, 330 Independence Avenue SW., Washington, DC, telephone (202) 619-0791. Copies may be obtained from: Dr. Samuel C. Matheny, M.D., M.P.H., Executive Secretary, HRSA AIDS Advisory Committee, Room 14A-21, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443-4588.

Date: November 1, 1991.

Jackie E. Baum,

Advisory Committee Management Officer, HRSA.

[FR Doc. 91-26803 Filed 11-5-91; 8:45 am]

BILLING CODE 4160-15-M

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Meeting, National Diabetes Advisory Board

Pursuant to Public Law 92-463, notice is hereby given of the National Diabetes Advisory Board's meeting date which will be December 9-10, 1991. The Board will meet at the Crystal City Marriott in Arlington, Virginia. On December 9, the Board will sponsor a workshop on Obesity and Diabetes from approximately 8:30 a.m. to 4:30 p.m. On December 10, the Board will meet to discuss the 1992 Annual Report and future activities of the Board from 8 a.m. until approximately 3:30 p.m. Although the entire meeting will be open to the public, attendance will be limited to space available.

For any further information, please contact Mr. Raymond M. Kuehne, Executive Director, National Diabetes Advisory Board, 1801 Rockville Pike, Suite 500, Rockville, Maryland 20852, (301) 496-6045. His office will provide, for example, a membership roster of the Board and an agenda and summaries of the actual meetings.

Dated: November 1, 1991.

Raymond Bahor,

Acting Committee Management Officer, NIH.

[FR Doc. 91-26791 Filed 11-5-91; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Minority Biomedical Research Support Review Subcommittee, National Institute of General Medical Sciences, November 14-15, 1991, Building 31C, Conference 9, National Institutes of Health which was published in the **Federal Register** on October 21, (56 FR 52554).

This committee was to have convened for 8:30 a.m. on November 14 and 15, but has been changed to 8:30 a.m. on December 9 and 10.

The committee was scheduled to meet in Building 31C, Conference Room 9, National Institutes of Health, but will now meet at the Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland.

Dated: November 1, 1991.

Raymond Bahor,

Acting Committee Management Officer, NIH.

[FR Doc. 91-26792 Filed 11-5-91; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Cellular and Molecular Basis of Disease Review Committee, National Institute of General Medical Sciences, which was published in the **Federal Register** on October 21, (56 FR 52554).

This Committee was scheduled to meet at the Hyatt Regency Hotel, One Bethesda Metro Center, Bethesda, Maryland, but will not meet in Building 31C, Conference Room 9, National Institutes of Health, Bethesda, Maryland.

Dated: November 1, 1991.

Raymond Bahor,

Acting Committee Management Officer, NIH.

[FR Doc. 91-26793 Filed 11-5-91; 8:45 am]

BILLING CODE 4140-01-M

National Institute of General Medical Sciences; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Minority Access to Research Careers Review Subcommittee, National Institute of General Medical Sciences, which was published in the **Federal Register** on October 21, (56 FR 52554).

This Committee was scheduled to meet at the Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland, but will now meet at the Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Maryland.

Dated: November 1, 1991.

Raymond Bahor,

Acting Committee Management Officer, NIH.

[FR Doc. 91-26794 Filed 11-5-91; 8:45 am]

BILLING CODE 4140-01-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

[Docket No. N-91-3237; FR-3013-N-03]

Funding Awards Under the Moderate Rehabilitation Program for Single Room Occupancy Dwellings for Homeless Individuals

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Announcement of funding awards.

SUMMARY: Under section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for rent assistance funds for Single Room Occupancy (SRO) Dwellings for Homeless Individuals. This announcement contains the names of

the award winners and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: Madeline Hastings, Moderate Rehabilitation Division, room 3201, Department of Housing and Urban Development, 470 East L'Enfant Plaza, SW., Washington, DC 20024, telephone (202) 755-4969. Hearing-or-speech-impaired individuals may call HUD's TDD number (202) 708-4594. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION: The purpose of the section 8 Moderate Rehabilitation Program for Single Room Occupancy (SRO) Dwellings for homeless individuals is to provide rental assistance to homeless individuals in rehabilitated SRO housing. The assistance is in the form of rental assistance under the section 8 Housing Assistance Payments Program. These payments equal the rent for the unit, including utilities, minus the portion of the rent payable by the tenant under the U.S. Housing Act of 1937. HUD will make the assistance available for 10 years.

Under the program HUD enters into annual contributions contracts (ACCs) with public housing agencies (PHAs) in connection with the moderate rehabilitation of residential properties in which some or all of the dwelling units may not contain either food preparation or sanitary facilities. Each of these single room occupancy (SRO) units is intended for occupancy by an eligible homeless individual.

This program is authorized by section 441 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401), amended by the Stewart B. McKinney Homeless Assistance Act of 1988 (Pub. L. 100-628, approved November 7, 1988). On November 7, 1989, the Department published a final rule at 54 FR 46828, which sets forth at 24 CFR part 882, subpart H, the regulations for this program. The funding awards herein announced are being made pursuant to a Notice of Funding Availability (NOFA) for fiscal year 1991 published in the **Federal Register** on May 23, 1991. (56 FR 23738).

A total of approximately $104 million—10.4 million a year for 10 years—is being awarded to 34 public housing authorities through out the country. The funds will support 48 projects containing 2,206 single room occupancy units of housing for homeless individuals:

The list of funded projects is as follows:

Location	No. of units	Budget authority ($)
Mountain Home, AR	16	424,320
Tucson, AZ	8	339,840
Los Angeles, CA	95	5,494,800
San Francisco, CA	10	690,000
Denver, CO	88	3,157,440
New Haven, CT	80	4,348,800
Washington, DC (2 projects)	106	5,851,200
Chicago, IL	66	3,144,240
Baltimore, MD	76	3,137,280
Boston, MA (7 projects)	167	10,961,880
Cambridge, MA	10	656,400
Gloucester, MA	22	1,272,480
Lawrence, MA	75	4,086,000
Lynn, MA	32	2,100,480
Northampton, MA	11	529,320
Worcester, MA	47	2,154,480
Reno, NV	80	4,742,400
Paterson, NJ	100	6,384,000
Trenton, NJ	100	5,400,000
Lewisboro, NY	8	451,200
New York, NY (3 projects)	147	6,932,520
Olean, NY	22	675,840
Rochester, NY	38	1,577,760
Schenectady, NY	8	309,120
Dayton, OH	96	2,960,640
Lima, OH	66	2,043,360
Philadelphia, PA	80	3,523,200
Pawtucket, RI	30	1,270,800
Providence, RI (2 projects)	95	4,377,600
Spartanburg, SC	14	403,200
Dallas, TX	61	2,430,240
El Paso, TX	39	1,184,040
Fort Worth, TX	32	1,125,120
Houston, TX	64	2,073,600
Ogden, UT	86	2,672,880
Seattle, WA	39	1,750,320
Spokane, WA	76	2,635,680
Casper, WY	16	725,760
Totals	2,206	103,998,240

Dated: October 30, 1991.

Michael B. Janis,

General Deputy Assistant Secretary for Public and Indian Housing.

[FR Doc. 91-26735 Filed 11-5-91; 8:45 am]

BILLING CODE 4210-33-M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

White House Conference on Indian Education Advisory Committee

AGENCY: Office of Secretary, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed schedule of the forthcoming meeting of the White House Conference on Indian Education Advisory Committee. Notice of this meeting is required under section 10(a)(2) of the

Federal Advisory Committee Act. The White House Conference on Indian Education Advisory Committee is established by Public Law 100-297, Part E. The Committee is established to assist and advise the Task Force in the planning and conducting the conference.

DATE, TIME AND PLACE: November 21, 1991 at 9 a.m. to 5 p.m. and November 22, 1991, at 9 a.m. to 5 p.m. at the Albuquerque Hilton Hotel, 1901 University Boulevard NE., Albuquerque, New Mexico 87102.

FOR FURTHER INFORMATION CONTACT: Dr. Benjamin Atencio, Deputy Director, White House Conference on Indian Education, U.S. Department of the Interior, 1849 C St., NW., MS 7026-MIB, Washington, DC 20240; telephone 202-208-7167; fax 203-4868.

AGENDA: The Advisory Committee for the White House Conference on Indian Education will discuss and advise the Task Force on aspects of the Conference and actions which are necessary for the conduct of the Conference. Summary minutes of the meeting will be made available upon request. The meeting of the Advisory Committee will be open the public.

Items to be discussed: Pre-Conference activities and State Reports; Indian Nations-at-Risk Report status; Subcommittee activities; Conference structure, agenda, and content; and the Working Document of the State Reports; and other related items.

Dated: November 1, 1991.

Mark Stephenson,

Assistant to the Secretary and Director of Communication.

[FR Doc. 91-26715 Filed 11-5-91; 8:45 am]

BILLING CODE 4310-RK-M

Bureau of Land Management

[ID-942-02-4730-12]

Idaho: Filing of Plats of Survey; Idaho

The plat of the following described land will be officially filed in the Idaho State Office, Bureau of Land Management, Boise, Idaho, effective 9 a.m., December 10, 1991.

The plat representing the dependent resurvey of portions of the east boundary, subdivisional lines, and the 1893 meander line of the right bank of the Kootenai River, an informative traverse of the 1991 right bank of the Kootenai River, and the survey of an island in the Kootenai River, T. 62 N., R.1 E., Boise Meridian, Idaho, Group No. 787, was accepted, October 21, 1991.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

All inquiries and/or protests concerning the technical aspects of the survey of the above described land must be sent to the Chief, Branch of Cadastral Survey, Idaho State Office, Bureau of Land Management, 3380 American Terrance, Boise, Idaho 83706.

Dated: October 24, 1991.

Gary T. Oviatt,

Acting Chief Cadastral Surveyor for Idaho.

[FR Doc. 91-26679 Filed 11-5-91; 8:45 am]

BILLING CODE 4310-GG-M

National Park Service

Intent To Prepare a General Management Plan and Environmental Statement for Petroglyph National Monument; New Mexico

AGENCY: National Park Service, Interior.

ACTION: Notice of Intent to prepare a General Management Plan and Environmental Impact Statement for Petroglyph National Monument, New Mexico.

SUMMARY: The National Park Service, in cooperation with the City of Albuquerque and the State of New Mexico, will prepare a General Management Plan (GMP) and an Environmental Impact Statement (EIS) for Petroglyph National Monument, Bernalillo County, New Mexico, in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969 and Public Law 101-313. Congress authorized the establishment of Petroglyph National Monument along Albuquerque's West Mesa when it enacted Public Law 101-313 on June 27, 1990. The monument's 7,161 acres contains more than 15,000 documented prehistoric and historic petroglyphs and more than 65 archeological sites. This is the first National Park System unit specifically established for the protection and interpretation of rock art.

The GMP/EIS will be prepared by an interagency and interdisciplinary planning team composed of representatives from the National Park Service, the State of New Mexico and the City of Albuquerque.

The GMP will establish the overall direction for the monument, indicating broad goals and objectives for managing the area over the next 10 to 15 years. It will address resource protection, visitor and interpretation programs, public access, facility needs, research opportunities, and boundary adjustments, among other topics. The GMP/EIS will examine a range of alternatives for managing the monument and assess the environmental impacts of the alternatives.

To assist the planning team in preparing the GMP/EIS, interested and affected government agencies, businesses, groups, and individuals are encouraged to participate throughout the planning process. The planning team will work closely with the Petroglyph National Monument Advisory Commission, American Indian tribes, heirs of the Atrisco Land Grant, service organizations, businesses, public interest groups, neighborhood associations, and local news media to keep the public informed throughout the planning process.

A newsletter will be issued in November 1991, that will describe the planning process and schedule. The newsletter will also include a discussion of the city/state/federal partnership that will prepare the plan and manage the monument, and the purpose, significant resources, and possible desired futures or goals for the monument. A prepaid resource form will be included in the newsletter for the general public to express their views on the vision and long-term goals for the monument and to identify issues to be addressed in the GMP/EIS.

There will be two public open houses to discuss the planning process and solicit input on issues to be addressed by the GMP/EIS. The open houses will be on November 20 and 21, 1991, at the Harrison Middle School and the Madonna Retreat Center, respectively, from 4 p.m. to 8 p.m. each afternoon and evening.

As part of the scoping process, the public is encouraged to send written comments and suggestions concerning preparation of the GMP/EIS, by January 6, 1992, to: Mr. Lawrence Beal, Chief of Planning, Petroglyph National Monument, P.O. Box 1293, Albuquerque, New Mexico 87103.

FOR FURTHER INFORMATION: Contact Mr. Lawrence Beal at the above address or call (505) 768-3316.

Dated: October 28, 1991.

John E. Cook,

Regional Director, Southwest Region.

[FR Doc. 91-26763 Filed 11-5-91; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Board for International Food and Agricultural Development and Economic Cooperation; Meeting

Pursuant to the provisions of the Federal Advisory Committee Act, notice is hereby given of the One Hundred and Eighth Meeting of the Board for International Food and Agricultural Development and Economic Cooperation (BIFADEC) on December 5, 1991, from 1:30 p.m. to 5 p.m., and on December 6, 1991, from 8:30 a.m. to 12 noon.

The purposes of the meeting are: (1) To consider Board action on the report and recommendations of the BIFADEC Task Force on the University Center Program; (2) to consider specific recommendations on the proposed sub-committee structure for the expanded mandate of BIFADEC; (3) to consider plans for the next phase of the University Development Linkage Programs; and (4) to discuss cooperation between the universities and private enterprise in developing countries.

Both sessions will be held in Main State Department Building in room 1105. Any interested person may attend and may present oral statements in accordance with procedures established by the Board and to the extent time available for the meeting permits.

All persons, visitors and employees, are required to wear proper identification at all times while in the Department of State building. Please let the BIFADEC Staff know (at tel. no. 202–663–2775) that you expect to attend the meeting and on which days. Provide your full name, name of employing company or organization, address and telephone number not later than November 26, 1991. A BIFADEC Staff Member will meet you at the Department of State Diplomatic Entrance at C and 22d Streets with your Visitor's Pass.

C. Stuart Callison, Deputy Executive Director, Agency Center for University Cooperation in Development, Bureau for Research and Development, Agency for International Development will be the A.I.D. Advisory Committee Representative at this Meeting. Those desiring further information may write to Dr. Callison, in care of the Agency for International Development, room 600, SA 2, Washington, DC 20523, or telephone him on (202) 663–2585.

Dated: October 31, 1991.

Ralph H. Smuckler,

Executive Director, Agency Center for University Cooperation in Development.

[FR Doc. 91–26703 Filed 11–5–91; 8:45 am]

BILLING CODE 6116–01–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–518 (Final)]

Aspherical Ophthalmoscopy Lenses From Japan

AGENCY: United States International Trade Commission.

ACTION: Institution and scheduling of a final antidumping investigation.

SUMMARY: The Commission hereby gives notice of the institution of final antidumping investigation No. 731–TA–518 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the act) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Japan of hand-held aspherical indirect ophthalmoscopy lenses, provided for in subheading 9018.50.00 of the Harmonized Tariff Schedule of the United States.

For further information concerning the conduct of this investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

EFFECTIVE DATE: October 15, 1991.

FOR FURTHER INFORMATION CONTACT: Olympia DeRosa Hand (202–205–3102), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

SUPPLEMENTARY INFORMATION:

Background. This investigation is being instituted as a result of an affirmative preliminary determination by the Department of Commerce that imports of aspherical ophthalmoscopy lenses from Japan are being sold in the United States at less than fair value within the meaning of section 733 of the act (19 U.S.C. 1673b). The investigation was requested in a petition filed on April 30, 1991, by Volk Optical, Inc., Mentor, OH.

Participation in the investigation and public service list. Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, not later than twenty-one (21) days after publication of this notice in the **Federal Register.** The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list. Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this final investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than twenty-one (21) days after the publication of this notice in the **Federal Register.** A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff report. The prehearing staff report in this investigation will be placed in the nonpublic record on January 13, 1992, and a public version will be issued thereafter, pursuant to § 207.21 of the Commission's rules.

Hearing. The Commission will hold a hearing in connection with this investigation beginning at 9:30 a.m. on January 28, 1992, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before January 21, 1992. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on January 24, 1992, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by §§ 201.6(b)(2), 201.13(f), and 207.23(b) of the Commission's rules.

Written submissions. Each party is encouraged to submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of § 207.22 of the Commission's rules; the

deadline for filing is January 23, 1992. Parties may also file written testimony in connection with their presentation at the hearing, as provided in § 207.23(b) of the Commission's rules, and posthearing briefs, which must conform with the provisions of § 207.24 of the Commission's rules. The deadline for filing posthearing briefs is February 5, 1992; witness testimony must be filed no later than three (3) days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation on or before February 5, 1992. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.20 of the Commission's rules.

Issued: November 1, 1991.

By order of the Commission.

Edward G. Carroll,

Acting Secretary.

[FR Doc. 91-26788 Filed 11-5-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-312 (Preliminary)]

Softwood Lumber from Canada

AGENCY: International Trade Commission.

ACTION: Institution and scheduling of a preliminary countervailing duty investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-312 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1271b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of softwood lumber,[1] provided for in subheadings 4407.10.00, 4409.10.10, 4409.10.20, and 4409.10.90 of the Harmonized Tariff Schedule of the United States, that are alleged to be subsidized by the Government of Canada. The Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by December 16, 1991.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: October 31, 1991.

FOR FURTHER INFORMATION CONTACT: Jim McClure (202-205-3191), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to notification from the Department of Commerce, on October 31, 1991, that it is self-initiating a countervailing duty investigation on the subject products.

Participation in the investigation and public service list

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in §§ 201.11 and 207.10 of the Commission's rules, not later than seven (7) days after publication of this notice in the **Federal Register**. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this preliminary investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made not later than seven (7) days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on November 21, 1991, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Jim McClure (202-205-3191) not later than November 18, 1991, to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written submissions

As provided in §§ 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 27, 1991, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three (3) days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of §§ 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with §§ 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a

[1] For purposes of this investigation, "softwood lumber" means coniferous wood sawn or chipped lengthwise, sliced or peeled, whether or not planed, sanded or finger-jointed, of a thickness exceeding 6 mm, provided for in subheading 4407.10.00 of the Harmonized Tariff Schedule (HTS) of the United States; and coniferous wood siding, flooring and other goods (except coniferous wood moldings and wood dowel rods; but including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rabbeted, chamfered, V-jointed, beaded, molded, rounded or the like) along any of its edges or faces, whether or not planed, sanded or finger-jointed, provided for in HTS subheadings 4409.10.10, 4409.10.20 and 4409.10.90.

certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to section 207.12 of the Commission's rules.

Issued: October 31, 1991.

By order of the Commission.

Edward Carroll,

Acting Secretary.

[FR Doc. 91-26760 Filed 11-5-91; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-305 and 731-TA-478 and 480 through 482 (Final)]

Steel Wire Rope From India, the People's Republic of China, Taiwan, and Thailand

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission unanimously determines, pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)) (the Act), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by imports from India of steel wire rope,[2] provided for in subheading 7312.10.90 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be subsidized by the Government of India. The Commission also unanimously determines, pursuant to section 735(b) of the Act (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from India, the People's Republic of China, Taiwan, and Thailand of steel wire rope, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

Following a preliminary determination by the Department of Commerce that imports of steel wire rope from India are being subsidized by the Government of India within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)), the Commission instituted its final countervailing duty investigation effective February 4, 1991. The Commission also instituted final antidumping investigations effective April 18, 1991, following preliminary determinations by the Department of Commerce that imports of steel wire rope from India, the People's Republic of China, Taiwan, and Thailand 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 investigations 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 1, 1991 (56 FR 20024). The hearing was held in Washington, DC, on July 9, 1991, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on October 25, 1991. The views of the Commission are contained in USITC Publication 2442 (October 1991), entitled "Steel Wire Rope from India, the People's Republic of China, Taiwan, and Thailand: Determinations of the Commission in Investigations Nos. 701-TA-305 and 731-TA-478 and 480 through 482 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: October 25, 1991.

By Order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 91-26761 Filed 11-5-91; 8:45 am]

BILLING CODE 7020-02-M

[1] The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

[2] The imported steel wire rope covered by these investigations consists of ropes, cables and cordage, of iron or steel, othter than stranded wire, not fitted with fittings or made into articles; and not made of stainless steel or brass plated wire. Such steel wire rope was previously provided for in item 642.16 of the former Tariff Schedules of the United States (TSUS).

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 290 (Sub-No. 4)]

Railroad Cost Recovery Procedures—Productivity Adjustment

AGENCY: Interstate Commerce Commission.

ACTION: Notice of adoption of a 1989 productivity value and use of a geometric average.

SUMMARY: The Commission is adopting a 1989 value for productivity change and incorporating that value, along with previously calculated data, into a 1982-1989 (eight-year) averaging period. The 1989 productivity value is 1.060. Annual productivity growth for the eight-year (1982-1989) period calculated using a geometric average is 1.044 or 4.4 percent. Addition of 1989 data will lengthen the averaging period and provide a more stable base for productivity measurement. Use of a geometric average will add precision to the calculation of the productivity trend. The productivity adjustment is used to adjust the quarterly Rail Cost Adjustment Factor for productivity improvements.

EFFECTIVE DATE: December 1, 1991.

FOR FURTHER INFORMATION CONTACT: William T. Bono (202) 275-7354, Robert C. Hasek (202) 275-0938 (TDD for hearing impaired (202) 275-1721).

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to, call or pick up in person from: Dynamic Concepts, Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or telephone (202) 289-4357/4359. Assistance for the hearing impaired is available through TDD Services at (202) 275-1721.

This action will not significantly affect either the quality of the human environment or energy conservation.

Authority: 49 U.S.C. 10321, 10707a, 5 U.S.C. 553.

Decided: October 24, 1991.

By the Commission, Chairman Philbin, Vice Chairman Emmett, Commissioners Simmons, Phillips, and McDonald.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-26530 Filed 11-5-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31917]

Durham Transport, Inc.—Acquisition and Operation Exemption—Center Realty, Federal Storage Warehouses, and Garden State Buildings, L.P.

Durham Transport, Inc. (Durham), a non-carrier, has filed a notice of exemption to acquire, through an easement agreement, and operate approximately 12 miles of rail line within the Raritan Center Industrial Park, at Edison, Middlesex County, NJ. The line is owned by Center Realty, Federal Storage Warehouses, and Garden State Buildings, L.P., all non-carriers. Durham will become a class III rail carrier and intends to interchange traffic with Conrail, which had been providing service on the line.

Consummation is expected to occur on or about November 15, 1991.[1]

Any comments must be filed with the Commission and served on G. David Crane, 9 Market Place, Village of Logan Square, New Hope, PA 18938.

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 31, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-26726 Filed 11-5-91; 8:45 am]

BILLING CODE 7035-01-M

[Finance Docket No. 31957]

Norfolk and Western Railway Company—Corporate Family Transaction Exemption—Wabash Railroad Company

Norfolk and Western Railway Company (NW) and Wabash Railroad Company (Wabash) have filed a notice of exemption to merge Wabash into NW, with NW as the surviving corporation. The merger is expected to be consummated on or soon after November 12, 1991.

NW, a Class I rail carrier, owns approximately 99.8 percent of the common stock and 66.2 percent of the preferred stock of Wabash, a lessor of rail properties that leases its lines of railroad and substantially all its property to NW. NW is a wholly owned subsidiary of rail carrier Norfolk Southern Railway Company, which, in turn, is wholly owned by noncarrier holding company Norfolk Southern Corporation.

Because NW and Wabash are members of the same corporate family and the merger will not result in adverse changes in service levels, significant operational changes, or a change in competitive balance with carriers operating outside the corporate family, the transaction qualifies for the class exemption at 49 CFR 1180.2(d)(3).

To ensure that all employees who may be affected by the transaction are given the minimum protection under 49 U.S.C. 10505(g)(2) and 11347, the labor conditions set forth in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979), are imposed.

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction. Pleadings must be filed with the Commission and served on J. Gary Lane, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510-2191.

Decided: October 29, 1991.

By the Commission, David M. Konschnik, Director, Office of Proceedings.

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-06529 Filed 11-5-91; 8:45 am]

BILLING CODE 7035-01-M

[1] The parties indicate that the easement agreement was "completed" on September 15, 1989, and that "operation of * * * the line * * * will be consummated on or about the 15th day of November, 1991, or as soon thereafter as this Notice of Exemption becomes effective." The class exemption that the parties have invoked becomes effective 7 days after the verified notice of the transaction is filed. 49 CFR 1150.32(b). A verified notice of exemption in this proceeding was filed October 8, 1991, and was supplemented by a filing on October 30, 1991.

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Department policy, 28 CFR 50.7, and section 122(d)(2) of CERCLA, 42 U.S.C. 106 and 107 notice is hereby given that on October 2, 1991 a proposed Consent Decree in *United States* v. *Hills Materials Company* Civil Action No. 91-5112, was lodged with the United States District Court for the District of South Dakota. The Consent Decree requires defendant to pay $40,000.00 in past response costs incurred by the United States at the "Whitewood Custom Treaters" Superfund Site in Whitewood, Lawrence County, South Dakota.

The Department of Justice will receive for a period of thirty (30) days from the date of publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Hills Materials Company*, DOJ Ref. #90-11-3-628A.

The proposed Consent Decree may be examined at the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue Building, NW., Washington, DC 20004 (202-347-2072). A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 602 Pennsylvania Avenue Building, NW., Box 1097, Washington, DC 20004. In requesting a copy, please enclose a check in the amount of $3.50 (25 cents per page reproduction cost) payable to the Consent Decree Library.

John C. Cruden,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 91-26688 Filed 11-5-91; 8:45 am]

BILLING CODE 4410-01-M

Lodging of Two Consent Decrees Pursuant to Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that on October 4, 1991, two proposed consent decrees in *United States* v. *Joseph Simon & Sons, et al.*, Civil Action No. C90-5373B, were lodged with the United States District Court for the Western District of Washington at Tacoma. The proposed consent decrees concern a complaint filed by the United States under sections 106 and 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986 (CERCLA), 42 U.S.C. 9606, 9607. This is a civil action for recovery of response costs that have been and will be incurred by the United States in response to releases and threatened releases of hazardous substances from the facility, known as the "Tacoma Tar Pits Site" located in the Commencement Bay Nearshore/Tide Flats area of Tacoma, Washington, between the Puyallup River and the City of Tacoma Waterway.

The first consent decree provides that Washington Natural Gas, a defendant, will implement the remedial action, pay $450,000 in penalties for violations of the Administrative Order issued by EPA on September 30, 1988, and pay any Future Response Costs incurred by the United States.

EPA has issued an Explanation of Significant Differences (ESD) which is available for inspection at the Region 10 Office of the United States Environmental Protection Agency, Lynn M. Williams, Administrative Records Coordinator, Office of Regional Counsel, 1200 Sixth Avenue, Twlfth Floor, Seattle, WA 98101. The ESD explains the differences between the remedy selected in the Record of Decision and the Statement of Work. The United States will not move for entry of the WNG decree until the ESD is finalized

and after the State of Washington and the public have had an opportunity to comment on the ESD. The United States reserves its rights to withdraw its consent to entry of the decree until after final action is taken on the ESD.

The second consent decree provides that Union Pacific Railroad will pay $200,000 and that Burlington Northern Railroad will pay $180,000 to the Hazardous Substances Superfund for costs incurred by the United States, and that each will provide access to their properties for remedial activities.

The Department of Justice will receive, for a period of thirty (30) days from the date of publication, comments relating to the proposed consent decrees. Comments should be addressed to the Assistant Attorney General of the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044, and should refer to *United States* v. *Joseph Simon & Sons, et al.*, D.J. Ref. 90-11-3-307.

The proposed consent decrees may be examined at the Office of the United States Attorney for the Western District of Washington at Tacoma, 1145 Broadway Plaza, Tacoma, WA, 98402; at the Region 10 Office of the United States Environmental Protection Agency, Lynn M. Williams, Administrative Records Coordinator, Office of Regional Counsel, 1200 Sixth Avenue, Twelfth Floor, Seattle, WA 98101; at the Environmental Enforcement Section, Environmental and Natural Resources Division of the Department of Justice, room 1515, Ninth Street and Pennsylvania Avenue, NW., Washington, DC 20530; and at the Tacoma Public Library, Main Branch, 1102 Tacoma Avenue South, Tacoma, WA 98402. Copies of the consent decrees may be obtained in person or by mail from the Environmental Enforcement Section Document Center, 601 Pennsylvania Avenue NW, Box 1097, Washington, DC 20004, (202) 347-7629. In requesting copies, please enclose a check in the amount of $18.00 (25 cents per page reproduction cost) payable to the Consent Decree Library for the Washington Natural Gas Consent Decree. Please enclose a check in the amount of $7.75 (25 cents per page reproduction cost) payable to the Consent Decree Library for the Union Pacific Railroad and Burlington Northern Railroad Consent Decree.

The Administrative Record may be examined at the Region 10 Office of the United States Environmental Protection Agency, Lynn M. Williams, Administrative Records Coordinator, Office of Regional Counsel, 1200 Sixth Avenue, Twelfth Floor, Seattle, WA 98101 and at the Tacoma Public Library, Main Branch, 1102 Tacoma Avenue South, Tacoma, WA 98402.

John C. Cruden,

Chief, Environmental Enforcement.

[FR Doc. 91-26689 Filed 11-5-91; 8:45 am]

BILLING CODE 4410-01-M

[AAG/A Order No. 56-91]

Privacy Act of 1974; New System of Records

Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Antitrust Division is establishing a system of records entitled "Civil Investigative Demand (CID) Tracking System, JUSTICE/ATR-014."

5 U.S.C. 552a(e)(4) and (11) provide that the public be given a 30-day period in which to comment on the routine uses of a new system. The Office of Management and Budget (OMB), which has oversight responsibility under the Act, requires a 60-day period in which to review the proposed system. Therefore, please submit any comments by December 6, 1991. The public, OMB, and the Congress are invited to submit comments to Patricia E. Neely, Staff Assistant, System Policy Staff, Information Resources Management, Justice Management Division, Department of Justice, Washington, DC 20530 (Room 1103, Chester Arthur Building).

In accordance with 5 U.S.C. 552a(r), the Department has provided a report on this system to OMB and the Congress.

The system description is printed below.

Dated: October 21, 1991.

Harry H. Flickinger,

Assistant Attorney General for Administration.

JUSTICE/ATR-014

SYSTEM NAME:

Civil Investigative Demand (CID) Tracking System, (JUSTICE/ATR-014).

SYSTEM LOCATION:

Information Systems Support Group, Antitrust Division, Department of Justice, Judiciary Center Building, 555 4th Street, NW., Washington, DC 20001.

CATEGORIES OF INDIVIDUALS COVERED:

Recipients of Antitrust Division (ATD) CID's in connection with certain ATD civil investigations.

CATEGORIES OF RECORDS IN THE SYSTEM:

The CID number, the name of the CID recipient, the name of the company that employs the CID recipient, the date of the CID, the type of CID (documentary, interrogatory or oral), the Department of Justice file number for the investigation and/or the title or subject of the previous investigation for which the CID was issued, and a reference indicating whether a matter was litigated as a result of information obtained by CID.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is maintained pursuant to 28 U.S.C. 522, 44 U.S.C. 3101, and 28 CFR 0.40(a).

PURPOSE OF THE SYSTEM:

The proposed system contains information relating to the issuance of CID's (CID's require the production of documents and/or answers to written interrogatories, or oral testimony in connection with certain ATD civil investigations.) The system will be used by ATD to determine whether a party has been the recipient of a CID during a previous investigation(s), to identify the title (or nature) of that investigation(s), and to determine whether that individual should be issued a CID in an ongoing investigation(s).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

Where ATD has reason to believe that information from this system of records, *e.g.*, names of individuals who are potential sources of information, may assist another agency (whether Federal, State, local or foreign) in the conduct of its investigation(s), the information may be disclosed to such agency to provide that agency with or to assist the agency in identifying essential investigative leads.

Records or information may be disclosed as a routine use in a proceeding before a court or adjudicative body before which the Department is authorized to appear when any of the following is a party to litigation or has an interest in litigation and such records are determined by the Department to be arguably relevant to the litigation: The Department or any of the Department's components or its subdivisions; any Department employee in his or her official capacity, or in his or her individual capacity where the Department of Justice agrees to represent the employee; or the United States where the Department determines that the litigation is likely to affect it or any of the Department's components or its subdivisions.

Records or information permitted to be released to the news media and the public pursuant to 28 CFR 50.2 may be made available unless it is determined that release of the specific information in the context of a particular case would

constitute an unwarranted invasion of personal privacy.

Records or information may be disclosed as is necessary to respond to congressional inquiries on behalf of constituents.

Records may be disclosed to the National Archives and Records Administration (NARA) and to the General Services Administration in records management inspections conducted under the authority of title 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The records in this system are stored in a computer database.

RETRIEVABILITY:

Records are retrieved by the name of the individual who has been issued a CID.

SAFEGUARDS:

The information stored on the computer database is password-protected. Passwords and user ID's are issued to authorized ATD employees only on a need-to-know-basis.

RETENTION AND DISPOSAL:

Proposed plans for the retention and disposal of these records are being reviewed by the Department. Upon submission to and approval by the NARA, this system notice will be revised to identify the appropriate General Records Schedule that will govern the disposition of these records.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager is the Chief, Information Systems Support Group, Antitrust Division, Department of Justice, Judiciary Center Building, room 11852, 555 4th Street, NW, Washington, DC 20001.

NOTIFICATION PROCEDURE:

Inquiries should be addressed to the Freedom of Information Act/Privacy Act (FOIA/PA) Officer, Antitrust Division, Department of Justice, room 3234, 10th & Pennsylvania Avenue, NW, Washington, DC 20530. Clearly mark the letter and envelope "FOIA/PA Request."

RECORD ACCESS PROCEDURES:

Make all requests for access in writing and clearly mark the letter and envelope "FOIA/PA Request." Clearly indicate the name of the requester, name of the individual for which information is sought and provide the required verification of identity (28 CFR 16.41(d)). Direct all requests to the FOIA/PA Officer listed above and provide a return address for transmitting the information.

CONTESTING RECORD PROCEDURES:

Direct all requests to contest or amend information to the FOIA/PA Officer listed above. State clearly and concisely the information being contested, the reasons for contesting it, and the proposed amendment to the information sought. Clearly mark the letter and envelope "FOIA/PA Request."

RECORD SOURCE CATEGORIES:

Employers of CID recipients, or other investigative sources, who may provide the names of potential CID recipients; the individuals covered by the system; and records generated by virtue of the issuance of CID's.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 91-26690 Filed 11-5-91; 8:45 am]

BILLING CODE 4410-01-M

Drug Enforcement Administration

Importation of Controlled Substances; Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C 958(i)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedules I and II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with § 1311.42 of title 21, Code of Federal Regulations (CFR), notice is hereby given that on June 1, 1991, Stanford Seed Company, 340 South Muddy Creek Road, Denver, Pennsylvania 17517, made application to the Drug Enforcement Administration to be registered as an importer of Marijuana (7360) a basic class of controlled substance in Schedule I. This application is exclusively for the importation of marijuana seed which will be rendered non-viable and used as bird feed.

Any manufacturer holding, or applying for, registration as a bulk manufacturer of this basic class of controlled substance may file written comments on or objections to the application described above and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administrator, United States Department of Justice, Washington, DC 20537, Attention: DEA Federal Register Representative (CCR), and must be filed no later than December 6, 1991.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e) and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in Schedule I or II are and will continue to be required to demonstrate to the Deputy Assistant Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e) and (f) are satisfied.

Dated: October 30, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-26719 Filed 11-5-91; 8:45 am]

BILLING CODE 4410-09-M

Manufacturer of Controlled Substances; Application

Pursuant to § 1301.43(a) of title 21 of the Code of Federal Regulations (CFR), this is notice that on July 29, 1991, Sanofi Winthrop L.P., DBA Sterling Organics, 33 Riverside Avenue, Rensselaer, New York 12144, made application to the Drug Enforcement Administration (DEA) for registration as a bulk manufacturer of the Schedule II controlled substance meperidine (9230).

Any other such applicant and any person who is persently registered with DEA to manufacture such substances may file comments or objections to the issuance of the above application and may also file a written request for a hearing thereon in accordance with 21 CFR 1301.54 and in the form prescribed by 21 CFR 1316.47.

Any such comments, objections or requests for a hearing may be addressed to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, United States Department of Justice, Washington, DC 20537, Attention: DEA

Federal Register Representative (CCR), and must be filed no later than December 6, 1991.

Dated October 31, 1991.

Gene R. Haislip,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. 91-26720 Filed 11-5-91; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D-8633, et al.]

Proposed Exemptions; General Electric Pension Trust, et al.

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemptions, within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESS: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representation with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

General Electric Pension Trust (the Trust) Located in Fairfield, Connecticut

[Application No. D-8633]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code shall not apply, effective April 24, 1990, to the past and proposed lease by the Trust of space in a commercial office building located in San Francisco, California (the Building) to the Decimus Corporation (Decimus), a party in interest with respect to the employee benefit plans participating in the Trust; provided that (1) such lease is on terms no less favorable to the Trust than those which the Trust could obtain in an arm's-length transaction with an unrelated party, and (2) Decimus does not lease more than twenty-five percent of the leaseable space in the Building.

Effective Date and Temporary Nature of the Exemption

This exemption, if granted will be effective as of April 24, 1990 and will expire December 31, 2001.

Summary of Facts and Representations

1. The Trust holds assets of the General Electric Company Pension Plan (the GE Plan), sponsored by General Electric Company (GE) and various GE subsidiaries, and the International General Electric Puerto Rico, Inc. Pension Plan (together, the Plans), sponsored by GE Appliances Caribbean, Inc. Each of the Plans is a defined benefit pension plan. As of September 30, 1990, the Trust held total assets of approximately $22.4 billion. The Plans include approximately 400,000 participants. The trustees of the Trust are five individuals (the Trustees) appointed by GE's Board of Directors. Each of the Trustees is an officer of GE. Decimus, a California corporation wholly owned by a subsidiary of GE, is engaged in the leasing of IBM main-frame computer equipment to corporate clients. As a result of the Trust's foreclosure on and acquisition of an office building (the Building) securing a loan to a now-bankrupt limited partnership, Decimus became a lessee of office space from the Trust in April 1990. The Trustees are requesting an exemption to permit the past and proposed lease of such office space by the Trust to Decimus under the terms and conditions described herein.

2. On November 9, 1984, the Trustees made a loan of $68 million (the Trust Loan) from the Trust to the 353 Sacramento Street Associates (the Partnership), an Illinois limited partnership which owned the Building, located at 353 Sacramento Street in San Francisco. The Trustees represent that the Partnership was unrelated to the Trust, the Trustees and GE. The Building is a 23-story commercial office building which was constructed in 1982 by the Partnership on three parcels of land (the Land) occupied by the Partnership as lessee under a ground lease (the Ground Lease) which commenced March 17, 1980. The Trust Loan had a term of 43 years, was evidenced by a nonrecourse

promissory note and provided for interest at the rate of fourteen percent per annum. At the time of the Trust Loan its principal amount constituted approximately one third of one percent of the Trust's assets. The Trust Loan was secured by a deed of trust and security agreement (together, the Trust Lien) which granted to the Trust a lien and security interest in the Building and the Partnership's rights under the Ground Lease (together, the Property), including the Partnership's option to purchase the Land. The Trust Loan was further secured by an assignment by the Partnership of Building rents and leases to the Trust and a UCC–1 financing statement establishing an additional Trust lien on certain personal property associated with the Building.

3. On February 10, 1986 the Partnership refinanced the Trust Loan with a loan of $50 million (the Hancock Loan) from John Hancock Mutual Life Insurance Company (Hancock). The proceeds of the Hancock Loan were used to reduce the outstanding principal amount of the Trust Loan to $19,231,335.63. Commensurate with the Hancock Loan, the Trust and the Partnership executed an agreement (the Modification) which modified the terms of the Trust Loan, reflecting the reduced principal amount and subordinating the Trust Loan to the Hancock Loan. The Trustees represent that the Modification was advantageous to the Trust because it enabled the Trust to retain its security interests in the Property, even though subordinated, while considerably reducing the Trust's risks associated with its investment in the Trust Loan.[1] The Modification divided the remaining outstanding balance of the Trust Loan into three parts, each evidenced by a different promissory note (the Restated Notes) executed on February 13, 1986, with the following maturity dates and interest rates:

Note A, due March 1, 1991: principal of $6,732,333.12, interest at 11.5 percent per annum;

Note B, due March 1, 1996: principal of $3,587,670.02, interest at 13.62457 percent per annum;

Note C, due March 1, 1998: principal of $8,911,332.49, interest at 15 percent per annum.

The modification also provided that a default of the terms of the Hancock Loan would constitute a default with respect to the Trust Loan. The Trust Lien was amended to reflect the reduction in the Trust Loan amount and its subordination to the Hancock Loan. In the first half of 1989, the Partnership defaulted on the Hancock Loan and Hancock initiated foreclosure proceedings on the Property. The Partnership responded by filing a voluntary bankruptcy petition on June 23, 1989, the effect of which was the creation of an automatic stay of any foreclosure action against the Partnership's assets, including Hancock's foreclosure on the Property. The Trustees then filed with bankruptcy court a motion to lift the automatic stay against foreclosure proceedings to enable a foreclosure action on the Property by the Trust, since the Partnership's default on the Hancock Loan had also constituted a default on the Trust Loan. On November 21, 1989, the bankruptcy court granted the Trustee's motion and issued an order terminating the automatic stay against foreclosure action on assets of the Partnership. On December 11, 1989 the Trustees issued to the Partnership a notice of default in accordance with the terms of the Modification and initiated non-judicial foreclosure proceedings. During the ensuing 120-day notice period required by state law, a receiver was appointed by the State of California to manage the Building and collect rents, which were used to make payments on the Hancock Loan.

On April 24, 1990 at the public auction for sale of the Property resulting from the Trustees' foreclosure action, the Trust as the sole bidder acquired the Property subject to the Hancock Loan. The Property is held by the Trust through a wholly-owned subsidiary, the Sacramento Street Realty Corporation (Sacramento Realty). Sacramento Realty is a title-holding company whose assets consist solely of the Property. The Trustees had previously obtained an appraisal of the Property by Carneghi-Bartovich and Partners, Inc. (the Appraiser), an independent professional real estate appraisal firm in San Francisco. The Appraiser represents that as of September 1, 1989, the Property, including the Partnership's rights under the Ground Lease, had a fair market value of $68 million. The Trust acquired the Property under a trustee's deed, subject to the outstanding portion of the Hancock Loan, without tendering any cash because of the outstanding unpaid debt due the Trust under the Trust Loan.

The Trustees represent that the Trust's acquisition of the Building was necessitated by the Partnership's default on the Hancock and Trust Loans in order to protect the Trust's interests in the Building as collateral. The Trustees represent that the Building's value constitutes less than three-hundredths of one percent of the Trust's assets. Having acquired the Building, the Trustees represent that the most prudent course of action was to provide for continued income from the Building lessees, which included Decimus, and to appoint an independent fiduciary, discussed below, to represent the Trust's interests under lease arrangements with Decimus.

4. Decimus commenced leasing space in the Building from the Partnership under a written lease (the Initial Lease) executed November 27, 1985 with an initial term expiring May 31, 1991. Under the Initial Lease, Decimus leased the 14th floor of the Building, constituting 11,557 square feet or approximately five percent of the Building's rentable space. On May 9, 1986 Decimus and the Partnership executed an amendment to the Initial Lease which added 867 square feet of space located on the Building's 18th floor, raising the total square footage under the Initial Lease to 12,424 at a minimum monthly base rental of $17,721.

Decimus commenced a one-year supplemental lease (the Supplemental Lease) of 2,403 square feet in suite 820 of the Building on April 20, 1987. The Supplemental Lease was extended in June 1988 for an additional year and continued on a month-to-month basis after July 1, 1989.

Under an agreement dated November 8, 1989 (the Sublease), Decimus commenced subleasing 2,504 square feet of space in suite 840 of the Building from R.G. Dickinson and Company. The Sublease had an expiration date of January 24, 1991 and its terms provided for automatic conversion thereafter to a lease directly between Decimus and the Building's owner, which had become Sacramento Realty.

5. At the time of the Trust's acquisition of the building on April 24, 1990, Decimus occupied 17,331 square feet of the Building, constituting approximately seven percent of the Building's rentable space, and paid minimum monthly base rentals of $26,074.33 under the Initial Lease as amended, the Supplemental Lease and the Sublease. Upon the Trust's acquisition of the Building, Decimus continued these leases of space in the Building uninterrupted under the same terms and conditions negotiated between Decimus and the Partnership. In October 1990, as a result of negotiations in which the Trust's interests were represented by an independent fiduciary, discussed below, the entire 15th floor of the Building, a total of 9,256 square feet of office space

[1] In this proposed exemption the Department expresses no opinion as to whether the Trust Loan, the Modification or the Trust's acquisition of the Building violated any provision of part 4 of title I of the Act.

plus additional storage space, was added (the Expansion Lease) to the total Building space leased by Decimus under substantially the same conditions as those of the Initial Supplemental Leases. Rentals under the Expansion Lease were established at the current fair market rental value of the leased space as determined by John C. Clifford, MAI (Clifford), a professional real estate appraiser with Clifford and Tattersall, Inc. of San Francisco.

On November 1, 1990, Decimus and Sacramento Realty executed a new lease document (the Consolidated Lease) which consolidated the separate lease arrangements and added 11,556 square feet on the Building's 15th floor to the total square footage leased by Decimus. Under the Consolidated Lease, Decimus occupied 28,887 square feet, approximately 11.5 percent of the total rentable area in the building, for a term expiring June 15, 1991. The Consolidated Lease gives Decimus an option to extend its term on a month to month basis for up to six months after expiration. On April 15, 1991, Decimus exercised its option to extend the term of the Consolidated Lease for one month through July 15, 1991. Decimus has expressed the intention to exercise its options to extend the Consolidated Lease through December 15, 1991.

6. The interests of the Trust with respect to the lease arrangements between Sacramento Realty and Decimus are represented by the Fiduciary, David Bohegian, an independent fiduciary for the Trust. The Fiduciary is a principal of the real estate services firm of Martorana—Bohegian Company of San Francisco and he represents that he is independent of and unrelated to GE and its affiliates, including Decimus. The Fiduciary represents that he has never had any dealings with GE or its affiliates except as fiduciary on behalf of the Trust with respect to lease arrangements involving Decimus. The Fiduciary states that he has substantial experience with the types of transactions involving the Trust's interests in lease arrangements with Decimus, and that he is knowledgeable of his duties and responsibilities as a Fiduciary under the Act. The terms of the Fiduciary's appointment include the responsibilities of determining whether it is in the best interests of the Trust for Sacramento Realty to continue the leasing of space in the Building to Decimus and, if so, representing the Trust's interests in the oversight and enforcement of Decimus' performance of all lease obligations and the approval of any renewals or extensions of such lease arrangements. The Fiduciary represents that he determined that immediate continuation of the Decimus lease arrangements upon the Trust's acquisition of the Building was in the best interests of the Trust because they were arrangements negotiated at arm's length between unrelated parties prior to the Trust's acquisition of the Building and because of the high volume of vacancy in the Building would be created by Decimus' removal. The Fiduciary represented the Trust in the execution of the Consolidated Lease by overseeing negotiations and approving the final terms as being in the best interests of the Trust. Specifically, the Fiduciary represents that the terms and conditions of the Consolidated Lease are consistent with market trends in San Francisco and that all rentals under the Consolidated Lease are at or above the current market rates for the leased spaces.

7. The Fiduciary will continue to represent the interests of the Trust with respect to any continuation, renewal or extension of Decimus' lease of space in the Building past December 15, 1991. The Trustees represent that at the time of the application for the exemption proposed herein, Decimus officials had not determined whether to seek continued lease arrangements in the Building or to locate to other premises. The Trustees further represent that any such continued lease arrangements will be based upon the Consolidated Lease, with principal differences limited to rental rates, lease term and square footage adjustments. Decimus has agreed that it will not lease more than 25 percent of the leasable square footage in the Building. Any continued Decimus lease arrangement past December 15, 1991 will require the express approval of the Fiduciary. As a condition precedent of any continued Decimus lease in the Building, the Fiduciary will be required to determine that (1) rental rates under the continuation lease are at or above the fair market rental values of the space being leased, as determined by an independent professional appraiser, and (2) the other terms of the continuation lease are comparable to the terms of a lease negotiated at arm's length between unrelated parties. The terms of any such continuation lease must provide for rentals to be adjusted to the fair market rental value every three years, in the event such lease term exceeds three years. The term of any continuation lease, including any extension or renewal thereon, may not extend beyond December 31, 2001, at which time the exemption proposed herein, if granted, will expire.

8. In summary, the applicant represents that the past and proposed transactions satisfy the criteria of section 408(a) of the Act for the following reasons: (1) Decimus' lease of office space from the Trust resulted from the Trust's acquisition of the Building, which was necessary to protect the Trust's interests in the Building after the Partnership's default on the Trust Loan; (2) Decimus' lease of space in the Building commenced as an arm's-length transaction between unrelated parties prior to the Trust's acquisition of the Building and its continuation was determined by the Trustees and the Fiduciary to be in the best interests of the Trust; (3) The interests of the Trust are represented by the Fiduciary, who has determined that the Consolidated Lease provides for rents which are at or above fair market rental values of the leased space and whose express approval will be required for any continuation of the lease arrangements past December 15, 1991; (4) Any continued lease after December 15, 1991 will provide for rents of no less than the fair market rental value of the leased space, adjusted every three years, and will extend no longer than December 31, 2001; and (5) Decimus will not lease more than 25 percent of the leasable space in the Building.

FOR FURTHER INFORMATION CONTACT: Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

Lauterbach, Borschow and Company, P.C. Defined Benefit Pension Plan and Trust (the Plan)

Located in El Paso, TX

[Application No. D-8688]

Proposed Exemption

The Department of Labor is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) shall not apply to the proposed extension of credit by the Plan to L and B Realty Company (the Joint Venture), a disqualified person with respect to the Plan, in connection with the Plan's acquisition of a promissory note (the Note) from the Resolution Trust Corporation (the RTC), provided the terms of the transaction are at least as favorable to the Plan as those

obtainable in an arm's length transaction with an unrelated party.[2]

Summary of Facts and Representations

1. The Plan is a defined benefit plan with Mr. Lauterbach as its sole participant. Mr. Lauterbach also serves as the Plan's trustee and decisionmaker with respect to Plan investments. As of September 30, 1990, the Plan had net assets of $1,247,246.

2. The Plan is sponsored by Lauterbach, Borschow and Company, P.C. (the Employer), a certified public accounting firm maintaining its principal place of business at 715 North Oregon, El Paso, Texas (the Property). The Employer is a Subchapter S corporation. Mr. Lauterbach is the chairman of the board of directors of the Employer. His son, Mr. Steven Lauterbach, is the vice president of the Employer and a member of the Employer's board of directors. Mr. David Lindau serves as the secretary-treasurer of the Employer and he also participates on the Employer's board of directors.

3. The Employer leases the Property, for an annual rental of $110,000, from the Joint Venture. The Joint Venture, which conducts its business on the same premises as the Employer, is a real estate partnership that was formed in 1976 for an indefinite duration. It is comprised of Mr. Lauterbach, who has a 60 percent ownership interest; Mr. Steven Lauterbach, who has a 15 percent ownership interest; and Mr. Lindau who owns a 25 percent interest in the Joint Venture.

4. At present, the RTC, a Federal governmental entity, holds a promissory note that is secured by a first deed of trust on the Property which has been valued at $725,000 as of July 7, 1991 by Mr. Frederick H. McKinstry, CCIM, MAI Candidate, and independent appraiser from El Paso, Texas. The Note, dated February 25, 1977, is in the original principal amount of $300,000 and matures on March 1, 2002. The Note was entered into by the Joint Venture, as mortgagor, and an unrelated mortgagee, Mutual Savings Association of El Paso (Mutual), located in El Paso, Texas. The Note carries interest at the rate of 9¼ percent per annum. It is payable in monthly installments of principal and interest of $2,571 and is not subject to any prepayment penalties.

5. In 1982, Merabank (Merabank), an unrelated entity, located in El Paso, Texas, acquired all of the assets of Mutual, including the Note. On January 30, 1990, the RTC acquired all of the assets of Merabank, also inclusive of the Note. As of September 1, 1991, the Note had an outstanding principal balance of $177,687 and it represents approximately 14 percent of the Plan's assets. According to the applicant, the Joint Venture has made all payments due under the Note in a timely manner and it has never defaulted or been delinquent in making such payments.

6. The Note has been appraised by Mr. Nathan E. Christian, President of First City, Texas (the Bank) of El Paso, Texas. Mr. Christian represents that both he and the Bank are independent of the parties described herein and have no interest, present or contingent, in the Property or in the Note. Mr. Christian also represents that he has 18 years experience in the banking industry and six years as president of the Bank. During this time, he states that he has been directly involved in the evaluation and granting of loans similar to the one evidenced by the Note.

In an appraisal report dated August 29, 1991, as supplemented by an addendum of September 10, 1991, Mr. Christian is of the opinion that the Note has a fair market value that is at least equal to its remaining outstanding principal balance of $177,687 plus accrued interest. In Mr. Christian's view, the interest rate for the Note of 9¼ percent is a marketable rate for a loan of this size, maturity and underlying collateral.

In valuing the Note, Mr. Christian states that he has considered several market indicators: (a) The 8½ percent prime interest rate in effect at the time of his valuation; (b) yields of 7¾ percent that are generated by U.S. Government obligations maturing in 2000; and (c) the 9 percent market interest rate for either a 15 year commercial mortgage or a residential mortgage having no points. In addition, Mr. Christian explains that the Note is secured by a first mortgage on the Property which has an appraised value of $725,000 as determined by Mr. McKinstry or approximately four times the amount of the Note. Mr. Christian further states that the Property is occupied by an excellent tenant whose shareholders are financially responsible and prominent professionals. He also notes that the lease between the Employer and the Joint Venture has a term that coincides with the term of the Note and is guaranteed by the principals of the Employer. Given these factors, Mr. Christian believes the Note could be easily refinanced with a commercial financial institution for its current value of $177,687 plus accrued interest.

7. In order to acquire a fully-collateralized and secure investment that will generate a higher rate of return than it receives on its other investments, the Plan proposes to purchase the Note from the RTC for the outstanding principal balance of the Note plus accrued interest in a single, lump sum cash payment.[3] Because the Plan's acquisition of the Note will result in a prohibited extension of credit by the Plan to the Joint Venture in violation of section 4975(c)(1)(B) of the Code, the applicant requests an administrative exemption from the Department. The applicant also states that the Plan will not be required to pay any servicing fees or commissions in connection with the holding and administration of the Note.

8. In summary, it is represented that the proposed transaction will satisfy the statutory criteria for an exemption under section 4975(c)(2) of the Code because: (a) The Plan will pay the RTC a fixed price for the Note that is equal to its outstanding principal balance plus accrued interest; (b) the Note represents approximately 14 percent of the Plan's assets; (c) the Note bears interest at the rate of 9¼ percent per annum which is above the rate of return that is currently available to the Plan from its other investments and it is secured by the Property which has an independently appraised value that is substantially in excess of the outstanding principal balance of the Note; (d) the Plan will not incur any servicing fees or commissions with respect to the holding and administration of the Note; and (e) the only person who will be affected by the proposed extension of credit transaction will be Mr. Lauterbach, who desires that such transaction is consummated.

Notice to Interested Persons

Because Mr. Lauterbach is the only participant in the Plan who will be affected by the proposed transaction, it has been determined that there is no need to distribute the notice of pendency to interested persons. Therefore, comments and requests for a public hearing are due 30 days from the date of publication of this notice of proposed exemption in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Ms. Jan D. Broady of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

[2] Because Mr. Bernard Lauterbach is the sole participant in the Plan, there is no jurisdiction under title I of the Act pursuant to 29 CFR 2510.3-3(b). However, there is jurisdiction under title II of the Act pursuant to section 4975 of the Code.

[3] According to the applicant, the purchase price for the Note is fixed by the RTC and is, therefore, not subject to any negotiation.

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 1st day of November, 1991.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 91-26770 Filed 11-5-91; 8:45 am]

BILLING CODE 4510-29-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Chemical and Thermal Systems; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Chemical and Thermal Systems.

Date and time: November 14–15, 1991, 1 p.m. to 5 p.m. and 8:30 a.m.–5 p.m.

Place: Georgetown Conference Center, 3800 Reservoir, Road, NW., Washington, DC.

Type of Meeting: Open.

Contact Person: Henry A. McGee, Jr., Director, Division of Chemical and Thermal Systems, room 1115, National Science Foundation, (202) 357–9606.

Minutes: May be obtained from contact person listed above.

Purpose: To provide advice and recommendation to the Chemical and Thermal Systems Division.

Agenda: Issues to be discussed are:

—Technical and Educational Matters

—Management and Policy Matters

Reason for late notice: Difficulty in reaching an acceptable meeting date and location for advisory committee members.

Dated: October 31, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-26708 Filed 11-5-91; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Cross-Disciplinary Activities; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Cross-Disciplinary Activities.

Dates & Times: November 21–22, 1991, 8:30 a.m.–5 p.m.

Location: St. James Hotel, Washington, DC 20550.

Type of Meeting: Closed.

Agenda: Review and evaluate CISE Institutional Infrastructure research proposals.

Contact Person: Barbara H. Palmer, Administrative Officer, Office of Cross-Disciplinary Activities, room 304, National Science Foundation, Washington, DC 20550. Telephone (202) 357–7349.

Dated: October 31, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-26709 Filed 11-5-91; 8:45 am]

BILLING CODE 7555-01-M

Division of Ocean Sciences

Ocean Science Research Panel; Meeting

The National Science Foundation announces the following meeting:

Name: Ocean Science Research Panel.

Date and Time: November 22, 1991.

Place: National Science Foundation, 1800 G Street, NW. room 614, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Joan Mitchell Science Associate, Division of Ocean Sciences, room 609, National Science Foundation, Washington, DC 20550, telephone (202) 357–9639.

Purpose of Meeting: To provide advice and recommendations concerning support for research in oceanography.

Agenda: Closed—To review and evaluate REU Site proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of U.S.C. 552b(c), Government in the Sunshine Act.

Dated: October 31, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91-26710 Filed 11-5-91; 8:45 am]

BILLING CODE 7555-01-M

Special Emphasis Panel in Physics; Meeting

SUMMARY: In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

SUPPLEMENTARY INFORMATION: The purpose of the meeting is to review and

evaluate proposals and provide advice and recommendations as part of the selection process for awards. Because the proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with proposals, the meetings are closed to the public. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Name: Special Emphasis Panel in Physics.

Dates & Times: November 22, 1992 8 a.m.–5:30 p.m. daily.

Location: National Science Foundation, 1800 G Street, NW., Washington, DC 20550, room 341K.

Type of Meeting: Closed.

Agenda: To review and evaluate research experiences for undergraduates proposals.

Contact Person: Dr. Rolf M. Sinclair, Program Director, Division of Physics, National Science Foundation, room 341, Washington, DC 20550. Telephone (202) 357–7966.

Dated: October 31, 1991.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 91–26711 Filed 11–5–91; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guide; Issuance, Availability

The Nuclear Regulatory Commission has issued for public comment drafts of two new guides planned for its Regulatory Guide Series. This series has been developed to describe and make available to the public such information as methods acceptable to the NRC staff for implementing specific parts of the Commission's regulations, techniques used by the staff in evaluating specific problems or postulated accidents, and data needed by the staff in its review of applications for permits and licenses.

Draft Regulatory Guide DG–8004, "Radiation Protection Programs for Nuclear Power Plants," is being developed to describe the major elements of a nuclear power plant's radiation protection program that is acceptable to the NRC staff. Draft Regulatory Guide DG–8006, "Control of Access to High and Very High Radiation Areas in Nuclear Power Plants," is being developed to describe methods acceptable to the NRC staff of implementing requirements in NRC's regulations that deal with high radiation areas and preventing unauthorized access into very high radiation areas. These draft guides are for Division 8, "Occupational Health," of the Regulatory Guide Series.

These draft guides are being issued to involve the public in the early stages of the development of regulatory positions in these areas. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on the guides, including any implementation schedule. Comments should be accompanied by supporting data. Written comments may be submitted to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Copies of comments received may be examined at the NRC Public Document Room, 2120 L Street NW., Washington, DC. Comments will be most helpful if received by January 3, 1992.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC. Requests for single copies of draft guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, attention: Distribution and Mail Services Section. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(Authority: 5 U.S.C. 552(a))

Dated at Rockville, Maryland, this 25th day of October 1991.

For the Nuclear Regulatory Commission.

Bill M. Morris,

Director, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 91–26737 Filed 11–5–91; 8:45 am]

BILLING CODE 7590-01-M

Clarification of Size Standards

AGENCY: Nuclear Regulatory Commission.

ACTION: Size standards; clarification.

SUMMARY: The Nuclear Regulatory Commission (NRC) is clarifying the size standards that apply to whether an NRC licensee would qualify as a "small entity" under the Regulatory Flexibility Act. This clarification is believed necessary because of numerous inquiries regarding the application of these standards to the payment of annual fees required by 10 CFR part 171.

FOR FURTHER INFORMATION CONTACT: Donnie H. Grimsley, Director, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492–7211.

SUPPLEMENTARY INFORMATION: On December 9, 1985 (50 FR 50241), the NRC adopted size standards it would use to determine whether an NRC licensee would be considered a small entity for the purpose of implementing requirements of the Regulatory Flexibility Act. On July 10, 1991 (56 FR 31472), the NRC published a final rule amending 10 CFR parts 170 and 171 as required by Public Law 101–508, which mandates that the NRC recover approximately 100 percent of its budget authority in Fiscal Year 1991 and the four succeeding years through license fees. In order to reduce the impact of the increase in fees imposed on small entities, the NRC imposed a maximum annual fee of $1800 for each category for those licensees who qualify as small entities under its size standards.

The NRC has received over 4,000 telephone calls and 300 letters concerning the application of its fee rule. Many of these inquiries concern size standards used to qualify a licensee as one of the small entities defined by the Regulatory Flexibility Act, e.g., small business, small organization, and small governmental jurisdiction.

In the notice that proposed NRC's size standards (50 FR 20913; May 21, 1985), the NRC initially proposed $1 million or less in receipts as the standard to qualify as a small business and a small organization. A detailed discussion of this proposed standard as applied to small businesses was provided in this notice. The notice specifically invited comment on a receipts standard for small, not-for-profit organizations.

In the notice announcing the adoption of NRC's size standards (50 FR 50241; December 9, 1985), the NRC indicated that the Small Business Administration (SBA) had formally adopted $3.5 million or less as the standard for qualifying as a small business. The NRC stated that it was adopting this standard, rather than the NRC proposed standard, for all

licensees (other than those which were small governmental jurisdictions) except for private practice physicians and educational institutions. Because survey data compiled by the NRC supported the use of the standard of $1 million or less for private practice physicians, that standard was adopted for them. In response to comments regarding educational institutions, the NRC noted that an educational institution supported by a qualifying small governmental jurisdiction would qualify as a small entity. To accommodate concerns of other educational institutions, the NRC defined an educational institution as a small entity if it is not state or publicly supported and has 500 employees or less. Because the NRC received no public comment regarding a receipts standard for small not-for-profit organizations, the SBA standard of $3.5 million or less was adopted as its standard.

In the notice that proposed NRC's size standards, the NRC indicated that it was possible to apply the size standard for a small governmental jurisdiction included in the Regulatory Flexibility Act. The NRC did not invite or receive public comment on this standard. Therefore, the standard adopted by the NRC was the standard set forth in the Regulatory Flexibility Act.

However, this standard was not included in the December 9, 1985, notice that described the size standards adopted by the NRC. The NRC is restating the size standards to include the Regulatory Flexibility Act's definition of small governmental jurisdiction. To further improve clarity, the NRC is changing the presentation of the size standards to conform to the listing of definitions of small entities in the Regulatory Flexibility Act.

Thus, size standards used by the NRC to qualify a licensee as a small entity are as follows:

1. A small business is a business with annual receipts of $3.5 million or less except private practice physicians for which the standard is annual receipts of $1 million or less.

2. A small organization is a not-for-profit organization which is independently owned and operated and has annual receipts of $3.5 million or less.

3. Small governmental jurisdictions are governments of cities, counties, towns, townships, villages, school districts, or special districts with a population of less than 50,000.

4. A small educational institution is one that is (1) supported by a qualifying small governmental jurisdiction, or (2) one that is not state or publicly supported and has 500 employees or less.

Dated at Rockville, Maryland, this 25th day of October, 1991.

For the Nuclear Regulatory Commission.

James M. Taylor,

Executive Director for Operations.

[FR Doc. 91-26736 Filed 11-5-91; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-324]

Carolina Power & Light Co., (Brunswick Steam Electric Plant Unit 2); Exemption

I.

Carolina Power & Light Company (CP&L, the licensee) is the holder of Operating License No. DPR-62, which authorizes operation of Brunswick Steam Electric Plant (BSEP), Unit 2. The operating license provides, among other things, that the BSEP, Unit 2 is subject to all rules, regulations, and orders of the Commission now or hereafter in effect.

The facility consists of a pressurized water reactor at the licensee's site in Brunswick County, North Carolina.

II.

One of the conditions of all operating licenses for water-cooled power reactors, as specified in 10 CFR 50.54(o), is that the primary containment shall meet the leakage test requirements set forth in 10 CFR part 50, appendix J, paragraph III.C.1. Type C tests require:

> Type C tests shall be performed by local pressurization. The pressure shall be applied in the same direction as that when the value [sic] would be required to perform its safety function. . . .

By letter dated July 29, 1991, the licensee requested a one-time exemption from appendix J to 10 CFR part 50 to allow Type C (local leak rate) testing of two containment isolation valves in the reverse-direction for one-time only. As stated above, paragraph III.C.1 of appendix J requires that for Type C testing the test pressure must generally be applied to the valve from the same side or applied from the inside-containment side. However, the regulation allows an exception if it can be determined that testing with the pressure applied in the reverse-direction provides equivalent or more conservative results. For BSEP, Unit 2, the NRC staff stated in a Safety Evaluation dated January 28, 1991, that 16 of 51 containment isolation valves reviewed did not satisfy the equivalent-or-more-conservative requirement that allows reverse-direction testing. The licensee is taking steps to enable future Type C tests for 14 of these valves to be conducted by pressurization in the forward-direction as required by appendix J. The testing of the remaining two valves will also be corrected, but not until after the next required test for the valves. Therefore, the licensee has requested that these two valves be exempted from the forward-testing requirement for their next Type C test (reload 9 outage, September through November 1991). The licensee will test them in the forward-direction for the following Type C test (reload 10 outage, scheduled to begin in March 1993).

III.

The two subject valves are B32-V22, Recirculation Pump A Seal Injection Valve, and B32-V30, Recirculation Pump B Seal Injection Valve. The licensee has initiated modifications to install test connections that will allow forward-direction testing of these values. However, due to insufficient time available to perform the engineering necessary to complete the installation of these modifications prior to the reload 9 outage (September through November 1991) installation of these test connections will be completed during the reload 10 outage scheduled to begin in March 1993. Since appendix J requires Type C testing at every refueling outage (although in no case at intervals greater than two years), the requested exemption will allow only one additional reverse-direction test of the valves, during the upcoming reload 9 refueling outage. The NRC staff has performed an evaluation of the exemption request, and has determined that CP&L has provided adequate justification for the requested exemption.

IV.

Pursuant to 10 CFR 50.12(a)(2)(v), the Commission will not consider granting the exemption unless the licensee has made good faith efforts to comply with the regulation. The NRC staff believes that CP&L has taken prudent steps to improve the containment integrity and if it would not have required extending the refueling outage would have complied with appendix J.

Based on our evaluation, the NRC staff has concluded that CP&L has made a good faith effort to comply with the requirements of appendix J and that special circumstances as described in 10 CFR 50.12(a)(2)(v) exist.

Therefore, the Commission has determined that the requested one-time exemption from the appendix J forward-direction testing requirements for valves

B32–V22 and B33–V30 should be granted.

V.

Accordingly, the Commission has determined that pursuant to 10 CFR 50.12(a), that (1) this Exemption is authorized by law, will not endanger life or property or the common defense and security, and (2) is otherwise in the public interest. Therefore, the Commission hereby approves the following exemption request.

A one-time exemption is granted from the requirements of paragraph III.C.1 that requires a local leak rate test for containment isolation valves B32–V22 and B33–V30 be conducted in the forward direction. For good cause shown, this Exemption will allow one additional reverse-direction test for these valves, during the reload 9 refueling outage, scheduled to begin in September 1991.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this exemption will have no significant impact on the quality of the human environment, (56 FR 54910).

This exemption is effective upon issuance.

Dated at Rockville, Maryland, this 30th day of October 1991.

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 91–26738 Filed 11–5–91; 8:45 am]

BILLING CODE 7509–01–M

OFFICE OF MANAGEMENT AND BUDGET

Discount Rates To Be Used in Evaluating Deferred Costs and Benefits

October 29, 1991.

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Notice of proposed revision and expansion of OMB Circular A–94.

SUMMARY: Notice is hereby given that the Office of Management and Budget (OMB) intends to revise Circular A–94 during 1992 and is considering expanding it to provide broader guidance on benefit/cost analysis. Among the subjects to be considered are: (a) What kinds of benefit/cost analysis should be required for different types and sizes of Federal programs and proposals; (b) what discount rates should be used in evaluating deferred costs and benefits; for example, should rates be based on Federal borrowing costs or some other concept, and should they be allowed to vary over time; (c) what standards should be used for valuing and projecting intangible benefits and costs; (d) how should distributional effects be treated; (e) how should uncertainty be treated; and (f) other issues on the definition and measurement of costs and benefits.

DATES: Persons who wish to comment on the proposed revision of Circular A–94 should submit their comments no later than February 28, 1992.

ADDRESSES: Comments should be addressed to: Robert B. Anderson, Office of Economic Policy, Office of Management and Budget, room 9002, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Robert B. Anderson, Office of Economic Policy, telephone (202) 395–3381 or Randolph M. Lyon, Office of Economic Policy, telephone (202) 395–5800. Copies of the unrevised circular are available at the address above.

SUPPLEMENTARY INFORMATION: The revised circular will be drafted next spring. Upon completion, notice of its availability for comment will be placed in the **Federal Register.**

Darrell A. Johnson,

Assistant Director for Administration.

[FR Doc. 91–26680 Filed 11–5–91; 8:45 am]

BILLING CODE 3110–01–M

RESOLUTION TRUST CORPORATION

Coastal Barrier Improvement Act; Property Availability; Alpine Village, Apache County, AZ

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Alpine Village located in Alpine, Apache County, Arizona, is affected by section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until February 4, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Joanne Burroughs, Resolution Trust Corporation, Central Western Consolidated Office, 2910 North 44th Street, Phoenix, AZ 85018, (602) 381–3460, Fax (602) 954–9549.

SUPPLEMENTARY INFORMATION: The property is primarily undeveloped and is located to the west of Route 666, in Alpine, Apache County, Arizona. The north, west, and southern boundaries of the property border the Apache-Sitgraves National Forest with the San Francisco River flowing through the northeastern corner of the property. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101–591 (12 U.S.C. 1441a–3).

Characteristics of the property include: The property is approximately 380 acres. About 154 acres of the property have been subdivided into lots some of which are partially developed. The property is located in the lower northeast slopes of South Mountain and Alpine Peak in the San Francisco River Valley. The terrain is a combination of open meadow, generally hilly terrain with a mixture of steep slopes and heavily forested areas, consisting of ponderosa pine, jack pine, oak, and aspen.

Property size: Approximately 380 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before February 4, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by February 4, 1992 to Joanne Burroughs at the above ADDRESSES and in the following form:

Notice of Serious Interest

RE: Alpine Village

Federal Register Publication Date: _____.

1. Entity name.

2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, P.L. 101–591, Section 10(b)(2), (12 U.S.C. 1441a–3(b)(2)).

3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).

4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.

5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: October 31, 1991.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 91-26772 Filed 11-5-91; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability; Oak Valley, El Paso County, CO

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Oak Valley located in El Paso County, Colorado, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until February 4, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Rory Johnson, Resolution Trust Corporation, Minneapolis Consolidated Office, 3400 Yankee Drive, 3rd Floor, Eagan, MN 55122, (612) 683-4572, Fax (612) 683-4580.

SUPPLEMENTARY INFORMATION: The property consists of six undeveloped parcels on the suburban fringe of northwest Colorado Springs, El Paso County, Colorado. It is located at the intersection of Centennial Boulevard and Allegheny Drive at the base of the Pikes Peak Mountains. The property is accessible from Interstate 25 at the Woodman Interchange and abuts the Pike National Forest. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property is approximately 122.31 acres in size and consists of six parcels in an area of predominately rolling terrain. The property is undeveloped and has outdoor recreational value.

Property size: Approximately 121.31 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before February 4, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by February 4, 1992 to Rory Johnson at the above ADDRESSES and in the following form:

Notice of Serious Interest

RE: Oak Valley

Federal Register Publication Date:

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, P.L. 101-591, Section 10(b)(2), (12 U.S.C. 1141a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: October 31, 1991.

Resolution Trust Corporation.

William J. Tricarico,

Assitant Executive Secretary.

[FR Doc. 91-26773 Filed 11-5-91; 8:45 am]

BILLING CODE 6714-01-M

Coastal Barrier Improvement Act; Property Availability; Swan's Nest, Summit County, CO

AGENCY: Resolution Trust Corporation.

ACTION: Notice.

SUMMARY: Notice is hereby given that the property known as Swan's Nest in Summit County, Colorado, is affected by Section 10 of the Coastal Barrier Improvement Act of 1990, as specified below.

DATES: Written notices of serious interest to purchase or effect other transfer of the property may be mailed or faxed to the RTC until February 4, 1992.

ADDRESSES: Copies of detailed descriptions of the property, including maps, can be obtained from or are available for inspection by contacting the following person: Steven Reid, Resolution Trust Corporation, Metroplex Consolidated Office, 3500 Maple Avenue, Reverchon Plaza, Suite 210, Dallas, TX 75219-3935, (214) 443-4738, Fax (214) 443-4825.

SUPPLEMENTARY INFORMATION: The property is undeveloped and is located on the east and west sides of Colorado State Highway 9 approximately one-half mile north of Tiger Road, Summit County, Colorado. The property is environmentally sensitive, primarily because it is bisected by the Swan and Blue Rivers. The property includes some wetlands and is adjacent to the Arapahoe National Forest. The property is covered property within the meaning of section 10 of the Coastal Barrier Improvement Act of 1990, Public Law 101-591 (12 U.S.C. 1441a-3).

Characteristics of the property include: The property is approximately 139 acres of undeveloped land, including some wetlands, and is bisected by both the Swan River and the Blue River. The topography of the property is relatively level when compared to the surrounding mountainous terrain and the site is primarily located on the valley floor.

Property size: Approximately 139 acres.

Written notice of serious interest in the purchase or other transfer of the property must be received on or before February 4, 1992 by the Resolution Trust Corporation at the address stated above.

Those entities eligible to submit written notices of serious interest are:

1. Agencies or entities of the Federal government;

2. Agencies or entities of State or local government; and

3. "Qualified organizations" pursuant to section 170(h)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 170(h)(3)).

Written notices of serious interest to purchase or effect other transfer of the property must be submitted by February 4, 1992 to Steven Reid at the above **ADDRESSES** and in the following form:

Notice of Serious Interest

RE: Swan's Nest

Federal Register Publication Date:_____.

1. Entity name.
2. Declaration of eligibility to submit Notice under criteria set forth in Coastal Barrier Improvement Act of 1990, P.L. 101-591, Section 10(b)(2), (12 U.S.C. 1441a-3(b)(2)).
3. Brief description of proposed terms of purchase or other offer (e.g., price and method of financing).
4. Declaration by entity that it intends to use the property primarily for wildlife refuge, sanctuary, open space, recreational, historical, cultural, or natural resource conservation purposes.
5. Authorized Representative (Name/Address/Telephone/Fax).

Dated: October 31, 1991.

Resolution Trust Corporation.

William J. Tricarico,

Assistant Executive Secretary.

[FR Doc. 91-26774 Filed 11-5-91; 8:45 am]

BILLING CODE 6711-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request Copy Available From: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, 450 Fifth Street, NW., Washington, DC 20549.

EXTENSION

File No.	Rule/Form
270-214	Rule O-2 and Forms 4-R, 5-R, 6-R and 7-R.
270-40	Form ADV-W, Rule 203-2.
270-42	Rule 204-3.
270-217	Rule 206(4)-2.

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission ("Committee") has submitted for OMB approval extension of the following: Rule O-2 (17 CFR 275.0-2) and Forms 4-R (17 CFR 279.4), 5-R (17 CFR 279.5), 6-R (17 CFR 279.6) and 7-R (17 CFR 279.7); Form ADV-W (17 CFR 279.2) and Rule 203-2 (17 CFR 275.203-2); Rule 204-3 (17 CFR 275.204-3); and Rule 206(4)-2 (17 CFR 275.206(4)-2), under the Investment Advisers Act of 1940 ("Advisers Act").

Rule 0-2 requires certain nonresident persons to furnish to the Commission a written irrevocable consent and power of attorney that designates the Commission as an agent for service of process, and that stipulates and agrees that any civil suit or action against such person may be commenced by service of process on the Commission. Regulations 279.4, 279.5, 279.6, and 279.7 (17 CFR 279.4), 279.5, 279.6 and 279.7) designate Forms 4-R, 5-R, 6-R and 7-R, as the irrevocable appointments of agent for service of process, pleadings and other papers to be filed by an individual nonresident investment adviser, a corporation nonresident investment adviser or an unincorporated nonresident investment adviser, a partnership nonresident investment adviser, or a nonresident general partner of an investment adviser or a nonresident "managing agent" of an unincorporated investment adviser, respectively, which is registered or applying for registration with the Commission as an investment adviser. There are approximately 3 registrants subject to rule 0-2, for a total of 3 burden hours.

Rule 203-2 governs withdrawal from registration under the Advisers Act and Form ADV-W is the form for withdrawing registration under the Advisers Act. Approximately 2,200 registrants file Form ADV-W annually, for a total of 2,200 burden hours.

Rule 204-3 requires certain written disclosure statements. There are approximately 18,600 investment advisers subject to rule 204-3, for a total of 158,100 burden hours.

Rule 206(4)-2 governs the custody or possession of funds or securities by registered investment advisers. There are approximately 650 registrants subject to rule 206(4)-2, for a total of 81,250 burden hours.

The estimates of burden hours set forth above are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated total burden hours for compliance with Commission rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Management and Budget (Paperwork Reduction Projects 3235-0240, 3235-0313, 3235-0047, 3235-0241), room 3208, New Executive Office Building, Washington, DC 20503.

Dated: October 21, 1991.

Margaret H. McFarland,
Deputy Secretary.

[FR Doc. 91-26740 Filed 11-5-91; 8:45 am]
BILLING CODE 8010-01-M

Forms Under Review by Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2142.

Upon Written Request, Copy Available From: Securities and Exchange Commission, Office of Filings, Information and Consumer Services, 450 Fifth Street, NW., Washington, DC 20549.

Adoption and Rescission

File No. 270-361—Rule 489 and Form F-N

File No. 270-303—Rule 6c-9 and Form N-6C9

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission (the "Commission") has submitted for OMB approval the adoption of Rule 489 and Form F-N under the Securities Act of 1933 (the "1933 Act") and the rescission of Rule 6c-9 and Form N-6C9 under the Investment Company Act of 1940 (the "1940 Act"). Rule 6c-9 permits a foreign bank or the bank's finance subsidiary to offer or sell its debt securities or non-voting preferred stock in the United States without registering as an investment company under the 1940 Act. Form N-6C9 is filed by foreign entities seeking to rely on Rule 6c-9 . New Rule 3a-6 under the 1940 Act would except foreign banks, foreign insurance companies and certain related entities from the definition of "investment company" in the 1940 Act, thereby rendering Rule 6c-9 unnecessary. However, Rule 489 would require that entities making a public offering of securities in reliance on Rule 3a-6 file Form F-N which, like Form N-6C9, appoints a United States agent for service of process.

Each of the estimated fifty respondents on Form F-N would incur an average estimated one burden hour to comply with the requirement to file the form. Each of the estimated one hundred annual respondents on Form N-6C9 (as was proposed to be amended) would have incurred an average estimated one burden hour to comply with the requirement to file the form, which will not be incurred upon the rescission of Form N-6C9.

The estimated average burden hours are made solely for the purposes of the Paperwork Reduction Act, and are not derived from a comprehensive or even representative survey or study of the cost of SEC rules and forms.

Direct general comments to Gary Waxman at the address below. Direct any comments concerning the accuracy of the estimated average burden hours for compliance with SEC rules and forms to Kenneth A. Fogash, Deputy Executive Director, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, and Gary Waxman, Clearance Officer, Office of Management and Budget, room 3208,

New Executive Office Building, Washington, DC 20503.

October 24, 1991.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-26741 Filed 11-5-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29885; File No. SR-CSE-91-03]

Self-Regulatory Organizations; Notice of Filing of Amendment and Order Granting Partial Accelerated Approval of Proposed Rule Change by the Cincinnati Stock Exchange Relating to Preferencing of Public Agency Market and Marketable Limit Orders by Designated Dealers

October 30, 1991.

I. Introduction and Background

On October 25, 1991, the Cincinnati Stock Exchange, Inc. ("CSE") filed an amendment to File No. SR-CSE-91-03 with the Securities and Exchange Commission ("Commission") pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), and Rule 19b-4 thereunder.[1] The purpose of the amendment is to increase from 60 to 125 the number of stocks that a Designated Dealer can preference to itself.[2] This release requests comment on the amendment and grants partial accelerated approval of File No. SR-CSE-91-03.[3]

The CSE originally submitted File No. SR-CSE-91-03 on July 15, 1991, and an amendment thereto on July 9, 1991.[4] In the proposal, as amended by the first amendment,[5] the CSE requested accelerated approval of a six-month extension of paragraphs (u), (1) and (m) of Exchange Rule 11.9, which modify the Exchange's time priority rules, to establish a six-month pilot preferencing rule.[6] In addition, the CSE requested approval for an amendment to Rule 11.9 to remove the limit on the number of issues a Designated Dealer can preference during the pilot period.

The preferencing rule modifies the Exchange's time priority rules to permit a market maker to act as Dealer of the Day and have priority over same-priced market maker or professional agency interest entered prior in time to his bid or offer when the market maker is interacting with public agency market and marketable limit orders that he or she represents as agent. The CSE intended the original proposal to provide market makers with the ability to retain and execute their internal order flow at the best bid or offer, provided the public limit orders on the book have been executed at that price. The time priority rule was designed to create incentives for a market maker/dealer to direct his or her own retain order flow to the Exchange, permitting the market maker/dealer to preference itself over other professionals with respect to order flow that the market maker/dealer is directing to the Exchange.

On August 5, 1991, the Commission published a release requesting comment on the proposal, as amended, and granting partial accelerated approval to extend the pilot period. At that time, the Commission reserved the issue of removing the cap on the number of issues a designated Dealer can preference. The Commission received no comments on the proposal.

II. Description of the Proposal and Exchange Rationale

On October 25, 1991, the CSE submitted the second amendment to the filing, which is the subject of this release. In response to concerns expressed by the Commission on the CSE's request to remove the limit on the number of issues a Designated Dealer can preference during the pilot period, the CSE amended the filing to request that the Commission approve an increase in the limit from 60 issues to 125 issues, rather than approve the removal of the limit entirely.[7]

As a condition of increasing the 60 issue limit on the number of issues a Designated Dealer can preference, the CSE has agreed to provide the Commission with the following information during the extension of the pilot to aid the Commission in evaluating the effect of lifting the sixty-issue cap: (1) A list indicating how many Designated Dealers are preferencing in more than sixty issues; (2) a list identifying, in each such case, the issues being preference; and (3) reports indicating the volume preferenced in each issue. Further, the CSE has stated that, if the Commission requests it, it would provide available information relating to specific intervals of time.[8] Finally, the CSE stated that the dealer preferencing program will not be used for index arbitrage purposes until permitted by the Commission.[9]

The CSE stated that increasing the limit would permit the CSE to conduct a more extensive pilot and thus generate data to determine the real value and impact of preferencing on the markets. In addition, the CSE believes that increasing the limit will provide dealers with flexibility they need to experiment with different issue mixes and improve the Exchange's ability to attract market makers to the National Securities Trading System.

III. Discussion

The Commission finds that the proposal to increase the limit on the number of issues a Designated Dealer can preference to 125 is consistent with the Act and the rules and regulations thereunder applicable to the Exchange. Specifically, the proposal is consistent with section 6(b)(5) because it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system. The Commission believes that the proposal addresses the CSE's legitimate desire to attract additional business to the exchange.

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[1] See letter from David Colker, Executive Vice President, CSE, to Brandon Becker, Deputy Director, Division of Market Regulation, dated October 25, 1991 ("October Letter"). See also letter from David Colker, Executive Vice President, CSE, to Brandon Becker, Deputy Director, Division of Market Regulation, dated October 25, 1991.

[2] The original rule filing requested authority to remove entirely the limit on the number of stocks that a Designated Dealer could preference to itself.

[3] In the amendment the CSE stated that it has at least one member firm that would like to increase the number of stocks that it can preference. See October letter.

[4] See Securities Exchange Act Release No. 29524 (August 5, 1991), 56 FR 38160.

[5] See letter from Kevin S. Fogarty, Vice President, Market Regulation, CSE, to Christine Sakach, Branch Chief, National Market System Branch, Division of Market Regulation, dated July 29, 1991 ("July Letter").

[6] See Securities Exchange Act Release No. 28866 (February 7, 1991), 56 FR 5854, in which the Commission originally approved the rules for a six-month pilot program.

[7] Originally, as a condition of Commission approval of the preferencing rule, the CSE agreed to propose the rule on a six-month pilot basis and amend the proposal to address Commission concerns regarding: (1) Short-sale arbitrage programs; (2) payment for order flow; (3) the number of issues that a Designated Dealer could preference during the period of the pilot; and (4) length of service as a Designated Dealer. To prevent the use of preferencing to facilitate program trading, the CSE agreed to limit to 60 the number of issues that a designated Dealer could preference.

[8] See July Letter.

[9] See October Letter. In addition, the CSE stated that an interpretation to Rule 11.9 that specified the conditions under which preferencing Designated Dealers could effect index arbitrage through the system is null and void. See letter from Kevin S. Fogarty, Vice President, Market Regulation, CSE, to Christine A. Sakach, Branch Chief, SEC, dated October 29, 1991.

The Commission finds good cause for approving the amendment prior to the thirtieth day after the date of publication of the notice of filing. The Commission believes that accelerated approval will provide the CSE the ability to determine the effect of the increased limit on market makers' willingness to participate in the program before the CSE has to make the determination as to whether to seek permanent approval of the amendments to Rule 11.9.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. 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 submissions, all subsequent amendments, all written statements with respect to the original and amended 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 at the principle office of the above-referenced self-regulatory organization. All submissions should refer to the file number in the caption above and be submitted by November 27, 1991.

V. Conclusion

Based on the foregoing, the Commission has concluded that approval of the amendment, which increases the maximum number of stocks that a Designated Dealer can preference, is consistent with the requirements of the Act and that it is appropriate to approve the proposal.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the amendment to increase the maximum number of stocks a Designated Dealer can preference to 125 be, and hereby is, approved until February 7, 1992.

For the Commission, by the Division of Market Regulation, pursuant to delegated authory. 17 CFR 200.30-3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-26744 Filed 10-5-91; 8:45 am]

BILLING CODE 8010-11-M

[Release No. 34-29886; File No. SR-MSTC-91-05]

October 30, 1991

Self-Regulatory Organizations; Midwest Securities Trust Company; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Advances of Dividends, Interest and Other Payments or Distributions

Pursuant to section 19(b) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b), notice is hereby given that on October 24, 1991, the Midwest Securities Trust Company ("MSTC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change amends Article III, Rule 1, Section 3 and Article IV, Rule 1, Section 3 of MSTC's Rules. Capitalized terms used herein have the same meanings ascribed to them in MSTC's Rules. The proposed rule change clarifies MSTC's rights with respect to dividends, interest, and other distributions in respect of securities that MSTC has advanced to its Participants prior to receipt by MSTC of such payments from issuers or paying agents.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, MSTC's 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 Item IV below. MSTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The amendment to Article III, Rule 1, section 3 clarifies that if an issuer or paying agent fails to make a cash distribution or payment in respect of securities and MSTC has credited Participants accounts to reflect such payments, MSTC has the right either to (a) require the Participants immediately to pay MSTC cash in the amount so credited by MSTC or (b) reverse such credits and reflect the reversal in the computation of the cash settlement balance due to or from MSTC in accordance with Article III, Rule 1, section 1 of MSTC's Rules.

The amendment to Article IV, Rule 1 section 3 clarifies that Participants are deemed immediately to have granted to MSTC all their rights in and to the payments or distributions credited, but not then received, by MSTC as described in the preceding paragraph. The amendment also makes clear that all rights to such payments or distributions revert to the Participants in the event MSTC elects to reverse the credits for such payments or distributions as described in the preceding paragraph.

The proposed rule change is consistent with section 17A of the Act in that it provides greater certainty in the application of MSTC's existing Rules.

B. Self-Regulatory Organization's Statement on Burden on Competition

MSTC does not believe that any burden will be placed on competition as a result of the proposed rule change because the proposed rule change merely clarifies existing rights of MSTC and its Participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments with respect to the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and paragraph (e) of Rule 19b-4 thereunder because the proposed change constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 principle office of MSTC. All submissions should refer to File No. SR-MSTC-91-05 number and should be submitted by November 27, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-26745 Filed 11-5-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29881; File No. SR-NASD-91-55]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to Small Order Execution System Tier Size Classification

October 29, 1991.

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 October 24, 1991, the National Association of Securities Dealers, Inc. ("NASD" or "Association") filed with the Securities and Exchange Commission ("SEC" or "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. The NASD has designated this proposal as "a stated policy, practice or interpretation with respect to the meaning, administration, or enforcement of an existing rule" under section 19(b)(3)(A)(i) of the Act, which renders the rule effective upon the Commission's receipt of this filing. 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 NASD is proposing an interpretation of an existing rule, pertaining to the Association's periodic reclassification of securities in the appropriate Small Order Execution System ("SOES") maximum order size tiers, as described more fully below.

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 NASD 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 NASD has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The Purpose of the rule change is to notify the Commission of the reclassification of some 487 National Market System ("NMS") securities within the maximum SOES order size tier levels. The Association reviews the tier levels applicable to each security periodically (approximately every six months) to determine if the trading characteristics of the issue have changed so as to warrant a SOES tier level move. Such a review was conducted as of June 30, 1991, using second quarter, 1991 trading data and the following established criteria:

A 1,000-share maximum order size for NASDAQ/NMS securities with an average daily nonblock volume of 3,000 shares or more a day, a bid price less than or equal to $100, and three or more market makers;

A 500-share maximum order size for NASDAQ/NMS securities with an average daily nonblock volume of 1,000 shares or more a day, a bid price less than or equal to $150, and two or more market makers;

A 200-share maximum order size for NASDAQ/NMS securities with an average daily nonblock volume of less than 1,000 shares a day, a bid price less or equal to $250, and fewer than two market makers.

The 487 NASDAQ/NMS securities that have been reclassified as of October 31, 1991, are set out in NASD Notice to Members 91-64, attached as Exhibit 2 to the instant filing. As a result of the rule change, the number of NASDAQ/NMS securities in the 1,000 share tier will go from 1,790 to 1,824; in the 500 share tier, from 501 securities to 472; and in the 200 share tier, from 322 securities to 317.

The NASD believes the proposed rule change is consistent with Section 15A(b)(6) of the Act. Section 15A(b)(6) requires, among other things, that the rulemaking initiatives of the NASD be designed to "foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market." The NASD believes that the reassessment of securities with SOES tier levels will further these ends by providing an efficient mechanism to facilitate small order executions in the NASDAQ market.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed rule change imposes any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, as amended.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Rule 19b-4 thereunder in that it constitutes a stated practice with respect to the administration of an existing rule of the NASD.

At any time within 60 days of the filing of a rule change pursuant to section 19(b)(3)(A) of the Act, the Commisison may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

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 Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to the file number in the caption above and should be submitted by [insert date 21 days from the date of publication].

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. 91-26746 Filed 11-5-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-29887; File No. SR-NYSE-91-36]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change Relating to Electronic "T+1" Overnight Comparison of Exchange Options Transactions

October 30, 1991.

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 October 10, 1991, the New York Stock Exchange, Inc. ("Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II, and III below, which items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Changes

The proposed rule change consists of amendments to Exchange Rules 760 and 765, the rescission of present Rules 761 and 764, and the adoption of new Rules 761 and 764. The purpose of the proposal is to provide for electronic "T+1" overnight comparison of Exchange option transactions on and after March 31, 1992.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

In its filing with the Commission, the Exchange included statements concerning the purpose of and statutory 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 Exchange has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Changes

(1) Purpose

In September of 1988, the Exchange began to implement its "T+1" [1] Overnight Comparison System ("T+1" OCS) by adopting, in principle, Rule 130. This rule now requires that "regular way" transactions in listed stocks, rights, and warrants (but not listed bonds) must be compared or closed out within one business day from the trade date.[2]

Because the implementation of the "T+1" OCS involved a complete overhaul of the Exchange's uncompared trade resolution process, requiring the replacement of what was essentially a labor-intensive manual process with a largely electronic process, it was implemented over a 17-month period. The conversion process was completed on August 6, 1990. Since that time, the Exchange has received a number of informal requests to expand the use of the "T+1" OCS to the comparison of options transactions.

In considering these requests, the Exchange is aware that since options transactions are presently compared on "T+1", there will be no reduction in exposure to risk due to market fluctuations as was the case in stocks. However, changing what is now a largely manual process to what will be a largely automated process will greatly improve operations, reduce errors and enhance efficiency. Moreover, the introduction of options into the "T+1" OCS will provide the Exchange with a test environment for a pilot program for intraday or "Floor Derived Comparison." The proposed rule change should not, however, be construed to give the Exchange authority to mandate Floor Derived Comparison for options transactions now. Should experience with the pilot programs prove that this type of comparison is feasible, the Exchange will submit another request for appropriate rule changes at that time. If the proposed rule change is approved, the Exchange plans to implement "T+1" OCS for options on a gradual basis as it did in stocks.

(i) *Rule 760—General Comparison and Clearance Rule.* This is a general comparison and clearance rule that requires all options transactions to be submitted to the Exchange for comparison and to The Options Clearing Corporation for clearance. It also contains requirements for the comparison of Exchange omnibus transactions. The amendments require that on and after March 31, 1992, all options transactions must be compared or closed out by "T+1." The amendments also permit the Exchange to establish and change the time or times that data is submitted to it for comparison, which may include a time or times during the trading session. Other provisions of present Rule 760 have been repositioned to Rule 761, and some provisions of Rule 761 have been repositioned to Rule 760 for consistency and clarity.

(ii) *Rule 761—Responsibility of Clearing Members for Exchange Options Transactions.* This is a general comparison rule that requires all clearing members to be responsible for the clearance of their own options transactions and the transactions of other members and member organizations for which they accept responsibility. Certain provisions of this rule have been repositioned to Rule 760 and certain provisions of Rule 760 have been repositioned to this rule for consistency and clarity.

(iii) *Rule 764—Verification of Contract Lists and Reconciliation of Uncompared Trades.* This rule contains the requirements for manual verification of data appearing on contract lists and for the resolution of uncompared trades on the evening of "T" and on the following morning of "T+1". This rule has been rescinded and replaced with a new Rule 764 that related to electronic comparison processing.

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[1] The term "T+1" as used herein refers to the number of elapsed business days after the day of the trade.

[2] For a description of the "T+1" OCS, *see* Securities Exchange Act Release No. 26627 (March 14, 1989), 54 FR 11470 [File No. SR-NYSE-88-36].

(iv) *Rule 765—Unreconciled Trade Reports.* This rule provides that, after the reconciliation of uncompared trades process has been completed on "T+1", the Exchange will produce a report delineating any remaining uncompared transactions and any new uncompared transactions that have been submitted. If any of these uncompared trades can be resolved on "T+1", they may be admitted to comparison on "T+2". If not so resolved, they must be closed out on "T+1". To be consistent with mandatory "T+1" comparison, the provision permitting submission to comparison on "T+2" has been deleted.

This additional function of the "T+1" OCS will not diminish its capability to accommodate ordinary message traffic as well as peak traffic. Additionally, the changes that have been made in the "T+1" OCS's security measures are satisfactory to prevent internal and external violations.

(2) Statutory Basis for the Proposed Rule Changes

Expansion of the "T+1" OCS to include options transactions will improve the efficiency, timeliness, and accuracy of the options comparison process. The changes will also provide a pilot program for developing a Floor Derived (intraday) Comparison process for options. Such an intraday comparison process will help protect investors and the public interest pursuant to section 6(b)(5) of the Act in that it will help prevent fraudulent and manipulative acts and practices, will promote just and equitable principles of trade, and will foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The proposed rule change also meets the requirements of section 17A(a)(1)(A) because it will enhance the prompt and accurate clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Changes Received From Members, Participants, or Others

The Exchange has neither solicited nor received comments on the proposed rule changes.

III. Date of Effectiveness of the Proposed Rule Changes and Timing for Commission Action

Within thirty-five 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 ninety 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 Exchange consents, the Commission will:

(A) By order approve such proposed rule changes or

(B) Institute proceedings to determine whether the proposed rule changes should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Those wishing to make a written submission should file six copies of the submission with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, subsequent amendments, written statements with respect to the proposed rule changes that are filed with the Commission, and written communications relating to the proposed rule changes between the Commission and any persons, 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 Exchange. All submissions should refer to File No. SR-NYSE-91-36 and should be submitted by November 27, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-26747 Filed 11-5-91; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-29888; File No SR-OCC-91-7]

Self-Regulatory Organization; The Options Clearing Corporation; Order Approving Proposed Rule Change Relating to Establishing a Cross-Margin Program with the Board of Trade Clearing Corporation

October 31, 1991.

On April 11, 1991, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (File No. SR-OCC-91-7) under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act") [1] to establish procedures for cross-margining certain options issued and cleared by OCC with certain futures and futures options cleared by the Board of Trade Clearing Corporation ("BOTCC").[2] On May 6, 1991, the Commission published notice in the **Federal Register** to solicit comments.[3] None were received. OCC amended the proposal on August 27, 1991.[4] This Order approves OCC's proposed rule change, as amended, permitting proprietary cross-margining of specific futures and options contracts.

I. Description

OCC's proposal would allow cross-margining of positions in eligible products that qualify as "proprietary" positions under the rules of the CFTC and as "non-customer" positions under the Act. This proposal is modelled after an earlier proprietary cross-margining system established with the Chicago Mercantile Exchange ("CME").[5] Because that release describes most of the complex legal, regulatory, and operational issues relating to the current proposal, this Order will only describe the proprietary cross-margining system briefly and will identify any differences between the OCC-CME and the proposed OCC-BOTCC systems.[6]

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[1] 15 U.S.C. 78s(b)(1).

[2] Eligible options currently include put and call options on S&P Indexes, the Major Market Index, the New York Stock Exchange Index, the Financial News Composite Index, and the Institutional Index. Eligible futures currently include futures on the Major Market Index. Any change to this list would require submission of a proposed rule change in accordance with Section 19(b)(1) of the Act.

[3] Securities Exchange Act Release No. 29142 (April 30, 1991), 56 FR 26034.

[4] OCC's original proposal would permit cross-margining of both proprietary and non-proprietary accounts. However, as of the date of this Order, neither BOTCC's Board of Directors nor the Commodity Futures Trading Commission ("CFTC") has approved non-proprietary cross-margining. Amendment No. 1 to OCC's rule filing proposes that the Commission approve proprietary cross-margining as described in BOTCC's proposal but not consider non-proprietary cross-margining until it is approved by BOTCC's Board of Directors and the CFTC.

Amendment No. 1 also added options on the futures on the Major Market Index to the list of contracts eligible for cross-margining.

[5] Securities Exchange Act Release No. 27296 (September 26, 1989), 54 FR 41195 (Order approving proprietary cross-margining program).

[6] The primary differences between the OCC-CME and the OCC-BOTC systems are that under the OCC-CME system, CME has to advise OCC if any of its Clearing Members are put on a "high-risk list" kept by CME. In contrast, OCC's agreement with BOTCC provides that each must inform the other in

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To implement the proposal, OCC and BOTCC have entered into a Cross-Margining Agreement ("Agreement"). Under the Agreement, the firms eligible for cross-margining include: (1) a clearing member of both OCC and BOTCC ("Joint Clearing Member") and (2) two affiliated firms ("Affiliated Clearing Members"), one of which is an OCC clearing member and one of which is a BOTCC clearing member. In order to participate in cross-margining, eligible OCC–BOTCC clearing members must elect to do so and must establish cross-margining accounts ("x-m accounts") at each clearing organization. Each Joint Clearing Member and each pair of Affiliated Clearing Members must designate either OCC or BOTCC as its Designated Clearing Organization ("DCO"). The DCO will calculate margin requirements for x-m accounts on a daily basis in consultation with the other clearing organization. OCC and BOTCC will use similar procedures to determine the tentative margin requirements. OCC will use its Non-Equity Options ("NEO") margin system to calculate the premium and additional margin requirement for x-m accounts positions with all of the x-m account positions grouped by series, class, and product groups.[7] BOTCC will use the Standard Portfolio Analysis of Risk ("SPAN") system to calculate margin requirements.[8] OCC and BOTCC also will collect from clearing members with x-m accounts "super-margin" if the positions in the x-m account predominantly include only futures or options positions rather than intermarket hedge positions.[9] Settlement will occur on a daily basis through a joint OCC–BOTCC settlement account.[10]

OCC and BOTCC have agreed to provide each other with information concerning their members participating in cross-margining. The Agreement mirrors the agreement between OCC and CME, except that the Agreement requires each organization to notify the other upon receipt of information causing either organization significant concern about the financial or operational capabilities of a clearing member. In contrast, the OCC agreement with CME requires CME to notify OCC if one of CME's Clearing Members is on the CME's "high risk list."[11]

In the event of a Clearing Member default, OCC and BOTCC will work together to resolve the situation and, as discussed below, have established procedures in the Agreement to provide a framework for taking the appropriate actions.[12] The primary protection against losses arising from a default in an x–m account is OCC's and BOTCC's first priority lien and security interest in all positions in the x–m accounts, all funds and securities deposited to satisfy margin requirements, and all proceeds resulting from the litigation of these accounts, as security for the obligations of the Joint Clearing Member or pair of Affiliated Clearing Members. OCC may suspend an OCC member who defaults on a cross-margining settlement obligation or margin payment obligation. After OCC or BOTCC suspends the member (and notifies the member of its suspension), the clearing organization initiating the suspension will notify the other clearing organization of the suspension. Both OCC and BOTCC will liquidate the contracts in the suspended member's x–m account (unless both clearing organizations agree to delay liquidation of some or all of those contracts). OCC and BOTCC will coordinate the liquidation of the contracts so that both legs of any spread or hedged position can be closed out simultaneously to the extent possible. Both OCC and BOTCC will use the proceeds from the liquidation of the contracts to pay for liquidation expenses, and the remaining funds will be deposited in a cross-margining liquidating account. The two clearing organizations also will convert to cash the deposits in the suspended member's margin account and deposit the funds in the liquidating account.[13]

Section 9 of the Agreement, regarding confidentiality and information sharing, is substantially similar to the cross-margining agreement between OCC and

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the event that either clearing organization receives information which causes it concerns over a Clearing Member's financial or operational capabilities. In addition, there are specific requirements of confidentiality and information sharing between OCC and BOTCC in the proposed system not specifically mentioned in the OCC–CME cross-margining agreement. Finally, there are small differences in the non-proprietary cross-margin account and security agreements ("security agreements") governing OCC–CME cross-margining and the security agreements governing OCC–BOTCC cross-margining. These differences result from clarification of the subordination arrangements between OCC and BOTCC with respect to non-proprietary accounts.

[7] For a detailed description of how OCC computes NEO margin, *see* Securities Exchange Act Release No. 27296, *supra* note 5. For a detailed explanation of how OCC calculates the cost of liquidating the portfolio of positions in each class group using theoretical value at a range of underlying asset prices, *see*, Securities Exchange Act Release No. 23167 (April 22, 1986), 51 FR 16127.

[8] BOTCC uses the SPAN system to measure the risks associated with portfolios of members' positions. The SPAN system uses a scenario approach to calculate a worst case loss for each portfolio. It does this by constructing an array of gains and losses across various price and volatility changes from each future and option contract. The array gains and losses are then multiplied by the net position for each contract and summed across each scenario in the array. The worst loss scenario resulting from these measurements is then used as the scanning risk for the portfolio. Telephone conversation between Mr. Sanjay Soni, Director of Risk Analysis and Chief Economist, BOTCC, and Jack Drogin, Attorney Adviser, Division of Market Regulation, Commission (October 30, 1991).

[9] The super margin requirement is based on the amount of a member's additional, or risk, margin requirement. If the additional, or risk, margin requirement exceeds certain levels, then a super margin requirement amount would be calculated by multiplying the incremental factor for the risk margin requirement by the risk margin requirement. OCC originally developed the super margin requirement to discourage clearing members from maintaining positions in their x-m accounts that would generate large margin requirements (*i.e.*, maintaining large unhedged positions). As the amount of such positions increases above a threshold level, the super margin requirement increases. OCC and BOTCC will retain authority to make intraday margin calls for additional margin when necessary.

[10] For a detailed account of how settlement will occur, see Securities Exchange Act Release No. 27296, *supra* note 5.

[11] For a detailed account of the information sharing and notification obligations of the clearing organizations, *see* Securities Exchange Act Release No. 27296, *supra* note 5. As noted above, the OCC–CME information sharing arrangement parallels the OCC–CME information sharing arrangement as proposed in the amended OCC–CME cross-margining agreement (File No. SR–OCC–90–01).

[12] In the event of a default by a Joint Clearing Member or a pair of Affiliated Clearing Members which participates in multiple cross-margining arrangements with OCC (such as OCC–CME cross-margining and OCC–BOTCC cross-margining), the liquidation of the OCC–CME x–m accounts and OCC–BOTCC x–m accounts would be conducted separately, and the proceeds or the shortfall would be allocated in accordance with the applicable agreement. For example, if after liquidating the Clearing Member's x–m accounts, there is no surplus, OCC would share in the loss with the appropriate cross-margining partner on an equal basis (in BOTCC's case, as contained in Section 8(e) of the Agreement). OCC's losses from both x–m accounts would be a charge against OCC's clearing fund in accordance with OCC rules to the extent necessary to satisfy those losses. Similarly, if there was a surplus in any of the relevant x–m accounts, OCC would share that surplus with the cross-margining partner as agreed to in its agreement with that clearing organization (in BOTCC's case, under Section 8(d) of the Agreement). Thus, OCC would be entitled to apply 50% of the surplus in the x–m account to a deficit in the Clearing Member's other OCC accounts (including the OCC–BOTCC x–m account), and if no deficits occurred at CME (or BOTCC), OCC may be entitled to offset deficits in other OCC accounts by as much as 100% of the surplus in the OCC–CME (or OCC–BOTCC) x–m account. Letter from James C. Yong, Deputy General Counsel, OCC, to Jonathan Kallman, Assistant Director, Division of Market Regulation, Commission (October 28, 1991).

Positions in the OCC–BOTCC x–m accounts will not be commingled with positions in the OCC–CME x–m accounts except that the proceeds of the liquidation of the OCC–BOTCC and the OCC–CME x–m accounts may be offset as provided in the respective agreements as described above.

[13] For a detailed description of the actions to be taken and the method of account proceeds distribution upon a Clearing Member default, *see* Securities Exchange Act Release No. 27296, *supra* note 5.

CME.[14] However, unlike the OCC–CME agreement, the Agreement requires both OCC and BOTCC to promptly notify the other in the event a formal request is presented to them for confidential information related to the transactions contemplated by the Agreement. In addition, each clearing organization is obligated to cooperate with the other in the event the other determines to seek a protective order against disclosing such confidential information.

II. Discussion

The Commission believes that the proposal is consistent with Section 17A of the Act. The Commission believes that the proposal is designed to assure the safeguarding of funds and securities in OCC's possession or for which it is responsible and will promote the prompt and accurate clearance and settlement of securities transactions.[15]

The Commission believes that the OCC-BOTCC cross-margining system will increase the safety and reliability of clearance and settlement systems. For many years, commodity clearing organizations have reduced clearing member margin requirements on the basis of options positions at OCC even though those clearing organizations had no rights in the options positions (*i.e.*, liens or perfected security interests) and would not realize any benefit from the options positions in the event of a clearing members default. In many respects, the OCC-BOTCC cross-margining system provides greater safety for commodity clearing organizations' existing margin policies and practices because it will provide BOTCC with perfected security interests in Clearing Member's OCC options held in x-m accounts.

As discussed in the Commission order approving OCC-CME proprietary cross-margining,[16] the Commission believes that cross-margining can reduce clearing member cash-floor requirements substantially even if it is not a panacea for a liquidity crisis such as occurred during October 1987.[17] As also discussed in that Order, the proposal enhances the security of the clearing system because when an obligation is hedged by a position based on the same underlying asset, an increase in the cost of liquidating the obligation should be offset by a corresponding increase in the value of the hedge position.[18] Cross-margining also has the potential for reducing clearing system exposure in the event of a clearing member default.[19]

Commentators question whether the historical price relationship between futures and options legs of an intermarket hedge will remain stable during volatile markets. Even in normal market conditions, the prices of products that historically have moved in tandem may diverge for a variety of reasons. Such divergence can result in the long and short legs of a cross-product hedge being liquidated at such discrepant prices that a loss to the clearing organization would result. As discussed in the order approving OCC-CME proprietary cross-margining,[20] reviewing correlation coefficients for product group components periodically can help to ensure rice correlations among class groups.[21] The Commission believes that the OCC's proposed cross-margining system recognizes these risks and that OCC has taken steps to address these risks. Among other things, OCC will establish haircuts (i.e., deduct a percentage of the value) for class group margin credits in product groups when appropriate. OCC will review the haircuts on a regular basis to ensue that the correlations are adequate and will change the composition of the product groups if the correlations diverge too much.

The Commission has reviewed the adequacy of OCC's and OTCC's projections against a clearing member default and, in particular, whether OCC's and BOTCC's liens will withstand judicial scrutiny in the event of a clearing member insolvency proceeding. The Commission is satisfied that OCC and BOTCC rules require them to take reasonable precautions to assure that both clearing organizations will have perfected security interests in accounts, margin deposits, and other assets in their possession or control.

At the Commission's request, OCC has considered how OCC would address liquidation of a defaulting Clearing Member's positions if that Clearing Member participated in more than one cross-margining program. The Commission is satisfied that OCC has done the necessary contingency planning to prevent confusion in the event of such a liquidation when necessary.[22]

III. Conclusion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–OCC–91–71), be and hereby is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–26748 Filed 11–5–91; 8:45 am]

BILLING CODE 8010–01–M

[Rel. No. IC–18385; 812–7694]

Kemper Investment Portfolios, et al.; Notice of Application

October 31, 1991

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("Act").

APPLICANTS: Kemper Investment Portfolios (the "Fund") and Kemper Financial Services, Inc. ("KFS") and any other open-end registered management investment company, existing or established in the future, that is advised, managed, or distributed by KFS, and that has substantially the same sales structure as the Fund (together with the Fund, the "Funds").

RELEVANT ACT SECTIONS: Exemption requested under section 6(c) from the provisions of section 18(f), 13(g) and 18(i) of the Act.

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[14] *See* Securities Exchange Act Release No. 27296, *supra* note 5, for a more detailed account of the OCC–CME cross-margining agreement. The confidentiality requirements of the Agreement do not prohibit either clearing organization from providing confidential information to a self-regulatory organization or to the CFTC, SEC, or any foreign government or regulatory authority, pursuant to any surveillance agreement or similar arrangement to which such clearing organization is a party.

[15] For a general discussion of the benefits of cross-margining, see Securities Exchange Act Release No. 27296, *supra* note 5.

[16] Securities Exchange Act Release No. 27296 (September 16, 1989), 54 FR 41195.

[17] For a detailed account of the liquidity difficulties faced during the October 1987 market decline, see the Presidential Task Force on Market Mechanisms, Report at p.66 (January 1988).

[18] Securities Exchange Act Release No. 27296 (September 26, 1989), 54 FR 41195.

[19] Hinkes, Timothy F., Cross-Margining and Futures-Style Margining: The Facts, Commodities Law Letter, volume VIII, No. 9 & 10 (November-December 1988).

[20] Securities Exchange Act Release No. 27296 (September 26, 1989), 54 FR 41195.

[21] For example, the cross-margining agreement between The Intermarket Clearing Corporation ("ICC") and OCC requires ICC to review such correlation coefficients. Securities Exchange Act Release No. 26153 (October 3, 1989), 53 FR 16127. ICC's Market Surveillance Group monitors the product group components daily, and in the event price correlations begin to break down, ICC will institute a formal review more often than monthly. If the correlation changes significantly, ICC adjusts the product group percentage accordingly, and if the coefficient of determination falls below 70%, ICC changes the composition of the product group.

[22] *See supra* note 12.

SUMMARY OF APPLICATION: Applicants seek an order that would permit the Funds to issue two classes of securities for each of its portfolios—Initial Shares and Premier Shares. Initial Shares will be subject to a contingent deferred sales load and a rule 12b–1 distribution fee. Premier Shares will be subject to neither. Both classes will be subject to an ongoing administrative services fee. The Initial Shares will convert into the Premier Shares after a specified period to give investors the benefit of reduced fees and higher yield.

FILING DATES: The application was filed on March 8, 1991, amended on June 5, 1991 and October 28, 1991, and supplemented with a letter from counsel dated October 30, 1991.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 25, 1991, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicants, 120 South LaSalle street, Chicago, Illinois 60603.

FOR FURTHER INFORMATION CONTACT: Nicholas D. Thomas, Staff Attorney, at (202) 504–2263 or Max Berueffy, Branch Chief, at (202) 272–3016 (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. The Fund is an open-end, management investment company registered under the Act. The Fund is a series company, offering eight different investment portfolios to the public (the "Portfolios").

2. KFS serves as the Fund's investment adviser, distributor, and principle underwriter. KFS is a wholly-owned subsidiary of Kemper Financial Companies, Inc., that in turn is a subsidiary of Kemper Corporation.

3. Pursuant to exemptive relief granted by the Commission, shares of the Fund are offered subject to a contingent deferred sales load ("CDSL"). Investment Company Act Release Nos. 13676 (December 16, 1983) (notice) and 13720 (January 13, 1984) (order). For shares sold after February 1, 1991, the CDSL ranges from 3% for the first year down to 0% after six years.

4. The Fund's current rule 12b–1 distribution fee ("12b–1 fee") is 1.25% of the average daily net assets of the Fund. The Fund's Board of Trustees has approved, effective December 1, 1991, a reduction of the 12b–1 fee from its current level to .75%. The Board has also approved the implementation of an administrative servicec fee at the annual rate of .25% of the average daily net assets of the Fund.

5. Applicants propose to create two classes of shares of each Portfolio of the Funds—Initial Shares and Premier Shares. Initial Shares will be subject to any applicable CDSL as well as a 12b–1 fee. Premier Shares will not be subject to either charge. Both classes will be subject to the ongoing administrative services fee.

6. Initial Shares will include all shares outstanding on December 1, 1991 or as soon thereafter as possible (the "Classification Date"). Initial Shares of a Portfolio will automatically convert to Premier Shares of the same Portfolio six years after issuance of the Initial Shares for shares issued on or after February 1, 1991 and seven years after issuance of the Initial Shares for shares issued before February 1, 1991.[1] In no event will conversion occur before the Classification Date. The purpose of this conversion feature is to relieve holders of the Initial Shares from the 12b–1 fee when the Shares have been outstanding long enough for KFS to have been compensated for distribution related expenses.

7. Each share of a Portfolio, whether Initial or Premier, will represent an identical interest in that Portfolio except that Initial Shares will be subject to the CDSL and pay transfer agency fees related to the CDSL. Holders of Initial Shares will also pay a 12b–1 fee, bear all expenses of shareholder meetings held solely to vote on matters concerning the 12b–1 fee, and have sole voting rights concerning the 12b–1 fee. As a result of these differences, Initial Shares will have a higher expense ratio and receive lower dividends than the Premier Shares. Both classes will have the same exchange, reinvestment, and dividend reinvestment privileges within their class.

8. Premier shares will be available to the general public only through conversion from Initial Shares. Premier Shares, however, will be available directly to the following: officers, trustees, directors, employees (including retirees) and sales representatives of the Fund, its investment adviser, its principal underwriter or certain affiliated companies, for themselves or their spouses, children or parents, or to any trust, pension, profit sharing or other benefit plan for only such persons; registered representatives and employees of broker-dealers having selling group agreements with KFS and officers, directors and employees of service agents of the Fund, for themselves or their spouses or dependent children, or to any trust or pension, profit sharing or other benefit plan for only such persons; selected employees (including their spouses and dependent children) of banks and other financial services firms that provide administrative services related to order placement and payment to facilitate transactions in shares of the Fund for their clients pursuant to an agreement with KFS or one of its affiliates, provided such employees as part of their usual duties provide services related to transactions in Fund shares; in connection with the acquisition of the assets of or merger or consolidation with another investment company; and to shareholders of Premier Shares in connection with the investment or reinvestment of income and capital gain dividends.

9. Shares purchased through the reinvestment of dividends and other distributions paid with respect to Initial Shares will be treated as Initial Shares, and will be converted into Premier Shares on a pro rata basis with the other Initial Shares. Dividend and other distributions may only be reinvested in the same class of shares of the same or another Portfolio.

10. Shares may be exchanged for the same class of shares of another Portfolio or, to the extent provided in a Fund's current prospectus, for a similar class of shares of another Fund within the same group of investment companies as

[1] By letter dated October 30, 1991, counsel for applicants explained that shareholders purchasing prior to February 1, 1991 hold Initial Shares for a longer period of time before they are converted to Premier Shares than shareholders purchasing on or after February 1, 1991 because the compensation paid to firms selling shares of the Fund was reduced as of February 1, 1991. Applicants state that the principal underwriter could therefore afford to reduce the time period during which shares sold on or after February 1, 1991 would be subject to a 12b–1 fee. The staff notes that the CDSL was also reduced from a maximum of 6% to the current 3% maximum for shares sold on or after that date.

defined by rule 11a-3 under the 1940 Act.

11. The proceeds from the redemption of Initial Shares plus the amount of any CDSL (that KFS will restore to the shareholder's account) may be used within 60 days after redemption to purchase Initial Shares of any Portfolio. The original purchase date of the redeemed shares will be used for the computation of any CDSL on the purchased shares. Proceeds from redeemed Premier Shares may be reinvested within 60 days of the redemption in Premier Shares of any Portfolio.

12. The conversion of Initial Shares to Premier Shares may be subject to the continuing availability of an opinion of counsel, ruling by the Internal Revenue Service, or other assurance acceptable to the Fund to the effect that (a) the assessment of the 12b-1 fee as to Initial Shares and not Premier Shares does not result in the Fund's dividends constituting "preferential dividends" under the Internal Revenue Code, and that (b) the conversion of Initial Shares to Premier Shares does not constitute a taxable event under Federal income tax law.

Applicants' Legal Analysis

1. Section 18(f)(1) of the Act generally prohibits the issuance or sale of any "senior security" within the meaning of section 18(g) of the Act. Because the Initial Class will bear certain expenses to which the Premier Class will not be subject, the dividends for each class will differ by approximately the amount of the incremental expenses borne by the Initial Class. Thus, the proposed issuance and sale of Initial and Premier Shares may result in the creation of a class of shares having "priority over [another] class as to * * * payment of dividends," which is deemed to be a "senior security" within the meaning of section 18(g) of the Act.

2. Section 18(i) of the Act provides, with certain exceptions not relevant here, that every share of stock issued by a registered management company shall have equal voting rights with every other outstanding share of stock of the company. Because the proposed Initial Shares will enjoy exclusive voting rights as to matters concerning the 12b-1 Plan for Initial shares, the issuance of those shares might violate section 18(i).

3. Applicants therefore request an exemptive order pursuant to section 6(c) of the Act to the extent that the proposed issuance and sale of Initial and Premier Shares might be deemed either (a) to result in a "senior security" within the meaning of section 18(g) of the Act and to be prohibited by section 18(f)(1) of the Act, or (b) to violate the equal voting provisions of section 18(i) of the Act.

4. Applicants argue that the proposed dual-class arrangement does not involve any of the concerns underlying section 18 of the Act. The arrangement does not involve borrowing, will not affect the Funds' assets or reserves, and will not increase the speculative character of the shares of the Funds. Furthermore, the capital structure of the Funds will not be so complex as to make it difficult for investors to determine the value of the securities of the Funds.

5. Applicants also believe the proposed arrangement will not unfairly discriminate against either group of shareholders. The money received from the CDSL and the proposed 12b-1 Plan will be the only compensation to KFS for its services as distributor of Initial Shares and for the expense of distribution.[2] Because only Initial Shareholders will be responsible for payments under the 12b-1 Plan, it is fair for them to enjoy exclusive voting rights on matters relating to the plan. Similarly, it is appropriate for Initial Shareholders to bear any expenses relating to 12b-1 Plan meeting expenses, as well as incremental transfer agency expenses resulting from imposition of the CDSL on redemption of Initial shares. Because of the conversion feature, Initial shareholders will be relieved of these incremental expenses and the 12b-1 fees after their shares have been outstanding long enough for KFS to have been compensated by the 12b-1 payments for its distribution related expenses.

Applicants' Conditions

Applicants agree that the order of the Commission granting the requested relief shall be subject to the following conditions:

1. The Initial and Premier Shares will represent interests in the same portfolio of investments of a portfolio, and be identical in all respects, except as set forth below. The only differences between Initial and Premier Shares of the same portfolio will relate solely to: (a) Priorities as to the payment of dividends, and such priorities will reflect only the effect of the 12b-1 distribution fee, any incremental transfer agency expenses attributable to the Initial Shares, shareholder meeting and proxy expenses with respect to the 12b-1 Plan incurred only by the Initial Shares of a portfolio, and any other incremental expenses subsequently identified that should be properly allocated to one class, provided such allocation has been approved by the Commission pursuant to an amended order or is the subject of a favorable no-action letter issued by the staff; (b) voting rights on matters that pertain only to the 12b-1 Plan that shall apply solely to Initial Shares; (c) the different exchange, reinvestment, and dividend reinvestment privileges as will be described in the prospectuses of the Funds and be consistent with any order granted pursuant to this application; (d) the designation of each class of shares of a portfolio; and (e) the fact that only the Initial Shares will have the conversion feature to Premier Shares.

2. The Trustees of the Funds, including a majority of the independent Trustees, will have approved the dual class structure. The minutes of the meetings of the Trustees of the Fund regarding the deliberations of the Trustees with respect to the approvals necessary to implement the dual class structure will reflect in detail the reasons for the Trustees' determination that the proposed dual class structure is in the best interest of both the Fund and its shareholders.

3. On an ongoing basis, the Trustees of the Fund, pursuant to their fiduciary responsibilities under the Act and otherwise, will monitor each Portfolio for the existence of any material conflicts between the interests of the two classes of shares. The Trustees, including a majority of the independent Trustees, shall take such actions as are reasonably necessary to eliminate any such conflicts that may develop. KFS will be responsible for reporting any potential or existing conflicts to the Trustees. If a conflict arises, KFS at its own cost will remedy such conflict up to and including establishing a new registered management investment company.

4. Any 12b-1 Plan adopted or amended to permit the assessment of a 12b-1 fee on any class of shares that has not had its rule 12b-1 plan approved by the public shareholders of the class will be submitted to the public shareholders of such class for approval at the next meeting of shareholders after the initial issuance of the class of shares. Such meeting is to be held within 16 months of the date that the registration statement relating to such class first becomes effective or, if applicable, the date that the amendment to the registration statement necessary to offer such class first becomes effective.

[2] By letter dated October 30, 1991, counsel for applicant explained that any expenses incurred in connection with distribution of the Premier Shares will be paid by the underwriter out of its legitimate profits.

5. The Trustees of the Fund will receive quarterly and annual statements concerning distribution expenditures 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 of a particular class of shares will be used to justify any distribution fees charged to that class. Expenditures not related to the sale of a particular class will not be presented to the Trustees to justify any fee attributable to that class. The statements, including the allocations upon which they are based, will be subject to the review and approval of the independent Trustees in the exercise of their fiduciary duties.

6. Dividends paid by a portfolio with respect to its Initial and Premier 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 distribution fee paid under the 12b–1 Plan relating to Initial Shares, any incremental transfer agency fees relating to Initial Shares and any 12b–1 Plan Meeting Expenses will be borne exclusively by the Initial Shares.

7. 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 has been reviewed by an expert (the "Expert") who has rendered a report to applicants, which report has been provided to the staff of the Commission, that such methodology and procedures are adequate to ensure that such calculations and allocations would be made in an appropriate manner. On an ongoing basis, the Expert, or an appropriate substitution 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 a part of the periodic reports filed with the Commission pursuant to sections 30(a) and 30(b)(1) of the Act. The work papers of the Expert concerning such reports, following request by the Fund (which the Fund agrees to provide) will be available for inspection by the Commission staff upon the written request to the Fund of an authorized staff member. Authorized staff members would be limited to the Director of the Division of Investment Management, an Associate Director, the Chief Accountant, the Chief Financial Analyst, an Assistant Director and any Regional Administrator or Assistant Regional Administrator. The initial report of the Expert is a "Special Purpose" report on the "Design of a System" and the ongoing reports will be "Special Purpose" reports on the "Design of a Systems and Certain Compliance Tests" as defined and described in Statement of Accounting Standards No. 44 of the American Institute of Certified Public Accountants ("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.

8. Applicants have adequate facilities in place to ensure implementation of the methodology and procedures for calculating the net asset values 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 has been concurred with by the Expert in the initial report referred to in Condition 7 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 7 above. Applicants agree to take immediate corrective measures if this representation is not concurred in by the Expert or appropriate substitute Expert.

9. The conditions pursuant to which the exemptive order is granted and the duties and responsibilities of the Trustees of the Fund as to the dual class structure will be set forth in guidelines that will be furnished to the Trustees.

10. The Fund will disclose the respective expenses, performance data, distribution arrangements, services, fees, sales loads, and exchange privileges applicable to each class of shares in every prospectus, regardless of whether all classes of shares are offered through each prospectus. The Fund will disclose the respective expenses and performance data applicable to all classes of shares in every shareholder report. To the extent any advertisement or sales literature describes the expenses or performance data applicable to Premier Shares, it will also disclose the respective expenses and/or performance data applicable to Initial Shares. If applicants provide information for publication, in any newspaper or similar listing, of the net asset value and public offering price of a Fund's Premier Shares, they will also present the same information for Initial Shares.

11. Applicants acknowledge that the grant of the exemptive order requested by this application will not imply Commission approval, authorization, or acquiescence in any particular level of payments that the Fund make pursuant to a 12b–1 Plan in reliance on the exemptive order.

12. Initial Shares will convert into Premier Shares on the basis of the relative net asset values of the two classes, without the imposition of any sales load, fee, or other charge to the shareholder.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–26742 Filed 11–5–91; 8:45 am]

BILLING CODE 8010–01–M

[File No. 22–21372]

Application and Opportunity for Hearing; Public Service Electric and Gas Co.

October 30, 1991.

Notice is hereby given that Public Service Electric and Gas Company ("Company"), a New Jersey Corporation, has filed an application pursuant to section 304(c)(1) of the Trust Indenture Act of 1939 ("Act") for the Securities and Exchange Commission ("Commission") to order an exemption from the provisions of section 316(a)(1) of the Act for certain First and Refunding Mortgage Bonds ("Bonds") under an indenture dated as of August 1, 1924, as amended by the Supplemental Indenture dated as of March 1, 1942 between the Company and Fidelity Union Trust Company (now First Fidelity Bank, National Association, New Jersey) as Trustee ("Indenture"), which will be supplemented by a separate supplemental indenture providing for each series of Bonds to be dated the first day of the month in which each such series of Bonds is issued.

Section 304(c)(1) of the Act provides in part that the Commission shall exempt from one or more provisions of the Act any security issued or proposed to be issued under an indenture under which securities (as defined in that section) are outstanding if and to the extent the Commission finds that compliance with such provisions, through the execution of a supplemental indenture or otherwise would require by reason of the provisions of such indenture or of any other indenture or agreement made prior to enactment of the Act, or the provisions of any applicable law, the consent of holders of securities outstanding under such indenture or agreement.

The Company alleges: (1) One or more series of Bonds are proposed to be

issued under the Indenture pursuant to a registration statement under the Securities Act of 1933 ("1933 Act"). The Bonds will be registered under the 1933 Act and the Indenture, as supplemented, will be qualified under the Act.

(2) The Indenture provides that upon an Event of Default (as defined therein) holders of 25 percent of the outstanding Bonds may require the Trustee to (a) accelerate the maturity of the Bonds, and (b) take other action for the protection of the holders. The Indenture also permits 10 percent of the holders of the outstanding Bonds to require the Trustee to investigate compliance by the Company with conditions precedent in connection with authentication of Bonds or withdrawal of cash, or in connection with the release of mortgaged property. The holders of Bonds have vested rights in these provisions under the Indenture, and such rights cannot be abrogated or changed without their consent.

(3) Pursuant to Rule 4c–4 under the Act, the Company has waived a hearing and requested that the Commission decide this application without a formal hearing on the basis of such application and other information and documents as the Commission shall designate as part of the record.

For a more detailed statement of the matters of fact and law asserted, all persons are referred to said application which is on file in the Offices of the Commission's Public Reference Section, File Number 22–21372, 450 Fifth Street, NW., Washington, District of Columbia 20549.

Notice is further given that any interested persons may, not later than November 25, 1991, request in writing that a hearing be held on such matter stating the nature of his interest, the reasons for such request and the issues of law or fact raised by such application which he desires to controvert, or he may request a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, District of Columbia 20549. At any time after said date, the Commission may issue an order granting the application, unless a hearing is ordered by the Commission. For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91–26743 Filed 11–5–91; 8:45 am]

BILLING CODE 8010–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Advisory Circular: Equipment, Systems, and Installations in Part 23 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of availability of proposed advisory circular (AC) and request for comments.

SUMMARY: This notice announces the availability of and request for comments on a proposed AC which provides information and guidance concerning installation of systems that must be designed to minimize, to prevent, or to safeguard against hazards, and installation of complex systems that perform critical functions.

DATE: Comments must be received on or before January 6, 1992.

ADDRESSES: Send all comments on the proposed AC to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

FOR FURTHER INFORMATION CONTACT: Ervin Dvorak, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; commercial telephone (816) 426–6941 or FTS 867–6941.

SUPPLEMENTARY INFORMATION: Any person may obtain a copy of this proposed AC by writing to: Federal Aviation Administration, Small Airplane Directorate, Aircraft Certification Service, Standards Office (ACE–110), 601 East 12th Street, Kansas City, Missouri 64106.

COMMENTS INVITED: Interested parties are invited to submit comments on the proposed AC. Commenters must identify AC 23.1309–1X, and submit comments to the address specified above. All communications received on or before the closing date for comments will be considered by the FAA before issuing the final AC. The proposed AC and comments received may be inspected at the Standards Office (ACE–110), room 1544, Federal Office Building, 601 East 12th Street, Kansas City, Missouri, between the hours of 7:30 a.m. and 4 p.m. weekdays, except Federal holidays.

BACKGROUND: This AC will revise the existing AC 23.1309–1 dated September 19, 1989, to address amendments 23–24 and 23–41 of part 23. With the adoption of amendment 23–34, § 23.1309 was expanded to include certification of commuter category airplanes. This expansion added a requirement to ensure that applicable systems are designed to safeguard against hazards and added certification requirements for equipment identified as essential loads and affected power sources.

Amendment 23–41, effective November 26, 1990, retains most of the requirements introduced by amendments 23–14 and 23–24, but added several other requirements to reflect advanced technology being incorporated in current designs.

Issued in Kansas City, Missouri, October 25, 1991.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 91–26727 Filed 11–5–91; 8:45 am]

BILLING CODE 4910–13–M

Deadline for Submission of Preapplication/Application for Airport Grant Funds Under the Airport Improvement Program (AIP) for Fiscal Year 1992.

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces January 31, 1992, as the deadline for the submission of preapplications and applications of Airport Grant Funds Under the Airport Improvement Program (AIP) for Fiscal Year 1992.

FOR FURTHER INFORMATION CONTACT: Mr. Stanley Lou, Manager Programming Branch, Grants-in-Aid Division, Office of Airport Planning and Programming, APP–520, on (202) 267–8809.

SUPPLEMENTARY INFORMATION: Section 509(e) of the Airport and Airway Improvement Act of 1982 (AAIA) provides that the sponsor of each airport to which entitlement funds are apportioned shall notify the Secretary, by such time and in a form as prescribed by the Secretary, of the sponsor's intent to apply for passenger and cargo entitlement funds. Notification of the sponsor's intent to apply during Fiscal Year 1992 for any of its entitlement funds, including those unused from prior years, shall be in the form of a project preapplication or application (SF424) submitted to the FAA field office no later than January 31, 1991. FAA field offices, in developing their regional programs, may request sponsor's input at an earlier date.

The FAA also recommends that all other airports or planning agencies expecting to apply for airport grant funds do so early in the fiscal year. Such prospective applicants should contact the appropriate FAA field office for information on the office's deadline. These offices will assist in the preparation of preapplications/applications and provide procedural information as needed.

Prompt submission of complete requests by the deadline date will allow earlier funding decisions by the FAA regarding the availability of discretionary funds for program changes. It will permit completion of procedural requirements necessary for placing projects under grant and beginning construction in a timely manner within the fiscal year 1992 construction season. Every effort should be made to have projects under grant no later than August 15, 1992.

Issued in Washington, DC, October 31, 1992.

Stanley Lou,

Manager, Grants-in-Aid Division.

[FR Doc. 91-26728 Filed 11-5-91; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review.

Date: October 31, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt

OMB Number: New.
For Number: PD F 2471.
Type of Review: New collection.
Title: Certificate to Support Application for Relief on Account of Lost, Stolen or Destroyed United States Securities.
Description: The form is executed by individuals to support an application for relief on account of lost, stolen or destroyed United States Securities. The person executing the form must provide a statement that furnishes all of the facts, to the best of their knowledge, pertaining to the lost, stolen or destroyed securities.
Respondents: Individuals or households.
Estimated Number of Respondents: 400.
Estimated Burden Hours Per Response: 30 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 200 hours.
OMB Number: 1535-0068.
Form Number: None.
Type of Review: Extension.
Title: Regulations Governing Book-Entry Treasury Bonds, Notes and Bills.
Description: The information is needed to establish an investor's Treasury account; to dispose of securities upon the owner's request; and to determine entitlement to securities. The information will be used for those purposes. Respondents will be primarily individuals, although there may be some organizations and public bodies.
Respondents: Individuals or households, State or local governments, Businesses or other for-profit, Non-profit institutions, Small businesses or organizations.
Estimated Number of Respondents: 75,000.
Estimated Burden Hours Per Response: 7 minutes.
Frequency of Response: On occasion.
Estimated Total Reporting Burden: 8,775 hours.
Clearance Officer: Rita DeNagy (202) 447-1315 Bureau of the Public Debt room 137, BEP Annex 300 13th Street, SW. Washington, DC 20239-0001.
OMB Reviewer: Milo Sunderhauf (202) 395-6880 Office of Management and Budget room 3001, New Executive Office Building Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91-26722 Filed 11-5-91; 8:45 am]

BILLING CODE 4810-40-M

Public Information Collection Requirements Submitted to OMB for Review

October 31, 1991.

The Department of the Treasury has made revisions and resubmitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96-511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New.
Form Number: IRS Form 8453-NR.
Type of Review: Resubmission.
Title: U.S. Nonresident Alien Income Tax Declaration for Magnetic Media Filing.
Description: This form will be used to secure taxpayer signatures and declarations in conjunction with the Magnetic Media Filing program. This form, together with the electronic transmission, will compromise the taxpayer's income tax return.
Respondents: Individuals or households.
Estimated Number of Respondents: 5,000.
Estimated Burden Hours Per Respondent:

Recordkeeping	0
Learning about the law or the form	8 minutes
Preparing the form	29 minutes
Copying, assembling, and sending the form to IRS	20 minutes

Frequency of Response: Annually
Estimated Total Reporting Burden: 4,850 hours.
OMB Number: 1545-0098.
Form Number: IRS Form 1045.
Type of Review: Resubmission.
Title: Application for Tentative Refund.
Description: Form 1045 is used by individuals, estates, and trusts to apply for a quick refund of taxes due to carryback of a net operating loss, unused general business credit, or claim of right adjustment under section 1341(b). The information obtained is used to determine the validity of the application.
Respondents: Individuals or households, Farms, Businesses or other for-profit, Small businesses or organizations.
Estimated Number of Respondents/Recordkeepers: 65,220.
Estimated Burden Hours Per Respondent/Recordkeeper:

Recordkeeping	26 minutes
Learning about the law or the form	29 minutes
Preparing the form	6 hours, 5 minutes
Copying, assembling, and sending the form to IRS	56 minutes

Frequency of Response: On occasion
Estimated Total Reporting/ Recordkeeper Burden: 517,847 hours.
Clearance Officer: Garrick Shear, (202) 535–4297, Internal Revenue Service, room 5571, 1111 Constitution Avenue, NW., Washington, DC 20224.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–26723 Filed 11–5–91; 8:45 am]

BILLING CODE 4830–01–M

Public Information Collection Requirements Submitted to OMB for Review.

Dated: October 31, 1991.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1980, Public Law 96–511. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, room 3171 Treasury Annex, 1500 Pennsylvania Avenue, NW., Washington, DC 20220.

Bureau of Alcohol, Tobacco and Firearms

OMB Number: 1512–0081.
Form Number: ATF F 5130.23.
Type of Review: Extension.
Title: Brewer's Bond Continuation Certificate.
Description: ATF Form 5130.23 is executed by brewers and surety companies to indicate that an existing bond is being continued by the surety company. Brewers may use this form rather than execute a new bond. The certificate identifies the brewer and the surety company, and it identifies the bond(s) which are being continued.
Respondents: Business or other for-profit, Small businesses or organizations.
Estimated Number of Responses: 60.
Estimated Burden Hours Per Respondent: 1 hour.
Frequency of Response: Other (every 4 years).
Estimated Total Reporting Burden: 60 hours.
Clearance Officer: Robert N. Hogarth, (202) 927–8930, Bureau of Alcohol, Tobacco and Firearms, room 3200, 650 Massachusetts Avenue, NW., Washington, DC 20226.
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, room 3001, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 91–26724 Filed 11–5–91; 8:45 am]

BILLING CODE 4819–31–M

Office of Thrift Supervision

Atlantic Financial Federal-West Virginia, F.S.A.; Appointment of Receiver

Notice if hereby given that, pursuant to the authority contained in section 5(d)(2) of the Home Owners' Loan Act, the Office of Thrift Supervision has duly appointed the Resolution Trust Corporation as sole Receiver for Atlantic Financial Federal-West Virginia, F.S.A., Charleston, West Virginia, OTS No. 3166, on October 18, 1991.

Dated: October 30, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–26691 Filed 11–5–91; 8:45 am]

BILLING CODE 6720–01–M

[AC–49; OTS No. 3315]

Liberty Federal Savings Bank, TN; Final Action; Approval of Conversion Application

Notice is hereby given that on October 25, 1991, the Office of the Chief Counsel, Office of the Thrift Supervision, acting pursuant to delegated authority, approved the application of Liberty Federal Savings Bank, Paris, Tennessee, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Information Services Division, Office Thrift Supervision, 1776 G Street, NW., Washington, DC 20552, and Deputy Regional Director, Office of Thrift Supervision, 525 Vine Street, 7th Floor, Cincinnati, Ohio 45201–5364.

Dated: October 30, 1991.

By the Office of Thrift Supervision.

Nadine Y. Washington,

Corporate Secretary.

[FR Doc. 91–26692 Filed 11–5–91; 8:45 am]

BILLING CODE 6720–01–M

UNITED STATED INFORMATION AGENCY

Performance Review Board Members

AGENCY: United States Information Agency.

ACTION: Notice.

SUMMARY: This Notice is issued to revise the membership of the United States Information Agency (USIA) Performance Review Board.

DATES: November 6, 1991.

FOR FURTHER INFORMATION CONTACT:

Ms. Johnnie Lindahl (Co-Executive Secretary), Deputy Director, Office of Personnel, Bureau of Broadcasting, U.S. Information Agency, 330 Independence Avenue, SW., Washington, DC 20547, Tel: (202) 619–3763, or

Ms. Patricia Noble (Co-Executive Secretary), Chief, Domestic Personnel Division, Office of Personnel, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547, Tel: (202) 619–4617.

SUPPLEMENTARY INFORMATION: In accordance with Section 4314(c)(1) through (5) of the Civil Service Reform Act of 1978 (Public Law 95454), the following list supersedes the U.S. Information Agency Notice (55 FR 233, December 4, 1990).

Chairperson: Associate Director for Management—Henry E. Hockeimer (Presidential Appointee).

Deputy Chairperson: Associate Director for Broadcasting—Chase G. Untermeyer (Presidential Appointee).

Career SES Members: Joseph B. Burns, Staff Director, Office of the Staff Director, Bureau of Broadcasting.

Bernard C. Dowling, Director, Office of Security.

William A. Eames, Acting Director, Office of Worldnet Television and Film Service, Bureau of Broadcasting.

Robert Kamosa, Projects Management Directorate, Office of Engineering and Technical Operations, Bureau of Broadcasting.

Richard D. Moore, Senior Advisor for Management Policy Initiatives, Management.

Michael D. Schneider, Deputy Associate Director, Bureau of Programs.

Alternate Career SES Members: Janice H. Brambilla, Director, Office of Personnel, Bureau of Broadcasting.

Daniel S. Campbell, Director, Office of Technology.

This supersedes the previous U.S. Information Agency Notice (55 FR 233 December 4, 1990).

Dated: October 25, 1991.

Henry E. Hockeimer,

Associate Director for Management, U.S. Information Agency.

[FR Doc. 91-26739 Filed 11-5-91; 8:45 am]

BILLING CODE 8230-01-M

Sunshine Act Meetings

Federal Register
Vol. 56, No. 215
Wednesday, November 6, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Farm Credit Administration;
Amendment to Sunshine Act Meeting

SUMMARY: Pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), the Farm Credit Administration gave notice on October 31, 1991 (56 FR 56114) of the special meeting of the Farm Credit Administration Board (Board) scheduled for November 1, 1991. This notice is to amend the agenda for that meeting to add an item to the closed session.

FOR FURTHER INFORMATION CONTACT: Curtis M. Anderson, Secretary to the Farm Credit Administration Board, (703) 883-4003, TDD (703) 883-4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: Parts of the meeting of the Board were open to the public (limited space available), and parts of the meeting were closed to the public. The agenda for November 1, 1991, is amended to add the following item to the closed session:

Closed Session *

- GSE Legislation.

Dated: November 1, 1991.

Curtis M. Anderson,

Secretary, Farm Credit Administration Board.

[FR Doc. 91-26924 Filed 11-4-91; 12:48 pm]

BILLING CODE 6705-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 4:43 p.m. on Sunday, November 3, 1991, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to a certain financial institution.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Dated: November 4, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 91-26912 Filed 11-4-91; 12:21 pm]

BILLING CODE 6714-01-M

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 11:08 a.m. on Monday, November 4, 1991, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to a certain financial institution.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Director T. Timothy Ryan, Jr. (Office of Thrift Supervision) and Chairman William Taylor, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550-17th Street, N.W., Washington, D.C.

Dated: November 4, 1991.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Deputy Executive Secretary.

[FR Doc. 91-26979 Filed 11-4-91; 3:45 pm]

BILLING CODE 6714-0-M

MERIT SYSTEMS PROTECTION BOARD

TIME AND DATE: 10:00 a.m., Thursday, November 14, 1991.

PLACE: Eighth Floor, 1120 Vermont Avenue, NW., Washington, DC. 20419.

STATUS: The meeting will be closed to the public under Exemptions 2 and 10 of the Government in the Sunshine Act.

MATTERS TO BE CONSIDERED: Internal personnel rules and practices and the initiation, conduct, or disposition by the Board of cases before it for adjudication.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Robert E. Taylor, Clerk of the Board, (202) 653-7200.

Dated: November 4, 1991.

Robert E. Taylor,

Clerk of the Board.

FR Doc. 91-26913 Filed 11-4-91; 12:22 pm]

BILLING CODE 7400-01-M

* Session closed to the public—exempt pursuant to 5 U.S.C. § 552b (c)(8) and (c)(9).

Corrections

Federal Register
Vol. 56, No. 215
Wednesday, November 6, 1991

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

FEDERAL HOUSING FINANCE BOARD

12 CFR Parts 922, 931, and 932

[No. 91-509]

Eligibility and Financial Disclosure Requirements for Directors of the Federal Home Loan Banks; and Responsibilities and Conduct for the Board of Directors of the Federal Housing Finance Board

Correction

In rule document 91-25688 beginning on page 55205 in the issue of Friday, October 25, 1991, make the following correction:

On page 55210, in the 1st column, in the 19th line, "represent" should read "represents".

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

Agreement(s) Filed; Port of Oakland, et al.

Correction

In notice document 91-25825 appearing on page 55504 in the issue of Monday, October 28, 1991, in the third column, in the second *Agreement No.:*, "26-011200-001." should read "206-011200-001."

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Part 36

RIN 0905-AD21

Review of the Determination of a Tribe's Resource Deficiency Level

Correction

In proposed rule document 91-24189 beginning on page 51189 in the issue of Thursday, October 10, 1991, make the following corrections:

1. On page 51190:

a. In the first column, in the tenth line, "recourses" should read "resources".

b. In the same column, in the first full paragraph, in the eighth line, "IHA" should read "IHS".

c. In the same column, in the fourth full paragraph, in the second line, "requests" should read "request".

§ 36.380 [Corrected]

d. In the third column, in § 36.380(a), in the seventh line, "and" should read "the".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

National Park Service

Interagency Mountain Goat Management Plan/Environmental Impact Statement

Correction

In notice document 91-25558 beginning on page 55138 in the issue of Thursday, October 24, 1991, make the following correction:

On page 55138, in the second column, in the **SUMMARY**, the ninth line should read "Olympic National Park and the Olympic National Forest, Washington.".

BILLING CODE 1505-01-D

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-325]

Certain Static Random Access Memories and Integrated Circuit Devices Containing Same, Processes for Making Same, Components Thereof, and Products Containing Same; Commission Determination Not To Review an Initial Determination Terminating an Investigation on the Basis of a Settlement Agreement

Correction

In notice document 91-25005 beginning on page 52058 in the issue of Thursday, October 17, 1991, make the following correction:

On page 52059, in the first column, under **SUMMARY**, in the last line, "agriculture" should read "agreement".

BILLING CODE 1505-01-D

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 1801, 1815 and 1852

[NASA FAR Supplement Directive 89-9]

RIN 2700-AB10

Acquisition Regulation; Miscellaneous Amendments to NASA FAR Supplement

Correction

In rule document 91-22933 beginning on page 48737 in the issue of Thursday, September 26, 1991, make the following corrections:

1801.104-370 [Corrected]

1. On page 48738, in the third column, in section 1801.104-370(e), in the seventh line, "DBP-4" should read "DBD-4".

1815.872 [Corrected]

2. On page 48743, in section 1815.872(c)(1), in the 2nd column, in the 12th line, the "," should read ";".

3. On the same page, in section 1815.872(c)(2), in the third column, in the first line, "covered" should read "covering".

1852.219-76 [Corrected]

4. On page 48748, in section 1852.219-76(a), in the first column, in the fourth

paragraph, in the sixth line, "business" should read "Business".

BILLING CODE 1505-01-D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29823; File No. SR-AMEX-90-33, Amendment No. 2]

Self-Regulatory Organizations; Filing of Amendment No. 2 to Proposed Rule Change by the American Stock Exchange, Inc., Relating to Modification of the Equity Options Price Maintenance Requirement

Correction

In notice document 91-25350 beginning on page 54593 in the issue of Tuesday, October 22, 1991, the Release Number should appear as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1212

[NHTSA Docket No. 91-17; Notice 1]

RIN 2127-AE10

Drug Offender's Driver's License Suspension

Correction

In proposed rule document 91-23991 beginning on page 50536 in the issue of Monday, October 7, 1991, make the following corrections:

1. On page 50538, in the third column, in the first full paragraph, in the tenth line, "on" should read "one".

2. On page 50539, in the first column:

i. In the fifth through seventh lines, remove the phrase "preferable to require the issuance or reinstatement of the individual's driver's license be" and in the 13th line, "here" should read "her".

ii. Under *5. Certification*, in the fourth line, "a" should read "an" and in the next paragraph in the first line, "the" should read "this".

iii. In the second column, in the 1st full paragraph, in the 14th line, "legislative" should read "legislature".

BILLING CODE 1505-01-D

federal register

Wednesday
November 6, 1991

Part II

Environmental Protection Agency

40 CFR Part 81

Air Quality Designations and Classifications; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[Air Docket No. A-90-42; FRL-3946-1]

RIN 2060-AC56

Designation of Areas for Air Quality Planning Purposes

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rulemaking sets forth the attainment status, including designations and classifications for selected areas affected by the ozone, carbon monoxide (CO), particulate matter (PM), and lead national ambient air quality standards (NAAQS). The tables following this rulemaking set forth, on a State-by-State, pollutant-by-pollutant basis (as appropriate), the attainment status of the above-mentioned NAAQS as submitted by the appropriate States, and approved or as designated and classified by the EPA. Designations and classifications revised as a result of technical corrections will be republished.

EFFECTIVE DATE: This regulation will become effective on January 6, 1992.

ADDRESSES: Written comments on this rulemaking must be limited to addressing the technical correctness of these determinations and significant new policy issues and must be received on or before December 6, 1991. Such comments should be sent in duplicate to the attention of: Air Docket No. A-90-42, U.S. EPA (LE-131), 401 M St., SW., Washington, DC 20460. The docket is located in Rm. M-1500, First Floor, Waterside Mall, 401 M St., SW., Washington, DC. Materials relevant to this rulemaking may be inspected at this location during the hours from 8:30 a.m. to 12 noon and from 1:30 p.m. to 3:30 p.m., Monday through Friday, except for legal holidays. In addition, the public may inspect the same information that is maintained in the docket at the following locations.

Regional Offices	States
Susan Studlien, Chief, State Air Programs Branch, EPA Region I, J.F.K. Federal Building, Boston, MA 02203-2211, (617) 565-3245; FTS 835-3245..	Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont.
William S. Baker, Chief, Air Programs Branch, EPA Region II, 26 Federal Plaza, New York, NY 10278, (212) 264-2517; FTS 264-2517..	New Jersey, New York, Puerto Rico, and Virgin Islands.
Marcia Spink, Chief, Air Programs Branch, EPA Region III, 841 Chestnut Building, Philadelphia, PA 19107, (215) 597-9075; FTS 597-9075..	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia.
Tom Hansen, Acting Chief, Air Programs Branch, EPA Region IV, 345 Courtland St., NE., Atlanta, GA 30365, (404) 347-2864; FTS 257-2864..	Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee.
Stephen H. Rothblatt, Chief, Regulation Development Branch, EPA Region V, 230 South Dearborn St., Chicago, IL 60604, (312) 353-2211; FTS 353-2211..	Illinois and Indiana.
Gary Gulezian, Chief, Air Toxics and Radiation Branch, EPA Region V, 230 South Dearborn St., Chicago, IL 60604, (312) 353-8559; FTS 353-8559..	Michigan and Wisconsin.
George Czerniak, Chief, Air Enforcement Branch, EPA Region V, 230 South Dearborn St., Chicago, IL 60604, (312) 353-2088; FTS 353-2088..	Ohio and Minnesota.
Gerald Fontenot, Chief, Air Programs Branch, EPA Region VI, 1445 Ross Ave., Dallas, TX 75202-2733, (214) 655-7204; FTS 255-7204..	Arkansas, Louisiana, New Mexico, Oklahoma, and Texas.
Gale Wright, Chief, Air Branch, Region VII, 726 Minnesota Ave., Kansas City, KS 66101, (913) 236-7020; FTS 276-7020..	Iowa, Kansas, Missouri, and Nebraska.
Douglas M. Skie, Chief, Air Programs Branch, EPA Region VIII, 999 18th St., Denver Place - Suite 500, Denver, CO 80202-2405, (303) 293-1750; FTS 330-1750..	Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming.
David L. Calkins, Chief, Air Programs Branch, EPA Region IX, 75 Hawthorne St., San Francisco, CA 94105, (415) 744-1210; FTS 484-1210..	Arizona, California, Guam, Hawaii, and Nevada.
George Abel, Chief, Air & Radiation Branch, EPA Region X, 1200 Sixth Ave., Seattle, WA 98101, (206) 553-4166; FTS 399-4166..	Alaska, Idaho, Oregon, and Washington.

FOR FURTHER INFORMATION CONTACT:

Ozone/CO Issues:
Barry Gilbert or Valerie Broadwell, Ozone/CO Programs Branch, (919) 541-5238/3310; FTS 629-5238/3310.

Lead, SO_2 Issues:
Laurie Ostrand, SO_2/Particulate Matter Programs Branch, (919) 541-3277; FTS 629-3277.

Particulate Matter Issues:
Larry Wallace, SO_2/Particulate Matter Programs Branch, (919) 541-0906; FTS 629-0906.

Issues of a general nature:
Hank Young, Regional Operations Branch, (919) 541-5543; FTS 629-5534.

Air Quality Management Division (MD-15), Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

SUPPLEMENTARY INFORMATION:

TABLE OF CONTENTS

I. Background
A. Purpose.
B. Preenactment status and Clean Air Act Amendments (CAAA) of 1990.
C. CAAA and Subsequent EPA Actions.
D. Chronology of EPA and State Actions.
1. CAAA of 1990.
2. Chronology of events.
3. Presentation of technical information.
II. Summary of Today's Action
A. Ozone/CO.
1. Introduction.
2. Enactment.
a. Designations/boundaries/classifications.
i. Designations.
ii. Boundaries.
iii. Classifications/other treatments
(a) General.
(b) Years of data.
(c) Other treatment.
(1) Submarginal.
(2) Transitional.
(3) Ozone incomplete data areas.
(4) Ozone "not classified" areas.
(5) Rural transport areas (ozone).
3. Enactment + 45 days: C/MSA boundary progress begins—general requirements.
4. Enactment + 90 days: 5 percent classification adjustment. —
a. General.
b. EPA criteria.
c. EPA action.
d. Reclassifications upward.
5. Enactment + 120 days: State submits list of all areas—general.
6. Enactment + 180 days: EPA notifies States of intent to modify suggested designations for certain areas.

7. Enactment + 200 days: States respond to EPA's proposed modifications.
8. Enactment + 240 days.
a. Ozone and CO areas designated nonattainment at date of enactment—classified serious and higher.
b. Ozone and CO areas designated nonattainment at date of enactment—classified marginal or moderate. —
i. Designations.
ii. Boundaries.
iii. Classifications.
c. Other treatment.
d. Areas designated entirely attainment/unclassifiable at enactment but now subject to redesignation to nonattainment.
i. Serious and higher.
ii. Marginal/moderate.
iii. Other treatment.
9. Procedural requirements.
a. Designations and boundaries.
i. Notice-and-comment rulemaking.
ii. Judicial review.
b. Classifications.
i. Notice and comment.
ii. Judicial review.
B. PM–10.
1. Initial PM–10 designations.
2. Additional PM–10 designations.
3. Total suspended particulates (TSP).
C. Sulfur Dioxide (SO_2).
1. Initial SO_2 designations.
2. Additional SO_2 designations.
D. Lead
1. Background.
2. Today's action.
3. Additional actions.
4. Miscellaneous.
III. Tables
IV. Other Regulatory Requirements
A. Executive Order 12291.
B. Regulatory Flexibility Act.

I. Background

A. Purpose

The purpose of this document is to announce and promulgate designations, classifications, and boundaries for areas of the country with respect to the NAAQS for ozone, CO, particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM–10), and lead in accordance with the requirements of the Clean Air Act (CAA).

B. Preeanctment Status and Clean Air Act Amendments (CAAA) of 1990

The nation's first Federal efforts at controlling air pollution began in 1963 with passage of the CAA. Four amendments followed in 1967, 1970, 1977 and 1990. The 1967 Amendments directed the previous Department of Health, Education and Welfare to identify regional areas with common air masses throughout the nation [Air Quality Control Regions (AQCR's)]. By 1970, 57 AQCR's were named. Later that year, 34 additional areas were announced.

The 1970 Amendments authorized the Administrator of the newly created EPA to identify additional areas, but only at the States' initiative. As of January 1972, 247 AQCR's were listed.

Section 107(d) of the 1977 Amendments gave the EPA the authority to designate areas nonattainment without a State's request. After EPA's initial designation of areas as attainment/unclassifiable or nonattainment in 1978, however, subsequent designations could be made only at a State's request. In that same year, EPA published, for the first time, a list of all section 107(d) nonattainment areas in 40 CFR part 81.

C. CAAA and Subsequent EPA Actions

This section summarizes the relevant provisions of the CAAA as applicable to ozone and CO areas. A discussion of the provisions applicable to PM–10, SO_2, and lead areas is found in sections II. B., C., and D. of this document.

The CAAA of 1990 authorized EPA to designate areas nonattainment and to classify them according to degree of severity. Classification, in turn, triggers a set of control requirements designed to bring areas into attainment by their specified attainment dates.

Under the CAAA of 1990, preenactment ozone and CO nonattainment areas were classified on the date of enactment according to the severity of their problem. States were required, by 120 days after enactment, to submit lists designating all areas of the State as attainment, unclassifiable, or nonattainment for ozone and CO. The EPA was required to promulgate these lists by 240 days after enactment, making revisions, including boundary modifications, as appropriate. Ozone or CO areas classified serious or higher are subject to a separate process for determining boundaries which places a strong presumption in favor of expanding boundaries to the Metropolitan Statistical Area (MSA) [or Consolidated Metropolitan Statistical Area (C/MSA)].

D. Chronology of EPA and State Actions

1. *CAAA of 1990.* The CAAA of 1990 reaffirm the major role of the States in developing and implementing State implementation plans (SIP's) to attain the NAAQS. On November 15, 1990, the day the CAAA were signed into law, EPA Administrator William K. Reilly sent a letter to State Governors alerting them to the significance of the legislation and summarizing the Amendments.

One month later, William G. Rosenberg, Assistant Administrator for Air and Radiation, followed up the November 15, 1990 letter with a second letter to State Governors. This letter notified Governors of those initial State actions or submittals required of States, particularly those actions needed within a very short time period.

In January 1991, a third letter to States went out from each Regional Administrator providing more detailed information on determining designations, classifications, and boundaries; notification of SIP deficiencies; and information about other early State actions. Attached to the letter was a list of current and planned guidance materials that would be provided by EPA to support State activities.

2. *Chronology of events.* The first official actions the States took came 45 days after enactment of the CAAA (December 30, 1990). Preenactment ozone and/or CO nonattainment areas classified under section 107(d)(4)(A)(iv) as serious, severe, or extreme would take as their nonattainment area boundaries the boundary of their respective C/MSA unless the State notified the Administrator, no later than 45 days after enactment, of its intent to study the boundaries further (the 45-day letter).

In addition, under sections 181(a)(4) and 186(a)(3), EPA was authorized to reclassify an area upward or downward (a "bump down") if the design value of an area placed it within 5 percent of the next classification. The EPA requested that States seeking a bump down make the request within 45 days of enactment. (Section 181(b)(3) provides that EPA shall automatically grant the request of any State to reclassify an ozone nonattainment area to a higher classification.)

The next major event occurred 90 days after enactment, February 13, 1991, when the EPA responded to States' bump down requests.

On March 15, 1991 (120 days after enactment), States were required to submit to EPA a list of all their ozone and CO nonattainment areas, including boundary recommendations. States were urged to submit at the same time SO_2, PM–10, and lead nonattainment areas, including boundary recommendations. States were encouraged to provide at this time the additional boundary studies and recommendations for the serious, severe, and extreme ozone and CO areas covered by the 45-day letters. By

May 14, 1991 (180 days after enactment), EPA Regional Administrators notified States of any potential modifications to the States' recommendations. States were encouraged in the 180-day letter to respond to EPA's proposal within 20 days (by June 3, 1991, which is 200 days after enactment) for ozone and CO areas, and within 60 or 120 days, depending on the type of modification, for lead. Many States did so.

With respect to ozone and CO, today's action is final except for the following counties for ozone: Orange and Putnam (New York, New Jersey-Long Island CMSA); Muskegon (Muskegon, MI); Washington (Parkersburg-Marietta, OH) and Pasco (Tampa, FL); and the following counties for CO: Hancock, Brooke, and Jefferson (Steubenville); and Utah (Provo, UT).

With respect to lead, PM-10, and SO_2, refer to the appropriate section below for a description of the specific action being taken.

3. *Presentation of technical information.* Copies of all of the above mentioned correspondence and other correspondence between the States, interested parties, and EPA regarding this process are available for review in the Air Docket No A-90-42 maintained in Rm. M-1500, 401 M St., SW., Washington, DC 20460 (first floor of the EPA Washington DC, Waterside Mall Office). Identical information is also available for review at the EPA Regional Offices listed above in the addresses section of this rulemaking package.

Detailed discussions concerning the basis for EPA's actions and decisions are excluded from this rulemaking and are included in a Technical Support Document (TSD). The TSD is also available in the Air Docket and respective Regional Offices. Where appropriate in this rule, the reader is directed to the TSD for additional information.

II. Summary of Today's Action

A. Ozone/CO

1. *Introduction.* This section will describe EPA's interpretation of the designations/classifications/boundaries requirements applicable to ozone/CO areas; and it will describe EPA's actions in promulgating or announcing these decisions.

This section is organized chronologically. The reader is invited to refer to the chronology of CAAA requirements and EPA/State administrative actions described above. The most important submissions by the States, and preliminary and final EPA actions, are summarized in tables included as part of this rule.

2. *Enactment*—a. *Designations/boundaries/classifications*—i. *Designations.* As described in this section, at the date of enactment, all areas of the country were designated with respect to ozone and CO by operation of law in accordance with the preenactment designations. For areas that were designated nonattainment before enactment, EPA interprets the CAAA to maintain the preenactment designation for the area and to begin a process for determining the boundaries for the area.

Section 107(d)(1)(C) provides that each ozone and CO area designated nonattainment, attainment, or unclassifiable immediately before the date of enactment of the CAAA "is designated, by operation of law," as a nonattainment, attainment, or unclassifiable area, respectively. –

Section 107(d)(2)(A) requires EPA to publish a **Federal Register** notice with respect to this designation, but does not specify a time for doing so. Accordingly, this rulemaking serves the purpose of fulfilling this requirement to promulgate the date-of-enactment designations, coupled with the requirements discussed below, to promulgate the classifications and boundaries for these areas.

ii. *Boundaries.* As noted above, section 107(d)(1)(C) requires that each area designated preenactment of the CAAA be designated again, by operation of law, in the same fashion. Because the specific boundaries of the areas are to be determined subsequently, as described below, EPA interprets the section 107(d)(1)(C) requirement as generally specifying that the appropriate areas be designated, but not necessarily as solidifying their pre-enactment boundaries. For example, as of the date of enactment, the Tampa, Florida, area became designated nonattainment, but the specific boundaries of that area were to be determined subsequently.

Nevertheless, for certain purposes, each area designated by operation of law under section 107(d)(1)(C) retained its preenactment boundaries at the date of enactment. For example, locations within a metropolitan area that were designated nonattainment at enactment remained subject to the nonattainment new source review (NSR) requirements of the NSR programs EPA had previously approved for the nonattainment areas (under Part D of Title I of the Clean Air Act prior to the CAAA). The preenactment boundaries are identified in the version at 40 CFR part 81, Subpart C-Section 107 Attainment Status Designations (part 81 tables), preceding the enactment of the CAAA.

iii. *Classifications/other treatments*—(*a*) *General.* –As described in this section, all areas (with certain exceptions) designated nonattainment by operation of law as of the date of enactment were classified as of the date of enactment in accordance with air quality.

Section 181(a)(1) provides:

> Each area designated nonattainment for ozone pursuant to section 107(d) shall be classified at the time of such designation under table 1, by operation of law, as a Marginal Area, a Moderate Area, a Serious Area, a Severe Area, or an Extreme Area based on the design value for the area.

Section 186(a)(1) includes an identical provision for CO areas (except that the classifications are limited to moderate or serious).

Based on these provisions, EPA has taken the position that classifications for areas designated nonattainment prior to enactment occurred at the same time that those areas were designated by operation of law as nonattainment under section 107(d)(1)(C)(i), which was the date of enactment. As discussed below, EPA has taken the position that, for metropolitan areas that included at least some locations designated nonattainment at enactment, such classification is not delayed until the time of the designations required to be promulgated 240 days after enactment under section 107(d)(4)(A)(ii).

For ozone, classification is to be based on the following table of design values (section 181(a)(1), table 1):

Area classification	Design value (parts per million)
Marginal	0.121 up to (but not including) 0.138
Moderate	0.138 up to (but not including) 0.160
Serious	0.160 up to (but not including) 0.180
Severe-15	0.180 up to (but not including) 0.190
Severe-17	0.190 up to (but not including) 0.280
Extreme	0.280 and above

Severe-15 and -17 areas (EPA's nomenclature) face the same requirements but differ in their attainment dates (15 years for severe-15; 17 years for severe-17). Severe-17 applies to areas with a design value of .190 to .280 for ozone years 1986-1988.

For CO, classification is to be based on the following table of design values (section 186(a)(1), table 3):

Area classification	Design value (ppm)
Moderate-1	9.1-12.7
Moderate-2	12.8-16.4

Area classification	Design value (ppm)
Serious	16.5 and above

EPA is distinguishing moderate-1 from moderate-2 (EPA's nomenclature) because of the significant additional regulatory requirements for those areas with a design value above 12.7 ppm.

For both ozone and CO, the design value is to be calculated according to "the interpretation methodology issued by the Administrator most recently before the date of the enactment" of the CAAA. This methodology is contained for the most part in a memorandum from William Laxton, Director, Technical Support Division, the Office of Air Quality Planning and Standards, dated June 18, 1990 ("Laxton Memorandum"). This memorandum is contained in the TSD, item #1.

Section 181(a)(3) requires the publication in the **Federal Register** of ozone classifications at the time of the publication of the notice under section 107(d)(4) (concerning designations). Section 186(a)(2) includes a comparable requirement for CO. This rulemaking fulfills those requirements. –

A listing of the classifications as they stood at the date of enactment can be found in the pre-CAAA 40 CFR part 81 tables mentioned previously.

(*b*) *Years of data.* The primary years the EPA used for purposes of designations and classifications pursuant to this notice were 1987-1989 (3-year period) for ozone and 1988-1989 (2-year period) for CO.

In some cases, the EPA used complete 1988-1990 (ozone) or 1989-1990 (CO) data if they were quality assured and publicly available in the AIRS [Aerometric Information Retrieval System (EPA's National Air Quality Database)] by February 13, 1991, and the State requested the EPA to use it.

For areas designated attainment prior to enactment, the EPA relied on 1990 data (if quality assured and in AIRS by February 13, 1991) to continue an attainment designation in cases where an area violated the standard during the primary ozone or CO years, but then revealed attainment once again using 1990 data.

There are several reasons why the EPA began with the data years 1987-1989 for ozone and 1988-1989 for CO. The CAA required the Administrator to make a determination for 5 percent classification downshifts no later than 90 days after enactment (February 13, 1991). No later than 180 days after enactment (May 15, 1991), the EPA was required to notify States of its intent to designate areas. Although some areas had 1990 data available as early as February 13, 1991 and EPA considered it, most areas did not. Thus, in order to meet the deadlines set forth in the Act the EPA was compelled for timing purposes to use 1987-1989 for ozone and 1988-1989 for CO as primary data years in determining designations and classifications pursuant to this notice.

(*c*) *Other treatment.* Some nonattainment areas were not classified in accordance with the classification tables under section 181(a)(1) or 186(a)(1) because of specific statutory provisions or because their air quality values did not accord with the classification tables. —

(*1*) *Submarginal.* The EPA has determined to treat certain ozone nonattainment areas as "submarginal." This category includes areas that violated the ozone standard during 1987-1989 and that had a design value during the relevant period of less than .121 ppm. The submarginal category can occur when there is not a complete set of data so that the expected exceedance rate is higher than the NAAQS exceedance rate of 1.0 per year even though the estimated design value is less than the level of the standard. More discussion of EPA's data requirements is contained in the TSD, item #2.

The SIP submittal requirements of section 182 (concerning ozone) do not apply to these areas. A detailed discussion of these requirements will appear in the Title I General Preamble in a **Federal Register** scheduled for January 1992 publication.

(*2*) *Transitional.* Section 185A provides that an area designated nonattainment by operation of law under section 107(d)(1)(C)(i) (by virtue of its designation as nonattainment prior to enactment of the CAAA), which "has not violated the [NAAQS]" for ozone during the 1987-1989 period is to be treated as a transitional area. Section 185A further requires EPA to determine, by June 30, 1992, based on the transitional area's "design value as of the attainment date" whether the area attained the NAAQS by December 31, 1991.

The EPA interprets this provision to require EPA to use its standard methods for determining attainment or nonattainment to ascertain whether an area is a transitional area and to determine whether the area attained the NAAQS by December 31, 1991. There must be sufficient data (75 percent completeness for each year) to determine that the area has not violated the standard. A brief discussion of these procedures is included in the TSD, item #3.

(*3*) *Ozone incomplete data areas.* Certain ozone areas designated nonattainment prior to enactment do not have sufficient air quality monitoring data to determine whether they are or are not violating the NAAQS. Under these circumstances, the EPA does not believe sufficient data (75 percent completeness for each year) exist to warrant a classification for the area. The EPA terms these areas "Incomplete Data Areas."

As a result, the SIP submittal requirements of section 182 (concerning ozone) do not apply to these areas. A detailed discussion of these requirements will appear in the Title I General Preamble in a **Federal Register** scheduled for January 1992 publication.

(*4*) *CO "not classified" areas.* Certain CO areas are designated nonattainment by operation of law as of the date of enactment by virtue of their preenactment designation of nonattainment. These areas did not experience a violation of the 1988-1989 NAAQS. Where there was inadequate monitoring or insufficient data, EPA looked at historical trends to determine whether the area would have violated the NAAQS in 1988-1989. Where EPA concluded there would have been a violation, the area was classified appropriately. Where EPA believed there would not have been a violation, the area was "not classified."

As a result, the SIP submittal requirements of section 187 (concerning CO) do not apply to these areas. A detailed discussion of these requirements will appear in the Title I General Preamble in a **Federal Register** scheduled for January 1992 publication.

(*5*) *Rural transport areas (ozone).* Section 182(h) sets out general criteria for determining whether an area qualifies as a rural transport area. The statute defines it as an area which is designated nonattainment and neither includes nor is adjacent to any part of a C/MSA. In such cases, the Administrator in his discretion may treat the area as a rural transport area based on a finding that the emissions within the area do not make a significant contribution to the ozone concentrations measured in the area or in other areas.

For specific criteria in determining when an area is a rural transport area, refer to the procedures contained in technical document # EPA 450/4-91-015, "Criteria for Assessing the Role of Transported Ozone/Precursors in Ozone Nonattainment Areas."

This section also provides that a rural transport area, regardless of its classification, is treated as meeting the

applicable requirements of section 182 (generally relating to submissions required for ozone areas classified from marginal to extreme) if the area meets the submission requirements of a marginal area.

The thrust of this provision is to allow a rural transport area, the design value of which would otherwise indicate a classification for the area of moderate or higher, to be treated as a marginal area.

3. *Enactment + 45 days: C/MSA boundary process begins—general requirements.* Section 107(d)(4)(A)(iv) provides that areas designated nonattainment at the date of enactment, and classified as serious or higher, would, by operation of law 45 days after the classification, take as their boundaries the MSA or C/MSA, unless the State submitted a letter before that date indicating that it wished to study the boundary question further. Because areas designated nonattainment by operation of law at the date of enactment were also classified at that time, as described above, this 45-day period began from the date of enactment and ended on December 30, 1990.

Areas for which no 45-day letter was submitted took as their boundary the larger of their preenactment boundaries or the C/MSA. These areas are identified in section 8a(1) of this document.

Areas for which a 45-day letter was submitted are identified in the TSD, item #4, and copies of the letters are in Docket A-90-42. For these areas, the State was given the opportunity to submit to EPA a study describing why parts of the C/MSA should not be included in the nonattainment area. In letters from EPA to the relevant State air agency directors, EPA urged that the States submit their analyses by March 15, 1991, and requested that the study be completed by, at the latest, August 13, 1991. If EPA concurs in the finding, based on the State study, by 14 months after classification (January 15, 1992), the boundaries will be reduced accordingly. If EPA does not concur by that date, the boundaries will become the C/MSA by operation of law.

4. *Enactment + 90 days: 5 percent classification adjustment*—a. *General.* Under sections 181(a)(4) and 186(a)(3), an ozone or CO nonattainment area may be reclassified to the next higher or lower classification if its design value places it within 5 percent of the next classification. For ozone, section 181(a)(4) provides that such reclassification must occur no later than 90 days after the initial classification, which is (1) 90 days after the date of enactment (by February 13, 1991) for areas designated nonattainment by operation of law under section 107(d)(1)(C) (by virtue of their designation as nonattainment preenactment); or (2) 90 days after the effective date of this rule for areas designated nonattainment for ozone for the first time pursuant to this rule (by virtue of their designation as attainment preenactment). For CO, section 186(a)(3) provides that such reclassification must occur no later than 90 days after enactment. The provisions grant the Administrator broad discretion in making, or determining not to make, the reclassification.

b. *EPA criteria.* Section 181(a)(4) provides general guidelines in determining whether an area qualifies for a classification adjustment:

> In making such adjustment, the Administrator may consider the number of exceedances of the national primary ambient air quality standard for ozone in the area, the level of pollution transport between the area and other affected areas, including both intrastate and interstate transport, and the mix of sources and air pollutants in the area.

The EPA has developed more specific criteria (discussed below) to evaluate whether it is appropriate to reclassify a particular area. These criteria are primarily applicable to downshifts. The EPA approved downshifts when the area met the first requirement (a request by the State to EPA) and at least some of the other criteria (emissions, reductions, trends, etc.) and did not violate any of the criteria.

Request by State: EPA did not exercise its authority to downclass (or upclass) areas on EPA's own initiative. Rather, EPA requested that the State submit a request for a downshift.

Discontinuity: A 5-percent downshift must not result in an illogical or excessive discontinuity relative to surrounding areas. In particular, in light of the area-wide nature of ozone formation, a downshift should not create a "donut hole" where an area of one classification is surrounded by areas of higher classification.

Attainment: Evidence should be available that the proposed area would be able to attain by the earlier date specified by the lower classification.

Emissions reduction: Evidence should be available that the area would be very likely to achieve the appropriate total percent emission reduction necessary in order to attain in the shorter time period.

Trends: Near- and long-term trends in emissions and air quality should support a downshift. Historical air quality data should indicate substantial air quality improvement. Growth projections and emission trends should support a downshift. Vehicle miles traveled (VMT) and other indicators of emissions should not be increasing at higher than normal rates.

Years of data: For ozone, the 1987-1989 period is central to determining classification. Years of data after 1989 may be employed to corroborate the validity of a downshift. However, later years of data should not be the sole foundation for downshifts.

Only one downshift is allowed, meaning, if downclassed, an area cannot present data from other years as justification for a second downclass.

Under no circumstances can the use of 1990 air quality data be used to redesignate an area from nonattainment to attainment. For redesignation to attainment, the area must meet all of the requirements of section 107(d)(3) (including a maintenance plan).

c. *EPA action.* Areas requesting a downshift per section 181(a)(4) and EPA's response to those requests are contained in the TSD, item #5.

d. *Reclassifications upward.* Section 181(b)(3) provides that EPA shall automatically grant the request of any State to reclassify an ozone nonattainment area to a higher classification. This requirement requires EPA to "publish a notice in the **Federal Register** of any such request and of any action by the Administrator in granting such request."

On December 27, 1990, EPA received a request from the State of Maine to reclassify Lincoln County upward from marginal to moderate. By this notice, EPA is granting that request.

On December 28, 1990, EPA received a request from the State of California to reclassify Ventura County from serious to severe. Ventura County is part of the Los Angeles C/MSA, which is classified as extreme, and California has requested (pursuant to the 45-day/14-month process described above) that Ventura County be treated as a separate nonattainment area. California's request to reclassify Ventura County to severe is based on an assumption that Ventura County would be treated as a separate nonattainment area. As discussed below, EPA is, by this notice, approving California's request to treat Ventura County as a separate area classified as severe.

Section 182(b)(3) does not by its terms place time limits on the opportunity of a State to request a voluntary reclassification upward. Accordingly, States may continue to submit such requests. However, such reclassification will not delay the SIP/submittal dates otherwise applicable under subpart 2 of Title I of the CAAA.

5. *Enactment + 120 days: State submits list of all areas—general.* Section 107(d)(4)(A)(i) requires States to submit a list designating, redesignating, or affirming the designation of all areas of the State as nonattainment, attainment, or unclassifiable for ozone and CO by 120 days after enactment.

Virtually all the States met this requirement on a timely basis. Copies of the States' 120-day letters are included in Air Docket A-90-42.

For areas designated nonattainment at the date of enactment of the CAAA, and classified as marginal or moderate, this list must include the boundaries of the areas.

For areas designated nonattainment at the date of enactment of the CAAA, and classified serious or above, and for which the Governor submitted a 45-day letter, EPA encouraged the States to submit their supporting analyses as soon as possible, and EPA stated that if possible, EPA would make a determination by this notice instead of by January 15, 1992 (the statutorily prescribed deadline). Several States did submit their boundary analyses sufficiently early to allow EPA to take action in this document. The actions EPA is taking on the boundaries for these States are discussed later in this document and in more detail in the TSD.

For areas designated attainment or unclassifiable at the date of enactment, States were required to redesignate these areas to nonattainment if their current air quality revealed nonattainment. These areas are identified in Part III. The applicability to these areas of the opportunity for the 5 percent reclassification and, in the case of areas classified serious or higher, the C/MSA boundaries procedure, is described below. Although for these areas this procedure for reclassification and boundary determinations may take place after the classification, which is occurring by this notice, EPA requested in letters sent to the States in January that any affected States submit with their 120-day (March 15) submittals any analyses supporting a reclassification or boundary revision, and EPA would consider taking final action on these issues with today's notice.

6. *Enactment + 180 days: EPA notifies States of intent to modify suggested designations for certain areas.* Section 107(d)(4)(A)(ii) and (1)(B)(ii) provides that EPA may modify the designations, classifications, and boundaries submitted by the State at 120 days, but that if EPA intends to do so, it must notify the State of EPA's proposed modifications at least 60 days prior to EPA promulgation.

By letters dated on or about May 14, 1991 (at least 60 days before the promulgations and announcements set forth in this document), EPA proposed modifications to various State submissions. These modifications are summarized later in this document and/or in more detail in the TSD.

7. *Enactment + 200 days: States respond to EPA's proposed modifications.* Consistent with section 107(d)(4)(A)(ii) and (1)(B)(ii), EPA provided the affected States with an opportunity to demonstrate why any of EPA's proposed modifications were inappropriate. The EPA requested that the affected States submit such demonstrations by June 3, 1991, so that EPA could meet the statutory deadline for promulgation of final designations, classifications, and boundaries. The States' responses are included in Air Docket A-90-42.

8. *Enactment + 240 days.* This section describes the actions EPA is taking with this notice.

Under section 107(d)(4)(B)(ii), EPA is required to promulgate the new, affirmed, and reaffirmed designations, including boundaries, for areas designated nonattainment, attainment, or unclassifiable with respect to ozone and CO. The EPA is taking that action with this notice. This section discusses those actions in several separate parts:

(1) Areas designated nonattainment at date of enactment—classified serious and higher.

(2) Areas designated nonattainment at date of enactment—ozone areas classified marginal or moderate and CO areas classified moderate.

(3) Other areas designated nonattainment at the date of enactment—treated separately from the classified areas.

(4) Areas designated entirely attainment/unclassifiable at enactment, but now redesignated to nonattainment.

(5) Areas designated attainment/unclassifiable at enactment and that now retain that designation.

a. *Ozone and CO areas designated nonattainment at date of enactment--classified serious and higher.* With respect to areas designated nonattainment for ozone or CO at enactment and classified serious or higher, and for which the Governor did not submit a 45-day letter, the area took as its boundaries, 45 days after enactment, the larger of their preenactment boundaries or the C/MSA boundary. Today's notice affirms those boundaries. Any areas not included in the boundaries of these nonattainment areas pre-enactment, but now included within the nonattainment boundaries by virtue of the expansion of the nonattainment area to include the C/MSA, are generally treated as having been designated and classified on the date of enactment, as described below.

With respect to areas designated nonattainment for ozone or CO at enactment, classified serious or higher, for which the Governor submitted a 45-day letter (thereby beginning the C/MSA boundary-determination process) and has submitted the relevant boundary data, this notice promulgates these boundaries.

(1) EPA Actions:

Following are the serious and higher classified areas for which the entire C/MSA was already designated at enactment by operation of law (because the preenactment boundaries of the nonattainment area included the C/MSA), or the remaining attainment areas were added by the State. (See Air Docket No. A- 90-42 for official designation correspondence between the States and EPA on each area.) In addition, for two areas, the Washington, DC, MSA and Philadelphia CMSA, the entire C/MSA is designated due to absence of a 45-day letter from the State requesting more time to evaluate boundaries (Stafford Co., VA, became part of the Washington, DC, nonattainment area and Cecil Co., MD, became part of the Philadelphia nonattainment area).

San Diego, CA
San Joaquin Valley, CA
Philadelphia, PA-NJ-MD-DE
Washington, DC-MD-VA
Baton Rouge, LA
Boston, MA
Greater Connecticut (New London portion)
New York City (New Jersey portion)
Springfield, MA
Beaumont, TX
El Paso, TX
Houston, TX
Milwaukee, WI
Sheboygan, WI

The San Joaquin Valley, CA, area includes the MSAs of Bakersfield, Fresno, Visalia-Tulare-Porterville, Modesto, Merced, and Stockton, and the counties of Kings and Madera. The Greater Connecticut nonattainment area consists of the Hartford-New Britain-Middletown CMSA, the Waterbury, CT, MSA, the New London-Norwich, CT-RI, MSA, and the New Haven-Meriden, CT, MSA, including some of the previous planning areas in the State.

By this notice EPA is promulgating the boundaries of the following seven areas as smaller than the C/MSA. For these areas, the portions of the C/MSA not included in the nonattainment area

become either (1) separate nonattainment areas with a lower classification, or (2) adjoined to another, contiguous nonattainment area with the same or lower classification. The States and EPA are in agreement with respect to these actions. Under section 107(d)(4)(A)(v), EPA may promulgate boundaries smaller than the C/MSA if it concurs with a State finding that sources in the excluded portion "do not contribute significantly" to the violation of the NAAQS. This provision identifies several factors that may be considered.

In general, EPA supports its decision to concur with the State's finding with respect to these areas on the basis of a facts-and-circumstances test that focused on whether sources in the area at issue contributed significantly to NAAQS violations in the C/MSA. The EPA did not develop bright-line criteria, but instead, examined such factors as the amount of emissions from within the area at issue and its percentage contribution to the C/MSA (or surrogates for emissions data, such as population) and if available, the results of modeling studies.

Baltimore, MD—Kent and Queen Annes Counties become a separate marginal nonattainment area.

Los Angeles, CA—Ventura County becomes a separate severe-15 area. Southeast desert modified (AQMA) becomes a separate severe-17 area.

Portsmouth, NH-ME—The Maine portions of Portsmouth become part of the Portland, Maine, nonattainment area.

Chicago, IL—Kenosha County becomes part of the Milwaukee-Racine nonattainment area.

New London-Norwich MSA (Rhode Island portion)—Westerly and Hopkington become part of the Providence nonattainment area.

New York City (Connecticut portion)—Ansonia City, Beacon Falls Town, Derby City, Milford City, Oxford Town, Seymour Town and Shelton City become part of the Greater Connecticut nonattainment area.

Boston, MA—All Massachusetts towns which were previously part of the Providence CMSA become part of the Boston nonattainment area.

In addition, EPA believes that it may concur in reassignment of a portion of the C/MSA to another nonattainment area when that reassignment results in the same, or essentially the same, classification—under the *de minimis* authority of Alabama Power Co. v. Costle, 636 F.2d 323, 360-61, 404-05 (DC Cir. 1980). This case held that EPA may exempt de minimis situations from a statutory requirement when the burden of regulation would yield little or no value. In these cases, EPA believes that applying the "contributes significantly" test to these areas would yield no gain in air quality since control requirements remain the same despite the reassignment, and thus neither area's prospects for reaching attainment and maintenance is jeopardized. Applying *de minimis* authority to these cases remains consistent with the underlying purpose of the nonattainment provisions, which is to assure attainment and maintenance of the NAAQS. (See the TSD, item #6, for technical documentation supporting these determinations.)

In addition, by this notice EPA is promulgating the boundaries of the following five areas as smaller than the C/MSA. For these areas, the removed portions of the C/MSAs remained attainment. (See the TSD, item #7, for technical documentation supporting these determinations.) Following is a listing of the C/MSAs and the counties which remain attainment. The States and EPA are in agreement with respect to these actions.

Ozone

Atlanta, GA—Butts, Barrow, Newton, Spaulding and Walton Counties remain attainment.

Los Angeles, CA—The southeast desert portion (eastern Riverside County and northern and eastern San Bernardino County) of the LA CMSA remains attainment.

Sacramento, CA—The Lake Tahoe Air Basin portions of El Dorado and Placer Counties remain attainment.

Chicago, IL—Portions of Kendall and Grundy Counties remain attainment.

CO

Los Angeles, CA—All of Ventura County and the southeast desert portions of Los Angeles, Riverside, and San Bernardino Counties remain attainment.

For the following serious areas, States requested in a letter (45-day letter) more time to evaluate their boundaries per section 107(d)(4)(A)(iv). The Administrator has not yet made a finding on these two areas.

Muskegon, MI.

New York City (Orange and Putnam Counties, NY).

In a May 14, 1991 letter to these States, EPA requested that all documentation pertaining to any proposed boundary changes be submitted as soon as possible, but no later than August 12, 1991.

New York State followed with a letter on June 4, 1991, requesting more time to evaluate the boundaries of Orange and Putnam Counties and informed EPA that the appropriate documentation would be submitted no later than the August 12, 1991 deadline.

The State of Michigan confirmed its intent to continue studying its Muskegon boundary issue in a June 18, 1991 letter to EPA.

On January 15, 1992, nonattainment boundaries will become the entire C/MSA for both the New York and Michigan areas discussed above unless the Administrator has concurred with the Governors' finding that a smaller boundary is more appropriate. The EPA is awaiting the State's studies. The final determinations will be promulgated in a separate **Federal Register** notice.

b. *Ozone and CO areas designated nonattainment at date of enactment—classified marginal or moderate—i. Designations.* For areas designated nonattainment for ozone or CO by operation of law under section 107(d)(1)(C) at the date of enactment, EPA, with today's action, reaffirms that designation. Section 107(d)(4)(A)(iii) precludes redesignating an area to attainment under this 240-day process.

ii. *Boundaries.* At a minimum, the nonattainment boundaries should include those areas designated nonattainment prior to enactment. For purposes of determining sources subject to new source review, this preenactmen' boundary applies. Where it may be appropriate to expand the nonattainment boundary beyond the existing boundary, States should treat these additional areas as subject to the appropriate other CAA requirements. –

Section 107(d)(4)(A)(i)-(ii) authorizes EPA to promulgate a designation of "nonattainment" for an area. Section 107(d)(1)(A)(i) defines a nonattainment" area as—

> any area that does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the [NAAQS].

This provision bases the determination of whether an area is nonattainment on air quality considerations—if the air quality of an area violates the NAAQS, or if sources in that area contribute to NAAQS violations in a nearby area, the area must be designated nonattainment. However, the provision does not by its terms specify criteria for determining the extent to which source contributions mandate designation as nonattainment. Accordingly, the statute grants EPA discretion in making this determination. Section 107(d)(1)(A) and (B)(i) and (ii) and 107(d)(4)(A)(i) and (ii) requires the State to submit a list of all areas in the State, with its designations, and

authorizes EPA to make "such modifications as the Administrator deems necessary to the designations of the areas (or portions thereof) * * * (including to the boundaries of such areas or portions thereof)."

These statutory provisions provide guidance for the determination of whether an area is to be designated nonattainment. They do not, however, provide explicit criteria for determining the specific boundaries of the nonattainment area. They do not specifically address the issue of whether a geographic area designated nonattainment must be one nonattainment area, or whether the State or EPA may divide that area into two or more nonattainment areas. Accordingly, the statute grants EPA discretion in making this determination.

The EPA will grant a strong presumption in favor of the designations and boundaries put forth by the States. The EPA believes that this is an acceptable approach since by definition, the nonattainment areas classified as marginal and moderate have less severe ozone or CO problems and are likely to reach attainment through Federal measures which generally apply independent of boundaries.

Accordingly, EPA has determined in most cases to accept the State-proffered designations and boundaries. In general, EPA is not discussing in this document or in the TSD, designations, boundaries, and/or classifications issues where EPA is in agreement with the State's request. However, where EPA is disagreeing with a State's proposed action, a detailed discussion of the issue, including EPA's reasons, follows.

The EPA, in several instances, is still studying whether to expand ozone nonattainment areas within a C/MSA to include additional counties in that C/MSA when those counties may be of such great population or such a large percentage of the C/MSA's population that sources in those counties may be contributing to the nonattainment problem in the C/MSA. These counties are: Pasco County, in the Tampa, Florida, MSA; Washington County in the Parkersburg-Marietta, Ohio, MSA. For these areas, as noted in the accompanying tables of this document, the listed designation does not reflect EPA action under section 107(d)(4)(A). At the date of enactment of the CAAA, these two counties were designated attainment, by operation of law, under section 107(d)(1)(C). The State and EPA are reviewing whether to confirm or reverse their present designation under the process set out under section 107(d)(4)(A) and will publish a separate notice to that effect.

In a number of instances occurring across the nation, counties that may generally be considered to be rural due to relatively small populations and a relatively low degree of urbanization have contained a monitor that has recorded an ozone NAAQS violation. In some of these instances, the States, in the 120-day submissions of the lists of areas, elected not to designate these areas as nonattainment. In these cases, EPA informed the State in EPA's 180-day letter that such counties (or subcounties) must be designated as nonattainment on the grounds that section 107(d)(1)(A)(i) defines a nonattainment area as, among other things, "any area that does not meet... the [NAAQS]."

Some States did not wish to designate the entire county. In these cases, EPA generally agreed to designate only a portion of the county nonattainment. To determine the boundaries of these nonattainment areas, or the extent to which neighboring nonattainment areas should be expanded to include all or part of these counties, EPA has determined to apply the following criteria.

Presumptively, the nonattainment area should include the entire county. If the county does not adjoin any nonattainment area, the presumption in favor of an entire county is stronger. The boundaries may be reduced to less than an entire county if it is possible to delineate the boundaries of the area involving the NAAQS violation, and if it can be shown that certain other areas within the county likely do not contribute to the NAAQS violation.

In particular, if a county adjoins a nonattainment area, the presumption in favor of designating the entire county nonattainment may be rebutted, and EPA will designate boundaries narrower than the entire county, in accordance with the following criteria.

The portion of the county designated nonattainment must be contiguous with the adjoining nonattainment area, include the area surrounding the monitor, and include all adjoining areas with populations of sufficient density such that these areas are likely to contribute to the NAAQS violation. Further explanation of these criteria and of their application to individual cases is included in the TSD, item #8.

Based on these criteria, EPA is today promulgating the following nonattainment areas:

Ozone

North Carolina

On May 13, 1991, EPA Region IV wrote to Governor Martin (180-day letter) recommending that a portion of Davie County (Greensboro MSA) and Granville County (Raleigh-Durham MSA) be designated nonattainment for ozone based on available monitoring data.

Based on population and emission data provided by the State of North Carolina, EPA believes that emissions originating in the counties of Davie and Granville do not merit inclusion of each entire county as nonattainment. However, since these counties have monitored violations of the NAAQS, at least a portion of the county must be designated nonattainment. The EPA is therefore designating areas smaller than the counties as nonattainment for Davie and Granville Counties. The boundaries chosen for each of the areas include the monitor and an area that includes the more urbanized portions of the county that is contiguous with the rest of the nonattainment area (the Greensboro-High Point-Winston-Salem MSA for Davie County; and the Raleigh-Durham MSA for Granville County). The rationale for this action is that this boundary includes the area in which the air quality is nonattainment and in which sources likely to contribute to the nonattainment problem are located.

South Carolina

The Cowpens monitor in the northwest corner of Cherokee County (non-MSA) measured violations of the NAAQS during the 1987-1989 period and therefore must be designated nonattainment. Since there is uncertainty at this time as to the origin of the source of the emissions causing the violations in Cherokee County, and EPA believes that there is no basis for designating the nonattainment area as less than a county, the entire county is being designated nonattainment. (Cherokee County is contiguous to the Charlotte MSA to the northeast and the Greenville-Spartanburg MSA to the southwest.)

Kentucky

The EPA is today designating portions of the following five counties in the Commonwealth of Kentucky for the same reasons as the North Carolina counties discussed above: Livingston County (Paducah, non-MSA); Greenup County (Huntington-Ashland MSA); Oldham County (Louisville MSA); Bullitt County (Louisville MSA); and Hancock County (Owensboro MSA).

Since there is uncertainty at this time as to the origin of the source of the emissions causing the violations in a sixth county—Edmonson County (Bowling Green non-MSA)—the entire

county is designated nonattainment and classified as a rural transport area. (See the TSD, item #9, for documentation supporting a rural transport classification.)

Virginia

Virginia proposed that Charles City County (Richmond MSA) and the City of Suffolk (Norfolk MSA) remain attainment. By today's notice, EPA is designating both of these counties as nonattainment because of monitored violations within them.

CO

New Jersey

The State of New Jersey stated in a letter dated June 28, 1991, that, while it is willing to accept EPA's nonattainment boundaries for CO, it requests that these nonattainment areas be classified as "low moderate" (12.7 ppm and below).

The EPA believes that the nonattainment area is comprised of the contiguous jurisdictions of New York City, Nassau and Westchester Counties in New York, and Bergen, Hudson, Essex and Union Counties and the cities of Passaic, Clifton and Paterson in New Jersey. The highest CO concentrations measured within this area are in Manhattan, in the center of the metropolitan area. The measured concentration places the area in the "high moderate" category. Since vehicles commute throughout the entire area and a certain proportion have Manhattan as their destination, these vehicles have the potential to contribute to the maximum measured levels.

The New Jersey counties in the area rank among the State leaders in such categories as vehicle miles traveled and population density per square mile. These New Jersey counties are not distinguishable from the New York counties surrounding Manhattan. Therefore, based on this rationale and the measured concentrations in Manhattan (13.5 ppm), the northern New Jersey portion of the New York-New Jersey-Long Island CMSA nonattainment area retains the same classification (high moderate) as the CMSA, which includes northern New Jersey.

Tennessee

On March 12, 1991, Governor McWherter and Commissioner Luna submitted the recommendation that the City of Memphis be designated as a moderate nonattainment area for CO. The City of Memphis was designated nonattainment for CO prior to enactment of the CAAA.

On May 13, 1991, in a letter to Governor McWherter, EPA recommended that the CO nonattainment area be expanded from the City of Memphis to all of Shelby County. This designation is based on contribution to the mobile source CO emissions in the portion of Shelby County outside of the City of Memphis, and on the practical problems of attempting to administer a partial-county rather than countywide automobile inspection and maintenance (I/M) program.

The mobile source contribution from vehicles in the portion of Shelby County outside of the City of Memphis is 132 tons per day, or 26 percent of the total CO emissions from mobile sources in Shelby County. Currently, the I/M program is required only for the City of Memphis. Since automobile registration is done on a countywide basis without regard to whether or not the vehicle is located within the City of Memphis, it is difficult if not impossible to verify whether the appropriate vehicles are actually subject to the I/M program. The expansion of the nonattainment area to the entire county will give the State a basis for expanding coverage of the I/M program.

On May 31, 1991, Commissioner Luna wrote a letter to EPA Regional Administrator Greer Tidwell disagreeing with the Region's proposed boundaries for the ozone nonattainment areas in Tennessee. In that letter, there was no comment on EPA's proposal to expand the Memphis CO nonattainment area.

Utah

The EPA is still studying whether to expand the Provo CO nonattainment area. As noted in the accompanying tables of this document, the listed designation does not reflect EPA action under section 107(d)(4)(A). At the date of enactment of the CAAA, that portion of Utah County outside the city limits of Provo was designated attainment by operation of law under section 107(d)(1)(C). The State of Utah and EPA are reviewing whether to confirm or reverse their present designation under the process set out under section 107(d)(4)(A) and will publish a separate notice to that effect.

iii. *Classifications.* Areas designated nonattainment by operation of law at the date of enactment were classified at that time, and by today's notice, EPA is announcing the classifications as required under sections 107(d)(4)(A)(ii), 107(d)(2), 181(a)(3), and 186(a)(2). Areas designated nonattainment at the date of enactment are not being classified anew by today's notice; rather, that classification occurred at the date of enactment, and EPA today is merely announcing and codifying in the CFR the classifications that occurred for these areas at enactment. –

The EPA bases this approach primarily on the provisions of section 181(a)(1) and section 186(a)(1), each of which provides (in relevant part, using identical terms): "Each area designated nonattainment . . . pursuant to section 107(d) shall be classified at the time of such designation." Section 107(d)(1)(C)(i) provides that each ozone and CO preenactment nonattainment area is "designated, by operation of law, as a nonattainment area." This designation occurred at the date of enactment. –

The fact that classification occurred at the date of enactment means that the clock began ticking on the date of enactment for certain events triggered by the classification, specifically, the 90–day opportunity for 5 percent reclassification, and the 45–day period for States to submit requests to study the boundaries of areas classified serious and higher. For CO nonattainment areas, section 186(a)(3) provides that the 5 percent reclassification must occur "within 90 days after the date of the enactment," thereby confirming that classification for CO under section 186(a)(1) occurred on the date of enactment. Because the relevant provisions of section 181(a)(1) for ozone are identical to the section 186(a)(1) CO provisions, section 186(a)(3) implies that classification for ozone also occurred on the date of enactment, at least for areas containing locations designated nonattainment at enactment. The House Committee Report confirms this view by stating that the 5 percent reclassification adjustment for ozone may occur "[w]ithin 90 days of enactment" [H.R. No. 101–490, 101st Cong., 2d Sess. 231–32 (1990)]. –

Areas classified at the date of enactment are not reclassified again by virtue of the fact that today's notice reaffirms the designation of those areas and includes certain nearby locations within the boundaries of those areas. The EPA takes the position that because they are not again classified, they are not again given the opportunity to make a 5 percent reclassification, or, in the case of areas classified serious or higher, to initiate new efforts to adjust the boundaries to smaller than the C/MSA. Interpreting the CAA to allow such opportunities would be inconsistent with congressional intent to expedite the preliminary questions of designations, classifications, and boundaries in order to assure that the heart of the program—the pollution

controls themselves—are in place as quickly as possible [see H.R. No. 101–490, 101st Cong., 2d Sess., 232 (1990) (stating that a period of only 90 days is provided for the 5 percent reclassification "to assure that State and EPA resources are devoted to efforts to attain the standard, and not to changes in the classification of areas")].

Although in some cases the boundaries for an area remained undetermined until today's notice (i.e., areas containing at least some portion which was attainment at enactment), all areas ultimately determined to be within those boundaries and promulgated in this document are considered to be part of the nonattainment area designated and classified at the date of enactment. As a result, with respect to any neighboring area that is ultimately included in the nonattainment area, no new classification has occurred with today's notice, and there is no opportunity for a 5 percent reclassification or a 45-day C/MSA process.

The following are specific actions EPA is taking with respect to classifications.

Arizona

In a May 15, 1991 letter, Governor Symington of the State of Arizona recommended an ozone classification of transitional for Maricopa County (Phoenix area) pending verification of ozone data for calendar year 1990 and additional studies to be conducted during 1991 to determine the appropriate design value. Additional quality-assured monitoring data for 1990 from two monitoring sites in Maricopa County (Papago Park and Vehicle Emissions Lab) made available since receipt of the Governor's original recommendation indicate that a classification of moderate is more appropriate for the Phoenix area. Based on this additional, quality-assured data, EPA is classifying Phoenix as a moderate area for ozone.

Ohio

On March 15, 1991, the State of Ohio recommended that Mahoning and Trumbull Counties be redesignated from nonattainment to attainment. The EPA previously disapproved a redesignation request for this area on July 10, 1990 (see 55 FR 28199). Mahoning and Trumbull Counties will remain nonattainment because section 107(a)(4)(A)(iii) does not permit redesignations to attainment as part of this general review of designations and classifications.

Mahoning and Trumbull Counties are being classified as a marginal ozone nonattainment area along with Mercer County, Pennsylvania. There are two ozone monitors located in this area. One is located in Youngstown (Mahoning County, Ohio). This monitor is located in the urban area of Youngstown and may not represent the worst-case ozone concentration in the area. This is due to the suppression of ozone formation by NOx in the urban area. The monitor in Youngstown has not recorded a violation of the ozone NAAQS based on 1987 through 1989 monitoring data. The second monitor is located downwind in Farrell, Pennsylvania (Mercer County, Pennsylvania). This monitor has recorded a violation of the ozone NAAQS based on 1987 through 1989 air quality data (2.1 average expected exceedances per year). A violation of the NAAQS occurs when the average expected exceedances per year is greater than 1.0. The monitoring site in Farrell, Pennsylvania, is approximately 1 to 2 miles to the east of Trumbull County, Ohio. The EPA has determined that the monitoring site in Farrell, Pennsylvania, may have been adversely impacted by emissions from Mahoning and Trumbull Counties (see 55 FR 28199, July 10, 1990). This is based on the prevailing warm weather (ozone conductive) winds in the upper midwest. Since the winds typically blow from the quadrant bounded by the directions south and west, the Farrell site is expected to be downwind on these days. Based on this information Mahoning and Trumbull Counties, Ohio, are being classified, along with Mercer County, Pennsylvania, as a marginal ozone nonattainment area with a design value of .134 ppm.

Pennsylvania

In a March 18, 1991 letter, Pennsylvania proposed that Lawrence County be designated "cannot be classified or better than primary standards" for ozone. To support its recommendation, the State pointed out that ozone NAAQS attainment has been monitored at a location in that county. Per section 107(d)(1)(C)(i), an area designated nonattainment preenactment of the CAAA of 1990 must be nonattainment postenactment.

In the same letter, Pennsylvania proposed that Allegheny County be designated "cannot be classified or better than primary standards" for carbon monoxide. The State bases its recommendation on the fact that the county is monitoring attainment. Again, as Allegheny County was designated nonattainment prior to passage of the CAAA, the area remains nonattainment by operation of law until a carbon monoxide NAAQS maintenance plan is developed and approved by EPA. In the tables section of the 107 classification/designation notice EPA recognizes the fact that Allegheny County is not violating the NAAQS, i.e., that it is monitoring attainment.

c. *Other treatment.* With today's notice, EPA is also promulgating the affirmed or reaffirmed designations (and new, affirmed, or reaffirmed boundaries) of nonattainment areas to be treated as transitional (ozone), submarginal (ozone), incomplete data (ozone), not classified (CO), and rural transport areas (ozone); and codifying its conclusion that those areas should be accorded that treatment. These areas are listed in the TSD, item #10.

d. *Areas designated entirely attainment/unclassifiable at enactment but now subject to redesignation to nonattainment*— i. *Serious and higher.*

Ohio and West Virginia

As noted in the accompanying tables of this document, the listed designation for the Steubenville, OH-WV nonattainment area does not reflect EPA action under section 107(d)(4)(A). At the date of enactment of the CAAA, the three counties which make up the Steubenville MSA—Jefferson County, Ohio; Brooke County, West Virginia; and Hancock County, West Virginia—were designated attainment, by operation of law, under section 107(d)(1)(C). The States and EPA are reviewing whether to confirm or reverse this present designation under the process set out under section 107(d)(4)(A). The EPA will publish a separate notice to that effect.

ii. *Marginal/moderate.* With today's notice, EPA is promulgating the designations, classifications, and boundaries for three areas, Smyth County, Virginia; Essex County, New York; and Jefferson County, New York. These areas were designated entirely attainment as of the date of enactment; however, current air quality necessitates a designation of nonattainment under section 107(d)(4)(A)(i)–(ii). For new ozone nonattainment areas, because they are classified as of the effective date of today's notice, any reclassification based on the 5 percent provision of section 181(a)(3) must occur within 90 days of that effective date. The criteria for making the 5 percent reclassification will be the same as discussed above. Smyth and Essex Counties are rural transport areas. Therefore, a 5 percent downshift is not applicable to either area.

On March 21, 1991, the Governor of New York requested a 5 percent downshift for Jefferson County since its design value of .143 ppm fell within 5 percent of the marginal classification.

Today's notice approves this request and reclassifies Jefferson County as a marginal nonattainment area per section 181(a)(4).

Essex County, New York

New York State requested in its March 21, 1991 letter that Essex County (non-MSA) be designated attainment. The State based this request on the fact that the monitoring station on which the designation is based is part of an atmospheric research station on the top of Whiteface Mountain, and on the belief that the measurements taken at this station do not reflect general air quality in the region. New York State further commented in a June 4, 1991 letter that the exceedances all occurred at night when the public could not be exposed. New York noted that the time of the exceedances indicate that long-range transport of ozone is the cause of the violations.

It is EPA's position that the violations of the ozone NAAQS recorded on Whiteface Mountain are based on valid measurements and the State does not dispute this. However, the fact that the ozone violations do not originate in Essex County is not sufficient basis for designating the area attainment.

Furthermore, the area where the violations are observed is accessible to the public. The Whiteface Mountain area is part of the Lake Placid recreational area, Adirondack Park, a year-round resort location. Since the State's June 4, 1991 letter, additional exceedances of the ozone standard, including some day-time readings, have been recorded at this location.

The EPA does agree that long range transport appears to be a substantial contributor to the NAAQS violations on Whiteface Mountain. Given violations have occurred only at a higher elevation while attainment is measured at the base of Whiteface Mountain, EPA has determined that a smaller boundary, as defined by those areas on Whiteface Mountain above an elevation of 4,500 feet, is more appropriate and a classification of rural transport accurately characterizes Whiteface Mountain (as proposed in an October 4, 1991 letter from New York State to EPA).

The EPA accepts this boundary to define the nonattainment area on Whiteface Mountain, allowing the rest of Essex County to remain attainment. The EPA believes this boundary adequately includes the monitor, located at an elevation of 4,867 feet, and a reasonable surrounding area.

By selecting 4,500 feet as the boundary marking the nonattainment area of Whiteface Mountain, EPA also believes that the air quality in the Adirondack Park area, an area frequented by the public, will benefit by designating this portion of Essex County as nonattainment.

The EPA also agrees with the State that a rural transport status more accurately reflects the ozone nonattainment problem in Essex County at Whiteface Mountain. Documentation supporting a classification of rural transport is contained in the TSD, item #11.

Smyth County, Virginia

In a March 15, 1991 letter to EPA, Governor Wilder of the Commonwealth of Virginia proposed that Smyth County (non-MSA) remain attainment for ozone.

On May 14, 1991, the EPA opposed this request and notified the Governor of Virginia that, while acknowledging strong evidence of long-range ozone transport, at least a portion of Smyth County must be designated nonattainment.

In a June 3, 1991 letter to EPA Region III, the State of Virginia recommended designating the area in Smyth County above 4,500 feet as nonattainment and continued to request a classification of rural transport.

The EPA recognizes the monitored violations by designating the area in Smyth County above 4,500 feet elevation as nonattainment, as recommended by the State of Virginia in their June 3, 1991 letter to EPA. The EPA accepts this elevation as a boundary to define the nonattainment area as EPA believes it adequately includes the monitor, located at 5,520 feet, and a reasonable area surrounding it.

Selecting 4,500 feet as the boundary marking the nonattainment area of Smyth County also ensures that the Appalachian Trail, an area frequented by the public, is included in the nonattainment area.

The EPA agrees with the State that a rural transport status more accurately reflects the ozone nonattainment problem in Smyth County. Documentation supporting Smyth County as a rural transport area is contained in the TSD, item #12.

iii. *Other treatment.* The City of Oshkosh, attainment for CO prior to enactment, is hereby designated unclassifiable for CO. (See the TSD, item #13, for documentation supporting this designation.)

9. *Procedural requirements.* As described above, today's notice promulgates designations, classifications, and boundaries for ozone and CO areas. This section describes the procedural requirements concerning notice- and-comment and judicial review applicable to these actions. –

a. *Designations and boundaries*— i. *Notice-and-comment rulemaking.* Today's notice announces and promulgates the designations that occurred under section 107(d)(1)(C) (designations by operation of law at the date of enactment of the CAAA) and the designations (including boundary determinations) under section 107(d)(4) (designations submitted by the States and promulgated by EPA). The EPA takes this action in accordance with section 107(d)(2)(A), which requires publication in the **Federal Register** of a notice announcing or promulgating designations under, among other things, section 107(d)(1) and (4). Beyond that, however, section 107(d)(2)(B) provides:

> Promulgation or announcement of a designation under paragraph (1), (4) or (5) shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (relating to notice and comment), except nothing herein shall be construed as precluding such public notice and comment whenever possible.

By its terms, this provision exempts the designations announced and promulgated by this notice from the notice-and-comment procedures under the Administrative Procedures Act. Through various publicly available letters to the States, EPA described its preliminary views at various points in time as to the designation and classification of areas, and interested persons had the opportunity to give their views on the subject to EPA. In addition, the tight timetables Congress set out in section 107(d)(4)(A)(i)–(ii) made it difficult to engage in notice-and-comment rulemaking. Therefore, as permitted under section 107(d)(2)(B), EPA is today taking final action without notice-and-comment rulemaking. In addition, section 307(h), added by the CAAA provides:

> It is the intent of Congress that, consistent with the policy of the Administrative Procedures Act, the Administrator in promulgating any regulation under this Act, including a regulation subject to a deadline, shall ensure a reasonable period for public participation of at least 30 days, except as otherwise expressly proved in section 107(d), 172(a), 181(a) and (b), and 186(a) and (b).

The EPA is interested, however, in the public's views on whether EPA has made significant errors which could have been avoided had notice-and-comment rulemaking been possible. Accordingly, EPA will allow 30 days from the date of this document for public comment on any such errors, and, if such errors are brought to EPA's attention, EPA will correct any technical

errors made. In addition, if anyone raises significant new policy issues, EPA will pursue notice-and-comment rulemaking to resolve such issues. This notice will take effect 60 days from the date of publication, except to the extent, if any, that EPA determines corrections are necessary in light of errors elucidated by timely public comment. —

ii. *Judicial review.* The CAAA provide no additional limits on judicial review of the designations, including boundaries. Accordingly, if a party follows the appropriate administrative procedures under CAAA, section 307, the party is not barred from challenging EPA's action in this regard through litigation. –

b. *Classifications*— i. *Notice and comment.* Sections 181(a)(3) and 186(a)(2) provide that at the time EPA publishes the notice designating ozone and CO nonattainment areas:

> The Administrator shall publish a notice announcing the classification of [such ozone or CO] nonattainment area. The provisions of section 172(a)(1)(B) (relating to lack of notice and comment and judicial review) shall apply to such classification.

Section 172(a)(1), which is found in subpart 1 of part D, deals primarily with classifications that EPA may make upon promulgating a new or revised NAAQS and designating areas in accordance with that new or revised NAAQS. Section 172(a)(1)(A) authorizes EPA to make classifications; section 172(a)(1)(B), which is referenced by sections 181(a)(3) and section 186(a)(2), provides, in relevant part: –

> The Administrator shall publish a notice in the **Federal Register** announcing each classification under subparagraph (A), except the Administrator shall provide an opportunity of at least 30 days for written comment. Such classification shall not be subject to the provisions of sections 553 through 557 of title 5 of the United States Code (concerning notice and comment) and shall not be subject to judicial review until [specified times].

The EPA interprets the reference in sections 181(a)(3) and 186(a)(2) to "[t]he provisions of section 172(a)(1)(B) (relating to lack of notice and comment and judicial review)" to refer to the second sentence in section 172(a)(1)(B), not the first sentence. As a result, the provisions of the first sentence requiring a 30–day comment period do not apply to the classifications under section 181(a)(3) or section 186(a)(2), which are the subject of this document. The EPA interprets the parenthetical phrase in sections 181(a)(3) and 186(a)(2) to limit the applicable provisions of section 172(a)(1)(B) to those that eliminate the notice-and-comment requirement, which are found in the second sentence. This reading is consistent with the fact that the first sentence in section 172(a)(1)(B) sets out the requirement for publishing a notice announcing a classification, a requirement that is separately incorporated in sections 181(a)(3) and 186(a)(2). This duplication suggests that the first sentence of section 172(a)(1)(B) does not apply.

Similarly, EPA takes the position that notice-and-comment rulemaking is not required for any decisions by EPA under section 181(a)(4) or section 186(a)(3) to make, or not to make, reclassifications on the grounds that the air quality of an ozone or CO nonattainment area is within 5 percent of the cut-off for a different classification. Sections 181(a)(4) and 186(a)(3) provide that EPA is to make these decisions "by the procedure required under paragraph [section 181(a)](3)" for ozone, or "by the procedure required under paragraph [section 186(a)(2)]" for CO. As just discussed, those procedures eliminate the requirement for notice-and-comment rulemaking. —

ii. *Judicial review.* As noted above, sections 181(a)(3) and 186(a)(2) provide that the provisions concerning judicial review found in section 172(a)(1)(B) apply. Those provisions state that judicial review may occur only after:

> [T]he Administrator takes final action under subsection (k) or (l) of section 110 (concerning action on plan submissions) or section 179 (concerning sanctions) with respect to any plan submissions required by virtue of such classification.

Accordingly, judicial review on the classification decisions [(including the decisions to make, or not to make, reclassifications under the 5 percent adjustment provisions of section 181(a)(4) and section 186(a)(3)] may be had only at those times.

B. PM–10

1. *Initial PM–10 designations.* Previously, EPA published a **Federal Register** notice announcing the designations and classifications for PM–10 occurring by operation of law upon enactment of the CAAA (see 56 FR 11101, March 15, 1991). In addition, EPA has published a follow-up notice correcting the boundaries and designations of some areas in light of comments addressing the March 1991 notice (see 56 FR 37654, August 8, 1991). Both of these notices provide a detailed discussion of the history and current status of PM–10 areas nationwide. An abbreviated discussion is provided here.

Generally, EPA adopted a PM–10 SIP development policy "grouping" all areas of the country into three categories based on their probability of violating the standards when EPA revised the indicator for particulate matter to PM–10 (see generally 52 FR 24634, July 1, 1987) (revising particulate matter indicator from total suspended particulates to PM–10). The EPA announced the initial groupings for PM–10 in a **Federal Register** notice published on August 7, 1987 (52 FR 29383). The EPA modified the groupings and boundaries in two subsequent **Federal Register** notices published on March 28, 1989 (54 FR 12620) and October 31, 1990 (55 FR 45799).

The CAAA provided designations for PM–10 for the first time, using EPA's grouping scheme as a starting point. Specifically, the amended law provides that each former Group I area identified in 52 FR 29383 (August 7, 1987), except to the extent modified before enactment of the CAAA (November 15, 1990), was designated nonattainment for PM–10 [see 107(d)(4)(B)(i) of the amended Act]. The **Federal Register** notice published on October 31, 1990 (55 FR 45799) clarified or "modified" EPA's identification of the Group I areas listed in the August 1987 notice. Thus, as a general matter, the former Group I areas listed in the October 1990 notice became nonattainment for PM–10 by operation of law upon enactment of the CAAA [the October 31, 1990 notice reflects the revisions announced in the notice published on March 28, 1989 (54 FR 12620)]. Any other area (i.e., Group II or III) violating the PM–10 NAAQS (as determined by 40 CFR part 50, Appendix K) prior to January 1, 1989, also was designated nonattainment for PM–10 by operation of law upon enactment of the CAAA [see section 107(d)(4)(B)(ii) of the amended Act]. All other areas were designated unclassifiable for PM–10 by operation of law upon enactment of the CAAA [see section 107(d)(4)(B)(iii) of the CAAA]. Finally, all of those areas designated nonattainment for PM–10 were classified as moderate by operation of law at the time of the designation [see section 188(a) of the CAAA]. The EPA will be reclassifying some of these initial PM–10 nonattainment areas from moderate to serious if EPA determines they cannot practicably attain the PM–10 air quality standards by December 31, 1994 [see section 188(b)(1)].

In the **Federal Register** notices published on March 15, 1991 (56 FR 11101) and August 8, 1991 (56 FR 37654) the EPA applied sections 107(d)(4)(B) and 188(a), and other operative legal provisions, and announced the designations and classifications for PM–10. In today's notice, EPA formally codifies the designations and classifications for PM–10 announced in these prior two notices. Further, in a

letter dated October 2, 1991, Governor Stephens of the State of Montana informed EPA that the August 8, 1991 corrections notice contained an editorial error in the boundary for Libby, Montana. The EPA has reviewed the Governor's letter and the boundary for Libby. The EPA concurs with the Governor's comment and has corrected the boundary for Libby. Thus, the codification of the initial designations and classifications for PM–10 are as set forth in the table below. Note that today's codification of the initial designations for PM–10 [under section 107(d)(4)(B)] in 40 CFR part 81 represents final agency action for the purpose of section 307(b) of the CAA.

2. *Additional PM–10 designations.* As discussed above, all areas of the country were designated either nonattainment or unclassifiable for PM–10 by operation of law upon enactment of the CAAA pursuant to section 107(d)(4)(B). Section 107(d)(3) of the CAAA authorizes the Administrator to redesignate as nonattainment those areas initially designated as unclassifiable for PM–10 [see section 107(d)(3)(A), (B), and (C)]. The EPA has initiated the redesignation process for some areas. Specifically, in January and February of 1991, EPA Regional Administrators provided letters to the Nation's Governors initiating the process of redesignating additional areas as nonattainment for PM–10, as called for in section 107(d)(3)(A) of the CAAA. In addition, in a **Federal Register** notice published on April 22, 1991 (56 FR 16274), the EPA identified those PM–10 areas for which EPA had notified the Governors of affected States that an area's PM–10 designation should be revised to nonattainment. (The need to revise the designation for the section in LaSalle County, Illinois, that EPA had identified in the April 22, 1991 notice has been rendered moot. In the correction notice for the initial nonattainment areas published in the **Federal Register** of August 8, 1991 (56 FR 37654), EPA indicated that this section was designated nonattainment and included as part of the initial Oglesby, Illinois, PM–10 nonattainment area.)

In a separate **Federal Register** notice, EPA will propose redesignations for these areas in light of comments received from the affected States. A more detailed discussion about the section 107(d)(3) redesignation process and the actions being proposed will be described in that notice. [Note that the section 107(d)(3) redesignation process is different from the section 107(d)(4)(B) designations occurring by operation of law upon enactment of the CAAA in that the section 107(d)(3) redesignations are not exempt from the notice-and-comment rulemaking procedures of the Administrative Procedures Act (section 107(d)(2)(B) of the CAAA).]

As mentioned, EPA Regional Administrators have corresponded with some of the Nation's Governors, initiating the process to redesignate additional areas of the country as nonattainment for PM–10. In some of the responses to these letters, States requested that EPA expand the boundaries of former Group I areas and make the expansion area part of an initial nonattainment area. In the situations where EPA believed there was no legal basis to make such an adjustment, EPA has indicated that it would treat the State's request as an unsolicited request to redesignate the additional area as nonattainment within the meaning of section 107(d)(3)(D) of the CAAA (56 FR 37654, August 8, 1991). Accordingly, in a separate **Federal Register** notice, EPA will determine whether such submittals are complete and, if so, will propose to approve or deny the State's redesignations request [see section 107(d)(3)(D) of the CAAA].

3. *Total suspended particulates (TSP).* Section 107(d)(4)(B) of the CAAA provides that the designations for particulate matter measured in terms of TSP existing immediately prior to enactment of the CAAA (November 15, 1990) remain in effect. The TSP designations are to remain in effect until the Administrator determines that the designations are no longer necessary for implementing the maximum allowable increases in concentrations of particulate matter, measured in terms of TSP, pursuant to section 163(b) [section 107(d)(4)(B)].

Thus, by this notice, EPA announces that the TSP designations existing before enactment of the CAAA shall remain in effect for now. Further, EPA notes that it will review the need for these designations and provide notice at such time EPA determines these designations are no longer necessary for the purpose of implementing the increments in section 163(b).

C. Sulfur Dioxide (SO_2)

1. *Initial SO_2 designations.* Section 107(d)(1)(C) of the CAAA generally provides that those SO_2 designations existing before enactment of the CAAA were affirmed at enactment by operation of law. Thus, the designation of an SO_2 area existing just prior to enactment of the CAAA (November 15, 1990) become the designation of the area upon enactment and at this time. To avoid unnecessary duplication, EPA will not reprint the codification table for SO_2 in today's notice. For the status of SO_2 areas, readers should refer to the codification tables currently set forth in 40 CFR part 81 (July 1, 1991) and to any subsequent modifications to these SO_2 tables that have been published in the **Federal Register.**

2. *Additional SO_2 designations.* As with the additional PM–10 nonattainment areas, EPA has initiated the redesignation of some SO_2 areas pursuant to section 107(d)(3) of the CAAA [section 107(d)(3)(A), (B), and (C)]. In January and February of 1991, EPA Regional Administrators provided letters to the Nation's Governors initiating the process of redesignating additional areas as nonattainment for SO_2, as called for in section 107(d)(3)(A) of the CAAA. In addition, in a **Federal Register** notice published on April 22, 1991 (56 FR 16274), EPA identified those SO_2 areas for which EPA had notified the Governors of affected States that an area's SO_2 designation should be revised to nonattainment.

In a separate **Federal Register**, EPA will propose designations for these areas in light of comments received from the affected States. A more detailed discussion about the section 107(d)(3) redesignation process and the actions being proposed for particular areas will be described in that notice.

D. Lead

1. *Background.* In 1978, when EPA promulgated the lead NAAQS, the Agency believed that implementation and maintenance of the lead NAAQS should be in accordance with the SIP requirements set forth in section 110 of the CAA and not Part D. Therefore, EPA did not designate areas for lead. The Agency believed that section 107 and the Part D requirements were intended by Congress to apply only to NAAQS which were set prior to 1977. The CAA, as recently amended in 1990, clearly authorizes EPA to designate areas for the lead standard in effect at the date of enactment of the CAAA. Once an area is designated nonattainment for the lead standard in effect at the date of enactment, the SIP requirements for the area are as set forth in sections 191 and 192 of the CAAA.

Section 107(d)(5) of the CAAA authorizes EPA to require States to designate areas (or portions thereof) as nonattainment, attainment or unclassifiable with respect to the lead NAAQS in effect as of the date of enactment of the CAAA. As provided in section 107(d)(5), these lead areas are to be designated pursuant to the procedures outlined in section 107(d)(1)(A) and (B) of the amended

CAAA except that certain timeframes in subparagraph (B) have been modified by section 107(d)(5).

Section 107(d)(1)(A) of the amended CAAA permits EPA to require the Governors of affected States to submit their recommended designations for the areas EPA seeks designated in a timeframe that EPA deems reasonable. This timeframe, however, can be no sooner than 120 days, nor later than 1 year, after the date EPA notifies the State of the requirement to submit such designations. Section 107(d)(1)(B) of the CAAA requires EPA to promulgate these designations no later than 1 year after notifying the State of the requirement to designate areas for lead. The EPA may make any modifications deemed necessary to the suggested designations submitted by the State [see generally section 107(d)(1)(B) of the CAAA]. However, no later than 120 days before promulgating a modified area, EPA must notify the affected State and provide an opportunity for the State to demonstrate why any proposed modification is inappropriate. If the Governor of an affected State fails to submit the required lead designations, in whole or in part, EPA is required to promulgate the designation that is deemed appropriate for any area (or portion thereof) not designated by the State.

In January and February 1991, EPA notified the Governors of affected States that they should proceed to designate as nonattainment those areas that had recorded violations of the lead NAAQS. In addition, EPA has requested the Governors to designate as unclassifiable those areas that contain stationary lead sources which EPA believes to be capable of violating the lead NAAQS, but for which existing air quality data are insufficient at this time to designate as attainment or nonattainment [section 107(d)(1)(A)(iii)]. For administrative efficiency reasons, in the January and February letters, EPA requested the States to submit the designations by March 15, 1991 [the date the lists of designations for all ozone and CO areas were due from the Governor of each State pursuant to section 107(d)(4)(A) of the CAAA]. In any event, EPA indicated to the States that they had to submit their designations not later than 120 days from the date EPA notified them of the requirement to submit such designations. In a **Federal Register** notice published on April 22, 1991 (56 FR 16274), EPA identified those areas for which EPA had requested designations for lead.

The designation requests submitted by the Governors have created several different situations which require that EPA act on the designations in several actions. The EPA has termed the EPA-requested designations submitted by Governors as "solicited designations" and the designations submitted by Governors on his/her own initiative as "unsolicited designations." The different situations and when EPA intends to formally act on the designations are as follows:

(1) Solicited designation requests submitted within a timeframe sufficient enough for EPA to review and process, and which EPA does not intend to modify, are addressed in this document.

(2) Solicited designation requests which EPA intends to modify will be addressed at a later date. (As mentioned earlier, EPA must notify the affected State 120 days prior to the promulgation of a modified area and provide an opportunity for the State to demonstrate why any proposed modification is inappropriate. The EPA notified affected States in May 1991.)

(3) Unsolicited designation requests which EPA may or may not modify will be addressed at a later date. (Although the affected Governors have been notified within the required timeframes that EPA intends to modify the designation submittal, EPA has decided that in order to provide adequate time for the affected Governors to respond and for EPA to review any response, it would be more appropriate to address the unsolicited designation requests in a separate notice.)

2. *Today's action.* In today's notice, EPA is acting on those State submittals which were received by EPA in a timeframe sufficient enough to review and process, and which EPA does not intend to modify. The EPA is publishing these designations as called for in section 107(d)(2)(A) of the CAAA. The States affected by this notice include: Alabama, Florida, Georgia, Indiana, Louisiana, Minnesota, Missouri, Montana, Nebraska, New York, Ohio, Tennessee, and Texas. The States of Montana, New York, and Texas submitted both solicited and unsolicited designation requests. In this notice, EPA is acting only on the solicited portion of the submittals for which EPA has determined modifications are not necessary. The unsolicited portion of the submittal will be addressed in a separate notice.

A brief description of the nonattainment and unclassifiable lead areas is provided below. The legally binding description of the nonattainment and unclassifiable area lead boundaries for each affected State is provided in the rulemaking tables at the end of this document.

A lead nonattainment area consists of that area which does not meet (or that contributes to ambient air quality in a nearby area that does not meet) the lead NAAQS [see section 107(d)(1)(A)(i)]. A lead unclassifiable area consists of any area that cannot be classified on the basis of available information as meeting or not meeting the lead NAAQS [see section 107(d)(1)(A)(iii)]. Generally, EPA has recommended that the lead nonattainment and unclassifiable boundaries be defined by the county perimeter for the county in which the ambient lead monitor(s) recording the violation of the lead NAAQS and/or the lead source is located. In some situations, however, a boundary other than the county perimeter may be appropriate. States may seek to alternatively define the lead nonattainment or unclassifiable boundary by using one, or a combination, of the following techniques: (1) Qualitative analysis, (2) spatial interpolation of air monitoring data, or (3) air quality simulation by dispersion modeling. The techniques are described in more detail in "Procedures for Estimating Probability of Nonattainment of a PM-10 NAAQS Using Total Suspended Particulate or PM-10 Data," EPA-450/4-86-017, December 1986. If a State seeks to alternatively define a lead nonattainment area, EPA recommends that it submit a reasoned and documented justification for the boundary identified.

Finally, the air quality monitoring data and other technical information supporting today's action are available from the respective EPA Regional Office which serves the State where the affected area is located. The addresses of the Regional Offices are listed in the addresses section of this document.

State	Brief Description of Lead Areas	Designation
Alabama	part of Jefferson County	nonattainment
Florida	part of Hillsborough County	unclassifiable
Georgia	Muscogee County	nonattainment

State	Brief Description of Lead Areas	Designation
Indiana	part of Marion County	unclassifiable
	part of Marion County	nonattainment
Louisiana	East Baton Rouge Parish	unclassifiable
Minnesota	part of Dakota County	nonattainment
Missouri	part of Iron County (two separate areas)	nonattainment
	part of Jefferson County	nonattainment
	Dent County	unclassifiable
	Holt County	unclassifiable
Montana	part of Lewis and Clark County	nonattainment
Nebraska	part of Douglas County	nonattainment
New York	Onondaga County	unclassifiable
Ohio	part of Cuyahoga County	unclassifiable
Tennessee	part of Shelby County	nonattainment
	part of Williamson County	nonattainment
	part of Fayette County	unclassifiable
Texas	part of Collin County	nonattainment
	part of Bexar County	unclassifiable

As noted, this action is being taken pursuant to section 107(d)(5) of the CAAA. As with the section 107(d)(4) designations for ozone and CO areas, the designations under section 107(d)(5) are exempt from the Administrative Procedures Act requirements for notice-and-comment rulemaking (5 U.S.C. sections 553-557) [see section 107(d)(2)(B) of the CAAA]. Nevertheless, as with the ozone and CO designations in today's notice, EPA will entertain any comments on these actions that are received by December 6, 1991, for the purpose of correcting technical errors. The EPA's promulgation of these designations [for purposes of section 107(d)(2)(A)] will become effective on January 6, 1992. This is intended to provide EPA with time to make any technical corrections that are appropriate in light of the comments.

3. *Additional actions.* The EPA intends to modify some of the suggested designations submitted by States in response to EPA's request to designate areas for lead. As called for in section 107(d)(1)(B)(ii), EPA has notified the affected States that EPA believes modification is necessary and is providing them with an opportunity to demonstrate why EPA's proposed modification is inappropriate. The EPA will address the modified designations to the solicited submittals in a separate **Federal Register** notice, to be published in the near future.

Additionally, EPA has received unsolicited lead designation requests from some States. At this time, EPA intends to modify most of these requests and, accordingly, has notified the affected States and is providing them with an opportunity to demonstrate why EPA's proposed modification is inappropriate. The EPA also will address these unsolicited designations in a separate **Federal Register** notice, to be published in the near future.

4. *Miscellaneous.* The EPA will continue to assess ambient monitoring data as they are received. Areas that record violations of the lead NAAQS will be reviewed. If EPA determines that a nonattainment designation for an area is appropriate, EPA will so inform the Governor of the affected State and require the Governor to submit a designation request [section 107(d)(5) of the CAAA and cross reference to section 107(d)(1)].

Additionally, section 107(d)(1)(A) of the CAAA authorizes Governors to submit, at any time the Governor deems appropriate, a list of areas designated as nonattainment, attainment, or unclassifiable for lead. Section 107(d)(1)(B)(iii) of the CAAA requires that EPA must then act on these designation requests in accordance with the procedures in section 107(d)(3).

III. Tables

The tables codified in today's action are significantly different from the tables now included in 40 CFR part 81. The current 40 CFR part 81 designation listings (revised as of July 1, 1990) include by State and NAAQS pollutant, a brief description of areas within the State and their respective designation. The EPA has modified this format in order to better describe the areas and their attainment status and to account for the pollutant classifications required by the CAAA. Today's action includes completely new tables for ozone and CO. The SO_2, NO_2, and TSP tables are not modified by today's action but will in the future be revised, as appropriate, to this new format. Lead tables include the areas currently designated as nonattainment and unclassifiable. The PM–10 tables identify those areas currently designated as nonattainment for PM–10. As provided in section 107(d)(4)(B) of the CAAA, all of those areas in a State not designated nonattainment for PM–10 were designated unclassifiable for PM–10. The tables do not specify the PM–10 unclassifiable areas but by implication all those areas not currently designated nonattainment for PM–10 are designated unclassifiable.

IV. Other Regulatory Requirements

A. Executive Order 12291

Under E.O. 12291, EPA is required to judge whether an action is "major" and therefore subject to the requirement of a regulatory impact analysis. The Agency has determined that the attainment, nonattainment, and classified area designations and classifications made final today would result in none of the significant adverse economic effects set forth in section 1(b) of the E.O. as grounds for a finding that an action is "major." The Agency has, therefore, concluded that this action is not a "major" action under E.O. 12291. This rule was submitted to the Office of Management and Budget (OMB) for review under this E.O.

A copy of the draft rule as submitted to the OMB, any documents accompanying the draft, any written comments received from other agencies (including OMB), and any written

responses to these comments have been included in the Docket.

B. Regulatory Flexibility Act

Whenever an agency is required by law to publish a general notice of proposed rulemaking, the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612) generally requires that the agency prepare a Regulatory Flexibility Analysis describing the impact of the proposed rule on small entities. Because this rule is not required to be published first as a notice of proposed rulemaking under section 553 (the Administrative Procedures Act) or any other law, it is not subject to the requirements of the Regulatory Flexibility Act.

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Dated: October 28, 1991.

William K. Reilly,
Administrator.

Therefore, 40 CFR part 81 is amended as follows:

1. The authority citation for part 81 is revised to read as follows:

Authority: 42 U.S.C. 7407, 7501–7515, 7601.

2. Section 81.300 is revised to read as follows:

§ 81.300 Scope.

(a) Attainment status designations as approved or designated by the Environmental Protection Agency (EPA) pursuant to section 107 of the Act are listed in this subpart. Area designations are subject to revision whenever sufficient data becomes available to warrant a redesignation. Both the State and EPA can initiate changes to these designations, but any State redesignation must be submitted to EPA for concurrence. The EPA has replaced the national ambient air quality standards for particulate matter measured as total suspended particulate (TSP) with standards measured as particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM-10). Accordingly, area designations for PM-10 are included in the lists in subpart C of this part. However, the TSP area designations will also remain in effect until the Administrator determines that the designations are no longer necessary for implementing the maximum allowable increases in concentrations of particulate matter pursuant to section 163(b) of the Act, as explained in paragraph (b) of this section.

(b) Designated areas which are listed below as attainment ("Better than national standards") or unclassifiable ("Cannot be classified") for total suspended particulate (TSP), sulfur dioxide (SO_2), and nitrogen dioxide (NO_2), represent potential baseline areas or portions of baseline areas which are used in determining compliance with maximum allowable increases (increments) in concentrations of the respective pollutants for the prevention of significant deterioration of air quality (PSD). With respect to areas identified as "Rest of State" it should be assumed that such reference comprises a single area designation for PSD baseline area purposes. However, for PM-10, the use of the term "Rest of State" is an interim measure to designate as unclassifiable all locations not originally designated nonattainment for PM-10 in accordance with section 107(d)(4)(B) of the Act.

(c) For PM–10 areas designated nonattainment, pursuant to section 107(d)(4)(b) by operation of law upon enactment of the 1990 Amendments to the Act, the boundaries are more fully described as follows:

(1) For cities and towns, the boundary of the nonattainment area is defined by the municipal boundary limits as of November 15, 1990, the date the 1990 Amendments were signed into law, except for areas which were formerly categorized as "Group I areas", in which case the nonattainment area is defined by the municipal boundary limits as of October 31, 1990.

(2) Similarly, for planning areas, air quality maintenance areas, air basins, and urban growth boundaries the nonattainment area is defined by the entire planning area, air quality maintenance area, air basin, or urban growth boundary as of November 15, 1990, except for areas which were formerly "Group I", in which case the boundary is defined by the entire planning area, air quality maintenance area, air basin, or urban growth boundary as of October 31, 1990. The foregoing is true except to the extent the planning area, air quality maintenance area, air basin, or urban growth boundary is further defined, e.g., by township, range and/or section. Such geographical descriptors remain a fixed part of the nonattainment boundaries irrespective of whether they are included in the planning area, air quality maintenance area, air basin, or urban growth boundary.

(3) The boundaries of PM–10 areas subsequently redesignated pursuant to section 107(d)(3) of the Act will be defined by the city, town, planning area, air quality maintenance area, air basin, or urban growth boundary in effect the date the designation is promulgated.

3. Section 81.301 is amended by revising the tables for "Alabama—O_3" and "Alabama—CO", and by adding a new table titled "Alabama—Lead" to be inserted in alphabetical order immediately following the tabular entry for "Alabama—SO_2" to read as follows:

§ 81.301 Alabama.

* * * * * * *

Alabama—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Autauga County				
Baldwin County				
Barbour County				
Bibb County				
Blount County				
Bullock County				
Butler County				
Calhoun County				
Chambers County				
Cherokee County				
Chilton County				
Choctaw County				
Clarke County				

Alabama—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Clay County				
Cleburne County				
Coffee County				
Colbert County				
Conecuh County				
Coosa County				
Covington County				
Crenshaw County				
Ilman County				
Dale County				
Dallas County				
De Kalb County				
Elmore County				
Escambia County				
Etowah County				
Fayette County				
Franklin County				
Geneva County				
Greene County				
Hale County				
Henry County				
Houston County				
Jackson County				
Jefferson County				
Lamar County				
Lauderdale County				
Lawrence County				
Lee County				
Limestone County				
Lowndes County				
Macon County				
Madison County				
Marengo County				
Marion County				
Marshall County				
Mobile County				
Monroe County				
Montgomery County				
Morgan County				
Perry County				
Pickens County				
Pike County				
Randolph County				
Russell County				
Shelby County				
St. Clair County				
Sumter County				
Talladega County				
Tallapoosa County				
Tuscaloosa County				
Walker County				
Washington County				
Wilcox County				
Winston County				

[1] This date is November 15, 1990, unless otherwise noted.

Alabama—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Jefferson County (part)				
Area including the west 1/2 of Section 22 - Township 17S - Range 1E, the SE quadrant of Section 21 - Township 17S - Range 1E, and the southeast 1/4 of the NE quadrant of Section 21 - Township 17S - Range 1E..	1/6/92	Nonattainment		
Rest of State Not Designated				

Alabama—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Birmingham Area				
Jefferson County		Nonattainment		Marginal
Shelby County		Nonattainment		Marginal
Rest of State		Unclassifiable/Attainment		
Autauga County				
Baldwin County				
Barbour County				
Bibb County				
Blount County				
Bullock County				
Butler County				
Calhoun County				
Chambers County				
Chilton County				
Choctaw County				
Clarke County				
Clay County				
Cleburne County				
Coffee County				
Colbert County				
Conecuh County				
Coosa County				
Covington County				
Crenshaw County				
Cullman County				
Dale County				
Dallas County				
De Kalb County				
Elmore County				
Escambia County				
Etowah County				
Fayette County				
Franklin County				
Geneva County				
Greene County				
Hale County				
Henry County				
Houston County				
Jackson County				
Lamar County				
Lauderdale County				
Lawrence County				
Lee County				
Limestone County				
Lowndes County				
Macon County				
Madison County				
Marengo County				
Marion County				
Marshall County				
Mobile County				
Monroe County				
Montgomery County				
Morgan County				
Perry County				
Pickens County				
Pike County				
Randolph County				
Russell County				
St. Clair County				
Sumter County				
Talladega County				
Tallapoosa County				
Tuscaloosa County				
Walker County				
Washington County				
Wilcox County				
Winston County				

[1] This date is November 15, 1990, unless otherwise noted.

* * * * * * *

4. Section 81.302 is amended by revising the tables for "Alaska—O_3" and "Alaska—CO", and by adding a new table titled "Alaska—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "Alaska—SO_2" to read as follows:

§ 81.302 Alaska.

* * * * * * *

Alaska—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Anchorage Area				
Anchorage Election District (part)				
Anchorage nonattainment area boundary		Nonattainment		Moderate > 12.7ppm
The Anchorage Nonattainment Area is contained within the boundary described as follows: Beginning at a point on the centerline of the New Seward Highway five hundred (500) feet of the centerline of O'Malley Road; thence, Westerly along a line five hundred (500) south of and parallel to the centerline of O'Malley Road and its westerly extension thereof to a point on the mean high tide line of the Turnagain Arm; thence, Northeasterly along the mean high tide line to a point five hundred (500) feet west of the southerly extension of the centerline of Sand Lake Road; thence, Northerly along a line five hundred (500) feet west of and parallel to the southerly extension of the centerline of Sand Lake Road to a point on the southerly boundary of the International Airport property; thence, Westerly along said property line of the International Airport to an angle point in said property line; thence, Easterly, along said property line and its easterly extension thereof to a point five hundred (500) feet west of the southerly extension of the centerline of Wisconsin Street; thence, Northerly along said line to a point on the mean high tide line of the Knik Arm; thence, Northeasterly along the mean high tide line to a point on a line parallel and five hundred (500) feet north of the centerline of Thompson Street and the westerly extension thereof; thence, Easterly along said line to a point five hundred (55) feet east of Boniface Parkway; thence, Southerly along a line five hundred (500) feet east of and parallel to the centerline of Boniface Parkway to a point five hundred (500) feet north of the Glenn Highway; thence, Easterly and northeasterly along a line five hundred (500) feet north of and parallel to the centerline of the Glenn Highway to a point five hundred (500) feet east of the northerly extension of the centerline of Muldoon Road; thence, Southerly along a line five hundred (500) feet east of and parallel to the centerline of Muldoon Road and continuing southwesterly on a line of curvature five hundred (500) feet southeasterly of the centerline of curvature where Muldoon Road becomes Tudor Road to a point five hundred (500) south of the centerline of Tudor Road; thence, Westerly along a line five hundred (500) feet south of the centerline of Tudor Road to a point five hundred (500) feet east of the centerline to Lake Otis Parkway; thence, Westerly along a line five hundred (500) feet south of the centerline of O'Malley Road, ending at the centerline of the New Seward Highway, which is the point of the beginning.				
Fairbanks Area				
Fairbanks Election District (part)				
Fairbanks nonattainment area boundary:		Nonattainment		Moderate ≤ 12.7ppm
1. Township 1 South, Range 1 West, Sections 2 through 23, the portion of Section 1 west of the Fort Wainwright military reservation boundary and the portions of Section 24 north of the Old Richardson Highway and west of the military reservation boundary. also, Township 1 South, Range 2 West, Sections 13 and 24, the portion of Section 12 southwest of Chena Pump Road and the portions of Sections 7, 8, and 18 and the portion of Section 19 north of the Richardson Highway. (Fairbanks and Ft. Wainwright)				
2. Township 2 South, Range 2 East, the portions of Sections 9 and 10 southwest of the Richardson Highway. (North Pole)				
AQCR 008 Cook Inlet Intrastate (Remainder of)		Unclassifiable/Attainment		
Kenai Penninsula Election District				
Matanuska-Susitna Election District				
Seward Election District				
AQCR 009 Northern Alaska Intrastate (Remainder of)		Unclassifiable/Attainment		
Barrow Election District				

Alaska—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Fairbanks N. Star Borough				
Area other than portion of Fairbanks urban area designated Nonattainment				
Kobuk Election District				
Nome Election District				
North Slope Election District				
Northwest Arctic Borough				
Southeast Fairbanks Election District				
Upper Yukon Election District				
Yukon-Koyukuk Election District				
AQCR 010 South Central Alaska Intrastate (Remainder of)		Unclassifiable/Attainment		
Aleutian Islands Election District				
Aleutians East Borough				
Aleutians West Census				
Anchorage Election District				
Area other than portion of Anchorage urban area designated Nonattainment				
Bethel Election District				
Bristol Bay Borough Election District				
Bristol Bay Election District				
Cordova-Mccarthy Election District				
Dillingham Election District				
Kodiak Island Election District				
Kuskokwim Election District				
Lake And Peninsula Brg				
Valdez-Cordova Election District				
Wade Hampton Election District				
AQCR 11 Southeastern Alaska Intrastate		Unclassifiable/Attainment		
Angoon Election District				
Haines Election District				
Juneau Election District				
Ketchikan Election District				
Outer Ketchikan Election District				
Prince Of Wales Election District				
Sitka Election District				
Skagway-Yakutat Election District				
Wrangell-Petersburg Election District				

[1] This date is November 15, 1990, unless otherwise noted.

Alaska—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 08 Cook Inlet Intrastate		Unclassifiable/Attainment		
Anchorage Election District				
Kenai Penninsula Election District				
Matanuska-Susitna Election District				
Seward Election District				
AQCR 09 Northern Alaska Intrastate		Unclassifiable/Attainment		
Barrow Election District				
Fairbanks Election District				
Kobuk Election District				
Nome Election District				
North Slope Election District				
Northwest Arctic Borough				
Southeast Fairbanks Election District				
Upper Yukon Election District				
Yukon-Koyukuk Election District				
AQCR 10 South Central Alaska Intrastate		Unclassifiable/Attainment		
Aleutian Islands Election District				
Aleutians East Borough				
Aleutians West Census				
Bethel Election District				
Bristol Bay Borough Election District				
Bristol Bay Election District				
Cordova-Mccarthy Election District				
Dillingham Election District				
Kodiak Island Election District				
Kuskokwim Election District				
Valdez-Cordova Election District				
Wade Hampton Election District				

Alaska—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 11 Southeastern Alaska Intrastate		Unclassifiable/Attainment		
Angoon Election District				
Haines Election District				
Juneau Election District				
Ketchikan Election District				
Outer Kethcikan Election District				
Prince Of Wales Election District				
Sitka Election District				
Skagway-Yakutat Election District				
Wrangell-Petersburg Election District				

[1] This date is November 15, 1990, unless otherwise noted.

Alaska—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Anchorage				
Community of Eagle River	11/15/90	Nonattainment	11/15/90	Moderate
Juneau				
City of Juneau:	11/15/90	Nonattainment	11/15/90	Moderate
Mendenhall Valley area				

* * * * * * *

5. Section 81.303 is amended by revising the tables for "Arizona—O_3" and "Arizona—CO", and by adding a new table titled "Arizona—PM-10" to be inserted in alphabetical order immediately following the tabular entry for "Arizona—SO_2" to read as follows:

§ 81.303 Arizona.

* * * * * * *

Arizona—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Phoenix Area				
Maricopa County (part)		Nonattainment		Moderate ≤ 12.7ppm
Phoenix nonattainment area boundary:				
1. Commencing at a point which is at the intersection of the eastern line of Range 7 East, Gila and Salt River Baseline and Meridian, and the southern line of Township 2 South, said point is the southeastern corner of the Maricopa Association of Governments Urban Planning Area, which is the point of beginning;				
2. thence, proceed northerly along the eastern line of Range 7 East, which is the common boundary between Maricopa and Pinal Counties, as described in Arizona Revised Statute Section 11-109, to a point where the eastern line of Range 7 East intersects the northern line of Township 1 North, said point is also the intersection of the Maricopa County Line and the Tonto National Forest Boundary, as established by Executive Order 869 dated July 1, 1908, as amended and shown on the U.S. Forest Service 1969 Planimetric Maps;				
3. thence, westerly along the northern line of Township 1 North to approximately the southwest corner of the southeast quarter of Section 35, Township 2 North, Range 7 East, said point being the boundary of the Tonto National Forest and Usery Mountain Semi- Regional Park;				
4. thence, northerly along the Tonto National Forest Boundary, which is generally the western line of the east half of Sections 26 and 35 of Township 2 North, Range 7 East, to a point which is where the quarter section line intersects with the northern line of Section 26, Township 2 North, Range 7 East, said point also being the northeast corner of the Usery Mountain Semi-Regional Park;				

Arizona—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
5. thence, westerly along the Tonto National Forest Boundary, which is generally the south line of Sections 19, 20, 21 and 22 and the southern line of the west half of Section 23, Township 2 North, Range 7 East, to a point which is the southwest corner of Section 19, Township 2 North, Range 7 East;				
6. thence, northerly along the Tonto National Forest Boundary to a point where the Tonto National Forest Boundary intersects with the eastern boundary of the Salt River Indian Reservation, generally described as the center line of the Salt River Channel;				
7. thence, northeasterly and northerly along the common boundary of the Tonto National Forest and the Salt River Indian Reservation to a point which is the northeast corner of the Salt River Indian Reservation, and the southeast corner of the Fort McDowell Indian Reservation, as shown on the plat dated July 22, 1902, and recorded with the U.S. Government on June 15, 1902;				
8. thence, northeasterly along the common boundary between the Tonto National Forest and the Fort McDowell Indian Reservation to a point which is the northeast corner of the Fort McDowell Indian Reservation;				
9. thence, southwesterly along the northern boundary of the Fort McDowell Indian Reservation, which line is a common boundary with the Tonto National Forest, to a point where the boundary intersects with the eastern line of Section 12, Township 4 North, Range 6 East;				
10. thence, northerly along the eastern line of Range 6 East to a point where the eastern line of Range 6 East intersects with the southern line of Township 5 North, said line is the boundary between the Tonto National Forest and the east boundary of the McDowell Mountain Regional Park;				
11. thence, westerly along the southern line of Township 5 North to a point where the southern line intersects with the eastern line of Range 5 East which line is the boundary of Tonto National Forest and the north boundary of McDowell Mountain Regional Park;				
12. thence, northerly along the eastern line of Range 5 East to a point where the eastern line of Range 5 East intersects with the northern line of Township 5 North, which line is the boundary of the Tonto National Forest;				
13. thence, westerly along the northern line of Township 5 North to a point where the northern line of Township 5 North intersects with the easterly line of Range 4 East, said line is the boundary of the Tonto National Forest;				
14. thence, northerly along the eastern line of Range 4 East to a point where the eastern line of Range 4 East intersects with the northern line of Township 6 North, which line is the boundary of the Tonto National Forest;				
15. thence, westerly along the northern line of Township 6 North to a point of intersection with the Maricopa-Yavapai County line, which is generally described in Arizona Revised Statute Section 11-109 as the center line of the Aqua Fria River (Also the north end of Lake Pleasant);				
16. thence, southwesterly and southerly along the Maricopa- Yavapai County line to a point which is described by Arizona Revised Statute Section 11-109 as being on the center line of the Aqua Fria River, two miles southerly and below the mouth of Humbug Creek;				
17.thence, southerly along the center line of the Aqua Fria River to the intersection of the center line of the Aqua Fria River and the center line of Beardsley Canal, said point is generally in the northeast quarter of Section 17, Township 5 North, Range 1 East, as shown on the U.S. Geological Survey's Baldy Mountain, Arizona Quadrangle Map, 7.5 Minute series (Topographic), dated 1964;				
18. thence, southwesterly and southerly along the center line of Beardsley Canal to a point which is the center line of the Beardsley Canal where it intersects with the center line of Indian School Road;				
19. thence, westerly along the center line of West Indian School Road to a point where the center line of West Indian School Road intersects with the center line of North Jackrabbit Trail;				

Arizona—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
20. thence, southerly along the center line of Jackrabbit Trail approximately nine and three-quarter miles to a point where the center line of Jackrabbit Trail intersects with the Gila River, said point is generally on the north-south quarter section line of Section 8, Township 1 South, Range 2 West;				
21. thence, northeasterly and easterly up the Gila River to a point where the Gila River intersects with the northern extension of the western boundary of Estrella Mountain Regional Park, which point is generally the quarter corner of the northern line of Section 31, Township 1 North, Range 1 West;				
22. thence, southerly along the extension of the western boundary and along the western boundary of Estrella Mountain Regional Park to a point where the southern extension of the western boundary of Estrella Mountain Regional Park intersects with the southern line of Township 1 South;				
23. thence, easterly along the southern line of Township 1 South to a point where the south line of Township 1 South intersects with the western line of Range 1 East, which line is generally the southern boundary of Estrella Mountain Regional Park;				
24. thence, southerly along the western line of Range 1 East to the southwest corner of Section 18, Township 2 South, Range 1 East, said line is the western boundary of the Gila River Indian Reservation;				
25. thence, easterly along the southern boundary of the Gila River Indian reservation, which is the southern line of Sections 13, 14, 15, 16, 17 and 18, Township 2 South, Range 1 East, to the boundary between Maricopa and Pinal Counties as described in Arizona Revised Statutes Section 11-109 and 11-113, which is the eastern line of Range 1 East;				
26. thence, northerly along the eastern boundary of Range 1 East, which is the common boundary between Maricopa and Pinal Counties, to a point where the eastern line of Range 1 East intersects the Gila River;				
27. thence, southerly up the Gila River to a point where the Gila River intersects with the southern line of Township 2 South; and				
28. thence, easterly along the southern line of Township 2 South to the point of beginning which is a point where the southern line of Township 2 South intersects with the eastern line of Range 7 East.				
Tuscon Area				
Pima County (part)		Nonattainment		Not Classified
Township and Ranges as follows: T11-12S, R12-14E; T13-15S, R11-16E; and T16S, R12-16E Gila and Salt River Baseline and Meridian excluding portions of the Saguaro National Monument and the Coronado National Forest)				
Rest of State		Unclassifiable/Attainment		
Apache County				
Cochise County				
Coconino County				
Gila County				
Graham County				
Greenlee County				
La Paz County				
Maricopa County (part)				
Area outside Phoenix Area				
Mohave County				
Navajo County				
Pima County (part)				
Area outside Tuscon Area				
Pinal County				
Santa Cruz County				
Yavapai County				
Yuma County				

[1] This date is November 15, 1990, unless otherwise noted.

Arizona—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Phoenix Area				
Maricopa County (part)		Nonattainment		Moderate
The Urban Planning Area of the Maricopa Association of Governments is bounded as follows:				
1. Commencing at a point which is at the intersection of the eastern line of Range 7 East, Gila and Salt River Baseline and Meridian, and the southern line of Township 2 South, said point is the southeastern corner of the Maricopa Association of Governments Urban Planning Area, which is the point of beginning;				
2. thence, proceed northerly along the eastern line of Range 7 East, which is the common boundary between Maricopa and Pinal Counties, as described in Arizona Revised Statute Section 11-109, to a point where the eastern line of Range 7 East intersects the northern line of Township 1 North, said point is also the intersection of the Maricopa County Line and the Tonto National Forest Boundary, as established by Executive Order 869 dated July 1, 1908, as amended and shown on the U.S. Forest Service 1969 Planimetric Maps;				
3. thence, westerly along the northern line of Township 1 North to approximately the southwest corner of the southeast quarter of Section 35, Township 2 North, Range 7 East, said point being the boundary of the Tonto National Forest and Usery Mountain Semi- Regional Park;				
4. thence, northerly along the Tonto National Forest Boundary, which is generally the western line of the east half of Sections 26 and 35 of Township 2 North, Range 7 East, to a point which is where the quarter section line intersects with the northern line of Section 26, Township 2 North, Range 7 East, said point also being the northeast corner of the Usery Mountain Semi-Regional Park;				
5. thence, westerly along the Tonto National Forest Boundary, which is generally the south line of Sections 19, 20, 21 and 22 and the southern line of the west half of Section 23, Township 2 North, Range 7 East, to a point which is the southwest corner of Section 19, Township 2 North, Range 7 East;				
6. thence, northerly along the Tonto National Forest Boundary to a point where the Tonto National Forest Boundary intersects with the eastern boundary of the Salt River Indian Reservation, generally described as the center line of the Salt River Channel;				
7. thence, northeasterly and northerly along the common boundary of the Tonto National Forest and the Salt River Indian Reservation to a point which is the northeast corner of the Salt River Indian Reservation, and the southeast corner of the Fort McDowell Indian Reservation, as shown on the plat dated July 22, 1902, and recorded with the U.S. Government on June 15, 1902;				
8. thence, northeasterly along the common boundary between the Tonto National Forest and the Fort McDowell Indian Reservation to a point which is the northeast corner of the Fort McDowell Indian Reservation;				
9. thence, southwesterly along the northern boundary of the Fort McDowell Indian Reservation, which line is a common boundary with the Tonto National Forest, to a point where the boundary intersects with the eastern line of Section 12, Township 4 North, Range 6 East;				
10. thence, northerly along the eastern line of Range 6 East to a point where the eastern line of Range 6 East intersects with the southern line of Township 5 North, said line is the boundary between the Tonto National Forest and the east boundary of the McDowell Mountain Regional Park;				
11. thence, westerly along the southern line of Township 5 North to a point where the southern line intersects with the eastern line of Range 5 East which line is the boundary of Tonto National Forest and the north boundary of McDowell Mountain Regional Park;				
12. thence, northerly along the eastern line of Range 5 East to a point where the eastern line of Range 5 East intersects with the northern line of Township 5 North, which line is the boundary of the Tonto National Forest;				

Arizona—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
13. thence, westerly along the northern line of Township 5 North to a point where the northern line of Township 5 North intersects with the easterly line of Range 4 East, said line is the boundary of the Tonto National Forest;				
14. thence, northerly along the eastern line of Range 4 East to a point where the eastern line of Range 4 East intersects with the northern line of Township 6 North, which line is the boundary of the Tonto National Forest;				
15. thence, westerly along the northern line of Township 6 North to a point of intersection with the Maricopa-Yavapai County line, which is generally described in Arizona Revised Statute Section 11-109 as the center line of the Aqua Fria River (Also the north end of Lake Pleasant);				
16. thence, southwesterly and southerly along the Maricopa- Yavapai County line to a point which is described by Arizona Revised Statute Section 11-109 as being on the center line of the Aqua Fria River, two miles southerly and below the mouth of Humbug Creek;				
17.thence, southerly along the center line of the Aqua Fria River to the intersection of the center line of the Aqua Fria River and the center line of Beardsley Canal, said point is generally in the northeast quarter of Section 17, Township 5 North, Range 1 East, as shown on the U.S. Geological Survey's Baldy Mountain, Arizona Quadrangle Map, 7.5 Minute series (Topographic), dated 1964;				
18. thence, southwesterly and southerly along the center line of Beardsley Canal to a point which is the center line of the Beardsley Canal where it intersects with the center line of Indian School Road;				
19. thence, westerly along the center line of West Indian School Road to a point where the center line of West Indian School Road intersects with the center line of North Jackrabbit Trail;				
20. thence, southerly along the center line of Jackrabbit Trail approximately nine and three-quarter miles to a point where the center line of Jackrabbit Trail intersects with the Gila River, said point is generally on the north-south quarter section line of Section 8, Township 1 South, Range 2 West;				
21. thence, northeasterly and easterly up the Gila River to a point where the Gila River intersects with the northern extension of the western boundary of Estrella Mountain Regional Park, which point is generally the quarter corner of the northern line of Section 31, Township 1 North, Range 1 West;				
22. thence, southerly along the extension of the western boundary and along the western boundary of Estrella Mountain Regional Park to a point where the southern extension of the western boundary of Estrella Mountain Regional Park intersects with the southern line of Township 1 South;				
23. thence, easterly along the southern line of Township 1 South to a point where the south line of Township 1 South intersects with the western line of Range 1 East, which line is generally the southern boundary of Estrella Mountain Regional Park;				
24. thence, southerly along the western line of Range 1 East to the southwest corner of Section 18, Township 2 South, Range 1 East, said line is the western boundary of the Gila River Indian Reservation;				
25. thence, easterly along the southern boundary of the Gila River Indian reservation, which is the southern line of Sections 13, 14, 15, 16, 17 and 18, Township 2 South, Range 1 East, to the boundary between Maricopa and Pinal Counties as described in Arizona Revised Statutes Section 11-109 and 11-113, which is the eastern line of Range 1 East;				
26. thence, northerly along the eastern boundary of Range 1 East, which is the common boundary between Maricopa and Pinal Counties, to a point where the eastern line of Range 1 East intersects the Gila River;				
27. thence, southerly up the Gila River to a point where the Gila River intersects with the southern line of Township 2 South; and				

Arizona—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
28. thence, easterly along the southern line of Township 2 South to the point of beginning which is a point where the southern line of Township 2 South intersects with the eastern line of Range 7 East.				
Tucson Area				
Pima County (part)				
Tuscon area		Unclassifiable/Attainment		
Rest of State		Unclassifiable/Attainment		
Apache County				
Cochise County				
Coconino County				
Gila County				
Graham County				
Greenlee County				
La Paz County				
Maricopa County (part)				
area outside of Phoenix				
Mohave County				
Navajo County				
Pima County (part)				
Remainder of county				
Pinal County				
Santa Cruz County				
Yavapai County				
Yuma County				

[1] This date is November 15, 1990, unless otherwise noted.

Arizona—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Cochise County				
Paul Spur/Douglas planning area	11/15/90	Nonattainment	11/15/90	Moderate
Township 23 south, Range 25 east (T23S, R25E)				
T23S, R26E				
T23S, R27E				
T23S, R28E				
T24S, R25E				
T24S, R26E				
T24S, R27E				
T24S, R28E				
Santa Cruz County				
Nogales planning area	11/15/90	Nonattainment	11/15/90	Moderate
The portions of the following Townships which are within the State of Arizona and lie east of 111° longitude:				
T23S, R13E				
T23S, R14E				
T24S, R13E				
T24S, R14E				
Pima County				
Rillito planning area	11/15/90	Nonattainment	11/15/90	Moderate
Townships:				
T11S, R9E				
T11S, R10E				
T11S, R11E				
T11S, R12E				
T12S, R8E				
T12S, R9E				
T12S, R10E				
T12S, R11E				
T12S, R12E				
Ajo planning area	11/15/90	Nonattainment	11/15/90	Moderate
Township T12S, R6W, and the following sections of Township T12S, R5W:				
a. Sections 6-8				
b. Sections 17-20, and				
c. Sections 29-32				
Maricopa and Pinal Counties				
Phoenix planning area	11/15/90	Nonattainment	11/15/90	Moderate
The rectangle determined by, and including, T6N, R3W				

Arizona—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
T6N, R7E T2S, R3W T2S, R7E T1N, R8E				
Yuma County				
Yuma planning area	11/15/90	Nonattainment	11/15/90	Moderate
Townships: T7S-R21W, R22W; T8S-R21W, R22W, R23W, R24W; T9S-R21W, R22W, R23W, R24W, R25W; T10S-R21W, R22W, R23W, R24W, R25W				
Pinal and Gila Counties				
Hayden/Miami planning area	11/15/90	Nonattainment	11/15/90	Moderate
Townships: T4S, R16E T5S, R16E T6S, R16E plus the portion of Township T3S, R16E that does not lie on the San Carlos Indian Reservation, and the rectangle formed by, and including, Townships T1N, R13E T1N, R15E T6S, R13E T6S, R15E				

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6. Section 81.304 is amended by revising the tables for "Arkansas—O_3" and "Arkansas—CO" to be inserted in alphabetical order immediately following the tabular entry for "Arkansas—SO_2" to read as follows:

§ 81.304 Arkansas.

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Arkansas—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 016 Central Arkansas Intrastate		Unclassifiable/Attainment		
Chicot County				
Clark County				
Cleveland County				
Conway County				
Dallas County				
Desha County				
Drew County				
Faulkner County				
Garland County				
Grant County				
Hot Spring County				
Jefferson County				
Lincoln County				
Lonoke County				
Perry County				
Pope County				
Pulaski County				
Saline County				
Yell County				
AQCR 017 Metropolitan Fort Smith Interstate		Unclassifiable/Attainment		
Benton County				
Crawford County				
Sebastian County				
Washington County				
AQCR 018 Metropolitan Memphis Interstate		Unclassifiable/Attainment		
Crittenden County				
AQCR 019 Monroe (Louisiana)-El Dorado Interstate		Unclassifiable/Attainment		
Ashley County				
Bradley County				
Calhoun County				
Nevada County				
Ouachita County				
Union County				
AQCR 020 Northeast Arkansas Intrastate		Unclassifiable/Attainment		
Arkansas County				
Clay County				

Arkansas—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Craighead County				
Cross County				
Greene County				
Independence County				
Jackson County				
Lawrence County				
Lee County				
Mississippi County				
Monroe County				
Phillips County				
Poinsett County				
Prairie County				
Randolph County				
Sharp County				
St. Francis County				
White County				
Woodruff County				
AQCR 021 Northwest Arkansas Intrastate		Unclassifiable/Attainment		
Baxter County				
Boone County				
Carroll County				
Cleburne County				
Franklin County				
Fulton County				
Izard County				
Johnson County				
Logan County				
Madison County				
Marion County				
Montgomery County				
Newton County				
Pike County				
Polk County				
Scott County				
Searcy County				
Stone County				
Van Buren County				
AQCR 022 Shreveport-Texarkana-Tyler Interstate		Unclassifiable/Attainment		
Columbia County				
Hempstead County				
Howard County				
Lafayette County				
Little River County				
Miller County				
Sevier County				

[1] This date is November 15, 1990, unless otherwise noted.

Arkansas—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 016 Central Arkansas Intrastate (part)				
Pulaski County		Unclassifiable/Attainment		
AQCR 016 Central Arkansas Intrastate (Remainder of)		Unclassifiable/Attainment		
Chicot County				
Clark County				
Cleveland County				
Conway County				
Dallas County				
Desha County				
Drew County				
Faulkner County				
Garland County				
Grant County				
Hot Spring County				
Jefferson County				
Lincoln County				
Lonoke County				
Perry County				
Pope County				
Saline County				

Arkansas—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Yell County				
AQCR 017 Metropolitan Fort Smith Interstate		Unclassifiable/Attainment		
Benton County				
Crawford County				
Sebastian County				
Washington County				
AQCR 018 Metropolitan Memphis Interstate		Unclassifiable/Attainment		
Crittenden County				
AQCR 019 Monroe-El Dorado Interstate		Unclassifiable/Attainment		
Ashley County				
Bradley County				
Calhoun County				
Nevada County				
Ouachita County				
Union County				
AQCR 020 Northeast Arkansas Intrastate		Unclassifiable/Attainment		
Arkansas County				
Clay County				
Craighead County				
Cross County				
Greene County				
Independence County				
Jackson County				
Lawrence County				
Lee County				
Mississippi County				
Monroe County				
Phillips County				
Poinsett County				
Prairie County				
Randolph County				
Sharp County				
St. Francis County				
White County				
Woodruff County				
AQCR 021 Northwest Arkansas Intrastate		Unclassifiable/Attainment		
Baxter County				
Boone County				
Carroll County				
Cleburne County				
Franklin County				
Fulton County				
Izard County				
Johnson County				
Logan County				
Madison County				
Marion County				
Montgomery County				
Newton County				
Pike County				
Polk County				
Scott County				
Searcy County				
Stone County				
Van Buren County				
AQCR 022 Shreveport-Texarkana-Tyler Interstate		Unclassifiable/Attainment		
Columbia County				
Hempstead County				
Howard County				
Lafayette County				
Little River County				
Miller County				
Sevier County				

[1] This date is November 15, 1990, unless otherwise noted.

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7. Section 81.305 is amended by revising the tables for "California—Ozone" and "California—CO", and by adding a new table titled "California—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "California—SO_2" to read as follows:

§ 81.305 California.

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California—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Bakersfield Area				
Kern County (part)				
Bakersfield Metropolitan Area (Urbanized part)		Nonattainment		Not Classified
Chico Area				
Butte County (part)				
Chico Urbanized Area (Census Bureau urbanized part)		Nonattainment		Moderate ≦ 12.7ppm
Fresno Area				
Fresno County (part)				
Fresno Urbanized Area		Nonattainment		Moderate > 12.7ppm
Lake Tahoe North Shore Area				
Placer County (part)		Nonattainment		Not Classified
That portion of Placer County within the drainage area naturally tributary to Lake Tahoe including said Lake, plus that area in the vicinity of the head of the Truckee River described as follows: commencing at the point common to the aforementioned drainage area crestline and the line common to Townships 15 North and 16 North, Mount Diablo Base and Meridian (M.D.B.&M.), and following that line in a westerly direction to the northwest corner of Section 3, Township 15 North, Range 16 East, M.D.B.&M., thence south along the west line of Sections 3 and 10, Township 15 North, Range 16 East, M.D.B.&M., to the intersection with the said drainage area crestline, thence following the said drainage area boundary in a southeasterly, then northeasterly direction to and along the Lake Tahoe Dam, thence following the said drainage area crestline in a northeasterly, then northwesterly direction to the point of beginning.				
Lake Tahoe South Shore Area				
El Dorado County (part)		Nonattainment		Moderate ≦ 12.7ppm
That portion of El Dorado county within the drainage area naturally tributary to Lake Tahoe including said Lake, as described under 40 CFR 81.275..				
Los Angeles-South Coast Air Basin Area		Nonattainment		Serious
Los Angeles County (part) - that portion of Los Angeles County which lies south and west of a line described as follows:				
1. Beginning at the Los Angeles - San Bernardino County boundary and running west along the Township line common to Township 3 North and Township 2 North, San Bernardino Base and Meridian;				
2. then north along the range line common to Range 8 West and Range 9 West;				
3. then west along the Township line common to Township 4 North and Township 3 North;				
4. then north along the range line common to Range 12 West and Range 13 West to the southeast corner of Section 12, Township 5 North and Range 13 West;				
5. then west along the south boundaries of Sections 12, 11, 10, 9, 8, and 7, Township 5 North and Range 13 West to the boundary of the Angeles National Forest which is collinear with the range line common to Range 13 West and Range 14 West;				
6. then north and west along the Angeles National Forest boundary to the point of intersection with the Township line common to Township 7 North and Township 6 North (point is at the northwest corner of Section 4 in Township 6 North and Range 14 West);				
7. then west along the Township line common to Township 7 North and Township 6 North;				
8. then north along the range line common to Range 15 West and Range 16 West to the southeast corner of Section 13, Township 7 North and Range 16 West;				
9. then along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 7 North and Range 16 West;				
10. then north along the range line common to Range 16 West and Range 17 West to the north boundary of the Angeles National Forest (collinear with the Townsnip line common to Township 8 North and Township 7 North);				
11. then west along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant;				
12. then west and north along this land grant boundary to the Los Angeles-Kern County boundary.				
Orange County		Nonattainment		Serious

California—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Riverside County (part) - that portion of Riverside County which lies to the west of a line described as follows:		Nonattainment		Serious
1. Beginning at the Riverside - San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base and Meridian;				
2. then east along the Township line common to Township 8 South and Township 7 South;				
3. then north along the range line common to Range 5 East and Range 4 East;				
4. then west along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, township 6 South, Range 4 East;				
5. then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East;				
6. then west along the Township line common to Township 5 South and Township 6 South;				
7. then north along the range line common to Range 4 East and Range 3 East;				
8. then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East;				
9. then north along the range line common to Range 2 East and Range 3 East;				
10. then west along the Township line common to Township 4 South and Township 3 South to the intersection of the southwest boundary of partial Section 31, Township 3 South, Range 1 West;				
11. then northwest along that line to the intersection with the range line common to Range 2 West and Range 1 West;				
12. then north to the Riverside-San Bernardino County line,				
San Bernardino County (part) - that portion of San Bernardino County which lies south and west of a line described as follows:		Nonattainment		Serious
1. Beginning at the San Bernardino - Riverside County boundary and running north along the range line common to Range 3 East and Range 2 East, San Bernardino Base and Meridian;				
2. then west along the Township line common to Township 3 North and Township 2 North to the San Bernardino - Los Angeles County boundary; and that portion of San Bernardino County which lies south and west of a line described as follows:				
3. latitude 35 degrees, 10 minutes north and longitude 115 degrees, 45 minutes west.				
Modesto Area				
Stanislaus County (part)				
Modesto Urbanized Area (Census Bureau Urbanized Area)		Nonattainment		Moderate ≤ 12.7ppm
Sacramento Area				
Census Bureau Urbanized Areas				
Placer County (part)		Nonattainment		Moderate ≤ 12.7ppm
Sacramento County (part)		Nonattainment		Moderate ≤ 12.7ppm
Yolo County (part)		Nonattainment		Moderate ≤ 12.7ppm
San Diego Area				
San Diego County (part)		Nonattainment		Moderate ≤ 12.7ppm
Western part of San Diego County - that portion of San Diego County which lies west of a line described as follows:				
1. Beginning at the United States - Mexico border and running north along the range line common to range 7 East, and Range 6 East, San Bernardino Base and Meridian, to the southeast corner of Township 16 South, Range 6 East;				
2. then west along the Township line common to Township 16 South and Township 17 South to the southwest corner of Township 16 South, Range 6 East;				
3. then north along the range line common to Range 6 East and Range 5 East to the southeast corner of Township 14 South, Range 5 East;				
4. then west along the Township line common to Township 14 South and Township 15 South to the point of intersection with the east boundary of Cuyamaca Park;				

California—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
5. then north along the east boundary of Cuyamaca Park to the point of intersection with the range line common to Range 5 East and Range 4 East;				
6.then north along this range line to the point of intersection with the south boundary of San Felipe Land Grant;				
7. then east and north along the land grant boundary to the easternmost corner;				
8. then continuing west and north along the land grant boundary to the point of intersection with the range line common to Range 5 East and Range 4 East;				
9. then north along this range line to the point of intersection with the Township line common to Township 10 South and Township 9 South;				
10. then west along this Township line to the point of intersection with the range line common to Range 4 East and Range 3 East;				
11. then north along this range line to the San Diego - Riverside County boundary. (taken from the description of the San Diego Intrastate Air Quality Control Region as described under 40 CFR 81.164, as it existed prior to January 16, 1981.)				
San Francisco-Oakland-San Jose Area				
Urbanized Areas				
Alameda County (part)		Nonattainment		Moderate ≦ 12.7ppm
Contra Costa County (part)		Nonattainment		Moderate ≦ 12.7ppm
Marin County (part)		Nonattainment		Moderate ≦ 12.7ppm
Napa County (part)		Nonattainment		Moderate ≦ 12.7ppm
San Francisco County		Nonattainment		Moderate ≦ 12.7ppm
San Mateo County (part)		Nonattainment		Moderate ≦ 12.7ppm
Santa Clara County (part)		Nonattainment		Moderate ≦ 12.7ppm
Solano County (part)		Nonattainment		Moderate ≦ 12.7ppm
Sonoma County (part)		Nonattainment		Moderate ≦ 12.7ppm
Stockton Area				
San Joaquin County (part)				
Stockton Urbanized Area		Nonattainment		Moderate ≦ 12.7ppm
Great Basin Valley Air Basin		Unclassifiable/Attainment		
Alpine County				
Inyo County				
Mono County				
Lake County Air Basin				
Lake County		Unclassifiable/Attainment		
Mountain Counties Air Basin				
Amador County		Unclassifiable/Attainment		
Calaveras County		Unclassifiable/Attainment		
El Dorado County (part)				
excluding Lake Tahoe South Shore		Unclassifiable/Attainment		
Mariposa County		Unclassifiable/Attainment		
Nevada County		Unclassifiable/Attainment		
Placer County (part)				
excluding Lake Tahoe Air Basin portion and AQMA portion		Unclassifiable/Attainment		
AQMA portion (of Placer County)		Unclassifiable/Attainment		
Plumas County		Unclassifiable/Attainment		
Sierra County		Unclassifiable/Attainment		
Tuolumne County		Unclassifiable/Attainment		
North Central Coast Air Basin				
Monterey County		Unclassifiable/Attainment		
San Benito County		Unclassifiable/Attainment		
Santa Cruz County		Unclassifiable/Attainment		
North Coast Air Basin		Unclassifiable/Attainment		
Del Norte County				
Humboldt County				
Mendocino County				
Sonoma County (part)				
Remainder of County				
Trinity County				
Northeast Plateau Air Basin		Unclassifiable/Attainment		
Lassen County				
Modoc County				
Siskiyou County				
Sacramento Valley Air Basin (portion)				
Butte County (part)				
Area other than Chico Urbanized Area (Census Bureau urbanized part).		Unclassifiable/Attainment		
Colusa County		Unclassifiable/Attainment		
Glenn County		Unclassifiable/Attainment		
Sacramento County (part)				

California—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Area other than Census Bureau urbanized areas		Unclassifiable/Attainment		
Shasta County		Unclassifiable/Attainment		
Solano County (part)				
Sacramento Valley Air Basin portion		Unclassifiable/Attainment		
Sutter County		Unclassifiable/Attainment		
Tehama County		Unclassifiable/Attainment		
Yolo County (part)				
Area outside Census Bureau urbanized areas		Unclassifiable/Attainment		
Yuba County		Unclassifiable/Attainment		
San Diego Air Basin (Remainder of)				
San Diego County (part)				
East San Diego county		Unclassifiable/Attainment		
San Francisco Bay Area Air Basin		Unclassifiable/Attainment		
Area other than urbanized Areas				
Alameda County (part)				
Contra Costa County (part)				
Marin County (part)				
Napa County (part)				
San Mateo County (part)				
Santa Clara County (part)				
Solano County (part)				
Sonoma County (part)				
San Joaquin Valley Air Basin				
Fresno County (part)				
Outside Fresno Urbanized Area		Unclassifiable/Attainment		
Kern County (part)				
Area other than Bakersfield Metropolitan Area (Urbanized part).		Unclassifiable/Attainment		
Kings County		Unclassifiable/Attainment		
Madera County		Unclassifiable/Attainment		
Merced County		Unclassifiable/Attainment		
San Joaquin County (part)				
Outside Stockton urbanized area		Unclassifiable/Attainment		
Stanislaus County (part)				
Outside Modesto Urbanized Area (Census Bureau Urbanized Area).		Unclassifiable/Attainment		
Tulare County		Unclassifiable/Attainment		
South Central Coast Air Basin				
Channel Islands		Unclassifiable/Attainment		
San Luis Obispo County		Unclassifiable/Attainment		
Santa Barbara County		Unclassifiable/Attainment		
Ventura County		Unclassifiable/Attainment		
Southeast Desert Air Basin				
Imperial County		Unclassifiable/Attainment		
Kern County (part)				
excluding San Joaquin Valley portion		Unclassifiable/Attainment		
Los Angeles County				
excluding Los Angeles - South Coast Air Basin portion		Unclassifiable/Attainment		
Riverside County (part)				
AQMA portion (excluding Los Angeles - South Coast Air Basin).		Unclassifiable/Attainment		
Non-AQMA portion (excluding Los Angeles - South Coast Air Basin).		Unclassifiable/Attainment		
San Bernardino Co(part)				
AQMA portion (excluding Los Angeles - South Coast Air Basin).		Unclassifiable/Attainment		
Non-AQMA portion (excluding Los Angeles - South Coast Air Basin).		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

California—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Chico Area				
Butte County		Nonattainment		Transitional
Imperial County Area				
Imperial County		Nonattainment		Transitional
Los Angeles-South Coast Air Basin Area		Nonattainment		Extreme

California—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Los Angeles County (part) - that portion of Los Angeles County which lies south and west of a line described as follows: 1. Beginning at the Los Angeles - San Bernardino County boundary and running west along the Township line common to Township 3 North and Township 2 North, San Bernardino Base and Meridian; 2. then north along the range line common to Range 8 West and Range 9 West; 3. then west along the Township line common to Township 4 North and Township 3 North; 4. then north along the range line common to Range 12 West and Range 13 West to the southeast corner of Section 12, Township 5 North and Range 13 West; 5. then west along the south boundaries of Sections 12, 11, 10, 9, 8, and 7, Township 5 North and Range 13 West to the boundary of the Angeles National Forest which is collinear with the range line common to Range 13 West and Range 14 West; 6. then north and west along the Angeles National Forest boundary to the point of intersection with the Township line common to Township 7 North and Township 6 North (point is at the northwest corner of Section 4 in Township 6 North and Range 14 West); 7. then west along the Township line common to Township 7 North and Township 6 North; 8. then north along the range line common to Range 15 West and Range 16 West to the southeast corner of Section 13, Township 7 North and Range 16 West; 9. then along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 7 North and Range 16 West; 10. then north along the range line common to Range 16 West and Range 17 West to the north boundary of the Angeles National Forest (collinear with the Township line common to Township 8 North and Township 7 North); 11. then west along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant; 12. then west and north along this land grant boundary to the Los Angeles-Kern County boundary.				
Orange County		Nonattainment		Extreme
Riverside County (part) - that portion of Riverside County which lies to the west of a line described as follows: 1. Beginning at the Riverside - San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base and Meridian; 2. then east along the Township line common to Township 8 South and Township 7 South; 3. then north along the range line common to Range 5 East and Range 4 East; 4. then west along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, Township 6 South, Range 4 East; 5. then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East; 6. then west along the Township line common to Township 5 South and Township 6 South; 7. then north along the range line common to Range 4 East and Range 3 East; 8. then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East; 9 then north along the range line common to Range 2 East and Range 3 East; 10. then west along the Township line common to Township 4 South and Township 3 South to the intersection of the southwest boundary of partial Section 31, Township 3 South, Range 1 West; 11. then northwest along that line to the intersection with the range line common to Range 2 West and Range 1 West; 12. then north to the Riverside-San Bernardino County line		Nonattainment		Extreme

California—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
San Bernardino County (part) - that portion of San Bernardino County which lies south and west of a line described as follows:		Nonattainment		Extreme
1. Beginning at the San Bernardino - Riverside County boundary and running north along the range line common to Range 3 East and Range 2 East, San Bernardino Base and Meridian;				
2. then west along the Township line common to Township 3 North and Township 2 North to the San Bernardino - Los Angeles County boundary;				
Monterey Bay Area				
Monterey County		Nonattainment		Moderate
San Benito County		Nonattainment		Moderate
Santa Cruz County		Nonattainment		Moderate
Sacramento Metro Area		Nonattainment		Serious
El Dorado County (part):				
All portions of the county except that portion of El Dorado County within the drainage area naturally tributary to Lake Tahoe including said Lake.				
Placer County (part):		Nonattainment		Serious
All portions of the county except that portion of Placer County within the drainage area naturally tributary to Lake Tahoe including said Lake, plus that area in the vicinity of the head of the Truckee River described as follows: commencing at the point common to the aforementioned drainage area crestline and the line common to Townships 15 North and 16 North, Mount Diablo Base and Meridian (M.D.B.&M.), and following that line in a westerly direction to the northwest corner of Section 3; Township 15 North, Range 16 East, M.D.B.&M., thence south along the west line of Sections 3 and 10, Township 15 North, Range 16 East, M.D.B.&M., to the intersection with the said drainage area crestline, thence following the said drainage area boundary in a southeasterly, then northeasterly direction to and along the Lake Tahoe Dam, thence following the said drainage area crestline in a northeasterly, then northwesterly direction to the point of beginning.				
Sacramento County		Nonattainment		Serious
Solano County (part) That portion of Solano County which lies north and east of a line described as follows:		Nonattainment		Serious
Description of boundary in Solano county between San Francisco and Sacramento: Beginning at the intersection of the westerly boundary of Solano County and the 1/4 section line running east and west through the center of Section 34; T. 6 N., R. 2 W., M.D.B.&M., thence east along said 1/4 section line to the east boundary of Section 36, T. 6 N., R. 2 W., thence south 1/2 mile and east 2.0 miles, more or less, along the west and south boundary of Los Putos Rancho to the northwest corner of Section 4, T. 5 N., R. 1 W., thence east along a line common to T. 5 N. and T. 6 N. to the northeast corner of Section 3, T. 5 N., R. 1 E., thence south along section lines to the southeast corner of Section 10, T. 3 N., R. 1 E., thence east along section lines to the south 1/4 corner of Section 8, T. 3 N., R. 2 E., thence east to the boundary between Solano and Sacramento Counties.				
Sutter County (part - southern portion) South of a line connecting the northern border of Yolo Co. to the SW tip of Yuba Co. and continuing along the southern Yuba County border to Placer County		Nonattainment		Serious
Yolo County		Nonattainment		Serious
San Diego Area				
San Diego County		Nonattainment		Severe-15
San Francisco-Bay Area				
Alameda County		Nonattainment		Moderate
Contra Costa County		Nonattainment		Moderate
Marin County		Nonattainment		Moderate
Napa County		Nonattainment		Moderate
San Francisco County		Nonattainment		Moderate
San Mateo County		Nonattainment		Moderate
Santa Clara County		Nonattainment		Moderate
Solano County (part): That portion of Solano County which lies south and west of a line described as follows:		Nonattainment		Moderate

California—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Description of boundary in Solano county between San Francisco and Sacramento: Beginning at the intersection of the westerly boundary of Solano County and the 1/4 section line running east and west through the center of Section 34; T. 6 N., R. 2 W., M.D.B.&M., thence east along said 1/4 section line to the east boundary of Section 36, T. 6 N., R. 2 W., thence south 1/2 mile and east 2.0 miles, more or less, along the west and south boundary of Los Putos Rancho to the northwest corner of Section 4, T. 5 N., R. 1 W., thence east along a line common to T. 5 N. and T. 6 N. to the northeast corner of Section 3, T. 5 N., R. 1 E., thence south along section lines to the southeast corner of Section 10, T. 3 N., R. 1 E., thence east along section lines to the south 1/4 corner of Section 8, T. 3 N., R. 2 E., thence east to the boundary between Solano and Sacramento Counties.				
Sonoma County (part):		Nonattainment		Moderate
That portion of Sonoma County which lies south and east of a line described as follows: Beginning at the southeasterly corner of the Rancho Estero Americano, being on the boundary line between Marin and Sonoma Counties, California; thence running northerly along the easterly boundary line of said Rancho Estero Americano to the northeasterly corner thereof, being an angle corner in the westerly boundary line of Rancho Canada de Jonive, thence running along said boundary of Rancho Canada de Jonive westerly, northerly and easterly to its intersection with the easterly line of Graton Road; thence running along the easterly and southerly line of Graton Road, northerly and easterly to its intersection with the easterly line of Sullivan Road; thence running northerly along said easterly line of Sullivan Road to the southerly line of Green Valley Road; thence running easterly along the said southerly line of Green Valley Road and easterly along the southerly line of State Highway 116, to the westerly and northerly line of Vine Hill Road; thence running along the westerly and northerly line of Vine Hill Road, northerly and easterly to its intersection with the westerly line of Laguna Road; thence running northerly along the westerly line of Laguna Road and the northerly projection thereof to the northerly line of Trenton Road; thence running westerly along the northerly line of said Trenton Road to the easterly line of Trenton-Healdsburg Road; thence running northerly along said easterly line of Trenton-Healdsburg Road to the easterly line of Eastside Road; thence running northerly along said easterly line of Eastside Road to its intersection with the southerly line of Rancho Sotoyome; thence running easterly along said southerly line of Rancho Sotoyome to its intersection with the Township line common to Townships 8 and 9 North, Mt. Diablo Base and Meridian; thence running easterly along said Township line to its intersection with the boundary line between Sonoma and Napa Counties, State of California.				
San Joaquin Valley Area				
Fresno County		Nonattainment		Serious
Kern County		Nonattainment		Serious
Kings County		Nonattainment		Serious
Madera County		Nonattainment		Serious
Merced County		Nonattainment		Serious
San Joaquin County		Nonattainment		Serious
Stanislaus County		Nonattainment		Serious
Tulare County		Nonattainment		Serious
Santa Barbara - Santa Maria - Lompoc Area				
Santa Barbara County		Nonattainment		Moderate
Southeast Desert Modified AQMA Area		Nonattainment		Severe-17
Los Angeles County (part) - that portion of Los Angeles County which lies north and east of a line described as follows:				
1. Beginning at the Los Angeles - San Bernardino County boundary and running west along the Township line common to Township 3 North and Township 2 North, San Bernardino Base and Meridian;				

California—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
2. then north along the range line common to Range 8 West and Range 9 West; 3. then west along the Township line common to Township 4 North and Township 3 North; 4. then north along the range line common to Range 12 West and Range 13 West to the southeast corner of Section 12, Township 5 North and Range 13 West; 5. then west along the south boundaries of Sections 12, 11, 10, 9, 8, and 7, Township 5 North and Range 13 West to the boundary of the Angeles National Forest which is collinear with the range line common to Range 13 West and Range 14 West; 6. then north and west along the Angeles National Forest boundary to the point of intersection with the Township line common to Township 7 North and Township 6 North (point is at the northwest corner of Section 4 in Township 6 North and Range 14 West); 7. then west along the Township line common to Township 7 North and Township 6 North; 8. then north along the range line common to Range 15 West and Range 16 West to the southeast corner of Section 13, Township 7 North and Range 16 West; 9. then along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 7 North and Range 16 West; 10. then north along the range line common to Range 16 West and Range 17 West to the north boundary of the Angeles National Forest (collinear with the Township line common to Township 8 North and Township 7 North); 11. then west along the Angeles National Forest boundary to the point of intersection with the south boundary of the Rancho La Liebre Land Grant; 12. then west and north along this land grant boundary to the Los Angeles-Kern County boundary.				
Riverside County (part) - that portion of Riverside County which lies to the east of a line described as follows: 1. Beginning at the Riverside - San Diego County boundary and running north along the range line common to Range 4 East and Range 3 East, San Bernardino Base and Meridian; 2. then east along the Township line common to Township 8 South and Township 7 South; 3. then north along the range line common to Range 5 East and Range 4 East; 4. then west along the Township line common to Township 6 South and Township 7 South to the southwest corner of Section 34, Township 6 South, Range 4 East; 5. then north along the west boundaries of Sections 34, 27, 22, 15, 10, and 3, Township 6 South, Range 4 East; 6. then west along the Township line common to Township 5 South and Township 6 South; 7. then north along the range line common to Range 4 East and Range 3 East; 8. then west along the south boundaries of Sections 13, 14, 15, 16, 17, and 18, Township 5 South, Range 3 East; 9. then north along the range line common to Range 2 East and Range 3 East; 10. then west along the Township line common to Township 4 South and Township 3 South to the intersection of the southwest boundary of partial Section 31, Township 3 South, Range 1 West; 11. then northwest along that line to the intersection with the range line common to Range 2 West and Range 1 West; 12. then north to the Riverside-San Bernardino County line, and that portion of Riverside County which lies to the west of a line described as follows: 13. beginning at the northeast corner of Section 4, Township 2 South, Range 5 East, a point on the boundary line common to Riverside and San Bernardino Counties; 14. then southerly along section lines to the centerline of the Colorado River Aquaduct; 15. then southeasterly along the centerline of said Colorado River Aquaduct to the southerly line of Section 36, Township 3 South, Range 7 East;		Nonattainment		Severe-17

California—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
16. then easterly along the Township line to the northeast corner of Section 6, Township 4 South, Range 9 East;				
17. then southerly along the easterly line of Section 6 to the southeast corner thereof;				
18. then easterly along section lines to the northeast corner of Section 10, Township 4 South, Range 9 East;				
19. then southerly along section lines to the southeast corner of Section 15, Township 4 South, Range 9 East;				
20. then easterly along the section lines to the northeast corner of Section 21, Township 4 South, Range 10 East;				
21. then southerly along the easterly line of Section 21 to the southeast corner thereof;				
22. then easterly along the northerly line of Section 27 to the northeast corner thereof;				
23. then southerly along section lines to the southeast corner of Section 34, Township 4 South, Range 10 East;				
24. then easterly along the Township line to the northeast corner of Section 2, Township 5 South, Range 10 East;				
25. then southerly along the easterly line of Section 2, to the southeast corner thereof;				
26. then easterly along the northerly line of Section 12 to the northeast corner thereof;				
27. then southerly along the range line to the southwest corner of Section 18, Township 5 South, Range 11 East;				
28. then easterly along section lines to the northeast corner of Section 24, Township 5 South, Range 11 East;				
29. then southerly along the range line to the southeast corner of Section 36, Township 8 South, Range 11 East, a point on the boundary line common to Riverside and San Diego Counties.				
San Bernadino County (part) - that portion of San Bernardino County which lies north and east of a line described as follows:		Nonattainment		Severe-17
1. Beginning at the San Bernardino - Riverside County boundary and running north along the range line common to Range 3 East and Range 2 East, San Bernardino Base and Meridian;				
2. then west along the Township line common to Township 3 North and Township 2 North to the San Bernardino - Los Angeles County boundary; and that portion of San Bernardino County which lies south and west of a line described as follows:				
3. latitude 35 degrees, 10 minutes north and longitude 115 degrees, 45 minutes west.				
Ventura County Area				
Ventura County		Nonattainment		Severe-15
Yuba City Area				
Sutter County (part - northern portion)		Nonattainment		Transitional
North of a line connecting the northern border of Yolo County to the SW tip of Yuba County and continuing along the southern Yuba County border to Placer County				
Yuba County		Nonattainment		Transitional
Great Basin Valleys Air Basin		Unclassifiable/Attainment		
Alpine County				
Inyo County				
Mono County				
Lake County Air Basin		Unclassifiable/Attainment		
Lake County				
Lake Tahoe Air Basin		Unclassifiable/Attainment		
El Dorado County (part)				
Lake Tahoe Area: As described under 40 CFR 81.275.				
Placer County (part)				
Lake Tahoe Area: As described under 40 CFR 81.275.				
Mountain Counties Air Basin (Remainder of)				
Amador County		Unclassifiable/Attainment		
Calaveras County		Unclassifiable/Attainment		
Mariposa County		Unclassifiable/Attainment		
Nevada County		Unclassifiable/Attainment		
Plumas County		Unclassifiable/Attainment		
Sierra County		Unclassifiable/Attainment		
Tuolumne County		Unclassifiable/Attainment		
North Coast Air Basin		Unclassifiable/Attainment		
Del Norte County				
Humboldt County				
Mendocino County				
Sonoma County (part)				

California—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Remainder of County				
Trinity County				
Northeast Plateau Air Basin		Unclassifiable/Attainment		
Lassen County				
Modoc County				
Siskiyou County				
Sacramento Valley Air Basin (Remainder of)				
Colusa County		Unclassifiable/Attainment		
Glenn County		Unclassifiable/Attainment		
Shasta County		Unclassifiable/Attainment		
Tehama County		Unclassifiable/Attainment		
South Central Coast Air Basin (Remainder of)				
Channel Islands		Unclassifiable/Attainment		
San Luis Obispo County		Unclassifiable/Attainment		
Southeast Desert NON-AQMA				
Riverside County (part)				
Remainder of county		Unclassifiable/Attainment		
San Bernadino County (part)				
Remainder of county		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

California—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Inyo County				
Owens Valley planning area	11/15/90	Nonattainment	11/15/90	Moderate
Hydrologic Unit #18090103				
San Bernardino, Inyo, and Kern Counties				
Searles Valley planning area	11/15/90	Nonattainment	11/15/90	Moderate
Hydrologic Unit #18090205				
Mono County				
Mammoth Lake planning area	11/15/90	Nonattainment	11/15/90	Moderate
Includes the following sections:				
a. Sections 1-12, 17, and 18 of Township T4S, R28E;				
b. Sections 25-36 of Township T3S, R28E;				
c. Sections 25-36 of Township T3S, R27E;				
d. Sections 1-18 of Township T4S, R27E; and				
e. Sections 25 and 36 of Township T3S, R26E				
Fresno, Kern, Kings, Tulare, San Joaquin, Stanislaus, Madera Counties				
San Joaquin Valley planning area	11/15/90	Nonattainment	11/15/90	Moderate
Riverside, Los Angeles, Orange, and San Bernardino Counties				
South Coast Air Basin	11/15/90	Nonattainment	11/15/90	Moderate
Riverside County				
Coachella Valley planning area	11/15/90	Nonattainment	11/15/90	Moderate
Imperial County				
Imperial Valley planning area	11/15/90	Nonattainment	11/15/90	Moderate

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8. Section 81.306 is amended by revising the tables for "Colorado—O_3" and "Colorado—CO", and by adding a new table titled "Colorado—PM-10" to be inserted in alphabetical order immediately following the tabular entry for "Colorado—SO_2" to read as follows:

§ 81.306 Colorado.

* * * * * * *

Colorado—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Colorado Springs Area				
Urban Transportation Planning Study Area as defined in 1989.		Nonattainment		Moderate ≤ 12.7ppm

Colorado—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Beginning near the Town of Palmer Lake, at the Northwest corner of the Study Area at a point on the El Paso/Douglas County line, also on the Pike National Forest boundary, then: east along the County line to Elbert Road; south on Elbert Road to Judge Orr Road; east on Judge Orr Road to Ellicott Highway; south on Ellicott Highway to Squirrel Creek Road; west on Squirrel Creek Road to Williams Creek; south along Williams Creek to the confluence of Williams and Fountain Creeks; south along Fountain Creek to the El Paso/Douglas County line; west on the County line to I-25; north on I-25 to Exit 132; west on McGrath to 35th; south on 35th to Specker; northwest on Specker to Titus Blvd.; west on Titus Blvd. to SH-115; south on SH-115 to Rock Creek; northwest along Rock Creek to the Pike National Forest boundary; north along the Forest boundary to Old Stage Road; southwest on Old Stage Road to Gold Camp Road; north on Gold Camp Road to High Drive; north on High Drive to Lower Gold Camp Road; north on Lower Gold Camp Road to the Pike National Forest boundary; west along the Forest boundary, following the boundary north, then east to US-24; northwest on US-24 to the Pikes Peak Toll Road; west on the Toll Road to the El Paso/Teller County line; north along the County line to Crystola Creek; west on Crystola Creek to County Road 282, north on Road 282 to US-24; northeast on US-24 to Trout Creek Road; northwest on Trout Creek Road to Trout Creek; north along Trout Creek to the confluence of Trout and Mule Creeks; north along Mule Creek to Long Gulch; east along Long Gulch to White Gulch; east along White Gulch to Rampart Range Road; southeast on Rampart Range Road to the Pike National Forest Boundary; north along the Forest boundary to the El Paso/Douglas County line, to the point of origin.				
El Paso County (part)				
Teller County (part)				
Denver-Boulder Area				
The boundaries for the Denver nonattainment area for carbon monoxide (CO) are described as follows: Start at Colorado Highway 52 where it intersects the eastern boundary of Boulder County; Follow Highway 52 west until it intersects Colorado Highway 119; Follow northern boundary of Boulder city limits west to the 6000- ft. elevation line; Follow the 6000-ft. elevation line south through Boulder and Jefferson Counties to US 6 in Jefferson County; Follow US 6 west to the Jefferson County-Clear Creek County line; Follow the Jefferson County western boundary south for approximately 16.25 miles; Follow a line east for approximately 3.75 miles to South Turkey Creek; Follow South Turkey Creek northeast for approximately 3.5 miles; Follow a line southeast for approximately 2.0 miles to the junction of South Deer Creek Road and South Deer Creek Canyon Road; Follow South Deer Creek Canyon Road northeast for approximately 3.75 miles; Follow a line southeast for approximately five miles to the northernmost boundary of Pike National Forest where it intersects the Jefferson County-Douglas County line; Follow the Pike National Forest boundary southeast through Douglas County to the Douglas County-El Paso County line; Follow the southern boundary on Douglas County east to the Elbert County line; Follow the eastern boundary of Douglas County north to the Arapaho County line; Follow the southern boundary of Arapahoe County east to Kiowa Creek; Follow Kiowa Creek northeast through Arapahoe and Adams counties to the Adams County-Weld County line; Follow the northern boundary of Adams County west to the Boulder County line; Follow the eastern boundary of Boulder County north to Highway 52.				
Adams County (part)		Nonattainment		Moderate > 12.7ppm
Arapahoe County (part)		Nonattainment		Moderate > 12.7ppm
Boulder County (part)		Nonattainment		Moderate > 12.7ppm
Denver County		Nonattainment		Moderate > 12.7ppm
Douglas County (part)		Nonattainment		Moderate > 12.7ppm

Colorado—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Jefferson County (part)		Nonattainment		Moderate > 12.7ppm
Fort Collins Area				
Larimer County (part)		Nonattainment		Moderate ≦ 12.7ppm
Fort Collins Urban Growth Area Boundary as adopted by the City of Fort Collins and the Larimer County Commissioners and in effect as of July 30,1991				
Greeley Area				
Weld County (part)		Nonattainment		Not Classified
Urban boundaries as defined in the North Front Range Regional Transportation Plan, May, 1990				
Longmont Area				
Hwy 52 West from the Boulder/Weld County line to 95th Street/Hoover Road, then north on 95th Street/Hoover Road to the intersection of Plateau Road and SH 119, then west on Plateau Road to the intersection of Hygiene Road, then due north to the Boulder/Larimer County line, then due east to the intersection of the Boulder/Larimer/Weld County lines, then south along the Boulder/Weld County line to Hwy 52, plus the portion of the City of Longmont east of the Boulder/Weld County line in Weld County.				
Boulder County (part)	1/6/92	Nonattainment	1/6/92	Moderate ≦ 12.7ppm
Weld County (part)	1/6/92	Nonattainment	1/6/92	Moderate ≦ 12.7ppm
State AQCR 1		Unclassifiable/Attainment		
Logan County				
Morgan County				
Phillips County				
Sedgwick County				
Washington County				
Yuma County				
State AQCR 2 (Remainder of)				
Larimer County (part)		Unclassifiable/Attainment		
Area outside Fort Collins Urban Growth Area Boundary				
Weld County (part)				
Remainder of county		Unclassifiable/Attainment		
State AQCR 3 (Remainder of)		Unclassifiable/Attainment		
Adams County (part)				
Remainder of County				
Arapahoe County (part)				
Remainder of County				
Boulder County (part)				
Remainder of County				
Clear Creek County				
Douglas County (part)				
Remainder of County				
Gilpin County				
Jefferson County (part)				
Remainder of County				
State AQCR 4 (Remainder of)		Unclassifiable/Attainment		
El Paso County (part)				
Area other than Urban Transportation Planning Study Area as defined in 1989				
Park County				
Teller County (part)				
Remainder of County				
State AQCR's 5-13		Unclassifiable/Attainment		
Alamosa County				
Archuleta County				
Baca County				
Bent County				
Chaffee County				
Cheyenne County				
Conejos County				
Costilla County				
Crowley County				
Custer County				
Delta County				
Dolores County				
Eagle County				
Elbert County				
Fremont County				
Garfield County				
Grand County				
Gunnison County				
Hinsdale County				
Huerfano County				

Colorado—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Jackson County				
Kiowa County				
Kit Carson County				
La Plata County				
Lake County				
Las Animas County				
Lincoln County				
Mesa County				
Mineral County				
Moffat County				
Montezuma County				
Montrose County				
Otero County				
Ouray County				
Pitkin County				
Prowers County				
Pueblo County				
Rio Blanco County				
Rio Grande County				
Routt County				
Saguache County				
San Juan County				
San Miguel County				
Summit County				

[1] This date is November 15, 1990, unless otherwise noted.

Colorado—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Denver - Boulder Area				
Adams County (part)				
West of Kiowa Creek		Nonattainment		Transitional
Arapahoe County (part)				
West of Kiowa Creek		Nonattainment		Transitional
Boulder County (part)		Nonattainment		Transitional
excluding Rocky Mtn. National Park				
Denver County		Nonattainment		Transitional
Douglas County		Nonattainment		Transitional
Jefferson County		Nonattainment		Transitional
State AQCR 01		Unclassifiable/Attainment		
Logan County				
Morgan County				
Phillips County				
Sedgwick County				
Washington County				
Yuma County				
State AQCR 02		Unclassifiable/Attainment		
Larimer County				
Weld County				
State AQCR 03 (Remainder of)		Unclassifiable/Attainment		
Adams County (part)				
East of Kiowa Creek				
Arapahoe County (part)				
East of Kiowa Creek				
Boulder County (part)				
Rocky Mtn. National Park Only				
Clear Creek County				
Gilpin County				
State AQCR 11		Unclassifiable/Attainment		
Garfield County				
Mesa County				
Moffat County				
Rio Blanco County				
Rest of State		Unclassifiable/Attainment		
Alamosa County				
Archuleta County				
Baca County				
Bent County				
Chaffee County				
Cheyenne County				

Colorado—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Conejos County				
Costilla County				
Crowley County				
Custer County				
Delta County				
Dolores County				
Eagle County				
El Paso County				
Elbert County				
Fremont County				
Grand County				
Gunnison County				
Hinsdale County				
Huerfano County				
Jackson County				
Kiowa County				
Kit Carson County				
La Plata County				
Lake County				
Las Animas County				
Lincoln County				
Mineral County				
Montezuma County				
Montrose County				
Otero County				
Ouray County				
Park County				
Pitkin County				
Prowers County				
Pueblo County				
Rio Grande County				
Routt County				
Saguache County				
San Juan County				
San Miguel County				
Summit County				
Teller County				

[1] This date is November 15, 1990, unless otherwise noted.

Colorado—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Archuleta County				
Pagosa Springs	11/15/90	Nonattainment	11/15/90	Moderate
Adams, Denver, and Boulder Counties				
Denver Metropolitan area	11/15/90	Nonattainment	11/15/90	Moderate
All of Denver, Jefferson, and Douglas Counties, Boulder County (excluding the Rocky Mountain National Park) and the Colorado auto mobile inspection and reajustment program portions of Adams and Arapahoe Counties				
San Miguel County				
Telluride	11/15/90	Nonattainment	11/15/90	Moderate
Prowers County				
Lamar	11/15/90	Nonattainment	11/15/90	Moderate
Pitkin County				
Aspen	11/15/90	Nonattainment	11/15/90	Moderate
Fremont County				
Canon City	11/15/90	Nonattainment	11/15/90	Moderate

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9. Section 81.307 is amended by revising the tables for "Connecticut—O_3" and "Connecticut—CO", and by adding a new table titled "Connecticut—PM-10" to be inserted in alphabetical order immediately following the tabular entry for "Connecticut—SO_2" to read as follows:

§ 81.307 Connecticut.

* * * * * * *

Connecticut—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Hartford - New Britian - Middletown Area				
Hartford County (part)		Nonattainment		Moderate ≤ 12.7ppm
Bristol City, Burlington Town, Avon Town, Bloomfield Town, Canton Town, E. Granby Town, E. Hartford Town, E. Windsor Town, Enfield Town, Farmington Town, Glastonbury Town, Granby Town, Hartford city, Manchester Town, Marlborough Town, Newington Town, Rocky Hill Town, Simsbury Town, S. Windsor Town, Suffield Town, W. Hartford Town, Wethersfield Town, Windsor Town, Windsor Locks Town, Berlin Town, New Britain city, Plainville Town and Southington Town				
Litchfield County (part)				
Plymouth Town		Nonattainment		Moderate ≤ 12.7ppm
Middlesex County (part)		Nonattainment		Moderate ≤ 12.7ppm
Cromwell Town, Durham Town, E. Hampton Town, Haddam Town, Middlefield Town, Middleton city, Portland Town, E. Haddam Town				
Tolland County (part)		Nonattainment		Moderate ≤ 12.7ppm
Andover Town, Bolton Town, Ellington Town, Hebron Town, Somers Town, Tolland Town and Vernon Town				
New Haven - Meriden - Waterbury Area				
Fairfield County (part)				
Shelton City		Nonattainment		Not Classified
Litchfield County (part)		Not Classified		
Bethlehem Town, Thomaston Town, Watertown, Woodbury Town		Nonattainment		
New Haven County		Nonattainment		Not Classified
New York - N. New Jersey - Long Island Area				
Fairfield County (part)		Nonattainment		Moderate > 12.7ppm
All cities and townships except Shelton city				
Litchfield County (part)		Nonattainment		Moderate > 12.7ppm
Bridgewater Town, New Milford Town				
AQCR 041 Eastern Connecticut Intrastate		Unclassifiable/Attainment		
Middlesex County (part)				
All portions except cities and towns in Hartford Area				
New London County				
Tolland County (part)				
All portions except cities and towns in Hartford Area				
Windham County				
AQCR 044 Northwestern Connecticut Intrastate		Unclassifiable/Attainment		
Hartford County (part)				
Hartland Township				
Litchfield County (part)				
All portions except cities and towns in Hartford, New Haven, and New York Areas				

[1] This date is November 15, 1990, unless otherwise noted.

Connecticut—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Greater Connecticut Area				
Farfield County (part)		Nonattainment		Serious
Shelton City				
Hartford County		Nonattainment		Serious
Litchfield County (part)		Nonattainment		Serious
all cities and townships except: Bridgewater Town, New Milford Town				
Middlesex County		Nonattainment		Serious
New Haven County		Nonattainment		Serious
New London County		Nonattainment		Serious
Tolland County		Nonattainment		Serious
Windham County		Nonattainment		Serious
New York - N. New Jersey - Long Island Area				
Fairfield County (part)		Nonattainment		Severe-17
all cities and towns except Shelton City				
Litchfield County (part)		Nonattainment		Severe-17
Bridgewater Town, New Milford Town				

[1] This date is November 15, 1990, unless otherwise noted.

Connecticut—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
New Haven County				
City of New Haven	11/15/90	Nonattainment	11/15/90	Nonattainment

* * * * * * *

10. Section 81.308 is amended by revising the tables for "Delaware—Ozone (O_3)" and "Delaware—CO" to be inserted in alphabetical order immediately following the tabular entry for "Delaware—SO_2" to read as follows:

§ 81.308 Delaware.

* * * * * * *

Delaware—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Kent County		Unclassifiable/Attainment		
New Castle County		Unclassifiable/Attainment		
Sussex County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

Delaware—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Philadelphia-Wilmington-Trenton Area				
Kent County		Nonattainment		Severe-15
New Castle County		Nonattainment		Severe-15
Sussex County Area				
Sussex County	1/6/92	Nonattainment	1/6/92	Marginal

[1] This date is November 15, 1990, unless otherwise noted.

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11. Section 81.309 is amended by revising the tables for "District of Columbia—Ozone (O_3)" and "District of Columbia—CO" to be inserted in alphabetical order immediately following the tabular entry for "District of Columbia—SO_2" to read as follows:

§ 81.309 District of Columbia.

* * * * * * *

District of Columbia—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Washington Area				
Washington				
Entire Area		Nonattainment		Moderate ≤ 12.7ppm

[1] This date is November 15, 1990, unless otherwise noted.

District of Columbia—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Washington Area				
Washington				
Entire Area		Nonattainment		Serious

[1] This date is November 15, 1990, unless otherwise noted.

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12. Section 81.310 is amended by revising the tables for "Florida—O_3" and "Florida—CO", and by adding a new table titled "Florida—Lead" to be inserted in alphabetical order immediately following the tabular entry for "Florida—SO_2" to read as follows:

§ 81.310 Florida.

* * * * * * *

Florida—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Alachua County				
Baker County				
Bay County				
Bradford County				
Brevard County				
Broward County				
Calhoun County				
Charlotte County				
Citrus County				
Clay County				
Collier County				
Columbia County				
Dade County				
De Soto County				
Dixie County				
Duval County				
Escambia County				
Flagler County				
Franklin County				
Gadsden County				
Gilchrist County				
Glades County				
Gulf County				
Hamilton County				
Hardee County				
Hendry County				
Hernando County				
Highlands County				
Hillsborough County				
Holmes County				
Indian River County				
Jackson County				
Jefferson County				
Lafayette County				
Lake County				
Lee County				
Leon County				
Levy County				
Liberty County				
Madison County				
Manatee County				
Marion County				
Martin County				
Monroe County				
Nassau County				
Okaloosa County				
Okeechobee County				
Orange County				
Osceola County				
Palm Beach County				
Pasco County				
Pinellas County				
Polk County				
Putnam County				
Santa Rosa County				
Sarasota County				
Seminole County				
St. Johns County				
St. Lucie County				
Sumter County				
Suwannee County				
Taylor County				
Union County				
Volusia County				
Wakulla County				
Walton County				

Florida—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Washington County				

[1] This date is November 15, 1990, unless otherwise noted.

Florida—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Hillsborough County (part) The area encompassed within a radius of (5) kilometers centered at UTM coordinates: 364.0 East, 3093.5 North, zone 17 (in city of Tampa) Rest of State Not Designated	1/6/92	Unclassifiable		

Florida—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Jacksonville Area				
Duval County		Nonattainment		Transitional
Miami-Fort Lauderdale-W. Palm Beach Area				
Broward County		Nonattainment		Moderate
Dade County		Nonattainment		Moderate
Palm Beach County		Nonattainment		Moderate
Tampa-St. Petersburg-Clearwater Area				
Hillsborough County		Nonattainment		Marginal
Pinellas County		Nonattainment		Marginal
Rest of State		Unclassifiable/Attainment		
Alachua County				
Baker County				
Bay County				
Bradford County				
Brevard County				
Calhoun County				
Charlotte County				
Citrus County				
Clay County				
Collier County				
Columbia County				
De Soto County				
Dixie County				
Escambia County				
Flagler County				
Franklin County				
Gadsden County				
Gilchrist County				
Glades County				
Gulf County				
Hamilton County				
Hardee County				
Hendry County				
Hernando County				
Highlands County				
Holmes County				
Indian River County				
Jackson County				
Jefferson County				
Lafayette County				
Lake County				
Lee County				
Leon County				
Levy County				
Liberty County				
Madison County				
Manatee County				
Marion County				
Martin County				

Florida—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Monroe County				
Nassau County				
Okaloosa County				
Okeechobee County				
Orange County				
Osceola County				
Pasco County[2]				
Polk County				
Putnam County				
Santa Rosa County				
Sarasota County				
Seminole County				
St. Johns County				
St. Lucie County				
Sumter County				
Suwannee County				
Taylor County				
Union County				
Volusia County				
Wakulla County				
Walton County				
Washington County				

[1] This date is November 15, 1990, unless otherwise noted.
[2] The listed designation does not reflect EPA action under section 107(d)(4)(A). At the date of enactment of the Clean Air Act Amendments, Pasco County, Florida, was designated Unclassifiable/attainment, by operation of law, under section 107(d)(1)(C) of the Clean Air Act. However, the State and EPA are reviewing whether to confirm or reverse that designation under the process set out under section 107(d)(4)(A) and will publish a separate notice to that effect.

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13. Section 81.311 is amended by revising the tables for "Georgia—Ozone (O_3)" and "Georgia—CO", and by adding a new table titled "Georgia—Lead" to be inserted in alphabetical order immediately following the tabular entry for "Georgia—SO_2" to read as follows:

§ 81.311 Georgia.

* * * * * * *

Georgia—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Appling County				
Atkinson County				
Bacon County				
Baker County				
Baldwin County				
Banks County				
Barrow County				
Bartow County				
Ben Hill County				
Berrien County				
Bibb County				
Bleckley County				
Brantley County				
Brooks County				
Bryan County				
Bulloch County				
Burke County				
Butts County				
Calhoun County				
Camden County				
Candler County				
Carroll County				
Catoosa County				
Charlton County				
Chatham County				
Chattahoochee County				
Chattooga County				
Cherokee County				
Clarke County				
Clay County				
Clayton County				

Georgia—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Clinch County				
Cobb County				
Coffee County				
Colquitt County				
Columbia County				
Cook County				
Coweta County				
Crawford County				
Crisp County				
Dade County				
Dawson County				
De Kalb County				
Decatur County				
Dodge County				
Dooly County				
Dougherty County				
Douglas County				
Early County				
Echols County				
Effingham County				
Elbert County				
Emanuel County				
Evans County				
Fannin County				
Fayette County				
Floyd County				
Forsyth County				
Franklin County				
Fulton County				
Gilmer County				
Glascock County				
Glynn County				
Gordon County				
Grady County				
Greene County				
Gwinnett County				
Habersham County				
Hall County				
Hancock County				
Haralson County				
Harris County				
Hart County				
Heard County				
Henry County				
Houston County				
Irwin County				
Jackson County				
Jasper County				
Jeff Davis County				
Jefferson County				
Jenkins County				
Johnson County				
Jones County				
Lamar County				
Lanier County				
Laurens County				
Lee County				
Liberty County				
Lincoln County				
Long County				
Lowndes County				
Lumpkin County				
Macon County				
Madison County				
Marion County				
McDuffie County				
McIntosh County				
Meriwether County				
Miller County				
Mitchell County				
Monroe County				
Montgomery County				
Morgan County				
Murray County				
Muscogee County				
Newton County				

Georgia—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Oconee County				
Oglethorpe County				
Paulding County				
Peach County				
Pickens County				
Pierce County				
Pike County				
Polk County				
Pulaski County				
Putnam County				
Quitman County				
Rabun County				
Randolph County				
Richmond County				
Rockdale County				
Schley County				
Screven County				
Seminole County				
Spalding County				
Stephens County				
Stewart County				
Sumter County				
Talbot County				
Taliaferro County				
Tattnall County				
Taylor County				
Telfair County				
Terrell County				
Thomas County				
Tift County				
Toombs County				
Towns County				
Treutlen County				
Troup County				
Turner County				
Twiggs County				
Union County				
Upson County				
Walker County				
Walton County				
Ware County				
Warren County				
Washington County				
Wayne County				
Webster County				
Wheeler County				
White County				
Whitfield County				
Wilcox County				
Wilkes County				
Wilkinson County				
Worth County				

[1] This date is November 15, 1990, unless otherwise noted.

Georgia—Lead[1]

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Muscogee County	1/6/92	Nonattainment		
Rest of State Not Designated				

Georgia—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Atlanta Area				
Cherokee County		Nonattainment		Serious
Clayton County		Nonattainment		Serious
Cobb County		Nonattainment		Serious
Coweta County		Nonattainment		Serious
De Kalb County		Nonattainment		Serious
Douglas County		Nonattainment		Serious
Fayette County		Nonattainment		Serious
Forsyth County		Nonattainment		Serious
Fulton County		Nonattainment		Serious
Gwinnett County		Nonattainment		Serious
Henry County		Nonattainment		Serious
Paulding County		Nonattainment		Serious
Rockdale County		Nonattainment		Serious
Rest of State		Unclassifiable/Attainment		
Appling County				
Atkinson County				
Bacon County				
Baker County				
Baldwin County				
Banks County				
Barrow County				
Bartow County				
Ben Hill County				
Berrien County				
Bibb County				
Bleckley County				
Brantley County				
Brooks County				
Bryan County				
Bulloch County				
Burke County				
Butts County				
Calhoun County				
Camden County				
Candler County				
Carroll County				
Catoosa County				
Charlton County				
Chatham County				
Chattahoochee County				
Chattooga County				
Clarke County				
Clay County				
Clinch County				
Coffee County				
Colquitt County				
Columbia County				
Cook County				
Crawford County				
Crisp County				
Dade County				
Dawson County				
Decatur County				
Dodge County				
Dooly County				
Dougherty County				
Early County				
Echols County				
Effingham County				
Elbert County				
Emanuel County				
Evans County				
Fannin County				
Floyd County				
Franklin County				
Gilmer County				
Glascock County				
Glynn County				
Gordon County				
Grady County				
Greene County				
Habersham County				
Hall County				
Hancock County				
Haralson County				

Georgia—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Harris County				
Hart County				
Heard County				
Houston County				
Irwin County				
Jackson County				
Jasper County				
Jeff Davis County				
Jefferson County				
Jenkins County				
Johnson County				
Jones County				
Lamar County				
Lanier County				
Laurens County				
Lee County				
Liberty County				
Lincoln County				
Long County				
Lowndes County				
Lumpkin County				
Macon County				
Madison County				
Marion County				
McDuffie County				
McIntosh County				
Meriwether County				
Miller County				
Mitchell County				
Monroe County				
Montgomery County				
Morgan County				
Murray County				
Muscogee County				
Newton County				
Oconee County				
Oglethorpe County				
Peach County				
Pickens County				
Pierce County				
Pike County				
Polk County				
Pulaski County				
Putnam County				
Quitman County				
Rabun County				
Randolph County				
Richmond County				
Schley County				
Screven County				
Seminole County				
Spalding County				
Stephens County				
Stewart County				
Sumter County				
Talbot County				
Taliaferro County				
Tattnall County				
Taylor County				
Telfair County				
Terrell County				
Thomas County				
Tift County				
Toombs County				
Towns County				
Treutlen County				
Troup County				
Turner County				
Twiggs County				
Union County				
Upson County				
Walker County				
Walton County				
Ware County				
Warren County				
Washington County				

Georgia—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Wayne County				
Webster County				
Wheeler County				
White County				
Whitfield County				
Wilcox County				
Wilkes County				
Wilkinson County				
Worth County				

[1] This date is November 15, 1990, unless otherwise noted.

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14. Section 81.312 is amended by revising the tables for "Hawaii—Ozone (O_3)" and "Hawaii—CO" to be inserted in alphabetical order immediately following the tabular entry for "Hawaii—SO_2" to read as follows:

§ 81.312 Hawaii.

* * * * * * *

Hawaii—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Hawaii County				
Honolulu County				
Kalawao				
Kauai County				
Maui County				

[1] This date is November 15, 1990, unless otherwise noted.

Hawaii—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Hawaii County				
Honolulu County				
Kalawao				
Kauai County				
Maui County				

[1] This date is November 15, 1990, unless otherwise noted.

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15. Section 81.313 is amended by revising the tables for "Idaho—O_3" and "Idaho—CO", and by adding a new table titled "Idaho—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "Idaho—SO_2" to read as follows:

§ 81.313 Idaho.

* * * * * * *

Idaho—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Boise - Northern Ada County Area				
Ada County (part)		Nonattainment		Not Classified

Idaho—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
The Boise-Ada County Nonattainment Area is described as follows: Beginning at a point in the center of the channel of the Boise River which the section line between sections fifteen (15) and sixteen (16), Township three (3) north, range four (4) east, crosses said river; thence, down the center of the channel of the Boise River to a point opposite the mouth of More's Creek. Thence, in a straight line north forty-four (44) degrees and thirty-eight (38) minutes west until the said line intersects the north line of Township five (5) north (12 Ter. Ses.67); thence west to the northwest corner of Township five (5) north, range one (1) west; thence, southerly to the northwest corner of township three (3) north, range one (1) west; thence east to the northwest corner of Section four (4), Township three (3) north, range one (1) west; thence, south to the southeast corner of section thirty-two (32), Township two (2) north, range one (1) west; thence, west to the northwest corner of Township one (1) north, range one (1) west; thence, southerly to the southwest corner of Township one (1) north, range one (1) west, thence east to the southwest corner of section thirty-three (33), Township one (1) north, range four (4) east; thence, in a northerly direction along the north and south centerline of townships one, (1) two (2), and three (3) north, range four (4) east, Boise Meridian, to a point in the center of the channel of the Boise River where the section line between sections fifteen (15) and sixteen (16), Township three (3) north, range four (4) east, Boise Meridian, crosses said Boise River, the point of beginning.				
AQCR 61 Eastern Idaho Intrastate		Unclassifiable/Attainment		
Bannock County				
Bear Lake County				
Bingham County				
Bonneville County				
Butte County				
Caribou County				
Clark County				
Franklin County				
Fremont County				
Jefferson County				
Madison County				
Oneida County				
Power County				
Teton County				
AQCR 62 Eastern Washington N Idaho Interstate		Unclassifiable/Attainment		
Benewah County				
Kootenai County				
Latah County				
Nez Perce County				
Shoshone County				
AQCR 63 Idaho Intrastate		Unclassifiable/Attainment		
Adams County				
Blaine County				
Boise County				
Bonner County				
Boundary County				
Camas County				
Cassia County				
Clearwater County				
Custer County				
Elmore County				
Gem County				
Gooding County				
Idaho County				
Jerome County				
Lemhi County				
Lewis County				
Lincoln County				
Minidoka County				
Owyhee County				
Payette County				
Twin Falls County				
Valley County				
Washington County				
AQCR 64 Metropolitan Boise Intrastate (Remainder of)		Unclassifiable/Attainment		

Idaho—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Ada County (part)				
Remainder of County				
Canyon County				

[1] This date is November 15, 1990, unless otherwise noted.

Idaho—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 61 Eastern Idaho Intrastate		Unclassifiable/Attainment		
Bannock County				
Bear Lake County				
Bingham County				
Bonneville County				
Butte County				
Caribou County				
Clark County				
Franklin County				
Fremont County				
Jefferson County				
Madison County				
Oneida County				
Power County				
Teton County				
AQCR 62 E Washington-N Idaho Interstate		Unclassifiable/Attainment		
Benewah County				
Kootenai County				
Latah County				
Nez Perce County				
Shoshone County				
AQCR 63 Idaho Intrastate		Unclassifiable/Attainment		
Adams County				
Blaine County				
Boise County				
Bonner County				
Boundary County				
Camas County				
Cassia County				
Clearwater County				
Custer County				
Elmore County				
Gem County				
Gooding County				
Idaho County				
Jerome County				
Lemhi County				
Lewis County				
Lincoln County				
Minidoka County				
Owyhee County				
Payette County				
Twin Falls County				
Valley County				
Washington County				
AQCR 64 Metropolitan Boise Interstate		Unclassifiable/Attainment		
Ada County				
Canyon County				

[1] This date is November 15, 1990, unless otherwise noted.

Idaho—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Ada County				
Boise	11/15/90	Nonattainment	11/15/90	Moderate

Idaho—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Northern Boundary - Beginning at a point in the center of the channel of the Boise River, where the line between sections 15 and 16 in Township 3 north (T3N), range 4 east (R4E), crosses said Boise River; thence, west down the center of the channel of the Boise River to a point opposite the mouth of More's Creek; thence, in a straight line north 44 degrees and 38 minutes west until the said line intersects the north line of T5N (12 Ter. Ses. 67); thence west to the northwest corner T5N, R1W Western Boundary - Thence, south to the northwest corner of T3N, R1W; thence east to the northwest corner of section 4 of T3N, R1W; thence south to the southeast corner of section 32 of T2N, R1W; thence, west to the northwest corner of T1N, R1W; thence, south to the southwest corner of section 32 of T2N, R1W; thence, west to the northwest corner of T1N, R1W; thence south to the southwest corner of T1N, R1W Southern Boundary - Thence, east to the southwest corner of section 33 of T1N, R4E Eastern Boundary - Thence, north along the north and south center line of Townships T1N, R4E, T2N, R4E, and T3N, R4E, Boise Meridian to the beginning point in the center of the channel of the Boise River				
Shoshone County				
City of Pinehurst	11/15/90	Nonattainment	11/15/90	Moderate
Bannock and Power Counties				
Pocatello Area	11/15/90	Nonattainment	11/15/90	Moderate
State Lands:				
T. 5S, R. 34E Sections 25-36;				
T. 5S, R. 35E Section 31;				
T. 6S, R. 34E Sections 1-36;				
T. 6S, R. 35E Sections 5-36;				
T. 6S, R. 36E Sections 7, 8, 15-22, and 27-35;				
T. 7S, R. 34E Sections 1-4, 10-14, and 24;				
T. 7S, R. 35E Sections 1-30, and 32-36;				
T. 7S, R. 36E Sections 2-11, 14-23, and 26-35;				
T. 8S, R. 35E Sections 1-4;				
T. 8S, R. 36E Sections 3-6				
Fort Hall Indian Reservation:				
T. 5S, R. 34E Sections 15-23;				
T. 5S, R. 33E Sections 13-36;				
T. 6S, R. 33E Sections 1-36;				
T. 7S, R. 33E Sections 4, 5, 6;				
T. 7S, R. 34E Sections 8				
Bonner County				
The Sandpoint Area	11/15/90	Nonattainment	11/15/90	Moderate
Sections 1-3, 9-12, 15, 16, 21, 22, 27, 28 of range 2 west and Township 57 north; and the western 3/4 of Sections 14, 23, and 26 of the same Township and range coordinates.				

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16. Section 81.314 is amended by revising the tables for "Illinois—Ozone (O_3)" and "Illinois—CO", and by adding a new table titled "Illinois—PM-10" to be inserted in alphabetical order immediately following the tabular entry for "Illinois—SO_2" to read as follows:

§ 81.314 Illinois.

* * * * * * *

Illinois—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Adams County		Unclassifiable/Attainment		
Alexander County		Unclassifiable/Attainment		
Bond County		Unclassifiable/Attainment		
Boone County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Bureau County		Unclassifiable/Attainment		
Calhoun County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		

Illinois—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Cass County		Unclassifiable/Attainment		
Champaign County		Unclassifiable/Attainment		
Christian County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Coles County		Unclassifiable/Attainment		
Cook County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Cumberland County		Unclassifiable/Attainment		
De Kalb County		Unclassifiable/Attainment		
De Witt County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Du Page County		Unclassifiable/Attainment		
Edgar County		Unclassifiable/Attainment		
Edwards County		Unclassifiable/Attainment		
Effingham County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Ford County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gallatin County		Unclassifiable/Attainment		
Greene County		Unclassifiable/Attainment		
Grundy County		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		
Henderson County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Iroquois County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jasper County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jersey County		Unclassifiable/Attainment		
Jo Daviess County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Kane County		Unclassifiable/Attainment		
Kankakee County		Unclassifiable/Attainment		
Kendall County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Lake County		Unclassifiable/Attainment		
La Salle County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Lee County		Unclassifiable/Attainment		
Livingston County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Macon County		Unclassifiable/Attainment		
Macoupin County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
Mason County		Unclassifiable/Attainment		
Massac County		Unclassifiable/Attainment		
McDonough County		Unclassifiable/Attainment		
McHenry County		Unclassifiable/Attainment		
McLean County		Unclassifiable/Attainment		
Menard County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Moultrie County		Unclassifiable/Attainment		
Ogle County		Unclassifiable/Attainment		
Peoria County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Piatt County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Pope County		Unclassifiable/Attainment		
Pulaski County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Randolph County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Rock Island County		Unclassifiable/Attainment		
St. Clair County		Unclassifiable/Attainment		
Saline County		Unclassifiable/Attainment		
Sangamon County		Unclassifiable/Attainment		

Illinois—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Schuyler County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Stark County		Unclassifiable/Attainment		
Stephenson County		Unclassifiable/Attainment		
Tazewell County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Vermilion County		Unclassifiable/Attainment		
Wabash County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
White County		Unclassifiable/Attainment		
Whiteside County		Unclassifiable/Attainment		
Will County		Unclassifiable/Attainment		
Williamson County		Unclassifiable/Attainment		
Winnebago County		Unclassifiable/Attainment		
Woodford County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

Illinois—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Chicago-Gary-Lake County Area				
Cook County		Nonattainment		Severe-17
Du Page County		Nonattainment		Severe-17
Grundy County (part)				
Aux Sable Township		Nonattainment		Severe-17
Gooselake Township		Nonattainment		Severe-17
Kane County		Nonattainment		Severe-17
Kendall County (part)				
Oswego Township		Nonattainment		Severe-17
Lake County		Nonattainment		Severe-17
McHenry County		Nonattainment		Severe-17
Will County		Nonattainment		Severe-17
Jersey County Area				
Jersey County	1/6/92	Nonattainment	1/6/92	Marginal
St. Louis Area				
Madison County		Nonattainment		Moderate
Monroe County		Nonattainment		Moderate
St. Clair County		Nonattainment		Moderate
Adams County		Unclassifiable/Attainment		
Alexander County		Unclassifiable/Attainment		
Bond County		Unclassifiable/Attainment		
Boone County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Bureau County		Unclassifiable/Attainment		
Calhoun County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Cass County		Unclassifiable/Attainment		
Champaign County		Unclassifiable/Attainment		
Christian County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Coles County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Cumberland County		Unclassifiable/Attainment		
De Kalb County		Unclassifiable/Attainment		
De Witt County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Edgar County		Unclassifiable/Attainment		
Edwards County		Unclassifiable/Attainment		
Effingham County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Ford County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gallatin County		Unclassifiable/Attainment		
Greene County		Unclassifiable/Attainment		

Illinois—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Grundy County (part)				
All townships except Aux Sable and Gooselake		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		
Henderson County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Iroquois County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jasper County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jo Daviess County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Kankakee County		Unclassifiable/Attainment		
Kendall County (part)				
All townships except Oswego		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
La Salle County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Lee County		Unclassifiable/Attainment		
Livingston County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Macon County		Unclassifiable/Attainment		
Macoupin County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
Mason County		Unclassifiable/Attainment		
Massac County		Unclassifiable/Attainment		
McDonough County		Unclassifiable/Attainment		
McLean County		Unclassifiable/Attainment		
Menard County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Moultrie County		Unclassifiable/Attainment		
Ogle County		Unclassifiable/Attainment		
Peoria County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Piatt County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Pope County		Unclassifiable/Attainment		
Pulaski County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Randolph County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Rock Island County		Unclassifiable/Attainment		
Saline County		Unclassifiable/Attainment		
Sangamon County		Unclassifiable/Attainment		
Schuyler County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Stark County		Unclassifiable/Attainment		
Stephenson County		Unclassifiable/Attainment		
Tazewell County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Vermilion County		Unclassifiable/Attainment		
Wabash County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
White County		Unclassifiable/Attainment		
Whiteside County		Unclassifiable/Attainment		
Williamson County		Unclassifiable/Attainment		
Winnebago County		Unclassifiable/Attainment		
Woodford County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

Illinois—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Cook County				
a. Lyons Township	11/15/90	Nonattainment	11/15/90	Moderate
b. The area bounded on the north by 79th Street, on the west by Interstate 57 between Sibley Boulevard and Interstate 94 and by Interstate 94 between Interstate 57 and 79th Street, on the south by Sibley Boulevard, and on the east by the Illinois/Indiana State line..	11/15/90	Nonattainment	11/15/90	Moderate
LaSalle County				
Oglesby including the following Townships, ranges, and sections:.	11/15/90	Nonattainment	11/15/90	Moderate
T32N, R1E, S1;				
T32N, R2E, S6;				
T33N, R1E, S24;				
T33N, R1E, S25;				
T33N, R2E, S30;				
T33N, R2E, S31; and				
T33N, R1E, S36				
Madison County				
Granite City Township and Nameoki Township	11/15/90	Nonattainment	11/15/90	Moderate

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17. Section 81.315 is amended by revising the tables for "Indiana—O_3" and "Indiana—CO", and by adding new tables titled "Indiana—Lead" and "Indiana—PM-10" to be inserted in alphabetical order immediately following the tabular entry for "Indiana—SO_2" to read as follows:

§ 81.315 Indiana.

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Indiana—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
East Chicago Area				
Lake County (part)		Nonattainment		Not Classified
Part of City of East Chicago (area bounded by Columbus Drive on the north, the Indiana Harbor Canal on the west, 148th St. if extended, on the south, and Euclid Ave. on the east).				
Indianapolis Area				
Marion County (part)				
Part of City of Indianapolis (area bounded by 11th St. on the north, Capitol on the west, Georgia St. on the south, and Delaware on the east)..		Nonattainment		Not Classified
Lake County (part)				
The Remainder of East Chicago and Lake County		Unclassifiable/Attainment		
Marion County (part)				
The Remainder of Indianapolis and Marion County		Unclassifiable/Attainment		
Adams County		Unclassifiable/Attainment		
Allen County		Unclassifiable/Attainment		
Bartholomew County		Unclassifiable/Attainment		
Benton County		Unclassifiable/Attainment		
Blackford County		Unclassifiable/Attainment		
Boone County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Cass County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Daviess County		Unclassifiable/Attainment		
De Kalb County		Unclassifiable/Attainment		
Dearborn County		Unclassifiable/Attainment		
Decatur County		Unclassifiable/Attainment		
Delaware County		Unclassifiable/Attainment		
Dubois County		Unclassifiable/Attainment		
Elkhart County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Floyd County		Unclassifiable/Attainment		
Fountain County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		

Indiana—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Fulton County		Unclassifiable/Attainment		
Gibson County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Greene County		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Harrison County		Unclassifiable/Attainment		
Hendricks County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Howard County		Unclassifiable/Attainment		
Huntington County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jasper County		Unclassifiable/Attainment		
Jay County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jennings County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Kosciusko County		Unclassifiable/Attainment		
La Porte County		Unclassifiable/Attainment		
Lagrange County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
Martin County		Unclassifiable/Attainment		
Miami County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Newton County		Unclassifiable/Attainment		
Noble County		Unclassifiable/Attainment		
Ohio County		Unclassifiable/Attainment		
Orange County		Unclassifiable/Attainment		
Owen County		Unclassifiable/Attainment		
Parke County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Porter County		Unclassifiable/Attainment		
Posey County		Unclassifiable/Attainment		
Pulaski County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Randolph County		Unclassifiable/Attainment		
Ripley County		Unclassifiable/Attainment		
Rush County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Spencer County		Unclassifiable/Attainment		
St. Joseph County		Unclassifiable/Attainment		
Starke County		Unclassifiable/Attainment		
Steuben County		Unclassifiable/Attainment		
Sullivan County		Unclassifiable/Attainment		
Switzerland County		Unclassifiable/Attainment		
Tippecanoe County		Unclassifiable/Attainment		
Tipton County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Vanderburgh County		Unclassifiable/Attainment		
Vermillion County		Unclassifiable/Attainment		
Vigo County		Unclassifiable/Attainment		
Wabash County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Warrick County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
Wells County		Unclassifiable/Attainment		
White County		Unclassifiable/Attainment		
Whitley County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

Indiana—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Marion County (part)	1/6/92	Nonattainment		
Part of Franklin Township: Thompson Road on the south; Emerson Avenue on the west; Five Points Road on the east; and Troy Avenue on the north				
Marion County (part)	1/6/92	Unclassifiable		
Part of Wayne Township:Rockville Rd. on the North, Girls School Road on the East, Washington Street on the South, and Bridgeport Road on the West				
Rest of State Not Designated				

Indiana—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Chicago-Gary-Lake County Area				
Lake County		Nonattainment		Severe-17
Porter County		Nonattainment		Severe-17
Evansville Area				
Vanderburgh County	1/6/92	Nonattainment	1/6/92	Marginal
Indianapolis Area				
Marion County		Nonattainment		Marginal
Louisville Area				
Clark County		Nonattainment		Moderate
Floyd County		Nonattainment		Moderate
South Bend-Elkhart Area				
Elkhart County		Nonattainment		Marginal
St. Joseph County		Nonattainment		Marginal
Allen County		Unclassifiable/Attainment		
Adams County		Unclassifiable/Attainment		
Bartholomew County		Unclassifiable/Attainment		
Benton County		Unclassifiable/Attainment		
Blackford County		Unclassifiable/Attainment		
Boone County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Cass County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Daviess County		Unclassifiable/Attainment		
De Kalb County		Unclassifiable/Attainment		
Dearborn County		Unclassifiable/Attainment		
Decatur County		Unclassifiable/Attainment		
Delaware County		Unclassifiable/Attainment		
Dubois County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Fountain County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gibson County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Greene County		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Harrison County		Unclassifiable/Attainment		
Hendricks County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Howard County		Unclassifiable/Attainment		
Huntington County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jasper County		Unclassifiable/Attainment		
Jay County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jennings County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Kosciusko County		Unclassifiable/Attainment		
La Porte County		Unclassifiable/Attainment		
Lagrange County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		

Indiana—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Marshall County		Unclassifiable/Attainment		
Martin County		Unclassifiable/Attainment		
Miami County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Newton County		Unclassifiable/Attainment		
Noble County		Unclassifiable/Attainment		
Ohio County		Unclassifiable/Attainment		
Orange County		Unclassifiable/Attainment		
Owen County		Unclassifiable/Attainment		
Parke County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Posey County		Unclassifiable/Attainment		
Pulaski County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Randolph County		Unclassifiable/Attainment		
Ripley County		Unclassifiable/Attainment		
Rush County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Spencer County		Unclassifiable/Attainment		
Starke County		Unclassifiable/Attainment		
Steuben County		Unclassifiable/Attainment		
Sullivan County		Unclassifiable/Attainment		
Switzerland County		Unclassifiable/Attainment		
Tippecanoe County		Unclassifiable/Attainment		
Tipton County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Vermillion County		Unclassifiable/Attainment		
Vigo County		Unclassifiable/Attainment		
Wabash County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Warrick County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
Wells County		Unclassifiable/Attainment		
White County		Unclassifiable/Attainment		
Whitley County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

Indiana—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Lake County				
Cities of East Chicago, Hammond, [illegible]g, and Gary	11/15/90	Nonattainment	11/15/90	Moderate
Vermillion County				
Part of Clinton Township, including sections 15, 16, 21, 22, 27, 28, 33 and 34.	11/15/90	Nonattainment	11/15/90	Moderate

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18. Section 81.316 is amended by revising the tables for "Iowa—Ozone (O_3)" and "Iowa—CO" to be inserted in alphabetical order immediately following the tabular entry for "Iowa—SO_2" to read as follows:

§ 81.316 Iowa.

* * * * * * *

Iowa—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Adair County				

Iowa—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Adams County				
Allamakee County				
Appanoose County				
Audubon County				
Benton County				
Black Hawk County				
Boone County				
Bremer County				
Buchanan County				
Buena Vista County				
Butler County				
Calhoun County				
Carroll County				
Cass County				
Cedar County				
Cerro Gordo County				
Cherokee County				
Chickasaw County				
Clarke County				
Clay County				
Clayton County				
Clinton County				
Crawford County				
Dallas County				
Davis County				
Decatur County				
Delaware County				
Des Moines County				
Dickinson County				
Dubuque County				
Emmet County				
Fayette County				
Floyd County				
Franklin County				
Fremont County				
Greene County				
Grundy County				
Guthrie County				
Hamilton County				
Hancock County				
Hardin County				
Harrison County				
Henry County				
Howard County				
Humboldt County				
Ida County				
Iowa County				
Jackson County				
Jasper County				
Jefferson County				
Johnson County				
Jones County				
Keokuk County				
Kossuth County				
Lee County				
Linn County				
Louisa County				
Lucas County				
Lyon County				
Madison County				
Mahaska County				
Marion County				
Marshall County				
Mills County				
Mitchell County				
Monona County				
Monroe County				
Montgomery County				
Muscatine County				
O'Brien County				
Osceola County				
Page County				
Palo Alto County				
Plymouth County				
Pocahontas County				
Polk County				

Iowa—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Pottawattamie County				
Poweshiek County				
Ringgold County				
Sac County				
Scott County				
Shelby County				
Sioux County				
Story County				
Tama County				
Taylor County				
Union County				
Van Buren County				
Wapello County				
Warren County				
Washington County				
Wayne County				
Webster County				
Winnebago County				
Winneshiek County				
Woodbury County				
Worth County				
Wright County				

[1] This date is November 15, 1990, unless otherwise noted.

Iowa—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Adair County				
Adams County				
Allamakee County				
Appanoose County				
Audubon County				
Benton County				
Black Hawk County				
Boone County				
Bremer County				
Buchanan County				
Buena Vista County				
Butler County				
Calhoun County				
Carroll County				
Cass County				
Cedar County				
Cerro Gordo County				
Cherokee County				
Chickasaw County				
Clarke County				
Clay County				
Clayton County				
Clinton County				
Crawford County				
Dallas County				
Davis County				
Decatur County				
Delaware County				
Des Moines County				
Dickinson County				
Dubuque County				
Emmet County				
Fayette County				
Floyd County				
Franklin County				
Fremont County				
Greene County				
Grundy County				
Guthrie County				
Hamilton County				
Hancock County				
Hardin County				

Iowa—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Harrison County				
Henry County				
Howard County				
Humboldt County				
Ida County				
Iowa County				
Jackson County				
Jasper County				
Jefferson County				
Johnson County				
Jones County				
Keokuk County				
Kossuth County				
Lee County				
Linn County				
Louisa County				
Lucas County				
Lyon County				
Madison County				
Mahaska County				
Marion County				
Marshall County				
Mills County				
Mitchell County				
Monona County				
Monroe County				
Montgomery County				
Muscatine County				
O'Brien County				
Osceola County				
Page County				
Palo Alto County				
Plymouth County				
Pocahontas County				
Polk County				
Pottawattamie County				
Poweshiek County				
Ringgold County				
Sac County				
Scott County				
Shelby County				
Sioux County				
Story County				
Tama County				
Taylor County				
Union County				
Van Buren County				
Wapello County				
Warren County				
Washington County				
Wayne County				
Webster County				
Winnebago County				
Winneshiek County				
Woodbury County				
Worth County				
Wright County				

[1] This date is November 15, 1990, unless otherwise noted.

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19. Section 81.317 is amended by revising the tables for "Kansas—O_3" and "Kansas—CO" to be inserted in alphabetical order immediately following the tabular entry for "Kansas—SO_2" to read as follows:

§ 81.317 Kansas.

* * * * * * *

Kansas—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Allen County		Unclassifiable/Attainment		
Anderson County		Unclassifiable/Attainment		
Atchison County		Unclassifiable/Attainment		
Barber County		Unclassifiable/Attainment		
Barton County		Unclassifiable/Attainment		
Bourbon County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Butler County		Unclassifiable/Attainment		
Chase County		Unclassifiable/Attainment		
Chautauqua County		Unclassifiable/Attainment		
Cherokee County		Unclassifiable/Attainment		
Cheyenne County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Cloud County		Unclassifiable/Attainment		
Coffey County		Unclassifiable/Attainment		
Comanche County		Unclassifiable/Attainment		
Cowley County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Decatur County		Unclassifiable/Attainment		
Dickinson County		Unclassifiable/Attainment		
Doniphan County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Edwards County		Unclassifiable/Attainment		
Elk County		Unclassifiable/Attainment		
Ellis County		Unclassifiable/Attainment		
Ellsworth County		Unclassifiable/Attainment		
Finney County		Unclassifiable/Attainment		
Ford County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Geary County		Unclassifiable/Attainment		
Gove County		Unclassifiable/Attainment		
Graham County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Gray County		Unclassifiable/Attainment		
Greeley County		Unclassifiable/Attainment		
Greenwood County		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Harper County		Unclassifiable/Attainment		
Harvey County		Unclassifiable/Attainment		
Haskell County		Unclassifiable/Attainment		
Hodgeman County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jewell County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Kearny County		Unclassifiable/Attainment		
Kingman County		Unclassifiable/Attainment		
Kiowa County		Unclassifiable/Attainment		
Labette County		Unclassifiable/Attainment		
Lane County		Unclassifiable/Attainment		
Leavenworth County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Linn County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Lyon County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
McPherson County		Unclassifiable/Attainment		
Meade County		Unclassifiable/Attainment		
Miami County		Unclassifiable/Attainment		
Mitchell County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morris County		Unclassifiable/Attainment		
Morton County		Unclassifiable/Attainment		
Nemaha County		Unclassifiable/Attainment		
Neosho County		Unclassifiable/Attainment		
Ness County		Unclassifiable/Attainment		
Norton County		Unclassifiable/Attainment		
Osage County		Unclassifiable/Attainment		
Osborne County		Unclassifiable/Attainment		
Ottawa County		Unclassifiable/Attainment		
Pawnee County		Unclassifiable/Attainment		
Phillips County		Unclassifiable/Attainment		
Pottawatomie County		Unclassifiable/Attainment		
Pratt County		Unclassifiable/Attainment		

Kansas—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Rawlins County		Unclassifiable/Attainment		
Reno County		Unclassifiable/Attainment		
Republic County		Unclassifiable/Attainment		
Rice County		Unclassifiable/Attainment		
Riley County		Unclassifiable/Attainment		
Rooks County		Unclassifiable/Attainment		
Rush County		Unclassifiable/Attainment		
Russell County		Unclassifiable/Attainment		
Saline County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Sedgwick County		Unclassifiable/Attainment		
Seward County		Unclassifiable/Attainment		
Shawnee County		Unclassifiable/Attainment		
Sheridan County		Unclassifiable/Attainment		
Sherman County		Unclassifiable/Attainment		
Smith County		Unclassifiable/Attainment		
Stafford County		Unclassifiable/Attainment		
Stanton County		Unclassifiable/Attainment		
Stevens County		Unclassifiable/Attainment		
Sumner County		Unclassifiable/Attainment		
Thomas County		Unclassifiable/Attainment		
Trego County		Unclassifiable/Attainment		
Wabaunsee County		Unclassifiable/Attainment		
Wallace County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wichita County		Unclassifiable/Attainment		
Wilson County		Unclassifiable/Attainment		
Woodson County		Unclassifiable/Attainment		
Wyandotte County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

Kansas—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Kansas City Area				
Johnson County		Nonattainment		Sub-marginal
Wyandotte County		Nonattainment		Sub-marginal
Allen County		Unclassifiable/Attainment		
Anderson County		Unclassifiable/Attainment		
Atchison County		Unclassifiable/Attainment		
Barber County		Unclassifiable/Attainment		
Barton County		Unclassifiable/Attainment		
Bourbon County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Butler County		Unclassifiable/Attainment		
Chase County		Unclassifiable/Attainment		
Chautauqua County		Unclassifiable/Attainment		
Cherokee County		Unclassifiable/Attainment		
Cheyenne County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Cloud County		Unclassifiable/Attainment		
Coffey County		Unclassifiable/Attainment		
Comanche County		Unclassifiable/Attainment		
Cowley County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Decatur County		Unclassifiable/Attainment		
Dickinson County		Unclassifiable/Attainment		
Doniphan County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Edwards County		Unclassifiable/Attainment		
Elk County		Unclassifiable/Attainment		
Ellis County		Unclassifiable/Attainment		
Ellsworth County		Unclassifiable/Attainment		
Finney County		Unclassifiable/Attainment		
Ford County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Geary County		Unclassifiable/Attainment		
Gove County		Unclassifiable/Attainment		
Graham County		Unclassifiable/Attainment		

Kansas—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Grant County		Unclassifiable/Attainment		
Gray County		Unclassifiable/Attainment		
Greeley County		Unclassifiable/Attainment		
Greenwood County		Unclassifiable/Attainment		
Hamilton County		Unclassifiable/Attainment		
Harper County		Unclassifiable/Attainment		
Harvey County		Unclassifiable/Attainment		
Haskell County		Unclassifiable/Attainment		
Hodgeman County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jewell County		Unclassifiable/Attainment		
Kearny County		Unclassifiable/Attainment		
Kingman County		Unclassifiable/Attainment		
Kiowa County		Unclassifiable/Attainment		
Labette County		Unclassifiable/Attainment		
Lane County		Unclassifiable/Attainment		
Leavenworth County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Linn County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Lyon County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
McPherson County		Unclassifiable/Attainment		
Meade County		Unclassifiable/Attainment		
Miami County		Unclassifiable/Attainment		
Mitchell County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morris County		Unclassifiable/Attainment		
Morton County		Unclassifiable/Attainment		
Nemaha County		Unclassifiable/Attainment		
Neosho County		Unclassifiable/Attainment		
Ness County		Unclassifiable/Attainment		
Norton County		Unclassifiable/Attainment		
Osage County		Unclassifiable/Attainment		
Osborne County		Unclassifiable/Attainment		
Ottawa County		Unclassifiable/Attainment		
Pawnee County		Unclassifiable/Attainment		
Phillips County		Unclassifiable/Attainment		
Pottawatomie County		Unclassifiable/Attainment		
Pratt County		Unclassifiable/Attainment		
Rawlins County		Unclassifiable/Attainment		
Reno County		Unclassifiable/Attainment		
Republic County		Unclassifiable/Attainment		
Rice County		Unclassifiable/Attainment		
Riley County		Unclassifiable/Attainment		
Rooks County		Unclassifiable/Attainment		
Rush County		Unclassifiable/Attainment		
Russell County		Unclassifiable/Attainment		
Saline County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Sedgwick County		Unclassifiable/Attainment		
Seward County		Unclassifiable/Attainment		
Shawnee County		Unclassifiable/Attainment		
Sheridan County		Unclassifiable/Attainment		
Sherman County		Unclassifiable/Attainment		
Smith County		Unclassifiable/Attainment		
Stafford County		Unclassifiable/Attainment		
Stanton County		Unclassifiable/Attainment		
Stevens County		Unclassifiable/Attainment		
Sumner County		Unclassifiable/Attainment		
Thomas County		Unclassifiable/Attainment		
Trego County		Unclassifiable/Attainment		
Wabaunsee County		Unclassifiable/Attainment		
Wallace County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wichita County		Unclassifiable/Attainment		
Wilson County		Unclassifiable/Attainment		
Woodson County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

* * * * * * *

20. Section 81.318 is amended by revising the tables for "Kentucky—O_3" and "Kentucky—CO" to be inserted in alphabetical order immediately

following the tabular entry for "Kentucky—SO_2" to read as follows:

§ 81.318 Kentucky.

* * * * * * *

Kentucky—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Adair County		Unclassifiable/Attainment		
Allen County		Unclassifiable/Attainment		
Anderson County		Unclassifiable/Attainment		
Ballard County		Unclassifiable/Attainment		
Barren County		Unclassifiable/Attainment		
Bath County		Unclassifiable/Attainment		
Bell County		Unclassifiable/Attainment		
Boone County		Unclassifiable/Attainment		
Bourbon County		Unclassifiable/Attainment		
Boyd County		Unclassifiable/Attainment		
Boyle County		Unclassifiable/Attainment		
Bracken County		Unclassifiable/Attainment		
Breathitt County		Unclassifiable/Attainment		
Breckinridge County		Unclassifiable/Attainment		
Bullitt County		Unclassifiable/Attainment		
Butler County		Unclassifiable/Attainment		
Caldwell County		Unclassifiable/Attainment		
Calloway County		Unclassifiable/Attainment		
Campbell County		Unclassifiable/Attainment		
Carlisle County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Carter County		Unclassifiable/Attainment		
Casey County		Unclassifiable/Attainment		
Christian County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Crittenden County		Unclassifiable/Attainment		
Cumberland County		Unclassifiable/Attainment		
Daviess County		Unclassifiable/Attainment		
Edmonson County		Unclassifiable/Attainment		
Elliott County		Unclassifiable/Attainment		
Estill County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Fleming County		Unclassifiable/Attainment		
Floyd County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gallatin County		Unclassifiable/Attainment		
Garrard County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Graves County		Unclassifiable/Attainment		
Grayson County		Unclassifiable/Attainment		
Green County		Unclassifiable/Attainment		
Greenup County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		
Harlan County		Unclassifiable/Attainment		
Harrison County		Unclassifiable/Attainment		
Hart County		Unclassifiable/Attainment		
Henderson County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Hickman County		Unclassifiable/Attainment		
Hopkins County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Jessamine County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Kenton County		Unclassifiable/Attainment		
Knott County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Larue County		Unclassifiable/Attainment		
Laurel County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Lee County		Unclassifiable/Attainment		
Leslie County		Unclassifiable/Attainment		
Letcher County		Unclassifiable/Attainment		
Lewis County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Livingston County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Lyon County		Unclassifiable/Attainment		

Kentucky—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Madison County		Unclassifiable/Attainment		
Magoffin County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Marshall County		Unclassifiable/Attainment		
Martin County		Unclassifiable/Attainment		
Mason County		Unclassifiable/Attainment		
McCracken County		Unclassifiable/Attainment		
McCreary County		Unclassifiable/Attainment		
McLean County		Unclassifiable/Attainment		
Meade County		Unclassifiable/Attainment		
Menifee County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Metcalfe County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Muhlenberg County		Unclassifiable/Attainment		
Nelson County		Unclassifiable/Attainment		
Nicholas County		Unclassifiable/Attainment		
Ohio County		Unclassifiable/Attainment		
Oldham County		Unclassifiable/Attainment		
Owen County		Unclassifiable/Attainment		
Owsley County		Unclassifiable/Attainment		
Pendleton County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Powell County		Unclassifiable/Attainment		
Pulaski County		Unclassifiable/Attainment		
Robertson County		Unclassifiable/Attainment		
Rockcastle County		Unclassifiable/Attainment		
Rowan County		Unclassifiable/Attainment		
Russell County		Unclassifiable/Attainment		
Scott County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Simpson County		Unclassifiable/Attainment		
Spencer County		Unclassifiable/Attainment		
Taylor County		Unclassifiable/Attainment		
Todd County		Unclassifiable/Attainment		
Trigg County		Unclassifiable/Attainment		
Trimble County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
Webster County		Unclassifiable/Attainment		
Whitley County		Unclassifiable/Attainment		
Wolfe County		Unclassifiable/Attainment		
Woodford County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

Kentucky—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Cincinnati-Hamilton Area				
Boone County		Nonattainment		Moderate
Campbell County		Nonattainment		Moderate
Kenton County		Nonattainment		Moderate
Edmonson County Area				
Edmonson County	1/6/92	Nonattainment	1/6/92	Rural Transport (Marginal)
Huntington-Ashland Area				
Boyd County		Nonattainment		Moderate
Greenup County (part)		Nonattainment		Moderate

Kentucky—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
The area boundary is as follows: Beginning at a point where the Ohio River meets the Greenup-Boyd County Line; proceeding southwest along the Greenup-Boyd County Line to the junction of the East Fork of the Little Sandy River and the Greenup-Boyd County Line; proceeding north and west along the East Fork of the Little Sandy River to the confluence of the Little Sandy River; proceeding north along the Little Sandy River to the confluence of the Ohio River; proceeding east along the Ohio River to the beginning.				
Lexington-Fayette Area				
Fayette County	1/6/92	Nonattainment	1/6/92	Marginal
Scott County	1/6/92	Nonattainment	1/6/92	Marginal
Louisville Area				
Bullitt County (part)		Nonattainment		Moderate
The area boundary is as follows: Beginning at the intersection of Ky 1020 and the Jefferson-Bullitt County Line proceeding to the east along the county line to the intersection of county road 567 and the Jefferson-Bullitt County Line; proceeding south on county road 567 to the junction with Ky 1116 (also Known as Zoneton Road); proceeding to the south on Ky 1116 to the junction with Hebron Lane; proceeding to the south on Hebron Lane to Cedar Creek; proceeding south on Cedar Creek to the confluence of Floyds Fork turning southeast along a creek that meets Ky 44 at Stallings Cemetery; proceeding west along Ky 44 to the eastern most point in the Shepherdsville city limits; proceeding south along the Shepherdsville city limits to the Salt River and west to a point across the river from Mooney Lane; proceeding south along Mooney Lane to the junction of Ky 480; proceeding west on Ky 480 to the junction with Ky 2237; proceeding south on Ky 2237 to the junction with Ky 61 and proceeding north on Ky 61 to the junction with Ky 1494; proceeding south on Ky 1494 to the junction with the perimeter of the Fort Knox Military Reservation; proceeding north along the military reservation perimeter to Castleman Branch Road; proceeding north on Castleman Branch Road to Ky 44; proceeding a very short distance west on Ky 44 to a junction with Ky 1020; proceeding north on Ky 1020 to the beginning.				
Jefferson County		Nonattainment		Moderate
Oldham County (part)		Nonattainment		Moderate

Kentucky—Ozone

Designated Area	Designation		Classification	
	Date[2]	Type	Date[1]	Type
The area boundary is as follows: Beginning at the intersection of the Oldham-Jefferson County Line with the southbound lane of Intestate 71; proceeding to the northeast along the southbound lane of Interstate 71 to the intersection of Ky 329 and the southbound lane of Interstate 71; proceeding to the northwest on Ky 329 to the intersection of Zaring Road an Ky 329; proceeding to the east-northeast on Zaring Road to the junction of Cedar Point Road and Zaring Road; proceeding to the north-northeast on Cedar Point Road to the junction of Ky 393 and Cedar Point Road; proceeding to the south-southeast on Ky 393 to the junction of county road 746 (the road on the north side of Reformatory Lake and the Reformatory); proceeding to the east-northeast on county road 746 to the junction with Dawkins Lane (also known as Saddlers Mill Road) and county road 746; proceeding to follow an electric power line east-northeast across from the junction of county road 746 and Dawkins Lane to the east-northeast across Ky 53 on to the La Grange Water Filtration Plant; proceeding on to the east-southeast along the power line then south across Fort Pickens Road to a power substation on Ky 146; proceeding along the power line south across Ky 146 and the Seaboard System Railroad track to adjoin the incorporated city limits of La Grange; then proceeding east then south along the La Grange city limits to a point abutting the north side of Ky 712; proceeding east-southeast on Ky 712 to the junction of Massie School Road and Ky 712; proceeding to the south-southwest and then north-northwest on Massie School Road to the junction of Ky 53 and Massie School Road; proceeding on Ky 53 to the north-northwest to the junction of Moody Lane and Ky 53; proceeding on Moody Lane to the south-soutwest until meeting the city limits of La Grange; then briefly proceeding north following the La Grange city limits to the intersection of the northbound lane of Interstate 71 and the La Grange city limits; proceeding southwest on the northbound lane of Interstate 71 until intersecting with the North Fork of Currys Fork; proceeding south-southwest beyond the confluence of Currys Fork to the south-southwest beyond the confluence of Floyds Fork continuing on to the Oldham-Jefferson County Line; proceeding northwest along the Oldham-Jeffefson County Line to the beginning.				
Owensboro Area				
Daviess County	1/6/92	Nonattainment	1/6/92	Marginal
Hancock County (part)	1/6/92	Nonattainment	1/6/92	Marginal
The area boundary is as follows: Beginning at the intersection of U.S. 60 and the Hancock-Daviess County Line; proceeding east along U.S. 60 to the intersection of Yellow Creek and U.S. 60; proceeding north and west along Yellow Creek to the confluence of the Ohio River; proceeding west along the Ohio River to the confluence of Blackford Creek; proceeding south and east along Blackford Creek to the beginning.				
Paducah Area				
Livingston County (part)	1/6/92	Nonattainment	1/6/92	Marginal

Kentucky—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
The area boundary is as follows: Beginning at the point where the Marshall, McCracken, and Livingston County Lines meet; proceeding due north to the Ohio River; proceeding east along the Ohio River and that part of the Livingston County Line to the northern most point of Cumberland Island and then south to the point of confluence of the Cumberland River; proceeding east on the Cumberland River to the intersection of U.S. 60 and the Cumberland River; proceeding north on U.S. 60 to the junction of Joe Grimmet Road and U.S. 60; proceeding to the end of Joe Grimmet Road and extending a line from that point to the junction of U.S. 70 and Heater Store Road; proceeding south along Heater Store Road to the intersection of Ky 1889 and Heater Store Road; proceeding south on Harvey Road to the junction of Ky 453 and Harvey Road; proceeding west on Ky 453 to the junction of Haddox Road and Ky 453; proceeding south along Haddox Road to the Tennessee River (at Haddox Ferry); proceeding west on the Tennessee River to the beginning.				
Marshall County	1/6/92	Nonattainment	1/6/92	Marginal
Adair County		Unclassifiable/Attainment		
Allen County		Unclassifiable/Attainment		
Anderson County		Unclassifiable/Attainment		
Ballard County		Unclassifiable/Attainment		
Barren County		Unclassifiable/Attainment		
Bath County		Unclassifiable/Attainment		
Bell County		Unclassifiable/Attainment		
Bourbon County		Unclassifiable/Attainment		
Boyle County		Unclassifiable/Attainment		
Bracken County		Unclassifiable/Attainment		
Breathitt County		Unclassifiable/Attainment		
Breckinridge County		Unclassifiable/Attainment		
Bullitt County (part)				
Remainder of county		Unclassifiable/Attainment		
Butler County		Unclassifiable/Attainment		
Caldwell County		Unclassifiable/Attainment		
Calloway County		Unclassifiable/Attainment		
Carlisle County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Carter County		Unclassifiable/Attainment		
Casey County		Unclassifiable/Attainment		
Christian County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clay County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Crittenden County		Unclassifiable/Attainment		
Cumberland County		Unclassifiable/Attainment		
Elliott County		Unclassifiable/Attainment		
Estill County		Unclassifiable/Attainment		
Fleming County		Unclassifiable/Attainment		
Floyd County		Unclassifiable/Attainment		
Franklin County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gallatin County		Unclassifiable/Attainment		
Garrard County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Graves County		Unclassifiable/Attainment		
Grayson County		Unclassifiable/Attainment		
Green County		Unclassifiable/Attainment		
Greenup County (part)				
Remainder of county		Unclassifiable/Attainment		
Hancock County (part)				
Remainder of county		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		
Harlan County		Unclassifiable/Attainment		
Harrison County		Unclassifiable/Attainment		
Hart County		Unclassifiable/Attainment		
Henderson County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Hickman County		Unclassifiable/Attainment		
Hopkins County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jessamine County		Unclassifiable/Attainment		
Johnson County		Unclassifiable/Attainment		
Knott County		Unclassifiable/Attainment		

Kentucky—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Knox County		Unclassifiable/Attainment		
Larue County		Unclassifiable/Attainment		
Laurel County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Lee County		Unclassifiable/Attainment		
Leslie County		Unclassifiable/Attainment		
Letcher County		Unclassifiable/Attainment		
Lewis County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Livingston County (part)				
Remainder of county		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Lyon County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Magoffin County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Martin County		Unclassifiable/Attainment		
Mason County		Unclassifiable/Attainment		
McCracken County		Unclassifiable/Attainment		
McCreary County		Unclassifiable/Attainment		
McLean County		Unclassifiable/Attainment		
Meade County		Unclassifiable/Attainment		
Menifee County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Metcalfe County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Muhlenberg County		Unclassifiable/Attainment		
Nelson County		Unclassifiable/Attainment		
Nicholas County		Unclassifiable/Attainment		
Ohio County		Unclassifiable/Attainment		
Oldham County (part)				
Remainder of county		Unclassifiable/Attainment		
Owen County		Unclassifiable/Attainment		
Owsley County		Unclassifiable/Attainment		
Pendleton County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Powell County		Unclassifiable/Attainment		
Pulaski County		Unclassifiable/Attainment		
Robertson County		Unclassifiable/Attainment		
Rockcastle County		Unclassifiable/Attainment		
Rowan County		Unclassifiable/Attainment		
Russell County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Simpson County		Unclassifiable/Attainment		
Spencer County		Unclassifiable/Attainment		
Taylor County		Unclassifiable/Attainment		
Todd County		Unclassifiable/Attainment		
Trigg County		Unclassifiable/Attainment		
Trimble County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
Webster County		Unclassifiable/Attainment		
Whitley County		Unclassifiable/Attainment		
Wolfe County		Unclassifiable/Attainment		
Woodford County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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21. Section 81.319 is amended by revising the tables for "Louisiana—Ozone (O_3)" and "Louisiana—CO", and by adding a new table titled "Louisiana—Lead" to be inserted in alphabetical order immediately following the tabular entry for "Louisiana—SO_2" to read as follows:

§ 81.319 Louisiana.

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Louisiana—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 019 Monroe-El Dorado Interstate		Unclassifiable/Attainment		
Caldwell Parish				
Catahoula Parish				
Concordia Parish				
East Carroll Parish				
Franklin Parish				
La Salle Parish				
Madison Parish				
Morehouse Parish				
Ouachita Parish				
Richland Parish				
Tensas Parish				
Union Parish				
West Carroll Parish				
AQCR 022 Shreveport-Texarkana-Tyler Interstate		Unclassifiable/Attainment		
Bienville Parish				
Bossier Parish				
Caddo Parish				
Claiborne Parish				
De Soto Parish				
Jackson Parish				
Lincoln Parish				
Natchitoches Parish				
Red River Parish				
Sabine Parish				
Webster Parish				
Winn Parish				
AQCR 106 Southern Louisiana-Southeast Texas		Unclassifiable/Attainment		
Acadia Parish				
Allen Parish				
Ascension Parish				
Assumption Parish				
Avoyelles Parish				
Beauregard Parish				
Calcasieu Parish				
Cameron Parish				
East Baton Rouge Parish				
East Feliciana Parish				
Evangeline Parish				
Grant Parish				
Iberia Parish				
Iberville Parish				
Jefferson Davis Parish				
Jefferson Parish				
Lafayette Parish				
Lafourche Parish				
Livingston Parish				
Orleans Parish				
Plaquemines Parish				
Pointe Coupee Parish				
Rapides Parish				
St. Bernard Parish				
St. Charles Parish				
St. Helena Parish				
St. James Parish				
St. John The Baptist Parish				
St. Landry Parish				
St. Martin Parish				
St. Mary Parish				
St. Tammany Parish				
Tangipahoa Parish				
Terrebonne Parish				
Vermilion Parish				
Vernon Parish				
Washington Parish				
West Baton Rouge Parish				
West Feliciana Parish				

[1] This date is November 15, 1990, unless otherwise noted.

Louisiana—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
East Baton Rouge Parish	1/6/92	Unclassifiable		
Rest of State Not Designated				

Louisiana—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Baton Rouge Area				
Ascension Parish		Nonattainment		Serious
East Baton Rouge Parish		Nonattainment		Serious
Iberville Parish		Nonattainment		Serious
Livingston Parish		Nonattainment		Serious
Pointe Coupee Parish		Nonattainment		Serious
West Baton Rouge Parish		Nonattainment		Serious
Beauregard Parish Area				
Beauregard Parish		Nonattainment		Incomplete Data
Grant Parish Area				
Grant Parish		Nonattainment		Incomplete Data
Lafayette Area				
Lafayette Parish		Nonattainment		Transitional
Lafourche Parish Area				
Lafourche Parish		Nonattainment		Incomplete Data
Lake Charles Area				
Calcasieu Parish		Nonattainment		Marginal
New Orleans Area				
Jefferson Parish		Nonattainment		Transitional
Orleans Parish		Nonattainment		Transitional
St. Bernard Parish		Nonattainment		Transitional
St. Charles Parish		Nonattainment		Transitional
St. James Parish Area				
St. James Parish		Nonattainment		Incomplete Data
St. Mary Parish Area				
St. Mary Parish		Nonattainment		Incomplete Data
AQCR 019 Monroe-El Dorado Interstate		Unclassifiable/Attainment		
Caldwell Parish				
Catahoula Parish				
Concordia Parish				
East Carroll Parish				
Franklin Parish				
La Salle Parish				
Madison Parish				
Morehouse Parish				
Ouachita Parish				
Richland Parish				
Tensas Parish				
Union Parish				
West Carroll Parish				
AQCR 022 Shreveport-Texarkana-Tyler Inters.		Unclassifiable/Attainment		
Bienville Parish				
Bossier Parish				
Caddo Parish				
Claiborne Parish				
De Soto Parish				
Jackson Parish				
Lincoln Parish				
Natchitoches Parish				
Red River Parish				
Sabine Parish				
Webster Parish				
Winn Parish				
AQCR 106 S. Louisiana-S.E. Texas Interstate				
St. John The Baptist Parish		Unclassifiable/Attainment		
AQCR 106 S. Louisiana-S.E. Texas Interstate		Unclassifiable/Attainment		
Acadia Parish				
Allen Parish				
Assumption Parish				
Avoyelles Parish				
Cameron Parish				
East Feliciana Parish				
Evangeline Parish				
Iberia Parish				

Louisiana—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Jefferson Davis Parish				
Plaquemines Parish				
Rapides Parish				
St. Helena Parish				
St. Landry Parish				
St. Martin Parish				
St. Tammany Parish				
Tangipahoa Parish				
Terrebonne Parish				
Vermilion Parish				
Vernon Parish				
Washington Parish				
West Feliciana Parish				

[1] This date is November 15, 1990, unless otherwise noted.

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22. Section 81.320 is amended by revising the tables for "Maine—Ozone (O_3)" and "Maine—CO", and by adding a new table titled "Maine—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "Maine—SO_2" to read as follows:

§ 81.320 Maine.

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Maine—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Androscoggin County				
Aroostook County				
Cumberland County				
Franklin County				
Hancock County				
Kennebec County				
Knox County				
Lincoln County				
Oxford County				
Penobscot County				
Piscataquis County				
Sagadahoc County				
Somerset County				
Waldo County				
Washington County				
York County				

[1] This date is November 15, 1990, unless otherwise noted.

Maine—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Franklin County Area				
Franklin County (part)		Nonattainment		Incomplete Data
In the County of Franklin: Avon Town, Carthage Town, Chesterville Town, Farmington Town, Freeman Township, Industry Town, Jay Town, New Sharon Town, New Vineyard Town, Perkins Place Township, Phillips Town, Salem Township, Strong Town, Temple Town, Township No. 6, Washington Place Township, Weld Town, Wilton Town.				
Hancock County and Waldo County Area				
Hancock County		Nonattainment		Marginal
Waldo County		Nonattainment		Marginal
Knox County and Lincoln County Area				
Knox County		Nonattainment		Moderate
Lincoln County		Nonattainment		Moderate
Lewiston - Auburn Area				

Maine—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Androscoggin County		Nonattainment		Moderate
Kennebec County		Nonattainment		Moderate
Oxford County Area				
Oxford County (part)		Nonattainment		Incomplete Data
In the County of Oxford: Albany Township, Andover Town, Andover North Surplus, Andover West Surplus, Batchelders Grant, Bethel Town, Buckfield Town, Byron Town, Canton Town, Dixfield Town, Gilead Town, Grafton Township, Greenwood Town, Hanover Town, Hartford Town, Hebron Town, Lovell Town, Mason Township, Mexico Town, Milton Township, Newry Town, Norway Town, Oxford Town, Paris Town, Peru Town, Riley Township, Roxbury Town, Rumford Town, Stoneham Town, Stow Town, Sumner Town, Sweden Town, Waterford Town, Woodstock Town; and Brownfield, Denmark, Fryeburg, Hiram and Porter.				
Portland Area				
Cumberland County		Nonattainment		Moderate
Sagadahoc County		Nonattainment		Moderate
York County		Nonattainment		Moderate
Somerset County Area				
Somerset County (part)		Nonattainment		Incomplete Data
That portion of Somerset County which lies south and east of a line described as follows: Beginning at the point where the Somerset-Franklin County boundary is intersected by a line common to the northern boundaries of New Portland Township and running northeast along the northern boundaries of New Portland, Embden, Solon, and Athens Townships to the intersection of said line with the Somerset-Piscataquis County boundary, which is also common to the northeast corner of Athens Township.)				
AQCR 108 Aroostook Intrastate		Unclassifiable/Attainment		
Aroostook County (part) see 40 CFR 81.179				
AQCR 109 Down East Intrastate		Unclassifiable/Attainment		
Penobscot County (part), as described under 40 CFR 81.181.				
Piscataquis County (part) see 40 CFR 81.181				
Washington County				
AQCR 111 Northwest Maine Intrastate (Remainder of)		Unclassifiable/Attainment		
see 40 CFR 81.182				
Aroostook County				
Franklin County (part)				
Oxford County (part)				
Penobscot County (part)				
Piscataquis County (part)				
Somerset County (part)				

[1] This date is November 15, 1990, unless otherwise noted.

Maine—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Aroostook County				
City of Presque Isle	11/15/90	Nonattainment	11/15/90	Moderate

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23. Section 81.321 is amended by revising the tables for "Maryland—Ozone (O_3)" and "Maryland—CO" to be inserted in alphabetical order immediately following the tabular entry for "Maryland—SO_2" to read as follows:

§ 81.321 Maryland.

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Maryland—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Baltimore Area				
Baltimore City (part)				
Regional Planning District No: 118 (generally corresponding to the Central Business District).		Nonattainment		Moderate ≤ 12.7ppm
Washington Area				
Montgomery County (part)				
Election Districts 4, 7, 13		Nonattainment		Moderate ≤ 12.7ppm
Prince George's County (part)				
Election Districts 2, 6, 12, 16, 17, 18		Nonattainment		Moderate ≤ 12.7ppm
AQCR 047 National Capital Interstate (Remainder of)		Unclassifiable/Attainment		
Montgomery County (part)				
Remainder of county				
Prince George's County (part)				
Remainder of County				
AQCR 112 Central Maryland Intrastate		Unclassifiable/Attainment		
Frederick County				
AQCR 113 Cumberland-Keyser Interstate		Unclassifiable/Attainment		
Allegany County				
Garrett County				
Washington County				
AQCR 114 Eastern Shore Interstate		Unclassifiable/Attainment		
Caroline County				
Cecil County				
Dorchester County				
Kent County				
Queen Anne's County				
Somerset County				
Talbot County				
Wicomico County				
Worcester County				
AQCR 115 Metro. Baltimore Intrastate (Remainder of)		Unclassifiable/Attainment		
Anne Arundel County				
Baltimore City (part)				
Remainder of City				
Baltimore County				
Carroll County				
Harford County				
Howard County				
AQCR 116 Southern Maryland Intrastate		Unclassifiable/Attainment		
Calvert County				
Charles County				
St. Mary's County				

[1] This date is November 15, 1990, unless otherwise noted.

Maryland—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Baltimore Area				
Anne Arundel County		Nonattainment		Severe-15
Baltimore				
City of Baltimore		Nonattainment		Severe-15
Baltimore County		Nonattainment		Severe-15
Carroll County		Nonattainment		Severe-15
Harford County		Nonattainment		Severe-15
Howard County		Nonattainment		Severe-15
Kent County and Queen Anne's County Area				
Kent County	1/6/92	Nonattainment	1/6/92	Marginal
Queen Anne's County	1/6/92	Nonattainment	1/6/92	Marginal
Philadelphia-Wilmington-Trenton Area				
Cecil County		Nonattainment		Severe-15
Washington, DC Area				
Calvert County		Nonattainment		Serious
Charles County		Nonattainment		Serious
Frederick County		Nonattainment		Serious
Montgomery County		Nonattainment		Serious
Prince George's County		Nonattainment		Serious
AQCR 113 Cumberland-Keyser Interstate		Unclassifiable/Attainment		
Allegany County				
Garrett County				
Washington County				

Maryland—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 114 Eastern Shore Interstate (Remainder of)		Unclassifiable/Attainment		
Caroline County				
Dorchester County				
Somerset County				
Talbot County				
Wicomico County				
Worcester County				
AQCR 116 Southern Maryland Intrastate (Remainder of)		Unclassifiable/Attainment		
St. Mary's County				

[1] This date is November 15, 1990, unless otherwise noted.

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24. Section 81.322 is amended by revising the tables for "Massachusetts—Ozone (O_3)" and "Massachusetts—CO" to be inserted in alphabetical order immediately following the tabular entry for "Massachusetts—SO_2" to read as follows:

§ 81.322 Massachusetts.

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Massachusetts—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Boston Area				
Middlesex County (part)				
Cities of: Cambridge, Everett, Malden, Medford, and Somerville.		Nonattainment		Moderate ≤ 12.7ppm
Norfolk County (part)				
Quincy City		Nonattainment		Moderate ≤ 12.7ppm
Suffolk County (part)				
Cities of: Boston, Chelsea, and Revere		Nonattainment		Moderate ≤ 12.7ppm
Lowell Area				
Middlesex County (part)				
Lowell City		Nonattainment		Not Classified
Springfield Area				
Hampden County (part)				
Springfield City		Nonattainment		Not Classified
Waltham Area				
Middlesex County (part)				
Waltham City		Nonattainment		Not Classified
Worcester Area				
Worcester County (part)				
City of Worcester		Nonattainment		Not Classified
AQCR 042 Hartford-New Haven-Springfield		Unclassifiable/Attainment		
Franklin County				
Hampden County (part)				
Cities of: Chicopee, Holyoke, and Westfield Townships of: Agawam, Blandford, Brimfield, Chester, East Longmeadow, Granville, Hampden, Holland, Longmeadow, Ludlow, Monson, Montgomery, Palmer, Russell, Southwick, Tolland, Wales, West Springfield, and Wilbraham				
Hampshire County (part)				
City of Northhampton Townships of: Amherst, Belchertown, Chesterfield, Cummington, Easthampton, Goshen, Granby, Hadley, Hatfield, Huntington, Middlefield, Pelham, Southampton, South Hadley, Ware, Westhampton, Williamsburg, and Worthington				
AQCR 117 Berkshire Intrastate		Unclassifiable/Attainment		
Berkshire County				
AQCR 118 Central Massachusetts Intrastate		Unclassifiable/Attainment		
Middlesex County (part)				
Townships of: Ashby, Shirley, and Townsend				
Worcester County (part)				

Massachusetts—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Cities of: Leominster, Fitchburg, and Gardner. Townships of: Ashburnham, Athol, Auburn, Barre, Berlin, Blackstone, Boylston, Brookfield, Charlton, Clinton, Douglas, Dudley, East Brookfiled, Grafton, Hardwick, Harvard, Holden, Hopedale, Hubbardstown, Lancaster, Leicester, Lunenburg, Mendon, Millbury, Millville, New Braintree, Northborough, Northbridge, North Brookfield, Oakham, Oxford, Paxton, Petersham, Phillipston, Princeton, Royalston, Rutland, Shewsbury, Southbridge, Spencer, Sterling, Sutton, Templeton, Upton, Uxbridge, Warren, Webster, Westborough, West Boylston, West Brookfield, Westminster, and Winchendon				
AQCR 119 Metropolitan Boston Intrastate		Unclassifiable/Attainment		
Essex County (part)				
Cities of: Beverly, Gloucester, Lynn, Peabody, and Salem. Townships of: Danvers, Essex, Ipswitch, Lynnfield, Manchester, Marblehead, Middletown, Nahant, Rockport, Saugus, Swampscott, Topsfield, and Wenham.				
Middlesex County (part)				
Cities of: Marlborough, Melrose, Newton, and Woburn Townships of: Acton, Arlington, Ashland, Bedford, Belmont, Boxborough, Burlington, Concord, Framingham, Holliston, Hopkinton, Hudson, Lexington, Lincoln, Maynard, Natick, North Reading, Reading, Sherborn, Stoneham, Stow, Sudbury, Wakefield, Watertown, Wayland, Wilmington, and Winchester				
Norfolk County (part)				
Townships of: Avon, Braintree, Brookline, Canton, Cohasset, Dedham, Dover, Holbrook, Medfield, Millis, Milton, Needham, Norfolk, Norwood, Randolph, Sharon, Stoughton, Walpole, Wellesley, Westwood, and Weymouth				
Plymouth County (part)				
City of Brockton; Townships of: Abington, Bridgewater, Duxbury, East Bridgewater, Hanover, Hanson, Hingham, and Hull.				
AQCR 120 Metropolitan Providence Interstate		Unclassifiable/Attainment		
Barnstable County (part)				
Townships of: Barnstable, Bourne, Brewster, Chatham, Dennis, Eastham, Falmouth, Harwich, Mashpee, Orleans, Provincetown, Sandwich, Truro, Wellfleet, and Yarmouth.				
Bristol County (part)				
Cities of: Attleboro, Fall River, New Bedford, and Taunton; Townships of: Acushnet, Berkley, Dartmouth, Dighton, Fairhaven, Freetown, Mansfield, North Attleborough, Norton, Raynham, Rehoboth, Seekonk, Somerset, Swansea, and Westport				
Dukes County (part)				
Townships of: Chilmark, Edgartown, Gay Head, Gosnold, Oak Bluffs, Tisbury, and West Tisbury				
Norfolk County (part)				
Townships of: Bellingham, Foxborough, Franklin, and Wrenton				
Plymouth County (part)				
Townships of: Carver Halifax, Kingston, Lakeville, Marion, Mattapoisett, Middleborough, Plymouth, Plympton, Rochester, and Warham				
Worcester County (part)				
Milford Township				
AQCR 121 Merrimack Valley-S New Hampshire		Unclassifiable/Attainment		
Essex County (part)				
Townships of: Andover, Amesbury, Boxford, Georgetown, Groveland, Haverhill, Lawrence, Merrimac, Methuen, Newbury, Newburyport, North Andover, Rowley, Salisbury, and West Newbury				
Middlesex County (part)				
Townships of: Ayer, Billerica, Carlisle, Chelmsford, Dracut, Dunstable, Groton, Littleton, Pepperell, Tewksbury, Tyngsborough, and Westford				

[1] This date is November 15, 1990, unless otherwise noted.

Massachusetts—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Boston-Lawrence-Worcester (E. Mass) Area				
Barnstable County		Nonattainment		Serious
Bristol County		Nonattainment		Serious
Dukes County		Nonattainment		Serious
Essex County		Nonattainment		Serious
Middlesex County		Nonattainment		Serious
Nantucket County		Nonattainment		Serious
Norfolk County		Nonattainment		Serious
Plymouth County		Nonattainment		Serious
Suffolk County		Nonattainment		Serious
Worcester County		Nonattainment		Serious
Springfield (W. Mass) Area				
Berkshire County		Nonattainment		Serious
Franklin County		Nonattainment		Serious
Hampden County		Nonattainment		Serious
Hampshire County		Nonattainment		Serious

[1] This date is November 15, 1990, unless otherwise noted.

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25. Section 81.323 is amended by revising the tables for "Michigan—Ozone (O_3)" and "Michigan—CO", and by adding a new table titled "Michigan—PM-10" to be inserted in alphabetical order immediately following the tabular entry for "Michigan—SO_2" to read as follows:

§ 81.323 Michigan.

* * * * * * *

Michigan—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Detroit Area				
Areas included within the following (counter - clockwise): Lake St. Clair to 14 Mile Road to Kelly Road, N. to 15 Mile Road to Hayes Road, S. to 14 Mile Road to Clawson City boundary, following N. Clawson City boundary to N. Royal Oak City boundary to 13 Mile Road to Evergreen Road to southern Beverly Hills City boundary to southern Bingham Farms City boundary to southern Franklin City boundary to Inkster Road, south to Pennsylvania Road extending east to the Detroit River				
Macomb County (part)		Nonattainment		Not Classified
Oakland County (part)		Nonattainment		Not Classified
Wayne County (part)		Nonattainment		Not Classified
AQCR 082 Elkhart-Benton Harbor Interstate		Unclassifiable/Attainment		
Berrien County				
Cass County				
Van Buren County				
AQCR 122 Central Michigan Intrastate		Unclassifiable/Attainment		
Allegan County				
Arenac County				
Bay County				
Clare County				
Genesee County				
Gladwin County				
Gratiot County				
Huron County				
Ionia County				
Iosco County				
Isabella County				
Kent County				
Lake County				
Lapeer County				
Mason County				
Mecosta County				
Midland County				
Montcalm County				
Muskegon County				
Newaygo County				
Oceana County				
Ogemaw County				
Osceola County				

Michigan—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Ottawa County				
Roscommon County				
Saginaw County				
Sanilac County				
Shiawassee County				
Tuscola County				
AQCR 123 Metro Detroit-Port Huron Intrastate (Remainder of)		Unclassifiable/Attainment		
Macomb County (part)				
Remainder of County				
Oakland County (part)				
Remainder of County				
St. Clair County				
Wayne County (part)				
Remainder of County				
AQCR 124 Metropolitan Toledo Interstate		Unclassifiable/Attainment		
Monroe County				
AQCR 125 South Central Michigan Intrastate		Unclassifiable/Attainment		
Barry County				
Branch County				
Calhoun County				
Clinton County				
Eaton County				
Hillsdale County				
Ingham County				
Jackson County				
Kalamazoo County				
Lenawee County				
Livingston County				
St. Joseph County				
Washtenaw County				
AQCR 126 Upper Michigan Intrastate		Unclassifiable/Attainment		
Alcona County				
Alger County				
Alpena County				
Antrim County				
Baraga County				
Benzie County				
Charlevoix County				
Cheboygan County				
Chippewa County				
Crawford County				
Delta County				
Dickinson County				
Emmet County				
Gogebic County				
Grand Traverse County				
Houghton County				
Iron County				
Kalkaska County				
Keweenaw County				
Leelanau County				
Luce County				
Mackinac County				
Manistee County				
Marquette County				
Menominee County				
Missaukee County				
Montmorency County				
Ontonagon County				
Oscoda County				
Otsego County				
Presque Isle County				
Schoolcraft County				
Wexford County				

[1] This date is November 15, 1990, unless otherwise noted.

Michigan—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Allegan County Area				
Allegan County		Nonattainment		Incomplete Data
Barry County Area				
Barry County		Nonattainment		Incomplete Data
Battle Creek Area				
Calhoun County		Nonattainment		Incomplete Data
Benton Harbor Area				
Berrien County		Nonattainment		Incomplete Data
Branch County Area				
Branch County		Nonattainment		Incomplete Data
Cass County Area				
Cass County		Nonattainment		Incomplete Data
Detroit-Ann Arbor Area				
Livingston County		Nonattainment		Moderate
Macomb County		Nonattainment		Moderate
Monroe County		Nonattainment		Moderate
Oakland County		Nonattainment		Moderate
St. Clair County		Nonattainment		Moderate
Washtenaw County		Nonattainment		Moderate
Wayne County		Nonattainment		Moderate
Flint Area				
Genesee County		Nonattainment		Transitional
Grand Rapids Area				
Kent County		Nonattainment		Moderate
Ottawa County		Nonattainment		Moderate
Gratiot County Area				
Gratiot County		Nonattainment		Incomplete Data
Hillsdale County Area				
Hillsdale County		Nonattainment		Incomplete Data
Huron County Area				
Huron County		Nonattainment		Incomplete Data
Ionia County Area				
Ionia County		Nonattainment		Incomplete Data
Jackson Area				
Jackson County		Nonattainment		Incomplete Data
Kalamazoo Area				
Kalamazoo County		Nonattainment		Incomplete Data
Lansing-East Lansing Area				
Clinton County		Nonattainment		Transitional
Eaton County		Nonattainment		Transitional
Ingham County		Nonattainment		Transitional
Lapeer County Area				
Lapeer County		Nonattainment		Incomplete Data
Lenawee County Area				
Lenawee County		Nonattainment		Incomplete Data
Montcalm Area				
Montcalm County		Nonattainment		Incomplete Data
Muskegon Area				
Muskegon County		Nonattainment		Serious[2]
Saginaw-Bay City-Midland Area				
Bay County		Nonattainment		Incomplete Data
Midland County		Nonattainment		Incomplete Data
Saginaw County		Nonattainment		Incomplete Data
Sanilac County Area				
Sanilac County		Nonattainment		Incomplete Data
Shiawassee County Area				
Shiawassee County		Nonattainment		Incomplete Data
St. Joseph County Area				
St. Joseph County		Nonattainment		Incomplete Data
Tuscola County Area				
Tuscola County		Nonattainment		Incomplete Data
Van Buren County Area				
Van Buren County		Nonattainment		Incomplete Data
AQCR 122 Central Michigan Intrastate (Remainder of)		Unclassifiable/Attainment		
Arenac County				
Clare County				
Gladwin County				
Iosco County				
Isabella County				
Lake County				
Mason County				
Mecosta County				
Newaygo County				
Oceana County				
Ogemaw County				
Osceola County				

Michigan—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Roscommon County				
AQCR 126 Upper Michigan Intrastate (part)				
Marquette County		Unclassifiable/Attainment		
AQCR 126 Upper Michigan Intrastate (Remainder of)		Unclassifiable/Attainment		
Alcona County				
Alger County				
Alpena County				
Antrim County				
Baraga County				
Benzie County				
Charlevoix County				
Cheboygan County				
Chippewa County				
Crawford County				
Delta County				
Dickinson County				
Emmet County				
Gogebic County				
Grand Traverse County				
Houghton County				
Iron County				
Kalkaska County				
Keweenaw County				
Leelanau County				
Luce County				
Mackinac County				
Manistee County				
Menominee County				
Missaukee County				
Montmorency County				
Ontonagon County				
Oscoda County				
Otsego County				
Presque Isle County				
Schoolcraft County				
Wexford County				

[1] This date is November 15, 1990, unless otherwise noted.
[2] The state requested time to study the boundaries under section 107(d)(4)(A)(iv). The boundaries of the Muskegon Area will be determined based upon evaluation of that study by EPA. Any change in the boundary may result in a change in the classification for part of the county.

Michigan—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Wayne County				
The area bounded by Michigan Avenue from its intersection with I-75 west to I-94, I-94 southwest to Greenfield Road, Greenfield Road south to Schaefer Road, Schaefer Road south and east to Jefferson Avenue, Jefferson Avenue south (Biddle Avenue through the city of Wyandotte) to Sibley Avenue, Sibley Avenue west to Fort Street, Fort Street south to King Road, King Road east to Jefferson Avenue, Jefferson Avenue south to Helen Road, Helen Road east extended to Trenton Channel, Trenton Channel north to the Detroit River, the Detroit River north to the Ambassador Bridge, Ambassador Bridge to I-75, I-75 to Michigan Avenue.	11/15/90	Nonattainment	11/15/90	Moderate

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26. Section 81.324 is amended by revising the tables for "Minnesota—O_3" and "Minnesota—CO", and by adding new tables titled "Minnesota—Lead" and "Minnesota—PM-10" to be inserted in alphabetical order immediately following the tabular entry for "Minnesota—SO_2" to read as follows:

§ 81.324 Minnesota.

* * * * * * *

Minnesota—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Duluth Area				
St. Louis County (part)				
City of Duluth	1/6/92	Nonattainment	1/6/92	Moderate ≦ 12.7ppm
Minneapolis-St. Paul Area				
Anoka County		Nonattainment		Moderate ≦ 12.7ppm
Carver County (part)				
Carver, Chanhassen, Chaska, Hamburg, Norwood, Victoria, Waconia, Watertown, Young America, Chaska Township, Laketown Township, Waconia Township, Watertown Township, Young America Township.		Nonattainment		Moderate ≦ 12.7ppm
Dakota County (part)				
Apple Valley, Burnsville, Eagan, Farmington, Hastings, Inver Grove Heights, Lakeville, Lilydale, Mendota, Mendota Heights, Rosemount, South St. Paul, Sunfish Lake, West St. Paul.		Nonattainment		Moderate ≦ 12.7ppm
Hennepin County		Nonattainment		Moderate ≦ 12.7ppm
Ramsey County		Nonattainment		Moderate ≦ 12.7ppm
Scott County (part)				
Belle Plaine, Elko, New Market, New Prague, Prior Lake, Savage, Shakopee, Credit River Township, Jackson Township, Louisville Township, New Market Township, Spring Lake Township.		Nonattainment		Moderate ≦ 12.7ppm
Washington County (part)				
All cities and townships except Denmark Township		Nonattainment		Moderate ≦ 12.7ppm
Wright County (part)		Nonattainment		Moderate ≦ 12.7ppm
Albertville, Annandale, Buffalo, Clearwater, Cokato, Delano, Hanover, Monticello, Montrose, Rockford, St. Michael, South Haven, Waverly, Dayton (Wright Co. part), Buffalo Township, Chatham Township, Clearwater Township, Cokato Township, Corinna Township, Frankfort Township, Maple Lake Township, Franklin Township, Marysville Township, Monticello Township, Ostego Township, Rockford Township, Silver Creek Township, Southside Township				
AQCR 131 Minneapolis-St. Paul Intrastate (Remainder of)		Unclassifiable/Attainment		
Carver County (part)				
Remainder of County				
Dakota County (part)				
Remainder of County				
Scott County (part)				
Remainder of County				
Washington County (part)				
Denmark Township				
Rest of State		Unclassifiable/Attainment		
Aitkin County				
Becker County				
Beltrami County				
Benton County				
Big Stone County				
Blue Earth County				
Brown County				
Carlton County				
Cass County				
Chippewa County				
Chisago County				
Clay County				
Clearwater County				
Cook County				
Cottonwood County				
Crow Wing County				
Dodge County				
Douglas County				
Faribault County				
Fillmore County				
Freeborn County				
Goodhue County				
Grant County				
Houston County				
Hubbard County				
Isanti County				
Itasca County				
Jackson County				
Kanabec County				
Kandiyohi County				
Kittson County				
Koochiching County				

Minnesota—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Lac qui Parle County				
Lake County				
Lake of the Woods County				
Le Sueur County				
Lincoln County				
Lyon County				
Mahnomen County				
Marshall County				
Martin County				
McLeod County				
Meeker County				
Mille Lacs County				
Morrison County				
Mower County				
Murray County				
Nicollet County				
Nobles County				
Norman County				
Olmsted County				
Otter Tail County				
Pennington County				
Pine County				
Pipestone County				
Polk County				
Pope County				
Red Lake County				
Redwood County				
Renville County				
Rice County				
Rock County				
Roseau County				
Sherburne County				
Sibley County				
Steams County				
Steele County				
Stevens County				
St. Louis County (part)				
Remainder of County				
Swift County				
Todd County				
Traverse County				
Wabasha County				
Wadena County				
Waseca County				
Watonwan County				
Wilkin County				
Winona County				
Wright County (part)				
Remainder of County				
Yellow Medicine County				

[1] This date is November 15, 1990, unless otherwise noted.

Minnesota—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Dakota County (part)	1/6/92	Nonattainment		
Lone Oak Road (County Road 26) to the north, County Road 63 to the east, Westcott Road to the south, and Lexington Avenue (County Road 43) to the west				
Rest of State Not Designated				

Minnesota—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Carlton County		Unclassifiable/Attainment		
Lake County		Unclassifiable/Attainment		
Olmsted County		Unclassifiable/Attainment		
Sherburne County		Unclassifiable/Attainment		
St. Louis County		Unclassifiable/Attainment		
AQCR 131 Minneapolis-St. Paul Intrastate		Unclassifiable/Attainment		
Anoka County				
Carver County				
Dakota County				
Hennepin County				
Ramsey County				
Scott County				
Washington County				
Rest of State		Unclassifiable/Attainment		
Aitkin County				
Becker County				
Beltrami County				
Benton County				
Big Stone County				
Blue Earth County				
Brown County				
Cass County				
Chippewa County				
Chisago County				
Clay County				
Clearwater County				
Cook County				
Cottonwood County				
Crow Wing County				
Dodge County				
Douglas County				
Faribault County				
Fillmore County				
Freeborn County				
Goodhue County				
Grant County				
Houston County				
Hubbard County				
Isanti County				
Itasca County				
Jackson County				
Kanabec County				
Kandiyohi County				
Kittson County				
Koochiching County				
Lac qui Parle County				
Lake of the Woods County				
Le Sueur County				
Lincoln County				
Lyon County				
Mahnomen County				
Marshall County				
Martin County				
McLeod County				
Meeker County				
Mille Lacs County				
Morrison County				
Mower County				
Murray County				
Nicollet County				
Nobles County				
Norman County				
Otter Tail County				
Pennington County				
Pine County				
Pipestone County				
Polk County				
Pope County				
Red Lake County				
Redwood County				
Renville County				
Rice County				
Rock County				
Roseau County				
Sibley County				
Stearns County				

Minnesota—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Steele County				
Stevens County				
Swift County				
Todd County				
Traverse County				
Wabasha County				
Wadena County				
Waseca County				
Watonwan County				
Wilkin County				
Winona County				
Wright County				
Yellow Medicine County				

[1] This date is November 15, 1990, unless otherwise noted.

Minnesota—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Ramsey County				
The area bounded by the Mississippi River from Lafayette to Route 494, Route 494 east to Route 61, Route 61 north to I-94, I-94 west to Lafayette, and Lafayette south to the Mississippi River.	11/15/90	Nonattainment	11/15/90	Moderate
Olmsted County				
The area bounded on the south by U.S. Highway 14; on the west by U.S. Highway 52; on the north by 14th Street N.W. between U.S. Highway 52 and U.S. Route 63 (Broadway Avenue), U.S. Route 63 north to Northern Heights Drive, N.E., and Northern Heights Drive N.E. extended east to the 1990 City of Rochester limits; and on the east by the 1990 City of Rochester limits..	11/15/90	Nonattainment	11/15/90	Moderate

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27. Section 81.325 is amended by revising the tables for "Mississippi—Ozone (O_3)" and "Mississippi—CO" to be inserted in alphabetical order immediately following the tabular entry for "Mississippi—SO_2" to read as follows:

§ 81.325 Mississippi.

* * * * * * *

Mississippi—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Adams County				
Alcorn County				
Amite County				
Attala County				
Benton County				
Bolivar County				
Calhoun County				
Carroll County				
Chickasaw County				
Choctaw County				
Claiborne County				
Clarke County				
Clay County				
Coahoma County				
Copiah County				
Covington County				
De Soto County				
Forrest County				
Franklin County				
George County				

Mississippi—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Greene County				
Grenada County				
Hancock County				
Harrison County				
Hinds County				
Holmes County				
Humphreys County				
Issaquena County				
Itawamba County				
Jackson County				
Jasper County				
Jefferson County				
Jefferson Davis County				
Jones County				
Kemper County				
Lafayette County				
Lamar County				
Lauderdale County				
Lawrence County				
Leake County				
Lee County				
Leflore County				
Lincoln County				
Lowndes County				
Madison County				
Marion County				
Marshall County				
Monroe County				
Montgomery County				
Neshoba County				
Newton County				
Noxubee County				
Oktibbeha County				
Panola County				
Pearl River County				
Perry County				
Pike County				
Pontotoc County				
Prentiss County				
Quitman County				
Rankin County				
Scott County				
Sharkey County				
Simpson County				
Smith County				
Stone County				
Sunflower County				
Tallahatchie County				
Tate County				
Tippah County				
Tishomingo County				
Tunica County				
Union County				
Walthall County				
Warren County				
Washington County				
Wayne County				
Webster County				
Wilkinson County				
Winston County				
Yalobusha County				
Yazoo County				

[1] This date is November 15, 1990, unless otherwise noted.

Mississippi—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Adams County				
Alcorn County				

Mississippi—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Amite County				
Attala County				
Benton County				
Bolivar County				
Calhoun County				
Carroll County				
Chickasaw County				
Choctaw County				
Claiborne County				
Clarke County				
Clay County				
Coahoma County				
Copiah County				
Covington County				
De Soto County				
Forrest County				
Franklin County				
George County				
Greene County				
Grenada County				
Hancock County				
Harrison County				
Hinds County				
Holmes County				
Humphreys County				
Issaquena County				
Itawamba County				
Jackson County				
Jasper County				
Jefferson County				
Jefferson Davis County				
Jones County				
Kemper County				
Lafayette County				
Lamar County				
Lauderdale County				
Lawrence County				
Leake County				
Lee County				
Leflore County				
Lincoln County				
Lowndes County				
Madison County				
Marion County				
Marshall County				
Monroe County				
Montgomery County				
Neshoba County				
Newton County				
Noxubee County				
Oktibbeha County				
Panola County				
Pearl River County				
Perry County				
Pike County				
Pontotoc County				
Prentiss County				
Quitman County				
Rankin County				
Scott County				
Sharkey County				
Simpson County				
Smith County				
Stone County				
Sunflower County				
Tallahatchie County				
Tate County				
Tippah County				
Tishomingo County				
Tunica County				
Union County				
Walthall County				
Warren County				
Washington County				
Wayne County				
Webster County				

Mississippi—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Wilkinson County				
Winston County				
Yalobusha County				
Yazoo County				

[1] This date is November 15, 1990, unless otherwise noted.

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28. Section 81.326 is amended by revising the tables for "Missouri—Ozone (O_3)" and "Missouri—CO", and by adding a new table titled "Missouri—Lead" to be inserted in alphabetical order immediately following the tabular entry for "Missouri—SO_2" to read as follows:

§ 81.326 Missouri.

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Missouri—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
St. Louis Area				
St. Louis City		Nonattainment		Not Classified
St. Louis County (part)				
The area encompassed by the I-270 and the Mississippi River.		Nonattainment		Not Classified
AQCR 137 Northern Missouri Intrastate				
Pike County		Unclassifiable/Attainment		
Ralls County		Unclassifiable/Attainment		
AQCR 137 Northern Missouri Intrastate (Remainder of)		Unclassifiable/Attainment		
Adair County				
Andrew County				
Atchison County				
Audrain County				
Boone County				
Caldwell County				
Callaway County				
Carroll County				
Chariton County				
Clark County				
Clinton County				
Cole County				
Cooper County				
Daviess County				
De Kalb County				
Gentry County				
Grundy County				
Harrison County				
Holt County				
Howard County				
Knox County				
Lewis County				
Lincoln County				
Linn County				
Livingston County				
Macon County				
Marion County				
Mercer County				
Moniteau County				
Monroe County				
Montgomery County				
Nodaway County				
Osage County				
Putnam County				
Randolph County				
Saline County				
Schuyler County				
Scotland County				
Shelby County				
Sullivan County				
Warren County				
Worth County				
Rest of State		Unclassifiable/Attainment		
Barry County				

Missouri—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Barton County				
Bates County				
Benton County				
Bollinger County				
Buchanan County				
Butler County				
Camden County				
Cape Girardeau County				
Carter County				
Cass County				
Cedar County				
Christian County				
Clay County				
Crawford County				
Dade County				
Dallas County				
Dent County				
Douglas County				
Dunklin County				
Franklin County				
Gasconade County				
Greene County				
Henry County				
Hickory County				
Howell County				
Iron County				
Jackson County				
Jasper County				
Jefferson County				
Johnson County				
Laclede County				
Lafayette County				
Lawrence County				
Madison County				
Maries County				
McDonald County				
Miller County				
Mississippi County				
Morgan County				
New Madrid County				
Newton County				
Oregon County				
Ozark County				
Pemiscot County				
Perry County				
Pettis County				
Phelps County				
Platte County				
Polk County				
Pulaski County				
Ray County				
Reynolds County				
Ripley County				
Scott County				
Shannon County				
St. Charles County				
St. Clair County				
St. Francois County				
St. Louis County (part)				
Remainder of County				
Ste. Genevieve County				
Stoddard County				
Stone County				
Taney County				
Texas County				
Vernon County				
Washington County				
Wayne County				
Webster County				
Wright County				

[1] This date is November 15, 1990, unless otherwise noted.

Missouri—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Iron County (part)	1/6/92	Nonattainment		
Within boundaries of Dent Township				
Iron County (part)	1/6/92	Nonattainment		
Within boundaries of Liberty and Arcadia Townships				
Jefferson County (part)	1/6/92	Nonattainment		
Within city limits of Herculaneum				
Dent County	1/6/92	Unclassifiable		
Holt County	1/6/92	Unclassifiable		
Rest of State Not Designated				

Missouri—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Kansas City Area				
Clay County		Nonattainment		Sub-marginal
Jackson County		Nonattainment		Sub-marginal
Platte County		Nonattainment		Sub-marginal
St. Louis Area				
Franklin County		Nonattainment		Moderate
Jefferson County		Nonattainment		Moderate
St. Charles County		Nonattainment		Moderate
St. Louis		Nonattainment		Moderate
St. Louis County		Nonattainment		Moderate
AQCR 094 Metro Kansas City Interstate (Remainder of)		Unclassifiable/Attainment		
Buchanan County				
Cass County				
Ray County				
AQCR 137 N. Missouri Intrastate (part)				
Pike County		Unclassifiable/Attainment		
Ralls County		Unclassifiable/Attainment		
AQCR 137 N. Missouri Intrastate (Remainder of)		Unclassifiable/Attainment		
Adair County				
Andrew County				
Atchison County				
Audrain County				
Boone County				
Caldwell County				
Callaway County				
Carroll County				
Chariton County				
Clark County				
Clinton County				
Cole County				
Cooper County				
Daviess County				
De Kalb County				
Gentry County				
Grundy County				
Harrison County				
Holt County				
Howard County				
Knox County				
Lewis County				
Lincoln County				
Linn County				
Livingston County				
Macon County				
Marion County				
Mercer County				
Moniteau County				
Monroe County				
Montgomery County				
Nodaway County				
Osage County				
Putnam County				
Randolph County				
Saline County				
Schuyler County				
Scotland County				
Shelby County				

Missouri—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Sullivan County				
Warren County				
Worth County				
Rest of State		Unclassifiable/Attainment		
Barry County				
Barton County				
Bates County				
Benton County				
Bollinger County				
Butler County				
Camden County				
Cape Girardeau County				
Carter County				
Cedar County				
Christian County				
Crawford County				
Dade County				
Dallas County				
Dent County				
Douglas County				
Dunklin County				
Gasconade County				
Greene County				
Henry County				
Hickory County				
Howell County				
Iron County				
Jasper County				
Johnson County				
Laclede County				
Lafayette County				
Lawrence County				
Madison County				
Maries County				
McDonald County				
Miller County				
Mississippi County				
Morgan County				
New Madrid County				
Newton County				
Oregon County				
Ozark County				
Pemiscot County				
Perry County				
Pettis County				
Phelps County				
Polk County				
Pulaski County				
Reynolds County				
Ripley County				
Scott County				
Shannon County				
St. Clair County				
St. Francois County				
Ste. Genevieve County				
Stoddard County				
Stone County				
Taney County				
Texas County				
Vernon County				
Washington County				
Wayne County				
Webster County				
Wright County				

[1] This date is November 15, 1990, unless otherwise noted.

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29. Section 81.327 is amended by revising the tables for "Montana—Ozone (O_3)" and "Montana—CO", and by adding new tables titled "Montana—Lead" and "Montana—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "Montana—SO_2" to read as follows:

§ 81.327 Montana.

* * * * * * *

Montana—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Billings Area				
Yellowstone County (part)		Nonattainment		Not Classified
The following areas of Yellowstone Co. (Range and Township) sections: R25E T1N - Sections 24 through 27 and 34 through 36; R25E T1S - Sections 1, 2, and 12; R26E T1N - Sections 19 through 22 and 27 through 34; R26E T1S - Sections 2 through 11 and 15 through 18.				
Great Falls Area				
Cascade County (part)		Nonattainment		Not Classified
Great Falls designated area: North boundary - 9th Avenue South or its straight line extension; East boundary - 54th Street South or its straight line extension; South boundary - 11th Avenue South or its straight line extension; West boundary - 2nd Street South or its straight line extension				
Missoula Area				
Missoula County (part)		Nonattainment		Moderate ≤ 12.7ppm
Missoula and vicinity including the following (Range and Township) sections: R19W T14N - sections: 29 and 32; R19W T13N - sections: 2, 5, 7, 8, 11, 14 through 24, and 26 through 34; R19W T12N - sections: 4 through 7; R20W T13N - sections: 23 through 26, 35 and 36				
Beaverhead County		Unclassifiable/Attainment		
Big Horn County (part)		Unclassifiable/Attainment		
excluding Crow, Northern Cheyenne Indian Reservations				
Blaine County (part)		Unclassifiable/Attainment		
excluding Fort Belknap Indian Reservation				
Broadwater County		Unclassifiable/Attainment		
Carbon County		Unclassifiable/Attainment		
Carter County		Unclassifiable/Attainment		
Cascade County (part)				
Remainder of Cascade County		Unclassifiable/Attainment		
Chouteau County (part)		Unclassifiable/Attainment		
excluding Rocky Boy Indian Reservation				
Custer County		Unclassifiable/Attainment		
Daniels County (part)		Unclassifiable/Attainment		
excluding Fort Peck Indian Reservation				
Dawson County		Unclassifiable/Attainment		
Deer Lodge County		Unclassifiable/Attainment		
Fallon County		Unclassifiable/Attainment		
Fergus County		Unclassifiable/Attainment		
Flathead County (part)		Unclassifiable/Attainment		
excluding Flathead Indian Resevation				
Gallatin County		Unclassifiable/Attainment		
Garfield County		Unclassifiable/Attainment		
Glacier County (part)		Unclassifiable/Attainment		
excluding Blackfeet Indian Reservation				
Golden Valley County		Unclassifiable/Attainment		
Granite County		Unclassifiable/Attainment		
Hill County (part)		Unclassifiable/Attainment		
excluding Rocky Boy Indian Reservation				
Jefferson County		Unclassifiable/Attainment		
Judith Basin County		Unclassifiable/Attainment		
Lake County (part)		Unclassifiable/Attainment		
excluding Flathead Indian Reservation				
Lewis and Clark County		Unclassifiable/Attainment		
Liberty County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
McCone County		Unclassifiable/Attainment		
Meagher County		Unclassifiable/Attainment		
Mineral County		Unclassifiable/Attainment		
Missoula County (part)				
Remainder of Missoula County		Unclassifiable/Attainment		
Musselshell County		Unclassifiable/Attainment		
Park County		Unclassifiable/Attainment		
Petroleum County		Unclassifiable/Attainment		
Phillips County (part)		Unclassifiable/Attainment		
excluding Fort Belknap Indian Reservation				
Pondera County (part)		Unclassifiable/Attainment		
excluding Blackfeet Indian Reservation				
Powder River County		Unclassifiable/Attainment		
Powell County		Unclassifiable/Attainment		
Prairie County		Unclassifiable/Attainment		
Ravalli County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		

Montana—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Roosevelt County (part)		Unclassifiable/Attainment		
excluding Fort Peck Indian Reservation				
Rosebud County (part)		Unclassifiable/Attainment		
excluding Northern Cheyenne Indian Reservation				
Sanders County (part)				
excluding Flathead Indian Reservation		Unclassifiable/Attainment		
Sheridan County (part)		Unclassifiable/Attainment		
excluding Fort Peck Indian Reservation				
Silver Bow County		Unclassifiable/Attainment		
Stillwater County		Unclassifiable/Attainment		
Sweet Grass County		Unclassifiable/Attainment		
Teton County		Unclassifiable/Attainment		
Toole County		Unclassifiable/Attainment		
Treasure County		Unclassifiable/Attainment		
Valley County (part)		Unclassifiable/Attainment		
excluding Fort Peck Indian Reservation				
Wheatland County		Unclassifiable/Attainment		
Wibaux County		Unclassifiable/Attainment		
Yellowstone County (part)				
Remainder of Yellowstone County		Unclassifiable/Attainment		
Yellowstone National Park		Unclassifiable/Attainment		
Blackfeet Indian Reservation		Unclassifiable/Attainment		
Glacier County (part)				
area inside Blackfeet Reservation				
Pondera County (part)				
area inside Blackfeet Reservation				
Crow Indian Reservation		Unclassifiable/Attainment		
Bighorn County (part)				
area inside Crow Reservation				
Yellowstone (part)				
area inside Crow Reservation				
Flathead Indian Reservation		Unclassifiable/Attainment		
Flathead County (part)				
area inside Flathead Reservation				
Lake County (part)				
area inside Flathead Reservation				
Missoula County (part)				
area inside Flathead Reservation				
Sanders County (part)				
area inside Flathead Reservation				
Fort Belknap Indian Reservation		Unclassifiable/Attainment		
Blaine County (part)				
area inside Fort Belknap Reservation				
Phillips County (part)				
area inside Fort Belknap Reservation				
Fort Peck Indian Reservation		Unclassifiable/Attainment		
Daniels County (part)				
area inside Fort Peck Reservation				
Roosevelt County (part)				
area inside Fort Peck Reservation				
Sheridan County (part)				
area inside Fort Peck Reservation				
Valley County (part)				
area inside Fort Peck Reservation				
Northern Cheyenne Indian Reservation		Unclassifiable/Attainment		
Bighorn County (part)				
area inside Northern Cheyenne Reservation				
Rosebud County (part)				
area inside Northern Cheyenne Reservation				
Rocky Boy Indian Reservation		Unclassifiable/Attainment		
Chouteau County (part)				
area inside Rocky Boy Reservation				
Hill County (part)				
area inside Rocky Boy Reservation				

[1] This date is November 15, 1990, unless otherwise noted.

Montana—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Lewis & Clark County (part)				
City of East Helena and vicinity	1/6/92	Nonattainment		
Northern boundary - horizontal universal transverse mercatur(UTM) 5,162,000 mN; eastern boundary - vertical UTM 432,500 mE; southern boundary - horizontal UTM 5,158,000 mN; western boundary - vertical UTM 427,000 mE				
Rest of State Not Designated				

Montana—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Beaverhead County		Unclassifiable/Attainment		
Big Horn County (part)		Unclassifiable/Attainment		
excluding Crow, Northern Cheyenne Indian Reservations		Unclassifiable/Attainment		
Blaine County (part)				
excluding Fort Belknap Indian Reservation				
Broadwater County		Unclassifiable/Attainment		
Carbon County		Unclassifiable/Attainment		
Carter County		Unclassifiable/Attainment		
Cascade County		Unclassifiable/Attainment		
Chouteau County (part)		Unclassifiable/Attainment		
excluding Rocky Boy Indian Reservation				
Custer County		Unclassifiable/Attainment		
Daniels County (part)		Unclassifiable/Attainment		
excluding Fort Peck Indian Reservation				
Dawson County		Unclassifiable/Attainment		
Deer Lodge County		Unclassifiable/Attainment		
Fallon County		Unclassifiable/Attainment		
Fergus County		Unclassifiable/Attainment		
Flathead County (part)		Unclassifiable/Attainment		
excluding Flathead Indian Reservation				
Gallatin County		Unclassifiable/Attainment		
Garfield County		Unclassifiable/Attainment		
Glacier County (part)		Unclassifiable/Attainment		
excluding Blackfeet Indian Reservation				
Golden Valley County		Unclassifiable/Attainment		
Granite County		Unclassifiable/Attainment		
Hill County (part)		Unclassifiable/Attainment		
excluding Rocky Boy Indian Reservation				
Jefferson County		Unclassifiable/Attainment		
Judith Basin County		Unclassifiable/Attainment		
Lake County (part)		Unclassifiable/Attainment		
excluding Flathead Indian Reservation				
Lewis and Clark County		Unclassifiable/Attainment		
Liberty County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
McCone County		Unclassifiable/Attainment		
Meagher County		Unclassifiable/Attainment		
Mineral County		Unclassifiable/Attainment		
Missoula County (part)		Unclassifiable/Attainment		
excluding Flathead Indian Reservation				
Musselshell County		Unclassifiable/Attainment		
Park County		Unclassifiable/Attainment		
Petroleum County		Unclassifiable/Attainment		
Phillips County (part)		Unclassifiable/Attainment		
excluding Fort Belknap Indian Reservation				
Pondera County (part)				
excluding Blackfeet Indian Reservation		Unclassifiable/Attainment		
Powder River County		Unclassifiable/Attainment		
Powell County		Unclassifiable/Attainment		
Prairie County		Unclassifiable/Attainment		
Ravalli County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Roosevelt County (part)		Unclassifiable/Attainment		
excluding Fort Peck Indian Reservation				
Rosebud County (part)				
excluding Northern Cheyenne Indian Reservation		Unclassifiable/Attainment		
Sanders County (part)		Unclassifiable/Attainment		

Montana—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
excluding Flathead Indian Reservation				
Sheridan County (part)				
excluding Fort Peck Indian Reservation		Unclassifiable/Attainment		
Silver Bow County		Unclassifiable/Attainment		
Stillwater County		Unclassifiable/Attainment		
Sweet Grass County		Unclassifiable/Attainment		
Teton County		Unclassifiable/Attainment		
Toole County		Unclassifiable/Attainment		
Treasure County		Unclassifiable/Attainment		
Valley County (part)		Unclassifiable/Attainment		
excluding Fort Peck Indian Reservation				
Wheatland County		Unclassifiable/Attainment		
Wibaux County		Unclassifiable/Attainment		
Yellowstone County (part)		Unclassifiable/Attainment		
excluding Crow Indian Reservation				
Yellowstone Natl Park		Unclassifiable/Attainment		
Blackfeet Indian Reservation		Unclassifiable/Attainment		
Glacier County (part)				
area inside Blackfeet Reservation				
Pondera County (part)				
area inside Blackfeet Reservation				
Crow Indian Reservation		Unclassifiable/Attainment		
Bighorn County (part)				
area inside Crow Reservation				
Yellowstone (part)				
area inside Crow Reservation				
Flathead Indian Reservation		Unclassifiable/Attainment		
Flathead County (part)				
area inside Flathead Reservation				
Lake County (part)				
area inside Flathead Reservation				
Missoula County (part)				
area inside Flathead Reservation				
Sanders County (part)				
area inside Flathead Reservation				
Fort Belknap Indian Reservation		Unclassifiable/Attainment		
Blaine County (part)				
area inside Fort Belknap Reservation				
Phillips County (part)				
area inside Fort Belknap Reservation				
Fort Peck Indian Reservation		Unclassifiable/Attainment		
Daniels County (part)				
area inside Fort Peck Reservation				
Roosevelt County (part)				
area inside Fort Peck Reservation				
Sheridan County (part)				
area inside Fort Peck Reservation				
Valley County (part)				
area inside Fort Peck Reservation				
Northern Cheyenne Indian Reservation		Unclassifiable/Attainment		
Bighorn County (part)				
area inside Northern Cheyenne Reservation				
Rosebud County (part)				
area inside Northern Cheyenne Reservation				
Rocky Boy Indian Reservation		Unclassifiable/Attainment		
Chouteau County (part)				
area inside Rocky Boy Reservation				
Hill County (part)				
area inside Rocky Boy Reservation				

[1] This date is November 15, 1990, unless otherwise noted.

Montana—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Flathead County				
The area bounded by lines from Universal Transmercator (UTM) coordinate 700000mE, 5347000mN, east to 704000mE, 5347000mN, south to 704000mE, 5341000mN, west to 703000mE, 5341000mN, south to 703000mE, 5340000mN, west to 702000mE, 5340000mN, south to 702000mE, 5339000mN, east to 703000mE, 5339000mN, south to 703000mE, 5338000mN, east to 704000mE, 5338000mN, south to 704000mE, 5336000mN, west to 702000mE, 5336000mN, south to 702000mE, 5335000mN, west to 700000mE, 5335000mN, north to 700000mE, 5340000mN, west to 695000mE, 5340000mN, north to 695000mE, 5345000mN, east to 700000mE, 5345000mN, north to 700000mE, 5347000mN.	11/15/90	Nonattainment	11/15/90	Moderate
Columbia Falls and vicinity	11/15/90	Nonattainment	11/15/90	Moderate
Township T30N, R20W--Sections 7, 8, 9, 16, 17, and 18				
Lincoln County				
Libby and vicinity	11/15/90	Nonattainment	11/15/90	Moderate
T30N, R31W-- Sections 2, 3, 4, 5, 9, 10, 11, 14, 15, 23, 26, 35, and west 1/2 of Section 24, west 1/2 of Section 25, and west 1/2 of 36; plus T31N, R31W--Sections 26, 27, 29, 32, 33, 34, 35 and the east 1/2 of Section 30				
Lake County				
Ronan, Polson	11/15/90	Nonattainment	11/15/90	Moderate
Missoula County				
Missoula and vicinity including the following sections	11/15/90	Nonattainment	11/15/90	Moderate
T13N, R19W-- 2, 8, 11, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24, 27, 28, 29, 30, 31, 32, 33, and 34; T12N, R19W--Sections 4, 5, 6, 7; T13N, R20W--Sections 23, 24, 25, 26, 35, and 36.				
Rosebud County				
Lame Deer	11/15/90	Nonattainment	11/15/90	Moderate
Silver Bow County				
Butte	11/15/90	Nonattainment	11/15/90	Moderate
The Northwest corner of section 2, T.3N., R.8W., thence Easterly to Northeast corner Section 5, T.3N, R.7W.; thence Southerly to Northwest corner Section 9, T.3N., R.7W; thence Easterly to Northeast corner Section 10, T.3N, R.7W.; thence Southerly to Southeast corner Section 22, T.2N., R.7W.; thence Westerly to Southwest corner Section 19, T.2N., R.7W.; thence Northerly to Northwest corner Section 19, T.2N., R.7W.; thence Westerly to Southwest corner Section 14, T.2N., R.8W.; thence Northerly to Southwest corner Section 35, T.3N., R.8W.; thence Westerly to Southwest corner Section 34, T.3N., R.8W.; thence Northerly to Northwest corner Section 27, T.3N., R.8W.; thence Westerly to Southwest corner Section 20, T.3N., R.8W.; thence Northerly to Northwest corner Section 17, T.3N., R.8W.; thence Easterly to Northwest corner Section 14, T.3N., R.8W.; thence northerly to the point of beginning.				

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30. Section 81.328 is amended by revising the tables for "Nebraska—O_3" and "Nebraska—CO", and by adding a new table titled "Nebraska—Lead" to be inserted in alphabetical order immediately following the tabular entry for "Nebraska—SO_2" to read as follows:

§ 81.328 Nebraska.

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Nebraska—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Adams County				
Antelope County				
Arthur County				
Banner County				
Blaine County				
Boone County				

Nebraska—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Box Butte County				
Boyd County				
Brown County				
Buffalo County				
Burt County				
Butler County				
Cass County				
Cedar County				
Chase County				
Cherry County				
Cheyenne County				
Clay County				
Colfax County				
Cuming County				
Custer County				
Dakota County				
Dawes County				
Dawson County				
Deuel County				
Dixon County				
Dodge County				
Douglas County				
Dundy County				
Fillmore County				
Franklin County				
Frontier County				
Furnas County				
Gage County				
Garden County				
Garfield County				
Gosper County				
Grant County				
Greeley County				
Hall County				
Hamilton County				
Harlan County				
Hayes County				
Hitchcock County				
Holt County				
Hooker County				
Howard County				
Jefferson County				
Johnson County				
Kearney County				
Keith County				
Keya Paha County				
Kimball County				
Knox County				
Lancaster County				
Lincoln County				
Logan County				
Loup County				
Madison County				
McPherson County				
Merrick County				
Morrill County				
Nance County				
Nemaha County				
Nuckolls County				
Otoe County				
Pawnee County				
Perkins County				
Phelps County				
Pierce County				
Platte County				
Polk County				
Red Willow County				
Richardson County				
Rock County				
Saline County				
Sarpy County				
Saunders County				
Scotts Bluff County				
Seward County				
Sheridan County				
Sherman County				

Nebraska—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Sioux County				
Stanton County				
Thayer County				
Thomas County				
Thurston County				
Valley County				
Washington County				
Wayne County				
Webster County				
Wheeler County				
York County				

[1] This date is November 15, 1990, unless otherwise noted.

Nebraska—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Douglas County (part)				
Portion of city of Omaha bounded by: Fourth Street on the south, Eleventh Street on the west, Avenue H and the Nebraska - Iowa border on the north, and the Missouri River on the east.	1/6/92	Nonattainment		
Rest of State Not Designated				

Nebraska—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Adams County				
Antelope County				
Arthur County				
Banner County				
Blaine County				
Boone County				
Box Butte County				
Boyd County				
Brown County				
Buffalo County				
Burt County				
Butler County				
Cass County				
Cedar County				
Chase County				
Cherry County				
Cheyenne County				
Clay County				
Colfax County				
Cuming County				
Custer County				
Dakota County				
Dawes County				
Dawson County				
Deuel County				
Dixon County				
Dodge County				
Douglas County				
Dundy County				
Fillmore County				
Franklin County				
Frontier County				
Furnas County				
Gage County				
Garden County				
Garfield County				
Gosper County				

Nebraska—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Grant County				
Greeley County				
Hall County				
Hamilton County				
Harlan County				
Hayes County				
Hitchcock County				
Holt County				
Hooker County				
Howard County				
Jefferson County				
Johnson County				
Kearney County				
Keith County				
Keya Paha County				
Kimball County				
Knox County				
Lancaster County				
Lincoln County				
Logan County				
Loup County				
Madison County				
McPherson County				
Merrick County				
Morrill County				
Nance County				
Nemaha County				
Nuckolls County				
Otoe County				
Pawnee County				
Perkins County				
Phelps County				
Pierce County				
Platte County				
Polk County				
Red Willow County				
Richardson County				
Rock County				
Saline County				
Sarpy County				
Saunders County				
Scotts Bluff County				
Seward County				
Sheridan County				
Sherman County				
Sioux County				
Stanton County				
Thayer County				
Thomas County				
Thurston County				
Valley County				
Washington County				
Wayne County				
Webster County				
Wheeler County				
York County				

[1] This date is November 15, 1990, unless otherwise noted.

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31. Section 81.329 is amended by revising the tables for "Nevada—O_3" and "Nevada—CO", and by adding a new table titled "Nevada—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "Nevada—SO_2" to read as follows:

§ 81.329 Nevada.

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Nevada—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Lake Tahoe Nevada Area				
Hydrographic Area 90				
Carson City County (part)		Nonattainment		Not Classified
Douglas County (part)		Nonattainment		Not Classified
Washoe County (part)		Nonattainment		Not Classified
Las Vegas Area				
Clark County (part)				
Las Vegas Valley Hydrographic Area 212		Nonattainment		Moderate > 12.7ppm
Reno Area				
Washoe County (part)				
Truckee Meadows Hydrographic area 87		Nonattainment		Moderate ≤ 12.7ppm
Rest of State		Unclassifiable/Attainment		
Carson City County (part)				
Area outside Hydrographic Area 90				
Churchill County				
Clark County (part)				
Area outside Las Vegas Valley Hydrographic Area 212				
Douglas County (part)				
Area outside Hydrographic Area 90				
Elko County				
Esmeralda County				
Eureka County				
Humboldt County				
Lander County				
Lincoln County				
Lyon County				
Mineral County				
Nye County				
Pershing County				
Storey County				
Washoe County (part)				
Remainder of county				
White Pine County				

[1] This date is November 15, 1990, unless otherwise noted.

Nevada—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Reno Area				
Washoe County	1/6/92	Nonattainment	1/6/92	Marginal
Rest of State		Unclassifiable/Attainment		
Carson City				
Churchill County				
Clark County				
Douglas County				
Elko County				
Esmeralda County				
Eureka County				
Humboldt County				
Lander County				
Lincoln County				
Lyon County				
Mineral County				
Nye County				
Pershing County				
Storey County				
White Pine County				

[1] This date is November 15, 1990, unless otherwise noted.

Nevada—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Washoe County				
Reno planning area	11/15/90	Nonattainment	11/15/90	Moderate

Nevada—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Hydrographic area 87				
Clark County				
Las Vegas planning area	11/15/90	Nonattainment	11/15/90	Moderate
Hydrographic Area 212				

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32. Section 81.330 is amended by revising the tables for "New Hampshire—Ozone (O_3)" and "New Hampshire—CO" to be inserted in alphabetical order immediately following the tabular entry for "New Hampshire—SO_2" to read as follows:

§ 81.330 New Hampshire.

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New Hampshire—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Manchester Area				
Hillsborough County (part)				
City of Manchester		Nonattainment		Not Classified
Nashua Area				
Hillsborough County (part)				
City of Nashua		Nonattainment		Not Classified
AQCR 107 Androscoggin Valley Interstate		Unclassifiable/Attainment		
Coos County				
AQCR 121 Merrimack Valley-S NH Interstate		Unclassifiable/Attainment		
Belknap County				
Cheshire County				
Hillsborough County (part)				
Area outside of Nashua and Manchester				
Merrimack County				
Rockingham County				
Strafford County				
Sullivan County				
AQCR 149 Central New Hampshire Intrastate		Unclassifiable/Attainment		
Carroll County				
Grafton County				

[1] This date is November 15, 1990, unless otherwise noted.

New Hampshire—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Belknap County Area				
Belknap County		Nonattainment		Incomplete Data
Boston-Lawrence-Worcester Area				
Hillsborough County (part)		Nonattainment		Serious
Pelham Town, Amherst Town, Brookline Town, Hollis Town, Hudson Town, Litchfield Town, Merrimack Town, Milford Town, Mont Vernon Town, Nashua City, Wilton Town				
Rockingham County (part)		Nonattainment		Serious
Atkinson Town, Brentwood Town, Danville Town, Derry Town, E. Kingston Town, Hampstead Town, Hampton Falls Town, Kensington Town, Kingston Town, Londonderry Town, Newton Town, Plaistow Town, Salem Town, Sandown Town, Seabrook Town, South Hampton Town, Windham Town				
Cheshire County Area				
Cheshire County		Nonattainment		Incomplete Data
Manchester Area				
Hillsborough County (part)		Nonattainment		Marginal

New Hampshire—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Antrim Town, Bedford Town, Bennington Town, Deering Town, Francestown Town, Goffstown Town, Greenfield Town, Greenville Town, Hancock Town, Hillsborough Town, Lyndeborough Town, Manchester city, Mason Town, New Boston Town, New Ipswich Town, Petersborough Town, Sharon Town, Temple town, Weare Town, Windsor Town				
Merrimack County		Nonattainment		Marginal
Rockingham County (part)		Nonattainment		Marginal
Auburn Town, Candia Town, Chester Town, Deerfield Town, Epping Town, Fremont Town, Northwood Town, Nottingham Town, Raymond Town				
Portsmouth-Dover-Rochester Area				
Rockingham County (part)		Nonattainment		Serious
Exeter Town, Greenland Town, Hampton Town, New Castle Town, Newfields Town, Newington Town, Newmarket Town, North Hampton Town, Portsmouth city, Rye Town, Stratham Town				
Strafford County		Nonattainment		Serious
Sullivan County Area				
Sullivan County		Nonattainment		Incomplete Data
AQCR 107 Androscoggin Valley Interstate				
Coos County		Unclassifiable/Attainment		
AQCR 149 Central New Hampshire Interstate				
Carroll County		Unclassifiable/Attainment		
Grafton County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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33. Section 81.331 is amended by revising the tables for "New Jersey—Ozone (O_3)" and "New Jersey—CO" to be inserted in alphabetical order immediately following the tabular entry for "New Jersey—SO_2 to read as follows:

§ 81.331 New Jersey.

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New Jersey—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Atlantic City Area				
Atlantic County (part)				
The City of Atlantic City		Nonattainment		Not Classified
Burlington Area				
Burlington County (part)				
City of Burlington		Nonattainment		Not Classified
Freehold Area				
Monmouth County (part)				
Borough of Freehold		Nonattainment		Not Classified
Morristown Area				
Morris County (part)				
City of Morristown		Nonattainment		Not Classified
New York-N. New Jersey-Long Island Area				
Bergen County		Nonattainment		Moderate > 12.7ppm
Essex County		Nonattainment		Moderate > 12.7ppm
Hudson County		Nonattainment		Moderate > 12.7ppm
Passaic County (part)				
City of Clifton		Nonattainment		Moderate > 12.7ppm
City of Patterson		Nonattainment		Moderate > 12.7ppm
City of Passaic		Nonattainment		Moderate > 12.7ppm
Union County		Nonattainment		Moderate > 12.7ppm
Penns Grove Area				
Salem County (part)				
Borough of Penns Grove, Those portions within 100 yards of the intersections of U.S. Route 130 and County Roads 675 & 607.		Nonattainment		Not Classified
Perth Amboy Area				
Middlesex County (part)				
City of Perth Amboy		Nonattainment		Not Classified
Philadelphia-Camden County Area				
Camden County		Nonattainment		Moderate ≤ 12./ppm

New Jersey—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Somerville Area				
Somerset County (part)				
Borough of Somerville		Nonattainment		Not Classified
Toms River Area				
Ocean County (part)				
City of Toms River		Nonattainment		Not Classified
Trenton Area				
Mercer County (part)				
City of Trenton		Nonattainment		Not Classified
AQCR 043 NJ NY Connecticut Interstate (Remainder of)		Unclassifiable/Attainment		
Middlesex County (part)				
area outside of Perth Amboy				
Monmouth County (part)				
area outside Freehold				
Morris County (part)				
area outside of Morristown				
Passaic County (part)				
area outside Clifton, Patterson, and Passaic				
Somerset County (part)				
area outside of Somerville				
AQCR 045 Metro. Philadelphia Interstate (Remainder of)		Unclassifiable/Attainment		
Burlington County (part)				
Area outside Burlington				
Gloucester County				
Mercer County (part)				
Area outside Trenton				
Salem County (part)				
Area outside Penns Grove Area				
AQCR 150 New Jersey Intrastate		Unclassifiable/Attainment		
Atlantic County (part)				
Area outside Atlantic City				
Cape May County				
Cumberland County				
Ocean County (part)				
Area outside Toms River				
AQCR 151 NE PA - Upper Delaware Valley		Unclassifiable/Attainment		
Hunterdon County				
Sussex County				
Warren County				

[1] This date is November 15, 1990, unless otherwise noted.

New Jersey—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Allentown-Bethlehem Easton Area				
Warren County		Nonattainment		Marginal
Atlantic City Area				
Atlantic County		Nonattainment		Moderate
Cape May County		Nonattainment		Moderate
New York-N. New Jersey-Long Island Area				
Bergen County		Nonattainment		Severe-17
Essex County		Nonattainment		Severe-17
Hudson County		Nonattainment		Severe-17
Hunterdon County		Nonattainment		Severe-17
Middlesex County		Nonattainment		Severe-17
Monmouth County		Nonattainment		Severe-17
Morris County		Nonattainment		Severe-17
Ocean County		Nonattainment		Severe-17
Passaic County		Nonattainment		Severe-17
Somerset County		Nonattainment		Severe-17
Sussex County		Nonattainment		Severe-17
Union County		Nonattainment		Severe-17
Philadelphia-Wilmington-Trenton Area				
Burlington County		Nonattainment		Severe-15
Camden County		Nonattainment		Severe-15
Cumberland County		Nonattainment		Severe-15
Gloucester County		Nonattainment		Severe-15
Mercer County		Nonattainment		Severe-15
Salem County		Nonattainment		Severe-15

[1] This date is November 15, 1990, unless otherwise noted.

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34. Section 81.332 is amended by revising the tables for "New Mexico—Ozone (O_3)" and "New Mexico—CO", and by adding a new table titled "New Mexico—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "New Mexico—SO_2" to read as follows:

§ 81.332 New Mexico.

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New Mexico—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Albuquerque Area				
Bernalillo County		Nonattainment		Moderate ≤ 12.7ppm
AQCR 012 New Mexico-Southern Border Intrastate		Unclassifiable/Attainment		
Grant County				
Hidalgo County				
Luna County				
AQCR 014 Four Corners Interstate				
San Juan County (part)				
Central Farmington		Unclassifiable/Attainment		
AQCR 014 Four Corners Interstate (Remainder of)		Unclassifiable/Attainment		
McKinley County (part), as described under 40 CFR 81.121.				
Rio Arriba County (part), as described under 40 CFR 81.121.				
San Juan County (part)				
Remainder of county				
Sandoval County, as described under 40 CFR 81.121.				
Valencia County, as described under 40 CFR 81.121.				
AQCR 152 Albuquerque-Mid Rio Grande Intrastate		Unclassifiable/Attainment		
Sandoval County (part), as described under 40 CFR 81.83.				
Valencia County (part), as described under 40 CFR 81.83.				
AQCR 153 El Paso-Las Cruces-Alamogordo		Unclassifiable/Attainment		
Dona Ana County				
Lincoln County				
Otero County				
Sierra County				
AQCR 154 Northeastern Plains Intrastate		Unclassifiable/Attainment		
Colfax County				
Guadalupe County				
Harding County				
Mora County				
San Miguel County				
Torrance County				
Union County				
AQCR 155 Pecos-Permian Basin Intrastate		Unclassifiable/Attainment		
Chaves County				
Curry County				
De Baca County				
Eddy County				
Lea County				
Quay County				
Roosevelt County				
AQCR 156 S.W. Mountains-Augustine Plains		Unclassifiable/Attainment		
Catron County				
Cibola County				
McKinley County (part), as described under 40 CFR 81.241.				
Socorro County				
Valencia County (part), as described under 40 CFR 81.241.				
AQCR 157 Upper Rio Grande Valley Intrastate (Remainder of)		Unclassifiable/Attainment		
Los Alamos County				
Rio Arriba (part)				
see 40 CFR 81.239				
Santa Fe County (part)				
Remainder of county				
Taos County				
AQCR 157 Upper Rio Grande Valley Intrastate				
Santa Fe County (part)				
Narrow corridor in Santa Fe		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

New Mexico—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 012 New Mexico-Southern Border Intrastate		Unclassifiable/Attainment		
Grant County				

New Mexico—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Hidalgo County				
Luna County				
AQCR 014 Four Corners Interstate		Unclassifiable/Attainment		
see 40 CFR 81.121				
McKinley County (part)				
Rio Arriba County (part)				
San Juan County				
Sandoval County (part)				
Valencia County (part)				
AQCR 152 Albuquerque-Mid Rio Grande Intrastate		Unclassifiable/Attainment		
Bernalillo County (part)				
AQCR 152 Albuquerque-Mid Rio Grande		Unclassifiable/Attainment		
Sandoval County (part)				
see 40 CFR 81.83				
Valencia County				
see 40 CFR 81.83				
AQCR 153 El Paso-Las Cruces-Alamogordo		Unclassifiable/Attainment		
Dona Ana County				
Lincoln County				
Otero County				
Sierra County				
AQCR 154 Northeastern Plains Intrastate		Unclassifiable/Attainment		
Colfax County				
Guadalupe County				
Harding County				
Mora County				
San Miguel County				
Torrance County				
Union County				
AQCR 155 Pecos-Permian Basin Intrastate		Unclassifiable/Attainment		
Chaves County				
Curry County				
De Baca County				
Eddy County				
Lea County				
Quay County				
Roosevelt County				
AQCR 156 SW Mountains-Augustine Plains		Unclassifiable/Attainment		
Catron County				
Cibola County				
McKinley County (part)				
see 40 CFR 81.241				
Socorro County				
Valencia County (part)				
see 40 CFR 81.241				
AQCR 157 Upper Rio Grande Valley Intrastate		Unclassifiable/Attainment		
Los Alamos County				
Rio Arriba County (part)				
see 40 CFR 81.239				
Santa Fe County				
Taos County				

[1] This date is November 15, 1990, unless otherwise noted.

New Mexico—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Dona Ana County				
The area bounded by Anthony Quadrangle, Anthony, New Mexico - Texas. SE/4 La Mesa 15' Quadrangle, N3200 - W10630/7.5, Township 26S, Range 3E, Sections 35 and 36 as limited by the New Mexico - Texas State line on the south	11/15/90	Nonattainment	11/15/90	Moderate

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35. Section 81.333 is amended by revising the tables for "New York—Ozone" and "New York—CO", and by adding a new table titled "New York—Lead" to be inserted in alphabetical order immediately following the tabular entry for "New York—SO_2" to read as follows:

§ 81.333 New York.

* * * * * * *

New York—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
New York-N. New Jersey-Long Island Area				
Bronx County		Nonattainment		Moderate > 12.7ppm
Kings County		Nonattainment		Moderate > 12.7ppm
Nassau County		Nonattainment		Moderate > 12.7ppm
New York County		Nonattainment		Moderate > 12.7ppm
Queens County		Nonattainment		Moderate > 12.7ppm
Richmond County		Nonattainment		Moderate > 12.7ppm
Westchester County		Nonattainment		Moderate > 12.7ppm
Syracuse Area				
Onondaga County		Nonattainment		Moderate ≤ 12.7ppm
AQCR 043 NJ-NY-CT Interstate AQCR (Remainder of)		Unclassifiable/Attainment		
Rockland County				
Suffolk County				
AQCR 158 Central New York Intrastate (remaider of)		Unclassifiable/Attainment		
Cayuga County				
Cortland County				
Herkimer County				
Jefferson County				
Lewis County				
Madison County				
Oneida County				
Oswego County				
AQCR 159 Champlain Valley Interstate		Unclassifiable/Attainment		
Clinton County				
Essex County				
Franklin County				
Hamilton County				
St. Lawrence County				
Warren County				
Washington County				
AQCR 160 Genessee-Finger Lakes Intrastate		Unclassifiable/Attainment		
Genesee County				
Livingston County				
Monroe County				
Ontario County				
Orleans County				
Seneca County				
Wayne County				
Wyoming County				
Yates County				
AQCR 161 Hudson Valley Intrastate		Unclassifiable/Attainment		
Albany County				
Columbia County				
Dutchess County				
Fulton County				
Greene County				
Montgomery County				
Orange County				
Putnam County				
Rensselaer County				
Saratoga County				
Schenectady County				
Schoharie County				
Ulster County				
AQCR 162 Niagara Frontier Intrastate		Unclassifiable/Attainment		
Erie County				
Niagara County				
AQCR 163 Southern Tier East Intrastate		Unclassifiable/Attainment		
Broome County				
Chenango County				
Delaware County				
Otsego County				
Sullivan County				
Tioga County				
AQCR 164 Southern Tier West Intrastate		Unclassifiable/Attainment		
Allegany County				
Cattaraugus County				
Chautauqua County				
Chemung County				
Schuyler County				
Steuben County				

New York—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Tompkins County				

[1] This date is November 15, 1990, unless otherwise noted.

New York—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Onondaga County	1/6/92	Unclassifiable		
Rest of State Not Designated				

New York—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Albany-Schenectady-Troy Area				
Albany County	1/6/92	Nonattainment	1/6/92	Marginal
Greene County	1/6/92	Nonattainment	1/6/92	Marginal
Montgomery County	1/6/92	Nonattainment	1/6/92	Marginal
Rensselaer County	1/6/92	Nonattainment	1/6/92	Marginal
Saratoga County	1/6/92	Nonattainment	1/6/92	Marginal
Schenectady County	1/6/92	Nonattainment	1/6/92	Marginal
Buffalo-Niagara Falls Area				
Erie County	1/6/92	Nonattainment	1/6/92	Marginal
Niagara County	1/6/92	Nonattainment	1/6/92	Marginal
Essex County Area				
Essex County (part)	1/6/92	Nonattainment	1/6/92	Rural Transport (Marginal)
The portion of Whiteface Mountain above 4500 feet in elevation in Essex County				
Jefferson County Area				
Jefferson County	1/6/92	Nonattainment	1/6/92	Marginal
New York-Northern New Jersey-Long Island Area				
Bronx County		Nonattainment		Severe-17
Kings County		Nonattainment		Severe-17
Nassau County		Nonattainment		Severe-17
New York County		Nonattainment		Severe-17
Orange County		Nonattainment[2]		(Pending Study[2])
Putnam County		Nonattainment[2]		(Pending Study[2])
Queens County		Nonattainment		Severe-17
Richmond County		Nonattainment		Severe-17
Rockland County		Nonattainment		Severe-17
Suffolk County		Nonattainment		Severe-17
Westchester County		Nonattainment		Severe-17
Poughkeepsie Area				
Dutchess County	1/6/92	Nonattainment	1/6/92	Marginal
AQCR 158 Central New York Intrastate (Remainder of)		Unclassifiable/Attainment		
Cayuga County				
Cortland County				
Herkimer County				
Lewis County				
Madison County				
Oneida County				
Onondaga County				
Oswego County				
AQCR 159 Champlain Valley Interstate (Remainder of)		Unclassifiable/Attainment		
Clinton County				
Franklin County				
Hamilton County				
St. Lawrence County				
Warren County				
Washington County				
AQCR 160 Genessee-Finger Lakes Intrastate		Unclassifiable/Attainment		
Genesee County				
Livingston County				
Monroe County				
Ontario County				
Orleans County				

New York—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Seneca County				
Wayne County				
Wyoming County				
Yates County				
AQCR 161 Hudson Valley Intrastate (Remainder of)		Unclassifiable/Attainment		
Columbia County				
Fulton County				
Schoharie County				
Ulster County				
AQCR 163 Southern Tier East Intrastate		Unclassifiable/Attainment		
Broome County				
Chenango County				
Delaware County				
Otsego County				
Sullivan County				
Tioga County				
AQCR 164 Southern Tier West Intrastate		Unclassifiable/Attainment		
Allegany County				
Cattaraugus County				
Chautauqua County				
Chemung County				
Schuyler County				
Steuben County				
Tompkins County				

[1] This date is November 15, 1990, unless otherwise noted.
[2] The state requested time to study the boundaries and classification under section 107(d)(4)(A)(iv). The boundaries and classification of Orange and Putnam Counties will be determined based upon evaluation of that study by EPA.

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36. Section 81.334 is amended by revising the tables for "North Carolina—Ozone (O_3)" and "North Carolina—CO" to be inserted in alphabetical order immediately following the tabular entry for "North Carolina—SO_2" to read as follows:

§ 81.334 North Carolina.

* * * * * * *

North Carolina—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Charlotte Area				
Mecklenburg County		Nonattainment		Not Classified
Raleigh-Durham Area				
Durham County	1/6/92	Nonattainment	1/6/92	Moderate ≤ 12.7ppm
Wake County	1/6/92	Nonattainment	1/6/92	Moderate ≤ 12.7ppm
Winston-Salem Area				
Forsyth County	1/6/92	Nonattainment	1/6/92	Moderate ≤ 12.7ppm
Rest of State		Unclassifiable/Attainment		
Alamance County				
Alexander County				
Alleghany County				
Anson County				
Ashe County				
Avery County				
Beaufort County				
Bertie County				
Bladen County				
Brunswick County				
Buncombe County				
Burke County				
Cabarrus County				
Caldwell County				
Camden County				
Carteret County				
Caswell County				
Catawba County				
Chatham County				
Cherokee County				
Chowan County				
Clay County				
Cleveland County				
Columbus County				

North Carolina—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Craven County				
Cumberland County				
Currituck County				
Dare County				
Davidson County				
Davie County				
Duplin County				
Edgecombe County				
Franklin County				
Gaston County				
Gates County				
Graham County				
Granville County				
Greene County				
Guilford County				
Halifax County				
Harnett County				
Haywood County				
Henderson County				
Hertford County				
Hoke County				
Hyde County				
Iredell County				
Jackson County				
Johnston County				
Jones County				
Lee County				
Lenoir County				
Lincoln County				
Macon County				
Madison County				
Martin County				
McDowell County				
Mitchell County				
Montgomery County				
Moore County				
Nash County				
New Hanover County				
Northampton County				
Onslow County				
Orange County				
Pamlico County				
Pasquotank County				
Pender County				
Perquimans County				
Person County				
Pitt County				
Polk County				
Randolph County				
Richmond County				
Robeson County				
Rockingham County				
Rowan County				
Rutherford County				
Sampson County				
Scotland County				
Stanly County				
Stokes County				
Surry County				
Swain County				
Transylvania County				
Tyrrell County				
Union County				
Vance County				
Warren County				
Washington County				
Watauga County				
Wayne County				
Wilkes County				
Wilson County				
Yadkin County				
Yancey County				

[1] This date is November 15, 1990, unless otherwise noted.

North Carolina—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Charlotte-Gastonia Area				
Gaston County		Nonattainment		Moderate
Mecklenburg County		Nonattainment		Moderate
Greensboro-Winston-Salem-High Point Area				
Davidson County	1/6/92	Nonattainment	1/6/92	Moderate
Davie County (part)	1/6/92	Nonattainment	1/6/92	Moderate
The area bounded by the Yadkin River, Dutchmans Creek, North Carolina Highway 801, Fulton Creek, and back to the Yadkin River				
Forsyth County	1/6/92	Nonattainment	1/6/92	Moderate
Guilford County	1/6/92	Nonattainment	1/6/92	Moderate
Raleigh-Durham Area				
Durham County	1/6/92	Nonattainment	1/6/92	Moderate
Granville County (part)	1/6/92	Nonattainment	1/6/92	Moderate
Dutchville Township				
Wake County	1/6/92	Nonattainment	1/6/92	Moderate
Rest of State		Unclassifiable/Attainment		
Alamance County				
Alexander County				
Alleghany County				
Anson County				
Ashe County				
Avery County				
Beaufort County				
Bertie County				
Bladen County				
Brunswick County				
uncombe County				
Burke County				
Cabarrus County				
Caldwell County				
Camden County				
Carteret County				
Caswell County				
Catawba County				
Chatham County				
Cherokee County				
Chowan County				
Clay County				
Cleveland County				
Columbus County				
Craven County				
Cumberland County				
Currituck County				
Dare County				
Davie County (part)				
Remainder of county				
Duplin County				
Edgecombe County				
Franklin County				
Gates County				
Graham County				
Granville County (part)				
Remainder of county				
Greene County				
Halifax County				
Harnett County				
Haywood County				
Henderson County				
Hertford County				
Hoke County				
Hyde County				
Iredell County				
Jackson County				
Johnston County				
Jones County				
Lee County				
Lenoir County				
Lincoln County				
Macon County				
Madison County				
Martin County				
McDowell County				
Mitchell County				
Montgomery County				
Moore County				

North Carolina—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Nash County				
New Hanover County				
Northampton County				
Onslow County				
Orange County				
Pamlico County				
Pasquotank County				
Pender County				
Perquimans County				
Person County				
Pitt County				
Polk County				
Randolph County				
Richmond County				
Robeson County				
Rockingham County				
Rowan County				
Rutherford County				
Sampson County				
Scotland County				
Stanly County				
Stokes County				
Surry County				
Swain County				
Transylvania County				
Tyrrell County				
Union County				
Vance County				
Warren County				
Washington County				
Watauga County				
Wayne County				
Wilkes County				
Wilson County				
Yadkin County				
Yancey County				

[1] This date is November 15, 1990, unless otherwise noted.

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37. Section 81.335 is amended by revising the tables for "North Dakota—Ozone (O_3)" and "North Dakota—CO" to be inserted in alphabetical order immediately following the tabular entry for "North Dakota—SO_2" to read as follows:

§ 81.335 North Dakota.

* * * * * * *

North Dakota—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 130 Metropolitan Fargo-Moorhead Intrastate				
Cass County		Unclassifiable/Attainment		
Rest of State		Unclassifiable/Attainment		
Adams County				
Barnes County				
Benson County				
Billings County				
Bottineau County				
Bowman County				
Burke County				
Burleigh County				
Cavalier County				
Dickey County				
Divide County				
Dunn County				
Eddy County				
Emmons County				
Foster County				
Golden Valley County				
Grand Forks County				
Grant County				

North Dakota—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Griggs County				
Hettinger County				
Kidder County				
La Moure County				
Logan County				
McHenry County				
McIntosh County				
McKenzie County				
McLean County				
Mercer County				
Morton County				
Mountrail County				
Nelson County				
Oliver County				
Pembina County				
Pierce County				
Ramsey County				
Ransom County				
Renville County				
Richland County				
Rolette County				
Sargent County				
Sheridan County				
Sioux County				
Slope County				
Stark County				
Steele County				
Stutsman County				
Towner County				
Traill County				
Walsh County				
Ward County				
Wells County				
Williams County				

[1] This date is November 15, 1990, unless otherwise noted.

North Dakota—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 130 Metropolitan Fargo-Moorhead Interstate				
Cass County		Unclassifiable/Attainment		
Rest of State, AQCR 172		Unclassifiable/Attainment		
Adams County				
Barnes County				
Benson County				
Billings County				
Bottineau County				
Bowman County				
Burke County				
Burleigh County				
Cavalier County				
Dickey County				
Divide County				
Dunn County				
Eddy County				
Emmons County				
Foster County				
Golden Valley County				
Grand Forks County				
Grant County				
Griggs County				
Hettinger County				
Kidder County				
La Moure County				
Logan County				
McHenry County				
McIntosh County				
McKenzie County				
McLean County				
Mercer County				

North Dakota—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Morton County				
Mountrail County				
Nelson County				
Oliver County				
Pembina County				
Pierce County				
Ramsey County				
Ransom County				
Renville County				
Richland County				
Rolette County				
Sargent County				
Sheridan County				
Sioux County				
Slope County				
Stark County				
Steele County				
Stutsman County				
Towner County				
Traill County				
Walsh County				
Ward County				
Wells County				
Williams County				

[1] This date is November 15, 1990, unless otherwise noted.

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38. Section 81.336 is amended by revising the tables for "Ohio—Ozone (O_3)" and "Ohio—CO", and by adding new tables titled "Ohio—Lead" and "Ohio—PM-10" to be inserted in alphabetical order immediately following the tabular entry for "Ohio—SO_2" to read as follows:

§ 81.336 Ohio.

* * * * * * *

Ohio—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Cleveland Area				
Cuyahoga County		Nonattainment		Moderate ≤ 12.7ppm
Cincinnati				
Hamilton County		Unclassifiable/Attainment		
Columbus				
Franklin County		Unclassifiable/Attainment		
Adams County		Unclassifiable/Attainment		
Allen County		Unclassifiable/Attainment		
Ashland County		Unclassifiable/Attainment		
Ashtabula County		Unclassifiable/Attainment		
Athens County		Unclassifiable/Attainment		
Auglaize County		Unclassifiable/Attainment		
Belmont County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Butler County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Champaign County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Clermont County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Columbiana County		Unclassifiable/Attainment		
Coshocton County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Darke County		Unclassifiable/Attainment		
Defiance County		Unclassifiable/Attainment		
Delaware County		Unclassifiable/Attainment		
Erie County		Unclassifiable/Attainment		
Fairfield County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gallia County		Unclassifiable/Attainment		
Geauga County		Unclassifiable/Attainment		
Greene County		Unclassifiable/Attainment		

Ohio—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Guernsey County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		
Harrison County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Highland County		Unclassifiable/Attainment		
Hocking County		Unclassifiable/Attainment		
Holmes County		Unclassifiable/Attainment		
Huron County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County[2]		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Lake County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Licking County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Lorain County		Unclassifiable/Attainment		
Lucas County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Mahoning County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Medina County		Unclassifiable/Attainment		
Meigs County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Miami County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Montgomery County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Morrow County		Unclassifiable/Attainment		
Muskingum County		Unclassifiable/Attainment		
Noble County		Unclassifiable/Attainment		
Ottawa County		Unclassifiable/Attainment		
Paulding County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pickaway County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Portage County		Unclassifiable/Attainment		
Preble County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Ross County		Unclassifiable/Attainment		
Sandusky County		Unclassifiable/Attainment		
Scioto County		Unclassifiable/Attainment		
Seneca County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Stark County		Unclassifiable/Attainment		
Summit County		Unclassifiable/Attainment		
Trumbull County		Unclassifiable/Attainment		
Tuscarawas County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Van Wert County		Unclassifiable/Attainment		
Vinton County		Unclassifiable/Attainment		
Warren County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Wayne County		Unclassifiable/Attainment		
Williams County		Unclassifiable/Attainment		
Wood County		Unclassifiable/Attainment		
Wyandot County				

[1] This date is November 15, 1990, unless otherwise noted.

[2] The listed designation does not reflect EPA action under section 107(d)(4)(A). At the date of enactment of the Clean Air Act Amendments, Jefferson County, Ohio; Brooke County, West Virginia; and Hancock County, West Virginia, were designated Unclassifiable/attainment, by operation of law, under section 107(d)(1)(C) of the Clean Air Act. However, these States and EPA are reviewing whether to confirm or reverse that designation under the process set out under section 107(d)(4)(A) and will publish a separate notice to that effect.

Ohio—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Cuyahoga County (part)				
Subcounty area in the vicinity of Master Metals	1/6/92	Unclassifiable		

Ohio—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
On the west by Interstate 71, on the north by the Conrail tracks, on the east by Interstate 77, and on the south by a line running from the intersection of Interstate 71 and Clark Avenue to the intersection of Interstate 77 and Pershing Avenue				
Rest of State Not Designated				

Ohio—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Canton Area				
Stark County		Nonattainment		Marginal
Cincinnati-Hamilton Area				
Butler County		Nonattainment		Moderate
Clermont County		Nonattainment		Moderate
Hamilton County		Nonattainment		Moderate
Warren County		Nonattainment		Moderate
Cleveland-Akron-Lorain Area				
Ashtabula County		Nonattainment		Moderate
Cuyahoga County		Nonattainment		Moderate
Geauga County		Nonattainment		Moderate
Lake County		Nonattainment		Moderate
Lorain County		Nonattainment		Moderate
Medina County		Nonattainment		Moderate
Portage County		Nonattainment		Moderate
Summit County		Nonattainment		Moderate
Clinton County Area				
Clinton County		Nonattainment		Transitional
Columbiana County Area				
Columbiana County		Nonattainment		Incomplete Data
Columbus Area				
Delaware County	1/6/92	Nonattainment	1/6/92	Marginal
Franklin County	1/6/92	Nonattainment	1/6/92	Marginal
Licking County	1/6/92	Nonattainment	1/6/92	Marginal
Dayton-Springfield Area				
Clark County		Nonattainment		Moderate
Greene County		Nonattainment		Moderate
Miami County		Nonattainment		Moderate
Montgomery County		Nonattainment		Moderate
Preble County Area				
Preble County		Nonattainment		Transitional
Steubenville Area				
Jefferson County		Nonattainment		Transitional
Toledo Area				
Lucas County		Nonattainment		Moderate
Wood County		Nonattainment		Moderate
Youngstown-Warren-Sharon Area				
Mahoning County		Nonattainment		Marginal
Trumbull County		Nonattainment		Marginal
Adams County		Unclassifiable/Attainment		
Allen County		Unclassifiable/Attainment		
Ashland County		Unclassifiable/Attainment		
Athens County		Unclassifiable/Attainment		
Auglaize County		Unclassifiable/Attainment		
Belmont County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Carroll County		Unclassifiable/Attainment		
Champaign County		Unclassifiable/Attainment		
Coshocton County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Darke County		Unclassifiable/Attainment		
Defiance County		Unclassifiable/Attainment		
Erie County		Unclassifiable/Attainment		
Fairfield County		Unclassifiable/Attainment		
Fayette County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Gallia County		Unclassifiable/Attainment		
Guernsey County		Unclassifiable/Attainment		
Hancock County		Unclassifiable/Attainment		
Hardin County		Unclassifiable/Attainment		

Ohio—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Harrison County		Unclassifiable/Attainment		
Henry County		Unclassifiable/Attainment		
Highland County		Unclassifiable/Attainment		
Hocking County		Unclassifiable/Attainment		
Holmes County		Unclassifiable/Attainment		
Huron County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Knox County		Unclassifiable/Attainment		
Lawrence County		Unclassifiable/Attainment		
Logan County		Unclassifiable/Attainment		
Madison County		Unclassifiable/Attainment		
Marion County		Unclassifiable/Attainment		
Meigs County		Unclassifiable/Attainment		
Mercer County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Morgan County		Unclassifiable/Attainment		
Morrow County		Unclassifiable/Attainment		
Muskingum County		Unclassifiable/Attainment		
Noble County		Unclassifiable/Attainment		
Ottawa County		Unclassifiable/Attainment		
Paulding County		Unclassifiable/Attainment		
Perry County		Unclassifiable/Attainment		
Pickaway County		Unclassifiable/Attainment		
Pike County		Unclassifiable/Attainment		
Putnam County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Ross County		Unclassifiable/Attainment		
Sandusky County		Unclassifiable/Attainment		
Scioto County		Unclassifiable/Attainment		
Seneca County		Unclassifiable/Attainment		
Shelby County		Unclassifiable/Attainment		
Tuscarawas County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
Van Wert County		Unclassifiable/Attainment		
Vinton County		Unclassifiable/Attainment		
Washington County[2]				
Wayne County		Unclassifiable/Attainment		
Williams County		Unclassifiable/Attainment		
Wyandot County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

[2] The listed designation does not reflect EPA action under section 107(d)(4)(A). At the date of enactment of the Clean Air Act Amendments, Washington County, Ohio, was designated Unclassifiable/attainment, by operation of law, under section 107(d)(1)(C) of the Clean Air Act. However, the State and EPA are reviewing whether to confirm or reverse that designation under the process set out under section 107(d)(4)(A) and will publish a separate notice to that effect.

Ohio—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Cuyahoga County	11/15/90	Nonattainment	11/15/90	Moderate
Jefferson County	11/15/90	Nonattainment	11/15/90	Moderate
The area bounded by Market Street (State Route 43) from the West Virginia/Ohio border west to Sunset Blvd. (U.S. Route 22), Sunset Blvd. west to the Steubenville Township/Cross Creek Township boundary, the Township boundary south to the Steubenville Corporation limit, the corporation boundary east to State Route 7, State Route 7 South to the Steubenville Township/Wells Township boundary, the Township boundary east to the West Virginia/Ohio border, and North on the border to Market Street.				

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39. Section 81.337 is amended by revising the tables for "Oklahoma—Ozone (O_3)" and "Oklahoma—CO" to be inserted in alphabetical order immediately following the tabular entry for "Oklahoma—SO_2" to read as follows:

§ 81.337 Oklahoma.

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Oklahoma—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 017 Metropolitan Fort Smith Interstate		Unclassifiable/Attainment		
Adair County				
Cherokee County				
Le Flore County				
Sequoyah County				
AQCR 022 Shreveport-Texarkana-Tyler Interstate		Unclassifiable/Attainment		
McCurtain County				
AQCR 184 Central Oklahoma Intrastate		Unclassifiable/Attainment		
Canadian County				
Cleveland County				
Grady County				
Kingfisher County				
Lincoln County				
Logan County				
McClain County				
Oklahoma County				
Pottawatomie County				
AQCR 185 North Central Oklahoma Intrastate		Unclassifiable/Attainment		
Garfield County				
Grant County				
Kay County				
Noble County				
Payne County				
AQCR 186 Northeastern Oklahoma Intrastate		Unclassifiable/Attainment		
Craig County				
Creek County				
Delaware County				
Mayes County				
Muskogee County				
Nowata County				
Okmulgee County				
Osage County				
Ottawa County				
Pawnee County				
Rogers County				
Tulsa County				
Wagoner County				
Washington County				
AQCR 187 Northwestern Oklahoma Intrastate		Unclassifiable/Attainment		
Alfalfa County				
Beaver County				
Blaine County				
Cimarron County				
Custer County				
Dewey County				
Ellis County				
Harper County				
Major County				
Roger Mills County				
Texas County				
Woods County				
Woodward County				
AQCR 188 Southeastern Oklahoma Intrastate		Unclassifiable/Attainment		
Atoka County				
Bryan County				
Carter County				
Choctaw County				
Coal County				
Garvin County				
Haskell County				
Hughes County				
Johnston County				
Latimer County				
Love County				
Marshall County				
McIntosh County				
Murray County				
Okfuskee County				
Pittsburg County				
Pontotoc County				
Pushmataha County				
Seminole County				
AQCR 189 Southwestern Oklahoma Intrastate		Unclassifiable/Attainment		
Beckham County				
Caddo County				
Comanche County				

Oklahoma—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Cotton County				
Greer County				
Harmon County				
Jackson County				
Jefferson County				
Kiowa County				
Stephens County				
Tillman County				
Washita County				

[1] This date is November 15, 1990, unless otherwise noted.

Oklahoma—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 017 Metropolitan Fort Smith Interstate		Unclassifiable/Attainment		
Adair County				
Cherokee County				
Le Flore County				
Sequoyah County				
AQCR 022 Shreveport-Texarkana-Tyler Intrastate		Unclassifiable/Attainment		
McCurtain County				
AQCR 184 Central Oklahoma Intrastate (part)				
Cleveland County		Unclassifiable/Attainment		
Oklahoma County		Unclassifiable/Attainment		
AQCR 184 Central Oklahoma Intrastate (Remainder of)		Unclassifiable/Attainment		
Canadian County				
Grady County				
Kingfisher County				
Lincoln County				
Logan County				
McClain County				
Pottawatomie County				
AQCR 185 North Central Oklahoma Intrastate		Unclassifiable/Attainment		
Garfield County				
Grant County				
Kay County				
Noble County				
Payne County				
AQCR 186 Northeastern Oklahoma Intrastate		Unclassifiable/Attainment		
Craig County				
Creek County				
Delaware County				
Mayes County				
Muskogee County				
Nowata County				
Okmulgee County				
Osage County				
Ottawa County				
Pawnee County				
Rogers County				
Tulsa County				
Wagoner County				
Washington County				
AQCR 187 Northwestern Oklahoma Intrastate		Unclassifiable/Attainment		
Alfalfa County				
Beaver County				
Blaine County				
Cimarron County				
Custer County				
Dewey County				
Ellis County				
Harper County				
Major County				
Roger Mills County				
Texas County				
Woods County				
Woodward County				
AQCR 188 Southeastern Oklahoma Intrastate		Unclassifiable/Attainment		
Atoka County				
Bryan County				

Oklahoma—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Carter County				
Choctaw County				
Coal County				
Garvin County				
Haskell County				
Hughes County				
Johnston County				
Latimer County				
Love County				
Marshall County				
McIntosh County				
Murray County				
Okfuskee County				
Pittsburg County				
Pontotoc County				
Pushmataha County				
Seminole County				
AQCR 189 Southwestern Oklahoma Intrastate		Unclassifiable/Attainment		
Beckham County				
Caddo County				
Comanche County				
Cotton County				
Greer County				
Harmon County				
Jackson County				
Jefferson County				
Kiowa County				
Stephens County				
Tillman County				
Washita County				

[1] This date is November 15, 1990, unless otherwise noted.

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40. Section 81.338 is amended by revising the tables for "Oregon—O_3" and "Oregon—CO", and by adding a new table titled "Oregon—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "Oregon—SO_2" to read as follows:

§ 81.338 Oregon.

* * * * * * *

Oregon—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Eugene - Springfield Area				
Lane County (part)		Nonattainment		Not Classified

Oregon—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
The Eugene-Springfield Nonattainment Area is described as: The area within the bounds beginning at the Northwest corner of T17S, R4W; extending South to the Southwest corner of Section 6, T17S, R4W; thence East to the Northwest corner of Section 8, T17S, R4W; thence South to the Southwest corner of Section 32, T17S, R4W; thence East to the Northeast corner of Section 4, T18S, R4W; thence South to the Southwest corner of section 3, T18S, R4W; thence East to the Northwest corner of Section 12, T18S, R4W; thence South to the Southwest corner of Section 13, T18S, R4W; thence East to the Northeast corner of Section 24, T18S, R4W; thence South to the Southeast corner of Section 24, T18S, R4W; thence East to the Northeast corner of Section 21, T18S, R3W; thence North to the Northeast corner of Section 21, T18S, R3W; thence East to the Northeast corner of Section 22, T18S, R3W; thence South to the Southwest corner of Section 23, T18S, R3W; thence East to the Southeast corner of Section 24, T18S, R3W; thence North to the Southeast corner of Section 1, T18S, R3W; thence East to the Southeast corner of Section 2, T18S, R2W; thence North to the Northeast corner of Section 26, T17S, R2W; thence West to the Southwest corner of Section 20, T17S, R2W; thence North to the Northwest corner of Section 20,T17S, R2W; thence West to the Southwest corner of Section 13, T17S, R3W; thence North to the Northwest corner of Section 13, T17S, R3W; thence West to the Southwest corner of Section 11, T17S, R3W; thence North to the Northwest corner of Section 11, T17S, R3W; thence West to the Southwest corner of Section 6, T17S, R3W; thence North to the Northwest corner of Section 31, T16S, R3W; thence West to the Northwest corner of Section 34, T16S, R4W; thence South to the Southwest corner of Section 34, T16S, R4W; thence West to the point of beginning.				
Grants Pass Area				
Josephine County (part)		Nonattainment		Moderate ≦ 12./ppm
Central Business District				
Klamath Falls Area				
Klamath County (part)	1/6/92	Nonattainment	1/6/92	Moderate ≦ 12.7ppm
Urban Growth Boundary				
Medford Area				
Jackson County (part)		Nonattainment		Moderate ≦ 12.7ppm
Medford-Ashland Urban Growth Boundary				
Portland-Vancouver Area				
Portland Metro Service District Boundary				
Clackamas County (part)		Nonattainment		Moderate ≦ 12.7ppm
Multnomah County (part)		Nonattainment		Moderate ≦ 12.7ppm
Washington County (part)		Nonattainment		Moderate ≦ 12.7ppm
Salem Area				
City of Salem				
Marion County (part)		Nonattainment		Not Classified
Polk County (part)		Nonattainment		Not Classified
AQCR 190 Remainder of Central Oregon Intrastate		Unclassifiable/Attainment		
Crook County				
Deschutes County				
Hood River County				
Jefferson County				
Klamath County (part)				
area outside Urban Growth Boundary				
Lake County				
Sherman County				
Wasco County				
AQCR 191 Eastern Oregon Intrastate		Unclassifiable/Attainment		
Baker County				
Gilliam County				
Grant County				
Harney County				
Malheur County				
Morrow County				
Umatilla County				
Union County				
Wallowa County				
Wheeler County				
AQCR 192 Northwest Oregon Intrastate		Unclassifiable/Attainment		

Oregon—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Clatsop County				
Lincoln County				
Tillamook County				
AQCR 193 Remainder of Portland Interstate		Unclassifiable/Attainment		
Benton County				
Clackamas County (part)				
area outside Portland Metro Service District Boundary				
Columbia County				
Lane County (part)				
area outside of Air Quality Maintenance area				
Linn County				
Marion County (part)				
area outside the city of Salem				
Multnomah County (part)				
area outside Portand Metro Service District Boundary				
Polk County (part)				
area outside of Salem				
Washington County (part)				
area outside Portland Metro Service District Boundary				
Yamhill County				
AQCR 194 Remainder of Southwest Oregon		Unclassifiable/Attainment		
Coos County				
Curry County				
Douglas County				
Jackson County (part)				
area outside Medford-Ashland Urban growth boundary				
Josephine County (part)				
area outside of Central Business District				

[1] This date is November 15, 1990, unless otherwise noted.

Oregon—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Portland-Vancouver AQMA Area				
Air Quality Maintenance Area				
Clackamas County (part)		Nonattainment		Marginal
Multnomah County (part)		Nonattainment		Marginal
Washington County (part)		Nonattainment		Marginal
Salem Area				
City of Salem				
Marion County (part)		Nonattainment		Incomplete Data
Polk County (part)		Nonattainment		Incomplete Data
AQCR 190 Central Oregon Intrastate (Remainder of)		Unclassifiable/Attainment		
Crook County				
Deschutes County				
Hood River County				
Jefferson County				
Klamath County				
Lake County				
Sherman County				
Wasco County				
AQCR 191 Eastern Oregon Intrastate		Unclassifiable/Attainment		
Baker County				
Gilliam County				
Grant County				
Harney County				
Malheur County				
Morrow County				
Umatilla County				
Union County				
Wallowa County				
Wheeler County				
AQCR 192 Northwest Oregon Intrastate		Unclassifiable/Attainment		
Clatsop County				
Lincoln County				
Tillamook County				
AQCR 193 Portland Interstate (part)		Unclassifiable/Attainment		
Lane County (part)				
Eugene Springfield Air Quality Maintenance Area				
AQCR 193 Portland Interstate (Remainder of)		Unclassifiable/Attainment		

Oregon—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Benton County				
Clackamas County (part)				
Remainder of county				
Columbia County				
Lane County (part)				
Remainder of county				
Linn County				
Marion County (part)				
area outside the city of Salem				
Multnomah County (part)				
Remainder of county				
Polk County (part)				
area outside the city of Salem				
Washington County (part)				
Remainder of county				
Yamhill County				
AQCR 194 Southwest Oregon Intrastate (part)				
Jackson County (part)				
Medford-Ashland Air Quality Maintenance Area		Unclassifiable/Attainment		
AQCR 194 Southwest Oregon Intrastate (Remainder of)		Unclassifiable/Attainment		
Coos County				
Curry County				
Douglas County				
Jackson County (part)				
Remainder of county				
Josephine County				

[1] This date is November 15, 1990, unless otherwise noted.

Oregon—PM–10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Jackson County				
Medford-Ashland air quality maintenance area (including White City).	11/15/90	Nonattainment	11/15/90	Moderate
Josephine County				
Grants Pass	11/15/90	Nonattainment	11/15/90	Moderate
The area within the urban growth boundary				
Lane County				
Eugene/Springfield	11/15/90	Nonattainment	11/15/90	Moderate
The area within the urban growth boundary				
Klamath County				
Klamath Falls	11/15/90	Nonattainment	11/15/90	Moderate
The area within the urban growth boundary				
Union County				
LaGrande	11/15/90	Nonattainment	11/15/90	Moderate
The area within the urban growth boundary				

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41. Section 81.339 is amended by revising the tables for "Pennsylvania—Ozone (O_3)" and "Pennsylvania—CO", and by adding a new table titled "Pennsylvania—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "Pennsylvania—SO_2" to read as follows:

§ 81.339 Pennsylvania.

* * * * * * *

Pennsylvania—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Philadelphia-Camden County Area				
Philadelphia County (part)				
City of Philadelphia- -high traffic areas within the Central Business District and certain other high traffic density areas.		Nonattainment		Moderate ≤ 12.7ppm

Pennsylvania—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Pittsburgh Area				
Allegheny County (part)				
high traffic density areas within the Central Business District and certain other high traffic density areas.		Nonattainment		Not Classified
Rest of State		Unclassifiable/Attainment		
Adams County				
Allegheny County (part)				
Remainder of Allegheny County				
Armstrong County				
Beaver County				
Bedford County				
Berks County				
Blair County				
Bradford County				
Bucks County				
Butler County				
Cambria County				
Cameron County				
Carbon County				
Centre County				
Chester County				
Clarion County				
Clearfield County				
Clinton County				
Columbia County				
Crawford County				
Cumberland County				
Dauphin County				
Delaware County				
Elk County				
Erie County				
Fayette County				
Forest County				
Franklin County				
Fulton County				
Greene County				
Huntingdon County				
Indiana County				
Jefferson County				
Juniata County				
Lackawanna County				
Lancaster County				
Lawrence County				
Lebanon County				
Lehigh County				
Luzerne County				
Lycoming County				
McKean County				
Mercer County				
Mifflin County				
Monroe County				
Montgomery County				
Montour County				
Northampton County				
Northumberland County				
Perry County				
Philadelphia County (part)				
Remainder of Philadelphia county				
Pike County				
Potter County				
Schuylkill County				
Snyder County				
Somerset County				
Sullivan County				
Susquehanna County				
Tioga County				
Union County				
Venango County				
Warren County				
Washington County				
Wayne County				
Westmoreland County				
Wyoming County				
York County				

[1] This date is November 15, 1990, unless otherwise noted.

Pennsylvania—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Allentown-Bethlehem-Easton Area				
Carbon County		Nonattainment		Marginal
Lehigh County		Nonattainment		Marginal
Northampton County		Nonattainment		Marginal
Altoona Area				
Blair County	1/6/92	Nonattainment	1/6/92	Marginal
Crawford County Area				
Crawford County		Nonattainment		Incomplete Data
Erie Area				
Erie County		Nonattainment		Marginal
Franklin County Area				
Franklin County		Nonattainment		Incomplete Data
Greene County Area				
Greene County		Nonattainment		Incomplete Data
Harrisburg-Lebanon-Carlisle Area				
Cumberland County		Nonattainment		Marginal
Dauphin County		Nonattainment		Marginal
Lebanon County		Nonattainment		Marginal
Perry County		Nonattainment		Marginal
Johnstown Area				
Cambria County	1/6/92	Nonattainment	1/6/92	Marginal
Somerset County	1/6/92	Nonattainment	1/6/92	Marginal
Juniata County Area				
Juniata County		Nonattainment		Incomplete Data
Lancaster Area				
Lancaster County		Nonattainment		Marginal
Lawrence County Area				
Lawrence County		Nonattainment		Incomplete Data
Northumberland County Area				
Northumberland County		Nonattainment		Incomplete Data
Philadelphia-Wilmington-Trenton Area				
Bucks County		Nonattainment		Severe-15
Chester County		Nonattainment		Severe-15
Delaware County		Nonattainment		Severe-15
Montgomery County		Nonattainment		Severe-15
Philadelphia County		Nonattainment		Severe-15
Pike County Area				
Pike County		Nonattainment		Incomplete Data
Pittsburgh-Beaver Valley Area				
Allegheny County		Nonattainment		Moderate
Armstrong County		Nonattainment		Moderate
Beaver County		Nonattainment		Moderate
Butler County		Nonattainment		Moderate
Fayette County		Nonattainment		Moderate
Washington County		Nonattainment		Moderate
Westmoreland County		Nonattainment		Moderate
Reading Area				
Berks County		Nonattainment		Moderate
Schuylkill County Area				
Schuylkill County		Nonattainment		Incomplete Data
Scranton-Wilkes-Barre Area				
Columbia County		Nonattainment		Marginal
Lackawanna County		Nonattainment		Marginal
Luzerne County		Nonattainment		Marginal
Monroe County		Nonattainment		Marginal
Wyoming County		Nonattainment		Marginal
Snyder County Area				
Snyder County		Nonattainment		Incomplete Data
Susquehanna County Area				
Susquehanna County		Nonattainment		Incomplete Data
Warren County Area				
Warren County		Nonattainment		Incomplete Data
Wayne County Area				
Wayne County		Nonattainment		Incomplete Data
York Area				
Adams County		Nonattainment		Marginal
York County		Nonattainment		Marginal
Youngstown-Warren-Sharon Area				
Mercer County		Nonattainment		Marginal
AQCR 151 NE Pennsylvania Intrastate (Remainder of)				
Bradford County		Unclassifiable/Attainment		
Sullivan County		Unclassifiable/Attainment		
Tioga County		Unclassifiable/Attainment		
AQCR 178 NW Pennsylvania Interstate (Remainder of)				
Cameron County		Unclassifiable/Attainment		
Clarion County		Unclassifiable/Attainment		

Pennsylvania—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Clearfield County		Unclassifiable/Attainment		
Elk County		Unclassifiable/Attainment		
Forest County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
McKean County		Unclassifiable/Attainment		
Potter County		Unclassifiable/Attainment		
Venango County		Unclassifiable/Attainment		
AQCR 195 Central Pennsylvania Intrastate (Remainder of)				
Bedford County		Unclassifiable/Attainment		
Centre County		Unclassifiable/Attainment		
Clinton County		Unclassifiable/Attainment		
Fulton County		Unclassifiable/Attainment		
Huntingdon County		Unclassifiable/Attainment		
Lycoming County		Unclassifiable/Attainment		
Mifflin County		Unclassifiable/Attainment		
Montour County		Unclassifiable/Attainment		
Union County		Unclassifiable/Attainment		
AQCR 197 SW Pennsylvania Intrastate (Remainder of)				
Indiana County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

Pennsylvania—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Allegheny County				
The area including Liberty, Lincoln, Port Vue, and Glassport Boroughs and the City of Clairton.	11/15/90	Nonattainment	11/15/90	Moderate

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42. Section 81.340 is amended by revising the tables for "Rhode Island—O_3" and "Rhode Island—CO" to be inserted in alphabetical order immediately following the tabular entry for "Rhode Island—SO_2" to read as follows:

§ 81.340 Rhode Island.

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Rhode Island—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Bristol County				
Kent County				
Newport County				
Providence County				
Washington County				

[1] This date is November 15, 1990, unless otherwise noted.

Rhode Island—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Providence (all of RI) Area				
Bristol County		Nonattainment		Serious
Kent County		Nonattainment		Serious
Newport County		Nonattainment		Serious
Providence County		Nonattainment		Serious
Washington County		Nonattainment		Serious

[1] This date is November 15, 1990, unless otherwise noted.

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43. Section 81.341 is amended by revising the tables for "South Carolina—Ozone (O_3)" and "South Carolina—CO" to be inserted in alphabetical order immediately following the tabular entry for "South Carolina—SO_2" to read as follows:

§ 81.341 South Carolina.

* * * * * * *

South Carolina—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Abbeville County				
Aiken County				
Allendale County				
Anderson County				
Bamberg County				
Barnwell County				
Beaufort County				
Berkeley County				
Calhoun County				
Charleston County				
Cherokee County				
Chester County				
Chesterfield County				
Clarendon County				
Colleton County				
Darlington County				
Dillon County				
Dorchester County				
Edgefield County				
Fairfield County				
Florence County				
Georgetown County				
Greenville County				
Greenwood County				
Hampton County				
Horry County				
Jasper County				
Kershaw County				
Lancaster County				
Laurens County				
Lee County				
Lexington County				
Marion County				
Marlboro County				
McCormick County				
Newberry County				
Oconee County				
Orangeburg County				
Pickens County				
Richland County				
Saluda County				
Spartanburg County				
Sumter County				
Union County				
Williamsburg County				
York County				

[1] This date is November 15, 1990, unless otherwise noted.

South Carolina—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Cherokee County Area				
Cherokee County	1/6/92	Nonattainment	1/6/92	Marginal
Rest of State		Unclassifiable/Attainment		
Abbeville County				
Aiken County				
Allendale County				
Anderson County				
Bamberg County				
Barnwell County				
Beaufort County				
Berkeley County				
Calhoun County				

South Carolina—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Charleston County				
Chester County				
Chesterfield County				
Clarendon County				
Colleton County				
Darlington County				
Dillon County				
Dorchester County				
Edgefield County				
Fairfield County				
Florence County				
Georgetown County				
Greenville County				
Greenwood County				
Hampton County				
Horry County				
Jasper County				
Kershaw County				
Lancaster County				
Laurens County				
Lee County				
Lexington County				
Marion County				
Marlboro County				
McCormick County				
Newberry County				
Oconee County				
Orangeburg County				
Pickens County				
Richland County				
Saluda County				
Spartanburg County				
Sumter County				
Union County				
Williamsburg County				
York County				

[1] This date is November 15, 1990, unless otherwise noted.

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44. Section 81.342 is amended by revising the tables for "South Dakota—Ozone (O_3)" and "South Dakota—CO" to be inserted in alphabetical order immediately following the tabular entry for "South Dakota—SO_2" to read as follows:

§ 81.342 South Dakota.

* * * * * * *

South Dakota—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Aurora County				
Beadle County				
Bennett County				
Bon Homme County				
Brookings County				
Brown County				
Brule County				
Buffalo County				
Butte County				
Campbell County				
Charles Mix County				
Clark County				
Clay County				
Codington County				
Corson County				
Custer County				
Davison County				
Day County				
Deuel County				
Dewey County				

South Dakota—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Douglas County				
Edmunds County				
Fall River County				
Faulk County				
Grant County				
Gregory County				
Haakon County				
Hamlin County				
Hand County				
Hanson County				
Harding County				
Hughes County				
Hutchinson County				
Hyde County				
Jackson County				
Jerauld County				
Jones County				
Kingsbury County				
Lake County				
Lawrence County				
Lincoln County				
Lyman County				
Marshall County				
McCook County				
McPherson County				
Meade County				
Mellette County				
Miner County				
Minnehaha County				
Moody County				
Pennington County				
Perkins County				
Potter County				
Roberts County				
Sanborn County				
Shannon County				
Spink County				
Stanley County				
Sully County				
Todd County				
Tripp County				
Turner County				
Union County				
Walworth County				
Yankton County				
Ziebach County				

[1] This date is November 15, 1990, unless otherwise noted.

South Dakota—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Aurora County				
Beadle County				
Bennett County				
Bon Homme County				
Brookings County				
Brown County				
Brule County				
Buffalo County				
Butte County				
Campbell County				
Charles Mix County				
Clark County				
Clay County				
Codington County				
Corson County				
Custer County				
Davison County				
Day County				

South Dakota—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Deuel County				
Dewey County				
Douglas County				
Edmunds County				
Fall River County				
Faulk County				
Grant County				
Gregory County				
Haakon County				
Hamlin County				
Hand County				
Hanson County				
Harding County				
Hughes County				
Hutchinson County				
Hyde County				
Jackson County				
Jerauld County				
Jones County				
Kingsbury County				
Lake County				
Lawrence County				
Lincoln County				
Lyman County				
Marshall County				
McCook County				
McPherson County				
Meade County				
Mellette County				
Miner County				
Minnehaha County				
Moody County				
Pennington County				
Perkins County				
Potter County				
Roberts County				
Sanborn County				
Shannon County				
Spink County				
Stanley County				
Sully County				
Todd County				
Tripp County				
Turner County				
Union County				
Walworth County				
Yankton County				
Ziebach County				

[1] This date is November 15, 1990, unless otherwise noted.

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45. Section 81.343 is amended by revising the tables for "Tennessee—Ozone (O_3)" and "Tennessee—CO", and by adding a new table titled "Tennessee—Lead" to be inserted in alphabetical order immediately following the tabular entry for "Tennessee—SO_2" to read as follows:

§ 81.343 Tennessee.

* * * * * * *

Tennessee—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Memphis Area				
Shelby County		Nonattainment		Moderate ≤ 12.7ppm
Rest of State		Unclassifiable/Attainment		
Anderson County				
Bedford County				
Benton County				
Bledsoe County				
Blount County				
Bradley County				

Tennessee—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Campbell County				
Cannon County				
Carroll County				
Carter County				
Cheatham County				
Chester County				
Claiborne County				
Clay County				
Cocke County				
Coffee County				
Crockett County				
Cumberland County				
Davidson County				
De Kalb County				
Decatur County				
Dickson County				
Dyer County				
Fayette County				
Fentress County				
Franklin County				
Gibson County				
Giles County				
Grainger County				
Greene County				
Grundy County				
Hamblen County				
Hamilton County				
Hancock County				
Hardeman County				
Hardin County				
Hawkins County				
Haywood County				
Henderson County				
Henry County				
Hickman County				
Houston County				
Humphreys County				
Jackson County				
Jefferson County				
Johnson County				
Knox County				
Lake County				
Lauderdale County				
Lawrence County				
Lewis County				
Lincoln County				
Loudon County				
Macon County				
Madison County				
Marion County				
Marshall County				
Maury County				
McMinn County				
McNairy County				
Meigs County				
Monroe County				
Montgomery County				
Moore County				
Morgan County				
Obion County				
Overton County				
Perry County				
Pickett County				
Polk County				
Putnam County				
Rhea County				
Roane County				
Robertson County				
Rutherford County				
Scott County				
Sequatchie County				
Sevier County				
Smith County				
Stewart County				
Sullivan County				
Sumner County				

Tennessee—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Tipton County				
Trousdale County				
Unicoi County				
Union County				
Van Buren County				
Warren County				
Washington County				
Wayne County				
Weakley County				
White County				
Williamson County				
Wilson County				

[1] This date is November 15, 1990, unless otherwise noted.

Tennessee—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Shelby County (part)				
Area encompassed by a circle with a 3/4 mile radius with center being the intersection of Castex and Mallory Avenue, Memphis, TN..	1/6/92	Nonattainment		
Williamson County (part)				
Area encompassed by a circle centered on Universal Transverse Mercator coordinate 530.38 E, 3961.60 N (Zone 16) with a radius of 1.5 kilometers.	1/6/92	Nonattainment		
Fayette County (part)				
Area encompassed by a circle centered on Universal Transverse Mercator coordinate 267.59 E, 3881.30N (Zone 16) with a radius of 1.0 kilometers.	1/6/92	Unclassifiable		
Rest of State Not Designated				

Tennessee—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Knoxville Area				
Knox County	1/6/92	Nonattainment	1/6/92	Marginal
Memphis Area				
Shelby County		Nonattainment		Marginal
Nashville Area				
Davidson County		Nonattainment		Moderate
Rutherford County		Nonattainment		Moderate
Sumner County		Nonattainment		Moderate
Williamson County		Nonattainment		Moderate
Wilson County		Nonattainment		Moderate
Rest of State		Unclassifiable/Attainment		
Anderson County				
Bedford County				
Benton County				
Bledsoe County				
Blount County				
Bradley County				
Campbell County				
Cannon County				
Carroll County				
Carter County				
Cheatham County				
Chester County				
Claiborne County				
Clay County				
Cocke County				
Coffee County				
Crockett County				
Cumberland County				
De Kalb County				

Tennessee—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Decatur County				
Dickson County				
Dyer County				
Fayette County				
Fentress County				
Franklin County				
Gibson County				
Giles County				
Grainger County				
Greene County				
Grundy County				
Hamblen County				
Hamilton County				
Hancock County				
Hardeman County				
Hardin County				
Hawkins County				
Haywood County				
Henderson County				
Henry County				
Hickman County				
Houston County				
Humphreys County				
Jackson County				
Jefferson County				
Johnson County				
Lake County				
Lauderdale County				
Lawrence County				
Lewis County				
Lincoln County				
Loudon County				
Macon County				
Madison County				
Marion County				
Marshall County				
Maury County				
McMinn County				
McNairy County				
Meigs County				
Monroe County				
Montgomery County				
Moore County				
Morgan County				
Obion County				
Overton County				
Perry County				
Pickett County				
Polk County				
Putnam County				
Rhea County				
Roane County				
Robertson County				
Scott County				
Sequatchie County				
Sevier County				
Smith County				
Stewart County				
Sullivan County				
Tipton County				
Trousdale County				
Unicoi County				
Union County				
Van Buren County				
Warren County				
Washington County				
Wayne County				
Weakley County				
White County				

[1] This date is November 15, 1990, unless otherwise noted.

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46. Section 81.344 is amended by revising the tables for "Texas—Ozone (O_3)" and "Texas—CO", and by adding new tables titled "Texas—Lead" and "Texas—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "Texas—SO_2" to read as follows:

§ 81.344 Texas.

* * * * * * *

Texas—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
El Paso				
El Paso County (part)		Nonattainment		Moderate ≤ 12.7ppm
Portion of the City Limits of El Paso: That portion of the City of El Paso bounded on the north by Highway 10 from Porfirio Diaz Street to Raynolds Street, Raynolds Street from Highway 10 to the Southern Pacific Railroad lines, the Southern Pacific Railroad lines from Raynolds Street to Highway 62, Highway 62 from the Southern Pacific Railroad lines to Highway 20 and Highway 20 from Highway 62 to Polo Inn Road; bounded on the east by Polo Inn Road from Highway 20 to the Texas Mexico border; bounded from the south by the Texas-Mexico border from Polo Inn Road to Porfirio Diaz Street; and bounded on the west by Porfirio Diaz Street from the Texas-Mexico border to Highway 10.				
AQCR 022 Shreveport-Texarkana-Tyler Interstate		Unclassifiable/Attainment		
Anderson County				
Bowie County				
Camp County				
Cass County				
Cherokee County				
Delta County				
Franklin County				
Gregg County				
Harrison County				
Henderson County				
Hopkins County				
Lamar County				
Marion County				
Morris County				
Panola County				
Rains County				
Red River County				
Rusk County				
Smith County				
Titus County				
Upshur County				
Van Zandt County				
Wood County				
AQCR 106 Southern Louisiana-S.E. Texas Interstate		Unclassifiable/Attainment		
Angelina County				
Hardin County				
Houston County				
Jasper County				
Jefferson County				
Nacogdoches County				
Newton County				
Orange County				
Polk County				
Sabine County				
San Augustine County				
San Jacinto County				
Shelby County				
Trinity County				
Tyler County				
Walker County				
AQCR 153 El Paso-LC-Al Interstate (Remainder of)		Unclassifiable/Attainment		
Brewster County				
Culberson County				
El Paso County (part)				
Remainder of county				
Hudspeth County				
Jeff Davis County				
Presidio County				
AQCR 210 Abilene-Wichita Falls Intrastate		Unclassifiable/Attainment		
Archer County				
Baylor County				
Brown County				
Callahan County				
Childress County				
Clay County				
Coke County				

Texas—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Coleman County				
Concho County				
Comanche County				
Cottle County				
Eastland County				
Fisher County				
Foard County				
Hardeman County				
Haskell County				
Jack County				
Jones County				
Kent County				
Knox County				
McCulloch County				
Menard County				
Mitchell County				
Montague County				
Nolan County				
Runnels County				
Scurry County				
Shackelford County				
Stephens County				
Stonewall County				
Taylor County				
Throckmorton County				
Wichita County				
Wilbarger County				
Young County				
AQCR 211 Amarillo-Lubbock Intrastate		Unclassifiable/Attainment		
Armstrong County				
Bailey County				
Briscoe County				
Carson County				
Castro County				
Cochran County				
Collingsworth County				
Crosby County				
Dallam County				
Deaf Smith County				
Dickens County				
Donley County				
Floyd County				
Garza County				
Gray County				
Hale County				
Hall County				
Hansford County				
Hartley County				
Hemphill County				
Hockley County				
Hutchinson County				
King County				
Lamb County				
Lipscomb County				
Lubbock County				
Lynn County				
Moore County				
Motley County				
Ochiltree County				
Oldham County				
Parmer County				
Potter County				
Randall County				
Roberts County				
Sherman County				
Swisher County				
Terry County				
Wheeler County				
Yoakum County				
AQCR 212 Austin-Waco Intrastate		Unclassifiable/Attainment		
Bastrop County				
Bell County				
Blanco County				
Bosque County				
Brazos County				
Burleson County				

Texas—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Burnet County				
Caldwell County				
Coryell County				
Falls County				
Fayette County				
Freestone County				
Grimes County				
Hamilton County				
Hays County				
Hill County				
Lampasas County				
Lee County				
Leon County				
Limestone County				
Llano County				
Madison County				
McLennan County				
Milam County				
Mills County				
Robertson County				
San Saba County				
Travis County				
Washington County				
Williamson County				
AQCR 213 Brownsville Laredo Intrastate		Unclassifiable/Attainment		
Cameron County				
Hidalgo County				
Jim Hogg County				
Starr County				
Webb County				
Willacy County				
Zapata County				
AQCR 214 Corpus Christi-Victoria Intrastate		Unclassifiable/Attainment		
Aransas County				
Bee County				
Brooks County				
Calhoun County				
De Witt County				
Duval County				
Goliad County				
Jackson County				
Jim Wells County				
Kenedy County				
Kleberg County				
Lavaca County				
Live Oak County				
McMullen County				
Nueces County				
Refugio County				
San Patricio County				
Victoria County				
AQCR 215 Metropolitan Dallas-Fort Worth Intrastate		Unclassifiable/Attainment		
Collin County				
Cooke County				
Dallas County				
Denton County				
Ellis County				
Erath County				
Fannin County				
Grayson County				
Hood County				
Hunt County				
Johnson County				
Kaufman County				
Navarro County				
Palo Pinto County				
Parker County				
Rockwall County				
Somervell County				
Tarrant County				
Wise County				
AQCR 216 Metropolitan Houston-Galveston Intrastate		Unclassifiable/Attainment		
Austin County				
Brazoria County				
Chambers County				
Colorado County				

Texas—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Fort Bend County				
Galveston County				
Harris County				
Liberty County				
Matagorda County				
Montgomery County				
Waller County				
Wharton County				
AQCR 217 Metropolitan San Antonio Intrastate		Unclassifiable/Attainment		
Atascosa County				
Bandera County				
Bexar County				
Comal County				
Dimmit County				
Edwards County				
Frio County				
Gillespie County				
Gonzales County				
Guadalupe County				
Karnes County				
Kendall County				
Kerr County				
Kimble County				
Kinney County				
La Salle County				
Mason County				
Maverick County				
Medina County				
Real County				
Uvalde County				
Val Verde County				
Wilson County				
Zavala County				
AQCR 218 Midland-Odessa-San Angelo Intrastate		Unclassifiable/Attainment		
Andrews County				
Borden County				
Crane County				
Crockett County				
Dawson County				
Ector County				
Gaines County				
Glasscock County				
Howard County				
Irion County				
Loving County				
Martin County				
Midland County				
Pecos County				
Reagan County				
Reeves County				
Schleicher County				
Sterling County				
Sutton County				
Terrell County				
Tom Green County				
Upton County				
Ward County				
Winkler County				

[1] This date is November 15, 1990, unless otherwise noted.

Texas—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Collin County (part)	1/6/92	Nonattainment		
Eastside:				
Starting at the intersection of south Fifth St. and the fence line approximately 1000' south of the GNB property line going north to the intersection of south Fifth St. and Eubanks St.;				
Northside:				

Texas—Lead

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Proceeding west on Eubanks to the Burlington Railroad tracks; Westside: Along Burlington Railroad tracks to the fence line approximately 1000' south of the GNB property line; Southside: Fence line approximately 1000' south of the GNB property line.				
Bexar County (part)	1/6/92	Unclassifiable		
Northside: Starting at intersection of Loop 1604 and Nelson Gardens Road and along the Nelson Gardens Road to Covel Road; Eastside: Along Covel Road to Pearsall Road and along Pearsall Road to Nelson Road; Southside: Along Nelson Road to where it intersects with Loop 1604; Westside: Along Loop 1604 where it intersects with Nelson Gardens Road.				
Rest of State Not Designated				

[1] This date is November 15, 1990, unless otherwise noted.

Texas—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Beaumont-Port Arthur Area				
Hardin County		Nonattainment		Serious
Jefferson County		Nonattainment		Serious
Orange County		Nonattainment		Serious
Dallas-Fort Worth Area				
Collin County		Nonattainment		Moderate
Dallas County		Nonattainment		Moderate
Denton County		Nonattainment		Moderate
Tarrant County		Nonattainment		Moderate
El Paso Area				
El Paso County		Nonattainment		Serious
Houston-Galveston-Brazoria Area				
Brazoria County		Nonattainment		Severe-17
Chambers County		Nonattainment		Severe-17
Fort Bend County		Nonattainment		Severe-17
Galveston County		Nonattainment		Severe-17
Harris County		Nonattainment		Severe-17
Liberty County		Nonattainment		Severe-17
Montgomery County		Nonattainment		Severe-17
Waller County		Nonattainment		Severe-17
Victoria Area				
Victoria County		Nonattainment		Incomplete Data
AQCR 022 Shreveport-Texarkana-Tyler Interstate		Unclassifiable/Attainment		
Anderson County				
Bowie County				
Camp County				
Cass County				
Cherokee County				
Delta County				
Franklin County				
Gregg County				
Harrison County				
Henderson County				
Hopkins County				
Lamar County				
Marion County				
Morris County				
Panola County				
Rains County				
Red River County				
Rusk County				
Smith County				
Titus County				

Texas—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Upshur County				
Van Zandt County				
Wood County				
AQCR 106 S Louisiana-SE Texas Interstate (Remainder of)		Unclassifiable/Attainment		
Angelina County				
Houston County				
Jasper County				
Nacogdoches County				
Newton County				
Polk County				
Sabine County				
San Augustine County				
San Jacinto County				
Shelby County				
Trinity County				
Tyler County				
Walker County				
AQCR 153 ElPaso-LasCruces-Alamogordo Interstate		Unclassifiable/Attainment		
Brewster County				
Culberson County				
Hudspeth County				
Jeff Davis County				
Presidio County				
AQCR 210 Abilene-Wichita Falls Intrastate		Unclassifiable/Attainment		
Archer County				
Baylor County				
Brown County				
Callahan County				
Childress County				
Clay County				
Coke County				
Coleman County				
Comanche County				
Concho County				
Cottle County				
Eastland County				
Fisher County				
Foard County				
Hardeman County				
Haskell County				
Jack County				
Jones County				
Kent County				
Knox County				
McCulloch County				
Menard County				
Mitchell County				
Montague County				
Nolan County				
Runnels County				
Scurry County				
Shackelford County				
Stephens County				
Stonewall County				
Taylor County				
Throckmorton County				
Wichita County				
Wilbarger County				
Young County				
AQCR 211 Amarillo-Lubbock Intrastate		Unclassifiable/Attainment		
Armstrong County				
Bailey County				
Briscoe County				
Carson County				
Castro County				
Cochran County				
Collingsworth County				
Crosby County				
Dallam County				
Deaf Smith County				
Dickens County				
Donley County				
Floyd County				
Garza County				
Gray County				
Hale County				

Texas—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Hall County				
Hansford County				
Hartley County				
Hemphill County				
Hockley County				
Hutchinson County				
King County				
Lamb County				
Lipscomb County				
Lubbock County				
Lynn County				
Moore County				
Motley County				
Ochiltree County				
Oldham County				
Parmer County				
Potter County				
Randall County				
Roberts County				
Sherman County				
Swisher County				
Terry County				
Wheeler County				
Yoakum County				
AQCR 212 Austin-Waco Intrastate		Unclassifiable/Attainment		
Bastrop County				
Bell County				
Blanco County				
Bosque County				
Brazos County				
Burleson County				
Burnet County				
Caldwell County				
Coryell County				
Falls County				
Fayette County				
Freestone County				
Grimes County				
Hamilton County				
Hays County				
Hill County				
Lampasas County				
Lee County				
Leon County				
Limestone County				
Llano County				
Madison County				
McLennan County				
Milam County				
Mills County				
Robertson County				
San Saba County				
Travis County				
Washington County				
Williamson County				
AQCR 213 Brownsville-Laredo Intrastate		Unclassifiable/Attainment		
Cameron County				
Hidalgo County				
Jim Hogg County				
Starr County				
Webb County				
Willacy County				
Zapata County				
AQCR 214 Corpus Christi-Victoria Intrastate (Remainder of)		Unclassifiable/Attainment		
Aransas County				
Bee County				
Brooks County				
Calhoun County				
De Witt County				
Duval County				
Goliad County				
Jackson County				
Jim Wells County				
Kenedy County				
Kleberg County				
Lavaca County				

Texas—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Live Oak County				
McMullen County				
Refugio County				
San Patricio County				
AQCR 214 Corpus Christi-Victoria Intrastate (part)				
Nueces County		Unclassifiable/Attainment		
AQCR 215 Metro Dallas-Fort Worth Intrastate (Remainder of)		Unclassifiable/Attainment		
Cooke County				
Ellis County				
Erath County				
Fannin County				
Grayson County				
Hood County				
Hunt County				
Johnson County				
Kaufman County				
Navarro County				
Palo Pinto County				
Parker County				
Rockwall County				
Somervell County				
Wise County				
AQCR 216 Metro Houston-Galveston Intrastate (Remainder of)		Unclassifiable/Attainment		
Austin County				
Colorado County				
Matagorda County				
Wharton County				
AQCR 217 Metro San Antonio Intrastate (part)		Unclassifiable/Attainment		
Bexar County				
AQCR 217 Metro San Antonio Intrastate (Remainder of)		Unclassifiable/Attainment		
Atascosa County				
Bandera County				
Comal County				
Dimmit County				
Edwards County				
Frio County				
Gillespie County				
Gonzales County				
Guadalupe County				
Karnes County				
Kendall County				
Kerr County				
Kimble County				
Kinney County				
La Salle County				
Mason County				
Maverick County				
Medina County				
Real County				
Uvalde County				
Val Verde County				
Wilson County				
Zavala County				
AQCR 218 Midland-Odessa-SanAngelo Intrastate (part)		Unclassifiable/Attainment		
Ector County				
AQCR 218 Midland-Odessa-SanAngelo Intrastate (Remainder of).		Unclassifiable/Attainment		
Andrews County				
Borden County				
Crane County				
Crockett County				
Dawson County				
Gaines County				
Glasscock County				
Howard County				
Irion County				
Loving County				
Martin County				
Midland County				
Pecos County				
Reagan County				
Reeves County				
Schleicher County				
Sterling County				
Sutton County				
Terrell County				

Texas—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Tom Green County Upton County Ward County Winkler County				

[1] This date is November 15, 1990, unless otherwise noted.

Texas—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Lubbock County That portion of the City of Lubbock enclosed by Loop 289 highway.	11/15/90	Unclassifiable		
El Paso County City of El Paso	11/15/90	Nonattainment	11/15/90	Moderate

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47. Section 81.345 is amended by revising the tables for "Utah—Ozone (O_3)" and "Utah—CO", and by adding a new table titled "Utah—PM-10" to be inserted in alphabetical order immediately following the tabular entry for "Utah—SO_2" to read as follows:

§ 81.345 Utah.

* * * * * * *

Utah—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Ogden Area Weber County (part) City of Ogden		Nonattainment		Moderate ≤ 12.7ppm
Provo Area Utah County (part) City of Provo		Nonattainment		Moderate > 12.7ppm
Salt Lake City Area Salt Lake County (part) Salt Lake City		Nonattainment		Not Classified
Rest of State		Unclassifiable/Attainment		
Beaver County Box Elder County Cache County Carbon County Daggett County Davis County Duchesne County Emery County Garfield County Grand County Iron County Juab County Kane County Millard County Morgan County Piute County Rich County Salt Lake County (part) Remainder of Salt Lake County San Juan County Sanpete County Sevier County Summit County Tooele County Uintah County Utah County (part) Remainder of Utah county[2] Wasatch County				

Utah—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Washington County				
Wayne County				
Weber County (part)				
Remainder of Weber county				

[1] This date is November 15, 1990, unless otherwise noted.
[2] The listed designation does not reflect EPA action under section 107(d)(4)(A). At the date of enactment of the Clean Air Act Amendments, only the City of Provo (Provo City limits), was designated nonattainment, by operation of law, under section 107(d)(1)(C) of the Clean Air Act, and the rest of Utah County remained Unclassifiable/attainment. However, the State and EPA are reviewing whether to confirm or reverse that designation under the process set out under section 107(d)(4)(A) and will publish a separate notice to that effect.

Utah—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Salt Lake City Area				
Davis County		Nonattainment		Moderate
Salt Lake County		Nonattainment		Moderate
Rest of State		Unclassifiable/Attainment		
Beaver County				
Box Elder County				
Cache County				
Carbon County				
Daggett County				
Duchesne County				
Emery County				
Garfield County				
Grand County				
Iron County				
Juab County				
Kane County				
Millard County				
Morgan County				
Piute County				
Rich County				
San Juan County				
Sanpete County				
Sevier County				
Summit County				
Tooele County				
Uintah County				
Utah County				
Wasatch County				
Washington County				
Wayne County				
Weber County				

[1] This date is November 15, 1990, unless otherwise noted.

Utah—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Salt Lake County	11/15/90	Nonattainment	11/15/90	Moderate
Utah County	11/15/90	Nonattainment	11/15/90	Moderate

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48. Section 81.346 is amended by revising the tables for "Vermont—O_3" and "Vermont—CO" to be inserted in alphabetical order immediately following the tabular entry for "Vermont—SO_2" to read as follows:

§ 81.346 Vermont.

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Vermont—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Addison County				
Bennington County				
Caledonia County				
Chittenden County				
Essex County				
Franklin County				
Grand Isle County				
Lamoille County				
Orange County				
Orleans County				
Rutland County				
Washington County				
Windham County				
Windsor County				

[1] This date is November 15, 1990, unless otherwise noted.

Vermont—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
AQCR 159 Champlain Calley Interstate (part)				
Addison County		Unclassifiable/Attainment		
Chittenden County		Unclassifiable/Attainment		
AQCR 159 Champlain Calley Interstate (Remainder of)		Unclassifiable/Attainment		
Franklin County				
Grand Isle County				
Rutland County				
AQCR 221 Vermont Intrastate (part)		Unclassifiable/Attainment		
Windsor County				
AQCR 221 Vermont Intrastate (Remainder of)		Unclassifiable/Attainment		
Bennington County				
Caledonia County				
Essex County				
Lamoille County				
Orange County				
Orleans County				
Washington County				
Windham County				

[1] This date is November 15, 1990, unless otherwise noted.

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49. Section 81.347 is amended by revising the tables for "Virginia—O_3" and "Virginia—CO" to be inserted in alphabetical order immediately following the tabular entry for "Virginia—SO_2" to read as follows:

§ 81.347 Virginia.

* * * * * * *

Virginia—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Washington, Area				
Alexandria		Nonattainment		Moderate ≦ 12.7ppm
Arlington County		Nonattainment		Moderate ≦ 12.7opm
AQCR 047 National Capital Interstate (part)				
Fairfax County (part)				
Area of high traffic density		Unclassifiable/Attainment		
AQCR 047 National Capital Interstate (Remainder of)		Unclassifiable/Attainment		
Fairfax				
Fairfax County (part)				
Remainder of county				
Falls Church				
Loudoun County				
Manassas				

Virginia—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Manassas Park				
Prince William County				
AQCR 207 Eastern Tennessee-SW Virginia Interstate		Unclassifiable/Attainment		
Bland County				
Bristol				
Buchanan County				
Carroll County				
Dickenson County				
Galax				
Grayson County				
Lee County				
Norton				
Russell County				
Scott County				
Smyth County				
Tazewell County				
Washington County				
Wise County				
Wythe County				
AQCR 222 Central Virginia Intrastate		Unclassifiable/Attainment		
Amelia County				
Amherst County				
Appomattox County				
Bedford				
Bedford County				
Brunswick County				
Buckingham County				
Campbell County				
Charlotte County				
Cumberland County				
Danville				
Franklin County				
Halifax County				
Henry County				
Lunenburg County				
Lynchburg				
Martinsville				
Mecklenburg County				
Nottoway County				
Patrick County				
Pittsylvania County				
Prince Edward County				
South Boston				
AQCR 223 Hampton Roads (part)				
Hampton		Unclassifiable/Attainment		
Norfolk		Unclassifiable/Attainment		
AQCR 223 Hampton Roads (Remainder of)		Unclassifiable/Attainment		
Chesapeake				
Franklin				
Isle Of Wight County				
James City County				
Nansemond County				
Newport News				
Poquoson				
Portsmouth				
Southampton County				
Suffolk				
Virginia Beach				
Williamsburg				
York County				
AQCR 224 Northeastern Virginia Intrastate		Unclassifiable/Attainment		
Accomack County				
Albemarle County				
Caroline County				
Charlottesville				
Culpeper County				
Essex County				
Fauquier County				
Fluvanna County				
Fredericksburg				
Gloucester County				
Greene County				
King And Queen County				
King George County				
King William County				
Lancaster County				

Virginia—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Louisa County				
Madison County				
Mathews County				
Middlesex County				
Nelson County				
Northampton County				
Northumberland County				
Orange County				
Rappahannock County				
Richmond County				
Spotsylvania County				
Stafford County				
Westmoreland County				
AQCR 225 State Capital Intrastate (part)				
City of Richmond		Unclassifiable/Attainment		
AQCR 225 State Capital Intrastate (Remainder of)		Unclassifiable/Attainment		
Charles City County				
Chesterfield County				
Colonial Heights				
Dinwiddie County				
Emporia				
Goochland County				
Greensville County				
Hanover County				
Henrico County				
Hopewell				
New Kent County				
Petersburg				
Powhatan County				
Prince George County				
Surry County				
Sussex County				
AQCR 226 Valley of Virginia Intrastate		Unclassifiable/Attainment		
Alleghany County				
Augusta County				
Bath County				
Botetourt County				
Buena Vista				
Clarke County				
Clifton Forge				
Covington				
Craig County				
Floyd County				
Frederick County				
Giles County				
Harrisonburg				
Highland County				
Lexington				
Montgomery County				
Page County				
Pulaski County				
Radford				
Roanoke				
Roanoke County				
Rockbridge County				
Rockingham County				
Salem				
Shenandoah County				
Staunton				
Warren County				
Waynesboro				
Winchester				

[1] This date is November 15, 1990, unless otherwise noted.

Virginia—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Norfolk-Virginia Beach-Newport News Area				
Chesapeake	1/6/92	Nonattainment	1/6/92	Marginal
Hampton	1/6/92	Nonattainment	1/6/92	Marginal

Virginia—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
James City County	1/6/92	Nonattainment	1/6/92	Marginal
Newport News	1/6/92	Nonattainment	1/6/92	Marginal
Norfolk	1/6/92	Nonattainment	1/6/92	Marginal
Poquoson	1/6/92	Nonattainment	1/6/92	Marginal
Portsmouth	1/6/92	Nonattainment	1/6/92	Marginal
Suffolk	1/6/92	Nonattainment	1/6/92	Marginal
Virginia Beach	1/6/92	Nonattainment	1/6/92	Marginal
Williamsburg	1/6/92	Nonattainment	1/6/92	Marginal
York County	1/6/92	Nonattainment	1/6/92	Marginal
Richmond-Petersburg Area				
Charles City County		Nonattainment		Moderate
Chesterfield County		Nonattainment		Moderate
Colonial Heights		Nonattainment		Moderate
Hanover County		Nonattainment		Moderate
Henrico County		Nonattainment		Moderate
Hopewell		Nonattainment		Moderate
Richmond		Nonattainment		Moderate
Smyth County Area				
Smyth County (part)	1/6/92	Nonattainment	1/6/92	Rural Transport (Marginal)
The portion of White Top Mountain above the 4,500 foot elevation in Smyth County.				
Washington Area				
Alexandria		Nonattainment		Serious
Arlington County		Nonattainment		Serious
Fairfax		Nonattainment		Serious
Fairfax County		Nonattainment		Serious
Falls Church		Nonattainment		Serious
Loudoun County		Nonattainment		Serious
Manassas		Nonattainment		Serious
Manassas Park		Nonattainment		Serious
Prince William County		Nonattainment		Serious
Stafford County		Nonattainment		Serious
AQCR 207 SW VA - Tennessee Interstate (Remainder of)		Unclassifiable/Attainment		
Bland County				
Bristol				
Buchanan County				
Carroll County				
Dickenson County				
Galax				
Grayson County				
Lee County				
Norton				
Russell County				
Scott County				
Smyth County (part)				
Remainder of county				
Tazewell County				
Washington County				
Wise County				
Wythe County				
AQCR 222 Central Virginia Intrastate		Unclassifiable/Attainment		
Amelia County				
Amherst County				
Appomattox County				
Bedford				
Bedford County				
Brunswick County				
Buckingham County				
Campbell County				
Charlotte County				
Cumberland County				
Danville				
Franklin County				
Halifax County				
Henry County				
Lunenburg County				
Lynchburg				
Martinsville				
Mecklenburg County				
Nottoway County				
Patrick County				
Pittsylvania County				
Prince Edward County				
South Boston				
AQCR 223 Hampton Roads Intrastate (Remainder of)		Unclassifiable/Attainment		
Franklin				

Virginia—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Isle Of Wight County				
Nansemond County				
Southampton County				
AQCR 224 NE Virginia Intrastate (Remainder of)		Unclassifiable/Attainment		
Accomack County				
Albemarle County				
Caroline County				
Charlottesville				
Culpeper County				
Essex County				
Fauquier County				
Fluvanna County				
Fredericksburg				
Gloucester County				
Greene County				
King And Queen County				
King George County				
King William County				
Lancaster County				
Louisa County				
Madison County				
Mathews County				
Middlesex County				
Nelson County				
Northampton County				
Northumberland County				
Orange County				
Rappahannock County				
Richmond County				
Spotsylvania County				
Westmoreland County				
AQCR 225 State Capital Intrastate (Remainder of)		Unclassifiable/Attainment		
Dinwiddie County				
Emporia				
Goochland County				
Greensville County				
New Kent County				
Petersburg				
Powhatan County				
Prince George County				
Surry County				
Sussex County				
AQCR 226 Valley of Virginia Intrastate		Unclassifiable/Attainment		
Alleghany County				
Augusta County				
Bath County				
Botetourt County				
Buena Vista				
Clarke County				
Clifton Forge				
Covington				
Craig County				
Floyd County				
Frederick County				
Giles County				
Harrisonburg				
Highland County				
Lexington				
Montgomery County				
Page County				
Pulaski County				
Radford				
Roanoke				
Roanoke County				
Rockbridge County				
Rockingham County				
Salem				
Shenandoah County				
Staunton				
Warren County				
Waynesboro				
Winchester				

[1] This date is November 15, 1990, unless otherwise noted.

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50. Section 81.348 is amended by revising the tables for "Washington—O_3," and "Washington—CO", and by adding a new table titled "Washington—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "Washington—SO_2" to read as follows:

§ 81.348 Washington.

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Washington—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Portland-Vancouver Area				
Clark County (part) Air Quality Maintenance Area		Nonattainment		Moderate ≤ 12.7ppm
Seattle-Tacoma Area				
Seattle-Tacoma Urban Area (as defined by the Washington Department of Transportation urban area maps):				
King County (part)		Nonattainment		Moderate > 12.7ppm
Pierce County (part)		Nonattainment		Moderate > 12.7ppm
Snohomish County (part)		Nonattainment		Moderate > 12.7ppm
Spokane Area				
Spokane County (part)		Nonattainment		Moderate > 12.7ppm
Spokane urban area (as defined by the Washington Department of Transportation urban area maps)				
Yakima Area				
Yakima County (part)		Nonattainment		Not Classified
Portion of the Central Business District Street Intersections: S 16th Ave / W Mead Ave S 16th Ave / Hathaway Ave E "I" St / N 1st St N 1st St / E "G" St E "G" St / N 8th St N 8th St / Pitcher St Pitcher St / I-82 Interchange Nob Hill Blvd Interchange Nob Hill Blvd Interchange Rudkin Road Interchange S 1st St / Old Town Rd / Main St W Washington / S 1st St E Mead Ave / S 1st St S 16th Ave / W Mead Ave				
AQCR 062 E. Washington-N. Idaho Interstate (Remainder of)		Unclassifiable/Attainment		
Adams County				
Asotin County				
Columbia County				
Garfield County				
Grant County				
Lincoln County				
Spokane County (part)				
area outside Spokane urban area				
Whitman County				
AQCR 193 Portland Interstate (Remainder of)		Unclassifiable/Attainment		
Clark County (part)				
area outside of Vancouver AQMA				
Cowlitz County				
Lewis County				
Skamania County				
Wahkiakum County				
AQCR 227 Northern Washington Intrastate		Unclassifiable/Attainment		
Chelan County				
Douglas County				
Ferry County				
Okanogan County				
Pend Oreille County				
Stevens County				
AQCR 228 Olympia-Northwest Washington Intrastate		Unclassifiable/Attainment		
Clallam County				
Grays Harbor County				
Island County				
Jefferson County				
Mason County				
Pacific County				
San Juan County				
Skagit County				
Thurston County				
Whatcom County				
AQCR 229 Puget Sound Intrastate (Remainder of)		Unclassifiable/Attainment		
King County (part)				
area outside the Seattle-Tacoma Urban Area				
Kitsap County				
Pierce County (part)				
area outside the Seattle-Tacoma Urban Area				
Snohomish County (part)				
area outside the Seattle-Tacoma Urban Area				
AQCR 230 S. Central Washington Intrastate (Remainder of)		Unclassifiable/Attainment		
Benton County				
Franklin County				
Kittitas County				

Washington—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Klickitat County				
Walla Walla County				
Yakima County (part)				
portion outside the Central Business District				

[1] This date is November 15, 1990, unless otherwise noted.

Washington—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Portland - Vancouver AQMA Area				
Clark County (part)				
Air Quality Maintenance Area		Nonattainment		Marginal
Seattle - Tacoma Area				
King County	1/6/92	Nonattainment	1/6/92	Marginal
Pierce County	1/6/92	Nonattainment	1/6/92	Marginal
Snohomish County	1/6/92	Nonattainment	1/6/92	Marginal
AQCR 062 E Washington-N Idaho Interstate (part)				
Spokane County		Unclassifiable/Attainment		
AQCR 062 E Washington-N Idaho Interstate (Remainder of)		Unclassifiable/Attainment		
Adams County				
Asotin County				
Columbia County				
Garfield County				
Grant County				
Lincoln County				
Whitman County				
AQCR 193 Portland Interstate (Remainder of)		Unclassifiable/Attainment		
Clark County (part)				
Remainder of county				
Cowlitz County				
Lewis County				
Skamania County				
Wahkiakum County				
AQCR 227 Northern Washington Intrastate		Unclassifiable/Attainment		
Chelan County				
Douglas County				
Ferry County				
Okanogan County				
Pend Oreille County				
Stevens County				
AQCR 228 Olympic,-Northwest Washington Intrastate		Unclassifiable/Attainment		
Clallam County				
Grays Harbor County				
Island County				
Jefferson County				
Mason County				
Pacific County				
San Juan County				
Skagit County				
Thurston County				
Whatcom County				
AQCR 229 Puget Sound Intrastate (Remainder of)		Unclassifiable/Attainment		
Kitsap County				
AQCR 230 South Central Washington Intrastate		Unclassifiable/Attainment		
Benton County				
Franklin County				
Kittitas County				
Klickitat County				
Walla Walla County				
Yakima County				

[1] This date is November 15, 1990, unless otherwise noted.

Washington—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
King County				
The portion of the City of Seattle bounded on the east by I-5/East Duwamish Greenbelt, on the south by 104th Street, on the west by the West Duwamish Greenbelt north to Fairmont Avenue, S.W., north on Fairmont to Elliott Bay, and Dearborn Street from Elliott Bay to I-5.	11/15/90	Nonattainment	11/15/90	Moderate
The City of Kent and a portion of the Green River valley bounded on east and west by the 100-foot contour, on the north by South 212th Street, and on the south by Highway 516.	11/15/90	Nonattainment	11/15/90	Moderate
Pierce County				
Tacoma metropolitan area bounded on the north by Marine View Drive from Commencement Bay east to the 100-foot contour, southeast along the 100-foot contour to 64th Avenue East, south along 64th Avenue East extended to I-5, I-5 west to the 100-foot contour near Pacific Avenue, and north along the 100-foot contour to Commencement Bay.	11/15/90	Nonattainment	11/15/90	Moderate
Spokane County				
The area bounded on the south by a line from Universal Transmercator (UTM) coordinate 489000mE, 5271000mN west to 458000mE, 5271000mN, thence north along a line to coordinate 458000mE, 5288000mN, thence east to 463000mE, 5288000mN, thence north to 463000mE, 5292000mN, thence east to 481000mE, 5292000mN, thence south to 481000mE, 5288000mN, thence east to 489000mE, 5288000mN, thence south to the beginning coordinate 489000mE, 5271000mN.	11/15/90	Nonattainment	11/15/90	Moderate
Yakima County				
The area bounded on the south by a line from UTM coordinate 694000mW, 5157000mN, west to 681000mW, 5157000mN, thence north along a line to coordinate 681000mN, 5172000mN, thence east to 694000mW, 5172000mN, thence south to the beginning coordinate 694000mW, 5157000mN..	11/15/90	Nonattainment	11/15/90	Moderate
Thurston County				
Cities of Olympia, Tumwater, and Lacey	11/15/90	Nonattainment	11/15/90	Moderate
Walla Walla County				
Wallula	11/15/90	Nonattainment	11/15/90	Moderate

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51. Section 81.349 is amended by revising the tables for "West Virginia—Ozone (O_3)" and "West Virginia—CO", and by adding a new table titled "West Virginia—PM-10" to be inserted in alphabetical order immediately following the tabular entry for "West Virginia—SO_2" to read as follows:

§ 81.349 West Virginia.

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West Virginia—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Barbour County				
Berkeley County				
Boone County				
Braxton County				
Brooke County[2]				
Cabell County				
Calhoun County				
Clay County				
Doddridge County				
Fayette County				
Gilmer County				
Grant County				
Greenbrier County				
Hampshire County				
Hancock County[2]				
Hardy County				
Harrison County				
Jackson County				

West Virginia—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Jefferson County				
Kanawha County				
Lewis County				
Lincoln County				
Logan County				
Marion County				
Marshall County				
Mason County				
McDowell County				
Mercer County				
Mineral County				
Mingo County				
Monongalia County				
Monroe County				
Morgan County				
Nicholas County				
Ohio County				
Pendleton County				
Pleasants County				
Pocahontas County				
Preston County				
Putnam County				
Raleigh County				
Randolph County				
Ritchie County				
Roane County				
Summers County				
Taylor County				
Tucker County				
Tyler County				
Upshur County				
Wayne County				
Webster County				
Wetzel County				
Wirt County				
Wood County				
Wyoming County				

[1] This date is November 15, 1990, unless otherwise noted.

West Virginia—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Charleston Area				
Kanawha County	1/6/92	Nonattainment	1/6/92	Moderate
Putnam County	1/6/92	Nonattainment	1/6/92	Moderate
Greenbrier Area				
Greenbrier County	1/6/92	Nonattainment	1/6/92	Marginal
Huntington-Ashland Area				
Cabell County		Nonattainment		Moderate
Wayne County		Nonattainment		Moderate
Parkersburg-Marietta Area				
Wood County	1/6/92	Nonattainment	1/6/92	Moderate
Rest of State		Unclassifiable/Attainment		
Barbour County				
Berkeley County				
Boone County				
Braxton County				
Brooke County				
Calhoun County				
Clay County				
Doddridge County				
Fayette County				
Gilmer County				
Grant County				
Hampshire County				
Hancock County				
Hardy County				
Harrison County				
Jackson County				
Jefferson County				

West Virginia—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Lewis County				
Lincoln County				
Logan County				
Marion County				
Marshall County				
Mason County				
McDowell County				
Mercer County				
Mineral County				
Mingo County				
Monongalia County				
Monroe County				
Morgan County				
Nicholas County				
Ohio County				
Pendleton County				
Pleasants County				
Pocahontas County				
Preston County				
Raleigh County				
Randolph County				
Ritchie County				
Roane County				
Summers County				
Taylor County				
Tucker County				
Tyler County				
Upshur County				
Webster County				
Wetzel County				
Wirt County				
Wyoming County				

[1] This date is November 15, 1990, unless otherwise noted.

West Virginia—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Brooke	11/15/90	Nonattainment	11/15/90	Moderate
Follansbee area bounded on the north by the Market Street Bridge, on the east by West Virginia Route 2, on the south by the extension of the southern boundary of Steubenville Township in Jefferson County, Ohio, and on the west by the Ohio/West Virginia border				

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52. Section 81.350 is amended by revising the tables for "Wisconsin—Ozone (O_3)" and "Wisconsin—CO" to be inserted in alphabetical order immediately following the tabular entry for "Wisconsin—SO_2" to read as follows:

§ 81.350 Wisconsin.

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Wisconsin—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Oshkosh Area				
Winnebago County (part)				
City of Oshkosh	1/6/92	Unclassifiable	1/6/92	
Adams County		Unclassifiable/Attainment		
Ashland County		Unclassifiable/Attainment		
Barron County		Unclassifiable/Attainment		
Bayfield County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Buffalo County		Unclassifiable/Attainment		

Wisconsin—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Burnett County		Unclassifiable/Attainment		
Calumet County		Unclassifiable/Attainment		
Chippewa County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Columbia County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Dane County		Unclassifiable/Attainment		
Dodge County		Unclassifiable/Attainment		
Door County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Dunn County		Unclassifiable/Attainment		
Eau Claire County		Unclassifiable/Attainment		
Florence County		Unclassifiable/Attainment		
Fond du Lac County		Unclassifiable/Attainment		
Forest County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Green County		Unclassifiable/Attainment		
Green Lake County		Unclassifiable/Attainment		
Iowa County		Unclassifiable/Attainment		
Iron County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Juneau County		Unclassifiable/Attainment		
Kenosha County		Unclassifiable/Attainment		
Kewaunee County		Unclassifiable/Attainment		
La Crosse County		Unclassifiable/Attainment		
Lafayette County		Unclassifiable/Attainment		
Langlade County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Manitowoc County		Unclassifiable/Attainment		
Marathon County		Unclassifiable/Attainment		
Marinette County		Unclassifiable/Attainment		
Marquette County		Unclassifiable/Attainment		
Menominee County		Unclassifiable/Attainment		
Milwaukee County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Oconto County		Unclassifiable/Attainment		
Oneida County		Unclassifiable/Attainment		
Outagamie County		Unclassifiable/Attainment		
Ozaukee County		Unclassifiable/Attainment		
Pepin County		Unclassifiable/Attainment		
Pierce County		Unclassifiable/Attainment		
Polk County		Unclassifiable/Attainment		
Portage County		Unclassifiable/Attainment		
Price County		Unclassifiable/Attainment		
Racine County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Rock County		Unclassifiable/Attainment		
Rusk County		Unclassifiable/Attainment		
St. Croix County		Unclassifiable/Attainment		
Sauk County		Unclassifiable/Attainment		
Sawyer County		Unclassifiable/Attainment		
Shawano County		Unclassifiable/Attainment		
Sheboygan County		Unclassifiable/Attainment		
Taylor County		Unclassifiable/Attainment		
Trempealeau County		Unclassifiable/Attainment		
Vernon County		Unclassifiable/Attainment		
Vilas County		Unclassifiable/Attainment		
Walworth County		Unclassifiable/Attainment		
Washburn County		Unclassifiable/Attainment		
Washington County		Unclassifiable/Attainment		
Waukesha County		Unclassifiable/Attainment		
Waupaca County		Unclassifiable/Attainment		
Waushara County		Unclassifiable/Attainment		
Winnebago County (part)				
Remainder of county		Unclassifiable/Attainment		
Wood County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

Wisconsin—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Door County Area				
Door County	1/6/92	Nonattainment	1/6/92	Rural Transport (Marginal)
Kewaunee County Area				
Kewaunee County	1/6/92	Nonattainment	1/6/92	Moderate
Manitowoc County Area				
Manitowoc County	1/6/92	Nonattainment	1/6/92	Moderate
Milwaukee-Racine Area				
Kenosha County		Nonattainment		Severe-17
Milwaukee County		Nonattainment		Severe-17
Ozaukee County		Nonattainment		Severe-17
Racine County		Nonattainment		Severe-17
Washington County		Nonattainment		Severe-17
Waukesha County		Nonattainment		Severe-17
Sheboygan Area				
Sheboygan County		Nonattainment		Serious
Walworth Area				
Walworth County	1/6/92	Nonattainment	1/6/92	Marginal
Adams County		Unclassifiable/Attainment		
Ashland County		Unclassifiable/Attainment		
Barron County		Unclassifiable/Attainment		
Bayfield County		Unclassifiable/Attainment		
Brown County		Unclassifiable/Attainment		
Buffalo County		Unclassifiable/Attainment		
Burnett County		Unclassifiable/Attainment		
Calumet County		Unclassifiable/Attainment		
Chippewa County		Unclassifiable/Attainment		
Clark County		Unclassifiable/Attainment		
Columbia County		Unclassifiable/Attainment		
Crawford County		Unclassifiable/Attainment		
Dane County		Unclassifiable/Attainment		
Dodge County		Unclassifiable/Attainment		
Douglas County		Unclassifiable/Attainment		
Dunn County		Unclassifiable/Attainment		
Eau Claire County		Unclassifiable/Attainment		
Florence County		Unclassifiable/Attainment		
Fond du Lac County		Unclassifiable/Attainment		
Forest County		Unclassifiable/Attainment		
Grant County		Unclassifiable/Attainment		
Green County		Unclassifiable/Attainment		
Green Lake County		Unclassifiable/Attainment		
Iowa County		Unclassifiable/Attainment		
Iron County		Unclassifiable/Attainment		
Jackson County		Unclassifiable/Attainment		
Jefferson County		Unclassifiable/Attainment		
Juneau County		Unclassifiable/Attainment		
La Crosse County		Unclassifiable/Attainment		
Lafayette County		Unclassifiable/Attainment		
Langlade County		Unclassifiable/Attainment		
Lincoln County		Unclassifiable/Attainment		
Marathon County		Unclassifiable/Attainment		
Marinette County		Unclassifiable/Attainment		
Marquette County		Unclassifiable/Attainment		
Menominee County		Unclassifiable/Attainment		
Monroe County		Unclassifiable/Attainment		
Oconto County		Unclassifiable/Attainment		
Oneida County		Unclassifiable/Attainment		
Outagamie County		Unclassifiable/Attainment		
Pepin County		Unclassifiable/Attainment		
Pierce County		Unclassifiable/Attainment		
Polk County		Unclassifiable/Attainment		
Portage County		Unclassifiable/Attainment		
Price County		Unclassifiable/Attainment		
Richland County		Unclassifiable/Attainment		
Rock County		Unclassifiable/Attainment		
Rusk County		Unclassifiable/Attainment		
St. Croix County		Unclassifiable/Attainment		
Sauk County		Unclassifiable/Attainment		
Sawyer County		Unclassifiable/Attainment		
Shawano County		Unclassifiable/Attainment		
Taylor County		Unclassifiable/Attainment		
Trempealeau County		Unclassifiable/Attainment		
Vernon County		Unclassifiable/Attainment		
Vilas County		Unclassifiable/Attainment		
Washburn County		Unclassifiable/Attainment		
Waupaca County		Unclassifiable/Attainment		
Waushara County		Unclassifiable/Attainment		

Wisconsin—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Winnebago County		Unclassifiable/Attainment		
Wood County		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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53. Section 81.351 is amended by revising the tables for "Wyoming—Ozone (O_3)" and "Wyoming—CO", and by adding a new table titled "Wyoming—PM-10" to be inserted in alphabetical order immediately following the tabular entry for "Wyoming—SO_2" to read as follows:

§ 81.351 Wyoming.

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Wyoming—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Albany County				
Big Horn County				
Campbell County				
Carbon County				
Converse County				
Crook County				
Fremont County				
Goshen County				
Hot Springs County				
Johnson County				
Laramie County				
Lincoln County				
Natrona County				
Niobrara County				
Park County				
Platte County				
Sheridan County				
Sublette County				
Sweetwater County				
Teton County				
Uinta County				
Washakie County				
Weston County				

[1] This date is November 15, 1990, unless otherwise noted.

Wyoming—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Albany County				
Big Horn County				
Campbell County				
Carbon County				
Converse County				
Crook County				
Fremont County				
Goshen County				
Hot Springs County				
Johnson County				
Laramie County				
Lincoln County				
Natrona County				
Niobrara County				
Park County				
Platte County				
Sheridan County				
Sublette County				

Wyoming—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Sweetwater County Teton County Uinta County Washakie County Weston County				

[1] This date is November 15, 1990, unless otherwise noted.

Wyoming—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Sheridan County City of Sheridan	11/15/90	Nonattainment	11/15/90	Moderate

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54. Section 81.352 is amended by revising the tables for "American Samoa—Ozone (O_3)" and "American Samoa—CO" to be inserted in alphabetical order immediately following the tabular entry for "American Samoa—SO_2" to read as follows:

§ 81.352 American Samoa.

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American Samoa—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

American Samoa—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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55. Section 81.353 is amended by revising the tables for "Guam—Ozone (O_3)" and "Guam—CO" to be inserted in alphabetical order immediately following the tabular entry for "Guam—SO_2" to read as follows:

§ 81.353 Guam.

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Guam—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

Guam—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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56. Section 81.354 is amended by revising the tables for "Northern Mariana Islands—Ozone (O_3)" and "Northern Mariana Islands—CO" to be inserted immediately following the tabular entry for "Northern Mariana Islands—SO_2" to read as follows:

§ 81.354 Northern Mariana Islands.

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Northern Mariana Islands—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Whole State		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

Northern Mariana Islands—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Whole State		Unclassifiable/Attainment		

[1] This date is November 15, 1990, unless otherwise noted.

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57. Section 81.355 is amended by revising the tables for "Puerto Rico—Ozone (O_3)" and "Puerto Rico—CO", and by adding a new table titled "Puerto Rico—PM–10" to be inserted in alphabetical order immediately following the tabular entry for "Puerto Rico—SO_2" to read as follows:

§ 81.355 Puerto Rico.

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Puerto Rico—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Adjuntas Municipio				
Aguada Municipio				
Aguadilla Municipio				
Aguas Buenas Municipio				
Aibonito Municipio				
Anasco Municipio				
Arecibo Municipio				
Arroyo Municipio				
Barceloneta Municipio				
Barranquitas Munic.				
Bayamon County				
Caba Rojo Municipio				
Caguas Municipio				
Camuy Municipio				
Canovanas Municipio				
Carolina Municipio				
Catano County				
Cayey Municipio				
Ceiba Municipio				
Ciales Municipio				
Cidra Municipio				
Coama Municipio				

Puerto Rico—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Comeria Municipio				
Corozal Municipio				
Culebra Municipio				
Dorado Municipio				
Fajardo Municipio				
Florida Municipio				
Guanica Municipio				
Guayama Municipio				
Guayanilla Municipio				
Guaynabo County				
Gurabo Municipio				
Hatillo Municipio				
Hormigueros Municipio				
Humacao Municipio				
Isabela Municipio				
Jayuya Municipio				
Juana Diaz Municipio				
Juncos Municipio				
Lajas Municipio				
Lares Municipio				
Las Marias Municipio				
Las Piedras Municipio				
Loiza Municipio				
Luquillo Municipio				
Manati Municipio				
Maricao Municipio				
Maunabo Municipio				
Mayaguez Municipio				
Moca Municipio				
Morovis Municipio				
Naguabo Municipio				
Naranjito Municipio				
Orocovis Municipio				
Patillas Minicipio				
Penuelas Municipio				
Ponce Municipio				
Quebradillas Municipio				
Rincon Municipio				
Rio Grande Municipio				
Sabana Grande Municipio				
Salinas Municipio				
San German Municipio				
San Juan Municipio				
San Lorenzo Municipio				
San Sebastian Municipio				
Santa Isabel Municipio				
Toa Alta Municipio				
Toa Baja County				
Trujilla Alto Municipio				
Utuado Municipio				
Vega Alta Municipio				
Vega Baja Municipio				
Vieques Municipio				
Villalba Municipio				
Yabucoa Municipio				
Yauco Municipio				

[1] This date is November 15, 1990, unless otherwise noted.

Puerto Rico—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
Adjuntas Municipio				
Aguada Municipio				
Aguadilla Municipio				
Aguas Buenas Municipio				
Aibonito Municipio				
Anasco Municipio				
Arecibo Municipio				
Arroyo Municipio				

Puerto Rico—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Barceloneta Municipio				
Barranquitas Munic.				
Bayamon County				
Caba Rojo Municipio				
Caguas Municipio				
Camuy Municipio				
Canovanas Municipic				
Carolina Municipio				
Catano County				
Cayey Municipio				
Ceiba Municipio				
Ciales Municipio				
Cidra Municipio				
Coama Municipio				
Comeria Municipio				
Corozal Municipio				
Culebra Municipio				
Dorado Municipio				
Fajardo Municipio				
Florida Municipio				
Guanica Municipio				
Guayama Municipio				
Guayanilla Municipio				
Guaynabo County				
Gurabo Municipio				
Hatillo Municipio				
Hormigueros Municipio				
Humacao Municipio				
Isabela Municipio				
Jayuya Municipio				
Juana Diaz Municipio				
Juncos Municipio				
Lajas Municipio				
Lares Municipio				
Las Marias Municipio				
Las Piedras Municipio				
Loiza Municipio				
Luquillo Municipio				
Manati Municipio				
Maricao Municipio				
Maunabo Municipio				
Mayaguez Municipio				
Moca Municipio				
Morovis Municipio				
Naguabo Municipio				
Naranjito Municipio				
Orocovis Municipio				
Patillas Minicipio				
Penuelas Municipio				
Ponce Municipio				
Quebradillas Municipio				
Rincon Municipio				
Rio Grande Municipio				
Sabana Grande Municipio				
Salinas Municipio				
San German Municipio				
San Juan Municipio				
San Lorenzo Municipio				
San Sebastian Municipio				
Santa Isabel Municipio				
Toa Alta Municipio				
Toa Baja County				
Trujilla Alto Municipio				
Utuado Municipio				
Vega Alta Municipio				
Vega Baja Municipio				
Vieques Municipio				
Villalba Municipio				
Yabucoa Municipio				
Yauco Municipio				

[1] This date is November 15, 1990, unless otherwise noted.

Puerto Rico—PM-10 Initial Nonattainment Areas

Designated Area	Designation		Classification	
	Date	Type	Date	Type
Guaynabo County	11/15/90	Nonattainment	11/15/90	Moderate

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58. Section 81.356 is amended by revising the tables for "Virgin Islands—O_3" and "Virgin Islands—CO" to be inserted in alphabetical order immediately following the tabular entry for "Virgin Islands—SO_2" to read as follows:

§ 81.356 Virgin Islands.

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Virgin Islands—Carbon Monoxide

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
St. Croix				
St. John				
St. Thomas				

[1] This date is November 15, 1990, unless otherwise noted.

Virgin Islands—Ozone

Designated Area	Designation		Classification	
	Date[1]	Type	Date[1]	Type
Statewide		Unclassifiable/Attainment		
St. Croix				
St. John				
St. Thomas				

[1] This date is November 15, 1990, unless otherwise noted.

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federal register

Wednesday
November 6, 1991

Part III

Department of Labor

Employment and Training Administration; Wage and Hour Division

20 CFR Part 655

29 CFR Part 508

Attestations by Employers for Off-Campus Work Authorization for Students (F-1 Nonimmigrants); Interim Final Rule

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

RIN 1205-AA88

Wage and Hour Division

29 CFR Part 508

RIN 1215-AA

Attestations by Employers for Off-Campus Work Authorization for Students (F-1 Nonimmigrants)

AGENCIES: Employment and Training Administration, Labor; and Wage and Hour Division, Labor.

ACTION: Interim final rule; request for comments.

SUMMARY: The Employment and Training Administration (ETA) and the Employment Standards Administration (ESA) of the Department of Labor (DOL or Department) are promulgating regulations governing the filing and enforcement of attestations by employers seeking to use aliens admitted as students on F-1 visas (F-1 students) in off-campus work. Under the Immigration and Nationality Act (INA), as amended by the Immigration Act of 1990 (Act), employers are required to submit these attestations to DOL and the educational institution in order for such students, if otherwise qualified, to receive work authorization from the Attorney General. The attestation process will be administered by ETA, while complaints and investigations regarding violations of the attestation provisions and procedures will be handled by ESA.

DATES: *Effective Date:* October 1, 1991.

Comments: Written comments on the interim final rule are invited from interested parties. Comments shall be received on or before December 6, 1991.

ADDRESSES: Send comments to Roberts T. Jones, Assistant Secretary, Employment and Training Administration, Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Attention: Immigration Task Force, Room N-4470.

FOR FURTHER INFORMATION CONTACT: On 20 CFR part 655, subpart J, and 29 CFR part 508, subpart J, contact Mr. David O. Williams, Immigration Task Force. Telephone: 202-535-0174 (this is not a toll-free number).

On 20 CFR part 655, subpart K, and 29 CFR part 508, subpart K, contact Mr. Solomon Sugarman, Chief, Farm Labor Programs, Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S-3502, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: 202-523-7605 (this is not a toll-free number).

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act

The information collection requirements contained in this interim final rule have been submitted to the Office of Management and Budget for clearance under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) and have been assigned OMB Control No. 1205-0315.

The Employment and Training Administration (ETA) estimates that employers will file approximately 40,000 attestations on behalf of approximately 125,000 F-1 students each year. The public reporting burden for this collection of information is estimated to average 1-2 hours per response, including the time for reviewing instructions, searching existing information/data sources, gathering information, and completing and reviewing the attestation.

Written comments on the collection of information requirements should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Employment and Training Administration, Washington, DC 20503.

II. Background

On November 29, 1990, the Immigration Act of 1990 (Act), Public Law 101-649, 104 Stat. 4978, was enacted into law. The law amends the Immigration and Nationality Act (INA) 8 U.S.C. 1101 *et seq.*, and assigns responsibility to the Department of Labor (DOL or the Department) for the implementation of several provisions of the Act relating to the entry of immigrants and nonimmigrants under employment-based categories. One of the provisions of the Act the Department is charged with implementing is section 221, which supplements sections 101(a)(15)(F) and 214 of the INA. Section 221 of the Act creates a three-year program which allows F-1 students to work off-campus if: (1) The alien has completed one year of study and is maintaining good academic standing at the institution; (2) the alien will not be employed off-campus for more than twenty hours per week during the academic term but may be employed full-time during vacation periods and between terms; and (3) the employer provides an attestation to the Department and to the educational institution. The employer must attest that it has recruited for the position for at least sixty days and will pay the higher of the actual wage at the worksite or the prevailing wage for the occupation in the area of employment. When the Department determines that an employer has made an attestation that is materially false or has failed to pay wages in accordance with the attestation, after notice and opportunity for a hearing, the employer shall be disqualified from employing an F-1 student under the Section 221 program, which expires on September 30, 1994. 8 U.S.C. 1184 note.

III. The Process of Developing Regulations

In order to provide all interested parties an opportunity to comment and give their views on the meaning of the Act and their recommendations on its implementation, an Advance Notice of Proposed Rulemaking (ANPRM) was published in the **Federal Register** on March 20, 1991. 55 FR 11705. The notice provided a detailed description of those provisions of the Act which give responsibilities to the Department of Labor and raised a number of issues about which the Department sought comment. The Department also welcomed comments on any other issues.

Comments and recommendations were received from a variety of persons and organizations. These comments have been carefully reviewed and were fully considered in developing these regulations. The Department continues to seek comments and recommendations from all interested parties with the publication of these interim final regulations.

IV. Attestation Process and Requirements

The overall intent of Congress in promulgating the Section 221 provision was to provide an attestation mechanism to safeguard the job opportunities and wages of U.S. workers, while also enabling F-1 students to obtain off-campus work authorization. The regulations implement the Congressional intent by establishing an attestation process which requires the employer to make promises about (attest to) the recruitment of workers and the payment of wages. The regulations specify that the employer must be able to demonstrate the veracity of its attestation statements with appropriate documentation. While the regulations do not require any specific records to be kept, they identify the specific documentation, which, if kept by the

employer and if accurate, would satisfy the employer's burden of proof. The employer retains the right to meet its burden of proof in proving its attestation through other sufficient means.

A. Where and When to File

The Department considered various approaches to the manner of filing the employer's attestation in support of its employment of F-1 students. The Department believes that a reasonable interpretation of section 221(a)(2), which requires the employer to provide both the educational institution *and* DOL with the attestation, is that Congress intended to permit simultaneous filing of the attestation with DOL and the educational institution. The Department recognizes that student work authorization needs to be acted upon promptly and that the attestation process should be as streamlined as possible. Therefore, the regulations permit, but do not require, an employer to simultaneously file the attestation with DOL and the Designated School Official (DSO) at the educational institution. If an employer chooses to file an attestation simultaneously, the terms of the attestation are enforceable, whether or not DOL has received the attestation, since the employer shall warrant on the form to the DSO that the document was filed with DOL. In the alternative, the employer may prefer to receive the accepted attestation back from DOL before it is filed with the DSO.

DOL contemplates that, under Immigration and Naturalization Service (INS) regulations, the DSO may grant work authorization to F-1 students (if other statutory conditions are met) upon receipt of the employer's attestation warranting that it has been filed with DOL, whether it has been accepted by DOL or not. The DOL regulations require that an employer's attestation supporting its employment of F-1 students under section 221 be filed with the Department no later than 60 days after the employer's 60-day recruitment period has ended. The employer may file an attestation for a single position or for multiple positions in the same occupation or in multiple occupations, provided that all positions are located within the same geographic area of intended employment. The employer's attestation must list the position(s) and state the specific rate(s) of pay applicable to each position. The employer's attestation must also identify the Dictionary of Occupational Titles (DOT) Two-Digit Occupational Division, as well as the employer's own job title, for each occupation listed on the attestation. A list of the two-digit divisions is included at Appendix B of this subpart. The Department will not use the two-digit occupational division for prevailing wage purposes, but rather, for keeping track of and reporting the occupations in which F-1 students are employed. Employers are cautioned that, in fact, occupational divisions at the two-digit level are too broad to meet the requirements to determine the prevailing wage.

B. Attestation Elements

1. Recruitment

The Act requires employers to attest that they recruited for a period of 60 days for the position(s) in which they intend to employ F-1 students; however, the statute does not specify a recruitment source or the precise nature of the recruitment efforts required of employers. The Department received a number of comments to the ANPRM on this subject, suggesting the kinds of recruitment efforts employers should be required to undertake. These suggestions included a State Employment Service agency (SESA) job order and/or weekly newspaper advertisement and a job posting at the student placement office and/or at the worksite.

The Department believes that recruitment efforts in support of the employment of F-1 students must recognize that off-campus employment job opportunities for these students will be primarily short-term and part-time in nature. At the same time, the recruitment efforts must be designed to provide adequate protection for U.S. workers. The Department is, therefore, requiring that a dual recruitment source be used to ensure that: (1) U.S. workers who may be interested in these positions have an opportunity to apply for them; and (2) the employer's recruitment efforts reflect current labor market conditions. For this purpose the Department is requiring that in order to recruit qualified workers, employers shall place a job order with the SESA and post the job vacancy at the place of employment. Also, since many U.S. workers seeking part-time employment opportunities may be students, the Department encourages employers to send a copy of the prospective employer's vacancy announcement to the school placement office during the employer's 60-day recruitment effort. Employers must file the attestation with DOL no later than 60 days immediately following the last day of recruitment. Employers may hire F-1 students as needed, for a period of 90 days following the last day of recruitment, provided an attestation has been filed with DOL and the DSO.

The regulations also establish a new mechanism for assuring that employers continue to recruit before hiring F-1 student(s) throughout the three-year validity period of the attestation. Employers have the option of choosing the recruitment approach best suited to their anticipated need for workers and potential use of F-1 students. Employers may either: (1) Maintain an "open job order" for the position(s) with the SESA for the validity period of the attestation and hire F-1 students at any time during this period; or, (2) conduct a new 60-day recruitment effort for any opening(s) in any position(s) covered by the attestation and then hire F-1 students during the 90-day period following the last day of each such separate recruitment effort.

The ANPRM asked for comments on whether DOL should require employers to submit to DOL information documenting their recruitment efforts as part of the attestation. Approximately half of the commenters stated that such information should neither be required nor evaluated by DOL, because it is not specifically contained in the Act. The remaining commenters stated that employers should be required to attest that the recruitment was unsuccessful and/or that DOL should evaluate the results of the employers' recruitment efforts. After considering these comments, the Department has concluded that Congress, by requiring employers to recruit for 60 days, intended that unsuccessful recruitment of U.S. workers be a precondition to the employment of F-1 students, and that, therefore employers must be able to substantiate their good faith attempts to comply with this intent with appropriate documentation, in the event that an investigation is commenced. The Department is thus requiring that employers attest that they have been unsuccessful in recruiting U.S. workers for the jobs into which F-1 students are hired. Employers have the burden of proof as to their compliance with this recruitment requirement. While the regulations do not mandate that particular documentation be maintained by employers for this purpose, appendix A of subpart J identifies the documentation that the Department would consider to be sufficient for this purpose, provided, of course, that this information is found to be truthful, accurate, and substantiates compliance upon investigation.

2. Wages

The Department considered several approaches to implementing the prevailing wage provision of the Act which requires that employers attest they are paying the higher of the actual wage for the occupation at the worksite or the local prevailing wage for the occupation. These possible approaches included a prevailing wage determination by DOL when the attestation is filed. Several commenters to the ANPRM favored this approach and stated that the prevailing wage provisions of the Act should be implemented in the same manner the Department currently implements the permanent labor certification regulations at 20 CFR 656.40. Other commenters asserted deficiencies in the 20 CFR 656.40 methodology and suggested that employers themselves will most likely know the prevailing wage. Thus, they suggested that absent a published prevailing wage determination by DOL, employers should be able to establish the prevailing wage by making a good faith inquiry among competitors. One of these commenters suggested that employers should be required to do nothing more than attest that the prevailing wage will be paid and that challenges to this attestation should be handled on a case-by-case basis.

The regulations strike an appropriate balance between wage protections for U.S. workers and a streamlined attestation procedure which does not unduly burden the student work authorization process. The regulations require that, in the absence of a collective bargaining agreement or a wage determination issued under the Davis-Bacon Act or the Service Contract Act, the prevailing wage shall be determined through either: (1) A prevailing wage survey published by an independent authoritative source, as defined in the regulations (*e.g.*, a professional, business, trade, educational, or governmental organization or association); or (2) a prevailing wage determination issued by the SESA for the occupation within the area of employment. The employer has the burden of proof in establishing compliance with this statutory requirement. While the regulations do not mandate that any specific documentation be maintained by all employers for this purpose, Appendix A of Subpart J of the regulations identifies the documentation that the Department would consider to be sufficient for this purpose, provided, of course, that this information is found to be truthful, accurate, and substantiates compliance upon investigation.

If the employer obtains a prevailing wage determination from the SESA, the Department of Labor will accept that prevailing wage determination as correct and will not contest its validity where the employer produces a copy of the SESA prevailing wage determination. Where the Wage and Hour Division determines that a complaint involves only an allegation that a prevailing wage determination obtained from a SESA is inaccurate, the Wage and Hour Division will not charge a violation therefor. Where the employer arranges for the conduct of a prevailing wage survey, absent fraud and misrepresentation, the procedure must comply with the criteria regarding the independent authoritative source, and the survey must apply sound survey methodology (20 CFR 656.40 and Technical Assistance Guide No. 656) to current wage data. Where the employer's prevailing wage determination is based on a wage survey from an independent authoritative source, the employer will be found in compliance—provided that the criteria for independent authoritative source surveys are met and that the survey has been applied correctly to the occupation and geographic area —unless the Administrator has significant evidence which reasonably shows a substantial variance between the employer's attested wage and the prevailing wage for the occupation in the geographic area.

The Department believes that the Act requires that workers covered by the provision must be paid the current prevailing wage for the entire attestation period. Consequently, the regulations require that an attesting employer update the prevailing wage determination annually from the date of filing, and that the F-1 students and similarly employed workers receive the greater of the actual or the updated prevailing wage for the occupation for the entire period of the attestation. As with the initial prevailing wage determination, the employer has an option as to the methodology of determination and has the burden of proof as to the validity of the updated prevailing wage. The employer also has the burden of proving actual payment of the required wages, which may be demonstrated through payroll records maintained in compliance with existing regulations under the Fair Labor Standards Act.

3. Documentation

The Act contemplates that the burden of proving the validity of the attestation is on the employer. The regulations, therefore, require employers to meet their burden of proof on their recruitment and wage attestations with appropriate substantiating documentation. A majority of commenters to the ANPRM suggested that this documentation should not have to be submitted to DOL or the educational institution. The Department agrees that documentation shall not be submitted with the attestation, and the regulations require that the employer be able to produce documentation to support the attestation elements. This documentation must be made available to DOL upon request to determine whether the employer has made an attestation that is materially false or has failed to pay wages in accordance with the attestation.

4. Validity Period

The Department agrees with the views of most commenters that the validity period of the attestation should be reasonable and that there should be a fixed period of time within which the employer may employ as many F-1 students pursuant to an attestation as needed. The Department believes that a reasonable validity period is consistent with the streamlined approach to F-1 student attestations intended by Congress. The regulations, therefore, provide that an attestation will be valid for the duration of the F-1 student work authorization provision, *i.e.*, beginning on the date it is accepted for filing by DOL and lasting until September 30, 1994. During the validity period, employers may recruit for 60 days and hire F-1 students within the 90-day period immediately following the last day of each recruitment effort, from as many educational institutions in the area of intended employment as needed to fill vacant positions. If, after the 90-day hiring period, additional F-1 students are needed, employers must recruit for another 60-day period before hiring additional F-1 students. Employers who file "open job orders" with the SESA, as part of their recruitment effort, may hire F-1 students at any time throughout the validity period of the attestation.

In order to employ F-1 students in any position(s) not named in the attestation or to employ F-1 students in a different geographical area of intended employment, the employer must conduct a new recruitment effort, file a new attestation with the Department, and

provide a copy of the new attestation to each educational institution at which it proposes to hire F-1 students. Once any attestation has been accepted for filing, the employer must comply with all of its terms for the duration of the validity period of the attestation.

V. DOL Review of Attestations

The Act states that the attestation is to be filed with the Department and the educational institution. Although the Act is silent with regard to the type of review Congress intended the Department to make of F-1 student attestations, this dual filing requirement suggests that Congress intended that DOL act promptly on attestations filed by employers. The Act also assigns to the Department the responsibility for determining whether an employer has provided an attestation that is materially false or has failed to pay wages in accordance with the attestation. In such cases, the regulations spell out notice, hearing, and disqualification provisions.

In determining the Department's general approach to its review of attestations, the Department considered various options ranging from the simple filing of all attestations with no review, as suggested by several commenters to the ANPRM, to a thorough review of each attestation element. The regulations specify that the Department will review an attestation to ensure that it is complete and signed by the attesting employer, and to determine whether the Wage and Hour Division (Administrator) has previously disqualified the attesting employer from employing F-1 students. The Department believes that this simplified review process will provide an for the expedited filing of attestations that are enforceable. Therefore, in the regulations, all F-1 student attestations are deemed to be accepted for filing as of the date received by DOL. Incomplete attestations will be returned to the employer and must be corrected and resubmitted within 15 days. Any attestation submitted by an employer previously disqualified from employing F-1 students will be rejected on submission.

VI. Public Access to Attestations

The Act does not contain a provision for public examination of employer attestations once they are submitted to DOL. Many commenters stated that DOL should not provide public access to the attestations absent a legislative requirement to do so. However, some type of public disclosure or reasonable access by the public to F-1 student attestations is necessary to give full meaning to the notice, hearing, and disqualification provisions of the new Act and to provide a measure of consistency with the requirements of the other attestation-like programs (*i.e.*, H-1B Specialty Occupations and D-Crewmembers). Therefore, as the regulations provide, the Department will compile and maintain a list of any employers who filed attestations. The list will state the occupation, geographical area, and wage rate. The list will be available for public inspection at the DOL office at which the attestation was filed. The public may review the list and obtain a copy of the attestation upon request. While this approach is more moderate than the legislatively mandated provisions for the other attestation-like programs administered by DOL, the Department believes it is sufficient to enable the public to challenge an employer's attestation when the facts warrant it. See *e.g.*, 8 U.S.C. 1182(m)(2)(A)(vi), (m)(2)(E)(i), (n)(1)(D), and 1288 (c)(1)(B)(ii) and (c)(4)(A).

VII. Investigations and Dispositions

A. Investigation and Hearing

Section 221(a) of the Act requires that the Secretary make determinations about whether an employer provided an attestation which is materially false or has failed to pay wages in accordance with the attestation. The Secretary is not authorized to make determinations as to the validity of an F-1 student's work authorization. Thus, the INS—not DOL—is responsible for appropriate action with respect to the validity or continuing validity of an F-1 student's work authorization based on academic standing and work schedule (*e.g.*, working more than 20 hours per week during the academic term).

The regulations emphasize that it is the employer's obligation to establish that it has complied with all attestation elements. The regulations also require that the employer cooperate in any investigation which is undertaken by the Wage and Hour Administrator, and specify that the employer is prohibited from taking retaliatory action against persons who file complaints, assist in the investigation, or participate in administrative proceedings. Under the regulations, any aggrieved person may file a complaint regarding an attesting employer with respect to an attestation.

The Act requires that the Secretary provide an opportunity for a hearing, and the regulations establish an administrative law judge (ALJ) procedure, under which an employer charged by the Wage and Hour Administrator with a violation may request an evidentiary hearing. The regulations do not afford the opportunity for a hearing to an aggrieved party where the Administrator has not found reasonable cause to conduct an investigation or where, on investigation, the Administrator has found no violation(s) to have occurred. Interested parties may request authorization to participate in the hearing as intervenors or amici curiae, at the discretion of the ALJ. Because of the problems of proof to be anticipated in a proceeding involving wage determinations and key witnesses who may well be outside the U.S. and unavailable to testify at the hearing, the regulations specify that the hearing will not be subject to the ALJ rules of evidence. Although not required by the Act, the regulations provide an opportunity for discretionary review by the Secretary following a decision of an ALJ. Either the employer or the Administrator may request review, and any interested parties who participated in the ALJ proceeding may also participate in the Secretarial review proceeding. Both the ALJ hearing and the Secretarial review procedures are subject to somewhat stringent deadlines, in light of the Department's conclusion that the three-year F-1 program cannot be effectively administered and its operation cannot be realistically evaluated if the review procedures are extended.

B. Penalties

An employer of an F-1 student has a statutory obligation to pay the wage rate that is the higher of either the prevailing wage for the occupation in the area where the employee is employed, or the wage rate at the establishment for that same occupation; this wage rate must be paid to both the F-1 student(s) and the U.S. worker(s) employed in the same occupation at the establishment. The Act provides that, as a sanction for failing to pay the required wage, the employer will be disqualified from the F-1 program. The Act imposes the same sanction if the Department determines that the employer provided an attestation that is materially false.

The regulations implement these provisions by specifying that notice of the Administrator's finding of violation(s) by, and disqualification of an employer, will be sent to the employer, the Attorney General (INS), and ETA upon completion of an ALJ procedure that sustains a finding of violation(s), or upon issuance of the Administrator's determination where no hearing is timely requested by an employer found in violation.

Upon receipt of the Administrator's notice, ETA will invalidate the employer's attestation(s) and not accept additional attestation(s) from the disqualified employer; the disqualified employer will also be identified in the periodic list of disqualified employers to be published by ETA in the **Federal Register**, so that DSOs can readily determine whether work authorization should be invalidated and may not thereafter be issued for employment by a particular disqualified employer.

Upon receipt of the Administrator's notice, the INS will take appropriate steps under its regulations to secure cancellation of any F-1 student's authorization for employment by such employer and prevent any further issuance of work authorization to F-1 students for the employer. To the extent known from the investigation, the Administrator will specify in the notice to the INS the names of the schools which have issued work authorization for any F-1 students who have been employed by the disqualified employer; INS will inform the DSOs of those schools that they are to revoke F-1 work authorization and not issue future F-1 work authorization(s) for that employer. In addition, the Administrator may provide a copy of the notice to the INS to any school known by the Administrator to have authorized any F-1 student's employment by a disqualified employer.

Receipt by the DSO of any such communication from the Administrator, absent any specific notice from the INS, shall be a sufficient basis for the DSO of such school to revoke any F-1 work authorization for the disqualified employer and to refuse to issue any future F-1 work authorization for that employer. A disqualified employer's continued or new employment of any F-1 student shall constitute a violation of the INA's employer sanctions provisions, irrespective of whether the F-1 student's work authorization has been formally revoked or erroneously issued by the DSO or INS.

The Department considered whether it should also require the payment of back wages where it is found that the employer has failed to pay the F-1 student(s) and similarly employed workers the wages required by the Act to give the protection to F-1 students and U.S. workers that the Congress intended. Further, in some circumstances, back pay may be remedial, such as where payment is in accord with the employer's attestation but it is found that the prevailing wage attested to varies substantially from the prevailing wage for the occupation in the area of intended employment. The Department considered whether a back wage remedy—in effect "making whole" the F-1 student(s) and/or U.S. worker(s) inappropriately paid—might, in such circumstances, serve to resolve a finding of failure to pay wages. However, the only sanction expressly stated in section 221 is disqualification of the employer from the F-1 program. Therefore, the Department has not included a back wage remedy for F-1 wage violation(s). The penalty to an employer for any violation under this section of the Act is permanent disqualification from the F-1 program. An employer's attestation which is found to be incorrect (e.g., the attested prevailing wage substantially varies from the actual prevailing wage for the occupation in the area of intended employment) may constitute a violation (as "misrepresentation") and result in the employer's disqualification from the program. The Department notes that to knowingly furnish any false information in the preparation of the attestation form is a felony, punishable by $10,000 fine or five years in the penitentiary, or both.

Regulatory Impact and Administrative Procedure

E.O. 12291

The rule does not have the financial or other impact to make it a major rule and, therefore, the preparation of a regulatory impact analysis is not necessary. See Executive Order 12291, 3 CFR, 1981 Comp., Page 127, 5 U.S.C. 601 note.

Regulatory Flexibility Act

This rule was not preceded by a notice of proposed rulemaking and, thus, is not covered by the Regulatory Flexibility Act. Nevertheless, the Department of Labor has notified the Chief Counsel for Advocacy, Small Business Administration, and made the certification pursuant to the Regulatory Flexibility Act at 5 U.S.C. 605(b), that the rule does not have a significant economic impact on a substantial number of small entities.

Interested parties are requested to submit, as part of their comments on this rule, information on the potential economic impact of the rule.

Immediate Effective Date

The interim final rule is being published, effective October 1, 1991, without a prior notice of proposed rulemaking. The Immigration Act of 1990 provides that the off-campus work program for nonimmigrant alien students begins on that date. Absent immediate standards for this program nonimmigrant students and their U.S. co-workers would lack the protections necessary under this program; and employers would not be fully aware of their responsibilities. For those reasons, the Department of Labor for good cause finds that a notice of proposed rulemaking is impracticable and contrary to the public interest. 5 U.S.C. 553(b)(B). For the same reasons, the Department of Labor has found good cause to exist to make the interim final rule effective on the statutory effective date of October 1, 1991. 5 U.S.C. 553(d)(3). Nevertheless, the Department invites interested members of the public to comment on the interim final rule, for the period set forth in the "DATES" section above.

Catalog of Federal Domestic Assistance Number

This program is not yet listed in the Catalog of Federal Domestic Assistance.

List of Subjects

20 CFR Part 655

Administrative practice and procedure, Agriculture, Aliens, Crewmembers, Employment, Enforcement, Forest and forest products, Guam, Health professions, Immigration, Labor, Longshore work; Migrant labor, Nurse, Penalties, Registered nurse, Reporting and recordkeeping requirements, Specialty occupation, Students, Wages.

29 CFR Part 508

Administrative practice and procedure, Aliens, Employment, Enforcement, Immigration, Labor, Penalties, Reporting and recordkeeping requirements, Specialty occupation, Students, Wages.

Text of the Interim Final Joint Rule

The text of the interim final joint rule as adopted by ETA and the Wage and Hour Division, ESA, in this document appears below:

Subpart J—Attestations by Employers Using F-1 Students in Off-Campus Work

Sec.

____.900 Purpose, procedure and applicability of subparts J and K of this part.
____.910 Overview of process.
____.920 Definitions.
____.930 Addresses of Department of Labor regional offices.
____.940 Employer attestations.
____.950 Public access.

Appendix A to Subpart J: Documentation in Support of Attestations Made by Employers

Subpart: K—Enforcement of the Attestation Process for Attestations Filed by Employers Utilizing F-1 Students in Off-campus Work.

Sec.

—.1000 Enforcement authority of Administrator, Wage and Hour Division.
—.1005 Complaints and investigative procedures.
—.1010 Remedies.
—.1015 Written notice and service of Administrator's determination.
—.1020 Request for hearing.
—.1025 Rules of practice for administrative law judge proceedings.
—.1030 Service and computation of time.
—.1035 Administrative law judge proceedings.
—.1040 Decision and order of administrative law judge.
—.1045 Secretary's review of administrative law judge's decision.
—.1050 Administrative record.
—.1055 Notice to the Employment and Training Administration (ETA) and the Attorney General (AG).
—.1060 Non-applicability of the Equal Access to Justice Act.

Subpart J—Attestations by Employers Using F-1 Students in Off-Campus Work

§ —.900 Purpose, procedure and applicability of subparts J and K of this part.

(a) *Purpose.* The Immigration Act of 1990 (Act) at section 221 creates a three-year work authorization program beginning October 1, 1991, for aliens admitted as F-1 students described in subparagraph (F) of section 101 (a)(15) of the Immigration and Nationality Act. 8 U.S.C. 1101(a)(15)(F). The Act specifies that the Attorney General shall grant an alien authorization to be employed in a position unrelated to the alien's field of study (*i.e.*, a position not involving curricular or post-graduate practical training) and off-campus if:

(1) The alien has completed one year of school as an F-1 student and is maintaining good academic standing at the educational institution;

(2) The employer provides the educational institution and the Secretary of Labor with an attestation regarding recruitment and rate of pay specified in paragraph (b) of this section; and

(3) The alien will not be employed more than 20 hours each week during the academic term (but may be employed on a full-time basis during vacation periods and between academic terms).

Subpart J of this part sets forth the procedure for filing attestations with the Department of Labor (the Department or DOL) for employers who seek to use F-1 students for off-campus work. Subpart K of this part sets forth complaint, investigation, and disqualification provisions with respect to such attestations.

(b) *Procedure.* (1) An employer must comply with the following procedure in order to hire F-1 students for off-campus employment:

(i) Recruit for 60 days before filing an attestation;

(ii) File the attestation with the DOL and the Designated School Official (DSO) of the educational institution before hiring any F-1 student(s);

(iii) Hire F-1 student(s) during the 90-day period following the last day of the recruitment period; and

(iv) Initiate a new 60-day recruitment effort in order to hire any F-1 student(s), under the valid attestation, after the 90-day hiring period. (A job order placed with the SESA as part of the employer's initial recruitment which remains "open" with the SESA shall satisfy the requirement regarding a new 60-day recruitment effort.)

(2) The employer's attestation shall state that the employer:

(i) Has recruited unsuccessfully for at least 60 days for the position and will recruit for 60 days for each position in which an F-1 student is hired under that attestation until September 30, 1994; and

(ii) Will provide for payment to the alien and to other similarly situated workers at a rate not less than the actual wage for the occupation at the place of employment, or if greater, the prevailing wage for the occupation in the area of intended employment.

(3) The employer shall file the attestation with the Designated School Official (DSO) of each educational institution from which it seeks to hire F-1 students. In fulfilling this requirement, the employer may file the attestation initially:

(i) With the appropriate Regional Office of ETA only; or

(ii) Simultaneously with the DSO and the appropriate Regional Office of ETA. In either instance, under paragraph (b)(3) of this section, ETA will return to the employer a copy of the attestation with ETA's acceptance indicated thereon. The employer must then send a copy of each accepted attestation to the DSO. Where the employer has chosen to file the attestation simultaneously with DOL and the DSO, as described in paragraph (b)(3)(ii) of this section, the employer shall provide a copy of the accepted attestation to the DSO within 15 days after receiving the accepted attestation from DOL. The employer shall also retain the accepted attestation and produce it in the event the Department conducts an investigation to determine if the employer has made an attestation that is materially false or has failed to pay wages in accordance with the attestation. In no case may an employer hire an F-1 student for off-campus employment without first filing an attestation with DOL and the DSO. The employer may not file the attestation with the DSO before it is filed with DOL or in the absence of filing the attestation with DOL. The DSO may treat an attestation as accepted for filing by DOL for the purpose of authorizing F-1 student employment upon its receipt by the school.

(4) The employer may file an attestation for one or more openings in the same occupation, or one or more positions in more than one occupation, provided that all occupations are listed on the attestation and all positions are located within the same geographic area of intended employment.

(5) The attestation shall be deemed "accepted for filing" on the date it is received by DOL. Where the attestation is not completed as set forth at § —.940(f)(1) of this part, it shall be returned to the employer which will have 15 days to correct the deficiency or it will be rejected. If the attestation is rejected, DOL will notify INS. Attestations deemed unacceptable under § —.940(f)(2) of this part may not be resubmitted.

(c) *Applicability.* Subparts J and K of this part apply to all employers who seek to employ F-1 students in off-campus work in positions unrelated to their field(s) of study.

(d) *Final date.* ETA will not accept attestations under this program after September 30, 1994.

§ —.910 Overview of process.

This section provides a context for the attestation process to facilitate understanding by employers that seek to employ F-1 students in off-campus work.

(a) *Department of Labor's responsibilities.* The Department of Labor (DOL) administers the attestation process. Within DOL, the Employment and Training Administration (ETA) shall have responsibility for accepting and filing employer attestations on behalf of F-1 students; the Employment Standards Administration (ESA) shall be responsible for conducting any investigations concerning such attestations.

(b) *Employer attestation responsibilities.* Prior to hiring any F-1 student(s) for off-campus employment, an employer must submit an attestation on Form ETA-9034, as described in § —.940 of this part, to the Employment and Training

Administration (ETA) of DOL at the address set forth at § ____.930 of this part.

(1) The attesting employer shall file the attestation with the Designated School Official (DSO) of each educational institution from which it seeks to hire F-1 students. If the employer is filing the attestation with the DSO simultaneously to filing it with DOL, or prior to DOL's accepting it, the employer must provide the DSO with a copy of the accepted attestation within 15 days after receiving the attestation from DOL.

(2)(i) Each attestation shall be valid for three years, or until September 30, 1994, whichever is sooner. Throughout the validity period of the attestation, the employer may hire F-1 students as needed, during the 90-day period immediately following each 60-day recruitment period, for the positions specified on Form ETA-9034, at the required wage rate, from any educational institution in the geographic area of intended employment. In order to employ F-1 students in any occupation(s) different from the occupation(s) specified in the attestation, the employer shall file a new attestation with ETA.

(ii) The employer shall have the burden of proving the truthfulness and accuracy of each attestation element in the event that such attestation element is challenged in an investigation.

(iii) Substantiating documentation in support of each attestation element must be maintained by the employer and shall be made available to DOL for inspection and copying upon request. If the employer maintains the specific documentation recommended in appendix A of this subpart, and the documentation is found to be truthful, accurate, and substantiates compliance, it shall meet the burden of proof. If the employer chooses to support its attestation in a manner other than in accordance with appendix A of this subpart, the employer's documentation must be of equal probative value to that shown in appendix A of this subpart in the event of an investigation.

(c) *Designated School Official (DSO) responsibilities.* The Department notes that the basic responsibilities of the DSO are outlined in INS regulations at 8 CFR 214.2(f).

(1) DOL understands INS regulations to mean that the DSO at the educational institution is expected to assure that, prior to authorizing the off-campus employment of any F-1 student(s):

(i) It has received an attestation from the prospective employer;

(ii) The prospective employer has not been disqualified from participation in the F-1 student work authorization program (Employers disqualified from participation in the program are listed in the **Federal Register**. See § ____.950(b) of this part); and

(iii) The F-1 student(s) has completed one year of study and is maintaining good academic standing at the institution.

(2) It is also understood that the DSO will not authorize F-1 student(s) to work in excess of 20 hours per week during the academic term, and that the DSO shall notify ETA when the employer of F-1 student(s) has not provided the educational institution with an accepted copy of the attestation within 90 days of its receipt of the attestation from the employer.

(d) *Complaints.* (1) Complaints alleging that an attestation is materially false or that wages were not paid in accordance with the attestation may be filed by any aggrieved party with the Wage and Hour Division (Administrator), of the Employment Standards Administration, DOL, according to the procedures set forth in subpart K of this part.

(i) Examples of violations that may be alleged in a complaint include:

(A) The employer failed to pay an F-1 student the prevailing wage for the occupation in the area of intended employment;

(B) The employer failed to pay the actual wage for the position(s) at the employer's place of business; or

(C) The employer's recruitment efforts demonstrated that qualified U.S. workers were available for the position(s) filled by F-1 students.

(ii) The Administrator shall review the allegations contained in the complaint to determine if there are reasonable grounds to conduct an investigation. If, after investigation, the Administrator finds a violation, the Administrator shall disqualify the employer (after notice and opportunity for a hearing) from employing F-1 students and shall so notify INS.

(2) Complaints alleging that an F-1 student is not maintaining the required academic standing or is working in excess of the authorized number of hours of employment per week shall be filed with the INS.

(e) *Termination of program.* The pilot F-1 student visa program of section 221 of the Immigration Act of 1990 expires on September 30, 1994, and the Department of Labor will not accept any further employer attestations after that date. 8 U.S.C. 1184 note. However, complaints and appeals arising out of actions occurring prior to September 30, 1994, will continue to be received, investigated, and processed under the standards and procedures of subparts J and K of this part. Therefore, subparts J and K of this part remain in effect through the completion of such enforcement.

§ ____.920 Definitions.

For the purposes of subparts I and K of this part:

Accepted for filing means that an attestation submitted by the employer or his designated agent or representative has been received and filed by the Employment and Training Administration of the Department of Labor.

Act means the Immigration Act of 1990, as amended.

Actual wage means the wage rate paid by the attesting employer to all similarly situated employees in the occupation at the worksite at the time of employment.

Administrative Law Judge means an official appointed pursuant to 5 U.S.C. 3105.

Administrator means the Administrator of the Wage and Hour Division, Employment Standards Administration, Department of Labor, or such authorized representatives as may be designated to perform any of the functions of the Administrator under subparts J and K of this part.

Area of intended employment means the geographic area within normal commuting distance of the place (address) of intended employment. If the place of intended employment is within a Metropolitan Statistical Area (MSA), any place within the MSA is deemed to be within normal commuting distance of the place of intended employment.

Attestation means a properly completed Form ETA-9034.

Attesting employer means any employer who has filed an attestation required by section 221 of the Act.

Attorney General means the chief official of the U.S. Department of Justice or the Attorney General's designee.

Chief Administrative Law Judge means the chief official of the Office of the Administrative Law Judges of the Department of Labor or the Chief Administrative Law Judge's designee.

Date of filing means the date an attestation is received by ETA as indicated by the date stamped on the attestation.

Department and *DOL* mean the United States Department of Labor.

Designated School Official (DSO) means the official of the educational institution who has authority to authorize off-campus employment of F-1 students pursuant to Immigration and

Naturalization Service regulations at 8 CFR parts 214 and 274a.

Educational institution means the educational institution at which an alien admitted to the United States as an F-1 student is enrolled in a full course of study.

Employer means a person, firm, corporation, or other association or organization, which suffers or permits a person to work; and

(1) Which has a location within the United States to which U.S. workers may be referred for employment, and which proposes to employ workers at a place within the United States; and

(2) Which has an employer-employee relationship with respect to employees under subparts J and K of this part, as indicated by the fact that it may hire, fire, supervise or otherwise control the work of any such employee.

Employment and Training Administration (ETA) means the agency within the Department which includes the United States Employment Service (USES).

Employment Standards Administration (ESA) means the agency within the Department which includes the Wage and Hour Division.

F-1 nonimmigrant student (F-1 student) means an alien who has an F-1 visa. See 8 U.S.C. 1101(A)(15)(F)(i). INS grants such a visa to an alien who has a residence in a foreign country which he/she has no intention of abandoning, who is a bona fide student qualified to pursue a full course of study and who entered the United States temporarily and solely for the purpose of pursuing such a course of study at an established institution of learning or other recognized place of study in the United States, particularly designated by him/her and approved by the Attorney General after consultation with the Department of Education of the United States. For purposes of subparts J and K, the term "F-1 student" shall refer to F-1 student(s) who will be employed in off-campus employment unrelated to their field(s) of study.

Immigration and Naturalization Service (INS) means the component of the Department of Justice which administers the Department of Justice's principal functions under the Act.

INA means the Immigration and Nationality Act, as amended, 8 U.S.C. 1101 *et seq.*

Independent authoritative source means a professional, business, trade, educational or governmental association, organization, or other similar entity, not owned or controlled by the employer, which has a recognized expertise in the occupational field.

Independent authoritative source survey means a survey of wages conducted by an independent authoritative source and published in a book, newspaper, periodical, looseleaf service, newsletter, or other similar medium, within the 24-month period immediately preceding the filing of the employer's attestation and each succeeding annual prevailing wage update. Such survey shall:

(1) Reflect the average wage paid to workers similarly employed in the area of intended employment;

(2) Be based upon recently collected data—e.g., within the 24-month period immediately preceding the date of publication of the survey; and

(3) Represent the latest published prevailing wage finding by the authoritative source for the occupation in the area of intended employment.

Position means a single job opening in an occupation for which the attesting employer has recruited and either proposes to fill or has filled with an F-1 student.

Regional Certifying Officer means the official in the Employment and Training Administration in a Department of Labor regional office (or his/her designee) who is authorized to act on labor certifications and employment attestations on behalf of the Secretary of Labor.

Required wage rate means the rate of pay which is the higher of:

(1) The actual establishment wage rate for the occupation in which the F-1 student is to be (or is) employed; or

(2) The prevailing wage rate (adjusted on an annual basis) for the occupation in which the F-1 student is to be (or is) employed in the geographic area of intended employment.

Secretary means the Secretary of Labor or the Secretary's designee.

United States is defined at 8 U.S.C. 1101(a)(38).

United States (U.S.) worker means any U.S. citizen or alien who is legally permitted to work indefinitely within the United States.

§ ____.930 Addresses of Department of Labor regional offices.

Region I (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont): One Congress Street 10th Floor, Boston, Massachusetts 02114-2021. Telephone: 617-565-4446.

Region II (New York, New Jersey, Puerto Rico, and the Virgin Islands): 201 Varick Street, room 755, New York, New York 10014. Telephone: 212-660-2185.

Region III (Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, and West Virginia): Post Office Box 8796, Philadelphia, Pennsylvania 19101. Telephone: 215-596-6363.

Region IV (Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, and Tennessee): 1371 Peachtree Street, NE., Atlanta, Georgia 30309. Telephone: 404-347-3938.

Region V (Illinois, Indiana, Michigan, Minnesota, Ohio, and Wisconsin): 230 South Dearborn Street, room 605, Chicago, Illinois 60604. Telephone: 312-353-1550.

Region VI (Arkansas, Louisiana, New Mexico, Oklahoma, and Texas): 525 Griffin Street, room 314, Dallas, Texas 75202. Telephone: 214-767-4989.

Region VII (Iowa, Kansas, Missouri, and Nebraska) 911 Walnut Street, Kansas City, Missouri 64106. Telephone: 816-426-3796.

Region VIII (Colorado, Montana, North Dakota, South Dakota, Utah, and Wyoming) 1961 Stout Street, 16th Floor, Denver, Colorado 80294. Telephone: 303-844-4613.

Region IX (Arizona, California, Guam, Hawaii, and Nevada) 71 Stevenson Street, room 830, San Francisco, California 94119. Telephone: 415-744-6647.

Region X (Alaska, Idaho, Oregon, and Washington) 1111 Third Avenue, room 900, Seattle, Washington 98101. Telephone: 206-553-5297.

The telephone numbers set forth in this section are not toll-free.

§ ____.940 Employer attestations.

(a) *Who may submit attestations?* An employer (or the employer's designated agent or representative) seeking to employ F-1 student(s) for off-campus work shall submit an attestation on Form ETA-9034. The attestation shall be signed by the employer (or the employer's designated agent or representative). For this purpose, the employer's authorized agent or representative shall mean an official of the employer who has the legal authority to commit the employer to the terms and conditions of F-1 student attestations.

(b) *Where and when should attestations be submitted?* (1) Attestations shall be submitted, by U.S. mail, private carrier, or facsimile transmission, to the appropriate ETA Regional office, as defined in § ____.920 of this part, not later than 60 days after the employer's recruitment period (see paragraph (d) of this section) has ended and shall be accepted for filing, returned, or rejected by ETA in accordance with paragraph (f) of this section.

(2) Attestations shall also be submitted to the Designated School

Official (DSO) at each educational institution from which the employer seeks to hire any F-1 student(s). Attestations may be filed simultaneously with ETA and the DSO, or the employer may file the approved attestation with the DSO. However, in no case shall the employer file the attestation with the DSO before filing the attestation with ETA or in the absence of filing the attestation with ETA.

(3) If the attestation is submitted simultaneously with ETA and the DSO, and ETA does not receive its copy of the attestation, the Administrator, for purposes of enforcement proceedings under subpart K of this part, shall consider that the attestation was accepted for filing by ETA as of the date the attestation is received by the DSO.

(c) *What should be submitted?* (1) Form ETA-9034. One completed and dated original Form ETA-9034 (or a facsimile), containing the attestation elements referenced in paragraphs (d) and (e) of this section, and the original signature (or a facsimile of the original signature) of the employer (or the employer's authorized agent or representative) and one copy of Form ETA-9034 shall be submitted to ETA. Each attestation form shall identify the position(s) for which the attestation is provided, state the occupational division in which the position is located, by Dictionary of Occupational Titles (DOT) Two-Digit Occupational Divisions code, and shall state the rate(s) of pay for the position(s). The DOT Two-Digit Occupational Division code is required for DOL recordkeeping and reporting purposes only and should not be used by the employer to determine the prevailing wage, as it is too general for this purpose. (Copies of Form ETA-9034 are available at the addresses listed in § ____.930 of this part). When an employer has filed an attestation by facsimile transmission, the employer shall retain in its files the original of the attestation which contains the employer's original signature.

(2) The employer may file an attestation for a single position or for multiple positions in the same occupation, or in multiple occupations, provided that all positions are located within the same geographic area of intended employment.

(3) If the employer files the attestation simultaneously with ETA and the DSO, or files the attestation first with ETA and subsequently files with the DSO before an accepted copy is returned from ETA to the employer; the employer shall, within fifteen days of receipt of ETA's notification of acceptance of the attestation for filing, provide an exact copy of the accepted attestation to the DSO at each educational institution from which the employer seeks to employ an F-1 student. The DSO shall notify ETA if the educational institution has not been provided with a copy of the attestation indicating that it was accepted for filing by ETA within 90 days from the date that the attestation was filed with the DSO.

(4) *Attestation Elements.* The attestation elements referenced in § ____.940 (d) and (e) of this section are mandated by Section 221(a)(2) of the Act (8 U.S.C. 1184 note). Section 221(a)(2) of the Act provides that one of the conditions for the Attorney General to grant F-1 students work authorization, as described in INA Section 101(a)(15)(F), to be employed off-campus in positions unrelated to their field of study, is that the employer provides the educational institution and the Secretary with an attestation that the employer:

(i) Has recruited for at least 60 days for the position; and

(ii) Will pay the F-1 student and all other similarly situated workers at a rate not less than the "required wage rate" (see § ____.920 of this part).

(d) *The first attestation element: 60-day recruitment.* An employer seeking to employ an F-1 student shall attest on Form ETA-9034 that it has recruited for at least 60 days for the position(s) and that a sufficient number of U.S. workers were not able, qualified, and available for the position(s).

(1) *Establishing the 60-day recruitment requirement.* (i) The first attestation element is demonstrated if the employer attests that:

(A) It has recruited unsuccessfully for U.S. workers for at least 60 days for the position prior to filing the attestation; and

(B) It will conduct at least 60 days of unsuccessful recruitment for U.S. workers for each position in which, and at each time at which (until September 30, 1994), an F-1 student is subsequently employed.

(ii) To satisfy paragraph (d)(1)(i)(A) of this section, the employer shall recruit for the position for 60 consecutive days by posting the job vacancy (or help wanted) notice at the worksite and by placing a job order with the State Employment Service agency (SESA) local office which services the worksite.

(iii) To satisfy paragraph (d)(1)(i)(B) of this section, the employer shall either:

(A) Recruit for each position vacancy in the manner required by paragraph (d)(1)(ii) of this section; or

(B) File an "open job order" with the SESA local office which services the worksite. The employer shall accept referrals from the SESA local office on the "open job order".

(2) *Documenting the first attestation element.* In the event of an investigation, the employer shall have the burden of proving that it has complied with the elements described in paragraph (d)(1) of this section and attested to on ETA Form 9034. Documentation that is truthful, accurate and substantiates compliance as identified in Appendix A to this subpart shall be sufficient to meet the employer's burden of proof. The employer retains the right to meet its burden of proof in proving its attestation through other sufficient means.

(i) Documentation shall not be submitted to ETA or to the DSO with the attestation, but employers must be able to produce sufficient documentary evidence to substantiate the attestation in the event of an investigation. Such documentation shall be made available to DOL as described in §§ ____.900(b)(3) and ____.1000(c) of this part.

(ii) Because complaints may be filed and enforcement proceedings may be conducted during a considerable period after the recruitment, the employer should be able to produce such substantiating documentary evidence for a period of no less than 18 months after the close of the recruitment period or, in the event of an investigation, for the period of the enforcement proceeding under subpart K of this part.

(e) *The second attestation element: wages.* An employer seeking to employ F-1 students shall state on Form ETA-9034 that it will pay the F-1 student(s) and other similarly employed worker(s) the "required wage rate" as defined in § ____.920 of this part. For purposes of this paragraph "similarly employed" shall mean employees of the employer working in the same positions under like conditions, such as the same shift on the same days of the week. Neither the actual wage rate nor a prevailing wage determination for attestation purposes made pursuant to this section shall permit an employer to pay a wage lower than that required under any other Federal, State, or local law.

(1) *Establishing the wage requirement.* The second attestation element shall be satisfied when the employer signs Form ETA-9034, attesting that for the validity period of the attestation the "required wage rate" will be paid to the F-1 student(s) and other similarly situated workers; that is, that the wage will be no less than the actual wage rate paid to workers similarly employed at the worksite, or the prevailing wage (adjusted on an annual basis) for the occupation in the area of intended employment, whichever is higher. The

employer's obligation to pay the "required wage rate" for the position(s) named in the attestation shall continue throughout the validity period of the attestation; the employer's determination of the prevailing wage shall be updated annually, beginning with the date of the attestation. The prevailing wage rate for a position(s) named in the attestation, unless the subject of a Davis-Bacon Act or McNamara-O'Hara Service Contract Act wage determination described in paragraph (b)(4)(i) of appendix A of this subpart or a union contract as described in paragraph (b)(4)(ii) of appendix A of this subpart, shall be: the average rate of wages paid to workers similarly employed in the area of intended employment. Since it is not always feasible to determine such an average rate of wages with exact precision, the wage set forth in the application shall be considered as meeting the prevailing wage standard if it is within 5 percent of the average rate of wages. For purposes of this section, "similarly employed" means having substantially comparable jobs in the occupational category in the area of intended employment, except that if no such workers are employed by employers other than the employer applicant in the area of intended employment "similarly employed" shall mean:

(i) Having jobs requiring a substantially similar level of skills within the area of intended employment; or

(ii) If there are no substantially comparable jobs in the area of intended employment, having substantially comparable jobs with employers outside of the area of intended employment.

(2) *Documentation of the second attestation element.* In the event of a complaint and investigation, the employer shall have the burden of proving the validity of and compliance with the attestation element referenced in paragraph (e)(1) of this section and attested to on ETA Form 9034. Documentation that the Department finds to be truthful, accurate and substantiates compliance as identified in appendix A of this subpart should be sufficient to meet the employer's burden of proof. The employer retains the right to meet its burden of proof in proving its attestation through other sufficient means.

(i) Documentation shall not be submitted to ETA or to the DSO with the attestation, but the employer must substantiate its attestation with appropriate documentation in the event of an investigation. Such documentation shall be made available to DOL as described in §§ ____.900(b)(3) and ____.1000(c) of this part.

(ii) Because complaints may be filed and enforcement proceedings may be conducted during a considerable period after the determination the employer should be able to produce documentation substantiating its attestation for a period of no less than 18 months after the determination or update, or in the event of an investigation, for the period of the enforcement proceedings under subpart K of this part.

(f) *Actions on attestations submitted for filing.* Upon receipt of an attestation pursuant to this subpart, the Regional Certifying Officer shall determine whether the attestation is properly completed and whether there is cause to return the attestation to the employer as unacceptable.

(1) *Acceptable Attestations.* (i) Where all items on Form ETA–9034 have been completed and the attestation contains the signature of the employer or its authorized representative, the Regional Certifying Officer, except as provided in paragraph (f)(2)(ii) of this section, shall accept the attestation for filing. The Regional Certifying Officer shall return a copy of the accepted attestation to the employer or the employer's designated agent or representative, with ETA's acceptance indicated thereon. An attestation which is properly filled out in accordance with this section shall be deemed accepted for filing as of the date it is received by ETA as indicated by the date stamped thereon.

(ii) The employer shall file a copy of the accepted attestation with the DSO at the educational institution pursuant to § ____.940(c)(3) of this part.

(2) *Unacceptable Attestations.* ETA shall not accept an attestation for filing and shall return such attestation as unaccepted to the employer or the employer's designated agent or representative, when any one of the following conditions exists:

(i) Form ETA–9034 is not properly completed. Examples of Form ETA–9034 which is not properly completed include: instances where the employer has failed to complete all of the necessary items; or where the employer has failed to identify the position(s) or state the rate(s) of pay; or where the attestation does not contain the original signature (or facsimile of the signature when the attestation is submitted by facsimile transmission) of the employer or its authorized representative.

(ii) The Administrator, Wage and Hour Division, after notice and opportunity for a hearing pursuant to subpart K of this part, has notified ETA in writing that the employer has been disqualified from employing F–1 students under Section 221 of the Immigration Act.

(3) If the attestation is not accepted for filing pursuant to paragraph (f)(2)(i) of this section, ETA shall return it to the employer or the employer's agent or representative with written and dated notification of the reason(s) that the attestation is unacceptable. If the employer does not complete and return the attestation within 15 days of the date of such notification (as stated in paragraph (f)(4) of this section), ETA shall invalidate the attestation and shall notify the Attorney General of such invalidation. The Attorney General may then use such notification in its enforcement responsibilities. Employers shall not employ F–1 students without a valid attestation.

(4) *Resubmission.* When the attestation is determined to be unacceptable and is returned to the employer for completion pursuant to paragraph (f)(2)(i) of this section, the employer may resubmit the attestation. The employer shall resubmit the attestation within 15 days of the date of nonacceptance to avoid the invalidation of its attestation and ETA's notice to the Attorney General. Upon resubmission, if the attestation is determined to be acceptable pursuant to paragraph (f)(1) of this section, the Regional Certifying Officer shall accept the attestation for filing as of the original date of receipt by ETA, and shall return a copy of the attestation to the employer with ETA's acceptance indicated thereon.

(g) *Challenges to Attestations.* (1) ETA will not consider, prior to the acceptance or return of the attestation, information contesting an attestation received by ETA. Such information shall not be made part of ETA's administrative record on the attestation, but shall be referred to the Administrator to be processed as a complaint pursuant to subpart K of this part, and, if such attestation is accepted for filing by ETA, the complaint shall be handled by ESA under subpart K of this part.

(2) DOL is not the guarantor of the accuracy, truthfulness or adequacy of an attestation accepted for filing pursuant to this subpart.

(h) *Effective date and validity of filed attestations.* (1) A properly completed attestation accepted pursuant to paragraph (f)(1) of this section shall be deemed accepted for filing as of the date it is received and date stamped by the Regional Certifying Officer and shall be valid for the duration of the F–1 student work authorization program which

expires on September 30, 1994, unless withdrawn pursuant to paragraph (i) of this section or invalidated pursuant to paragraph (j) of this section or subpart K of this part.

(2) During the validity period of an attestation which has been accepted for filing as described in paragraph (f)(1) of this section, the attesting employer may hire, during the 90-day period following the last day of its 60-day recruitment period, or at any time if the employer has placed an "open job order" with the SESA as part of their recruitment effort, F-1 students as needed from as many educational institutions as it deems necessary to fill the positions described in the attestation, at the location(s) specified in the attestation, and at the "required wage rate." The employer shall provide a copy of the accepted attestation to the DSO at each educational institution from which it hires any F-1 student(s).

(3) The DSO may grant work authorization for an F-1 student to be employed by a particular attesting employer for the duration of the F-1 student's course of study or until September 30, 1994, whichever period is shorter, provided the F-1 student continues to be employed by the attesting employer and is otherwise eligible for F-1 student work authorization as determined by the Attorney General.

(i) *Withdrawal of accepted attestations.* (1) An employer who has submitted an attestation which has been accepted for filing may withdraw such attestation at any time before the expiration of the validity period of the attestation, unless the Administrator has found reasonable cause to commence an investigation of the attestation under subpart K of this part. Requests for such withdrawals shall be in writing and shall be directed to the Regional Certifying Officer with whom the attestation was filed.

(2) Upon the Regional Certifying Officer's receipt of an employer's written request to withdraw an attestation, it shall be the employer's responsibility to promptly notify the DSO at each school where F-1 students it employs are enrolled.

(3) Withdrawal of an attestation shall not affect an employer's liability with respect to any failure to meet the conditions attested to which took place before the withdrawal, or for material misrepresentations in an attestation. However, if an employer has not yet employed any F-1 student(s) pursuant to the attestation, the Administrator shall not find reasonable cause to investigate unless it is alleged, and there is reasonable cause to believe, that the employer has made material misrepresentations in the attestation.

(j) *Invalidation of filed attestation.* Invalidation of an attestation may result from enforcement action(s) by the Administrator, Wage and Hour Division, under subpart K of this part (*i.e.*, investigation(s) conducted by the Administrator regarding the employer's material misrepresentation of an attestation element or failure to pay wages in accordance with attestation). Invalidation of an attestation may also result where ETA determines that the attestation is unacceptable and the employer fails to resubmit the attestation to ETA within 15 days.

(1) *Result of Wage and Hour Division action.* Upon a determination of a violation under subpart K of this part, the Administrator shall notify ETA and shall notify the Attorney General of the violation and of the Administrator's notice to ETA.

(2) *Result of ETA action.* If, after accepting an attestation for filing, ETA finds that it is unacceptable because it falls within one of the categories set forth at paragraph (f)(2)(i) of this section, ETA shall return the attestation to the employer for correction and resubmission within 15 days. If the employer fails to resubmit the attestation within 15 days of the date of the notification, ETA shall invalidate the attestation. ETA shall notify the Attorney General of such invalidation. Where the attestation has been invalidated, ETA shall return a copy of the attestation form to the employer, or the employer's agent or representative, and shall notify the employer in writing of the reason(s) that the attestation is invalidated. When an attestation is invalidated pursuant to paragraph (f)(2)(ii) of this section, ETA shall invalidate all attestations filed by the employer. Such action shall be the final decision of the Secretary of Labor and is not subject to appeal.

(k) *Employers subject to disqualification.* No attestation shall be accepted for filing from an employer which has been found to be disqualified from participation in the F-1 student work authorization program as determined in a final agency action following an investigation by the Administrator pursuant to subpart K of this part. (Approved by the Office of Management and Budget under Control No. 1205-0315)

§ ____.950 Public access.

(a) *Public examination at ETA.* ETA shall compile and maintain a list of employers who filed attestations specifying the occupation(s), geographical location, and wage rate(s) attested to. The list shall be available for public inspection at the ETA office at which the attestation was filed and such list shall be updated monthly.

(b) *Notice to Public.* ETA shall publish semiannually a list in the **Federal Register** of employers which have been disqualified from participating in the F-1 student work authorization program pursuant to § ____.940(k) of this part.

Appendix A to Subpart J: Documentation in Support of Attestations Made by Employers

This appendix sets forth the documentation that the Department of Labor considers to be sufficient to satisfy the employer's burden of proof regarding substantiate attestations made on Form ETA-9034, pursuant to subpart J of this part, provided the documentation is found to be truthful, accurate, and substantiates compliance. The employer retains the right to meet its burden of proof in proving its attestations through other sufficient means. The employer's failure to substantiate its attestation in the event of an investigation shall be found to be a violation.

(a) *Documenting the first attestation element.* The employer shall have the burden of proving that it has complied with the recruitment requirements described in regulations at § ____.940(d)(1) of this part and attested to on ETA Form-9034. The employer's failure to satisfy the burden of proof through the production of adequate documentation shall be found to be a violation.

(1) Documentation shall not be submitted to ETA or to the DSO with the attestation, but shall be made available to DOL as described in §§ ____.900(b)(3) and ____.1000(c) of this part. To be effective in satisfying the burden of proof, the documentation should be contemporaneous with the recruitment, not created after the fact and particularly not after the commencement of an investigation under subpart K of this part.

(2) Because complaints may be filed and enforcement proceedings may be conducted during a considerable period after the recruitment, the employer should maintain the documentation for a period of no less than 18 months after the close of the recruitment period or, in the event of an investigation, for the period of the enforcement proceeding under subpart K of this part.

(3) The employer should be able to produce the following documentation:

(i) Evidence that a job order for the position was on file with the SESA local office within the area of intended employment for at least 60 consecutive

days. Such evidence of a job order should include the employer's contemporaneous written statement setting forth the name and address of the SESA office with which the job order was placed; the name of the SESA employee with whom the job order was placed; the date on which the order was placed; and the dates on which the job order was on file with the SESA office.

(ii) Evidence that a vacancy notice announcing the position was posted for 60 consecutive days at the worksite. Evidence should include a copy of the notice that was posted at the worksite, the dates when the notice was posted, and a description of the specific location at the worksite at which the notice was posted.

(iii) Evidence that a job order for the position was continuously on file and "open" with the SESA local office within the area of intended employment, throughout the validity period of the attestation. Such evidence should include the employer's contemporaneous written statement setting forth the name and address of the SESA office with which the job order was placed; the name of the SESA employee with whom the job order was placed; the date on which the order was placed; and the dates on which the job order was on file with the SESA office.

(iv) Evidence that the employer was unsuccessful in recruiting a sufficient number of U.S. workers who are able, qualified, and available for the position(s) through the SESA job order and the worksite posting notice. Such evidence should include a contemporaneous written summary of the results of recruitment for each position for which an attestation was filed by the employer. Such summary should include:

(A) The number of job openings in each occupation included in the occupation;

(B) The number of U.S. workers and F-1 students that applied for each position;

(C) The number of U.S. workers that were hired;

(D) The number of F-1 students that were hired;

(E) The number of U.S. workers that were not hired; and

(F) The lawful job-related reason(s) for which each U.S. worker was not hired. An example of a job-related reason for which a U.S. worker can be rejected for a job opportunity is that the U.S. worker does not have the training and experience required for the position.

(4) *Investigations.* In the event that an investigation is conducted pursuant to regulations at subpart K of this part, concerning whether the employer failed to satisfy its recruitment requirement, in that it failed to conduct recruitment or to hire qualified U.S. worker(s) for a position for which an F-1 student(s) was hired, the Administrator shall determine whether the employer has produced documentation sufficient to prove the employer's compliance with the attestation requirements.

(i) Where the focus of the investigation is upon whether recruitment was conducted, the employer shall have satisfied its burden of proof if the documentation described in paragraphs (a)(3) (i), (ii), and (iii) of this appendix is produced, provided the documentation is found to be truthful, accurate and substantiates compliance.

(ii) Where the focus of the investigation is upon whether the employer's recruitment of U.S. workers was unsuccessful because the employer declined to hire U.S. worker(s) without lawful reason(s) for such action, the employer shall have satisfied the burden of proof if the documentation described in paragraph (a)(3)(iv) of this appendix is produced, provided that the Administrator has no significant evidence which reasonably shows that the employer's recruitment or hiring was deficient. In determining whether the employer has demonstrated that U.S. workers were rejected for lawful job-related reasons, the Administrator may contact ETA which shall provide the Administrator with advice as to whether U.S. workers were properly rejected.

(b) *Documentation of the second attestation element.* The employer shall have the burden of proving the validity of and compliance with the attestation element referenced in § ____.940(e) of this part and attested to on Form ETA-9034.

(1) The employer shall be prepared to produce documentation sufficient to satisfy this requirement. Documentation shall not be submitted to ETA or to the DSO with the attestation, but shall be made available to DOL as described in §§ ____.900(b)(3) and § ____.1000(c) of this part. The documentation specified in paragraphs (b) (4) and (5) of this appendix will be sufficient to satisfy the employer's burden of proof, provided the documentation is found to be truthful, accurate and substantiates compliance upon investigation. The employer's failure to satisfy the burden of proof through the production of adequate documentation shall be found to be a violation.

(2) To be effective in satisfying the employer's burden of proof regarding the determination of the prevailing wage, the employer's documentation should be contemporaneous with the determination or the annual update of the prevailing wage, not created after the fact and particularly not after the commencement of an investigation under subpart K of this part.

(3) Because complaints may be filed and enforcement proceedings may be conducted during a considerable period after the determination or the annual update, the employer should be prepared to produce documentation for a period of no less than 18 months after the determination or update, or in the event of an investigation, for the period of the enforcement proceedings under subpart K of this part.

(4) Documentation described in paragraphs (b) (1) through (3) of this appendix should consist of the following:

(i) If the position is in an occupation which is the subject of a wage determination in the area under the provisions of the Davis-Bacon Act, 40 U.S.C. 276a *et seq.*, (see 29 CFR part 1) or the McNamara-O'Hara Service Contract Act, 41 U.S.C. 351 *et seq.*, (see 29 CFR part 4), an excerpt from the wage determination showing the wage rate for the occupation in the area of intended employment; or

(ii) If the position is covered by a union contract which was negotiated at arms-length between a union and the employer, an excerpt from the union contract showing the wage rate(s) for the occupation(s) set forth in the union contract.

(iii) If position is not covered by the provisions of paragraphs (b)(4) (i) or (ii) of this appendix, the employers's documentation shall consist of:

(A) A prevailing wage finding from the SESA for the occupation within the area of employment; or

(B) A prevailing wage survey for the occupation in the area of intended employment published by an independent authoritative source as defined in § ____.920 of this part. For purposes of this paragraph (b)(4)(iii)(B) "prevailing wage survey" means a survey of wages published in a book, newspaper, periodical, looseleaf service, newsletter, or other similar medium, within the 24-month period immediately preceding the filing of the employer's attestation and each succeeding annual prevailing wage update. Such survey shall:

(*1*) Reflect the average wage paid to workers similarly employed in the area of intended employment;

(*2*) Be based upon recently collected data, *e.g.*, within the 24-month period immediately preceding the date of publication of the survey; and

(*3*) Represent the latest published prevailing wage finding by the

authoritative source for the occupation in the area of intended employment.

(5) The employer should be prepared to produce documentation to prove the payment of the required wage, including payroll records, commencing on the date on which the employer first employs the F-1 student, showing the wages paid to employees in the occupation(s) named in the attestation at the worksite. Such payroll records maintained in accordance with regulations under the Fair Labor Standards Act (see 29 CFR part 516) would include for each employee in the occupation:

(i) The rate(s) of pay, including shift differentials, if any;

(ii) The employee's earnings per pay period;

(iii) The number of hours worked per week by the employee; and

(iv) The amount of and reasons for any and all deductions made from the employee's wages.

(6) *Investigations.* In the event that an investigation is conducted pursuant to subpart K of this part, concerning whether the employer made a material misrepresentation regarding the required wage or failed to pay the required wage, the Administrator shall determine whether the employer has produced documentation sufficient to satisfy the burden of proof.

(i) The employer's documentation of the prevailing wage determination shall be found to be sufficient where the determination is pursuant to the Davis-Bacon Act or Service Contract Act wage determination or a SESA determination.

(ii) Where the employer's prevailing wage determination is based on a survey by an independent authoritative source, the Administrator shall consider the employer's documentation to be sufficient, provided that it satisfies the standards for independent authoritative source surveys and is properly applied, and provided further that the Administrator has no significant evidence which reasonably shows that the prevailing wage finding obtained by the employer from an independent authoritative source varies substantially from the wage prevailing for the occupation in the area of intended employment. In the event such significant evidence shows a substantial variance, the Administrator may contact ETA, which shall provide the Administrator with a prevailing wage determination, which the Administrator shall use as the basis for the determination as to violations. ETA may consult with the appropriate SESA to ascertain the prevailing wage applicable to the occupation under investigation. (Approved by the Office of Management and Budget under Control No. 1205-0315)

Subpart K—Enforcement of the Attestation Process for Attestations Filed by Employers Utilizing F-1 Students in Off-Campus Work

§ ____.1000 Enforcement authority of Administrator, Wage and Hour Division.

(a) The Administrator shall perform all the Secretary's investigative and enforcement functions under section 221 of the Act and subparts J and K of this part.

(b) The Administrator shall conduct such investigations as may be appropriate and, in connection therewith, enter and inspect such places and such records (and make transcriptions or copies thereof), question such persons and gather such information as deemed necessary to determine compliance with section 221(a) of the Act and subparts J and K of this part.

(c) An employer being investigated pursuant to this subpart shall have the burden of proof as to compliance with section 221(a) of the Act and the validity of its attestation, and in this regard shall make available to the Administrator such records, information, persons, and places as the Administrator deems appropriate to copy, transcribe, question, or inspect. No employer subject to the provisions of section 221 of the Act and subparts J and K of this part shall interfere with any official of the Department of Labor performing an investigation, inspection or law enforcement function pursuant to section 221 of the Act or subpart J or K of this part. Any such interference shall be a violation of the attestation and subparts J and K of this part, and the Administrator may take such further actions as the Administrator deems appropriate.

Note: Federal criminal statutes prohibit certain interference with a Federal officer in the performance of official duties. 18 U.S.C. 111 and 18 U.S.C. 1114.

(d) An employer subject to subparts J and K of this part shall at all times cooperate in administrative and enforcement proceedings. No employer shall intimidate, threaten, restrain, coerce, blacklist, discharge, or in any manner discriminate against any person because such person has:

(1) Filed a complaint or appeal under or related to section 221 of the Act or subparts J or K of this part;

(2) Testified or is about to testify in any proceeding under or related to section 221 of the Act or subpart J or K of this part;

(3) Exercised or asserted on behalf of himself or herself or others any right or protection afforded by section 221 of the Act or subpart J or K of this part.

(4) Consulted with an employee of a legal assistance program or an attorney on matters related to section 221 of the Act or to subpart J or K of this part or any other DOL regulation promulgated pursuant to section 221 of the Act. In the event of any intimidation or restraint as described in this section, the conduct shall be a violation of the attestation and these regulations, and the Administrator may take such further actions as the Administrator considers appropriate.

(e) The Administrator shall, to the extent possible under existing law, protect the confidentiality of any person, including any complainant, who provides information to the Department in confidence during the course of an investigation or otherwise under subpart J or K of this part.

§ ____.1005 Complaints and investigative procedures.

(a) The Administrator, through an investigation, shall determine whether an employer of F-1 students has:

(1) Provided an attestation which is materially false

Note: Federal criminal statutes provide penalties of up to $10,000 and/or imprisonment of up to 5 years for knowing and willful submission of false statements to the Federal Government. 18 U.S.C. 1001; see also 18 U.S.C. 1546.

(2) Failed to pay the appropriate wage rate as required under § ____.940(e) of this part; or

(3) Failed to comply with the provisions of subpart J or K of this part.

(b) Any aggrieved person or organization may file a complaint alleging a violation of the provisions of subpart J or K of this part. No particular form is required, except that the complaint shall be written or, if oral, shall be reduced to writing by the Wage and Hour Division official who receives the complaint. The complaint shall set forth sufficient facts for the Administrator to determine whether there is reasonable cause to believe that a particular part or parts of the attestation or regulations may have been violated. The complaint may be submitted to any local Wage and Hour Division office, the addresses of which can be found in local telephone directories. The office or person receiving such a complaint shall refer it to the office of the Wage and Hour Division administering the area in which the reported violation is alleged to have occurred.

(c) The Administrator shall determine whether there is reasonable cause to believe that a complaint warrants investigation. If it is determined that a complaint fails to present reasonable cause, the Administrator shall so notify the complainant, who may submit a new complaint with such additional information as may be available. If the Administrator determines that reasonable cause exists, an investigation will be conducted.

(d) In the event that the Administrator, after an investigation, determines that the employer has committed any violation(s) described in paragraph (a) of this section, the Administrator shall issue a written determination to the employer in accordance with § ____.1015 of this part and an opportunity for a hearing shall be afforded in accordance with the procedures specified in § ____.1020 of this part.

§ ____.1010 Remedies.

Where the Administrator, after notice and opportunity for a hearing, determines that an employer has committed a violation identified in § ____.1005(a) of this part, the employer shall be disqualified from employing F-1 student(s) under section 221 of the Act. The Administrator shall so notify the Attorney General and ETA pursuant to § ____.1055 of this part. Upon receipt of the Administrator's notice, the Attorney General and ETA shall take the action specified in § ____.1055 of this part, *i.e.*, cancel any existing attestation(s) or work authorizations, and shall not accept future attestation(s) or grant new work authorization(s) with respect to that employer.

§ ____.1015 Written notice and service of Administrator's determination.

(a) The Administrator's written determination, issued pursuant to §§ ____.1005 and ____.1010 of this part, shall be served on the employer by personal service or by certified mail at the address of the employer or the employer's agent shown on the attestation. Where service by certified mail is not accepted by the employer, the Administrator may exercise discretion to serve the determination by regular mail.

(b) The Administrator's written determination, issued pursuant to §§ ____.1005 and ____.1010 of this part, shall:

(1) Set forth the Administrator's determination of the violation(s) and the Administrator's reason or reasons therefor.

(2) Inform the employer that it may request a hearing pursuant to § ____.1020 of this part.

(3) Inform the employer that in the absence of a timely request for a hearing, received by the Chief Administrative Law Judge within 15 calendar days of the date of the determination, the determination of the Administrator shall become final and not appealable.

(4) Set forth the procedure for requesting a hearing, and give the addresses of the Chief Administrative Law Judge (with whom the request must be filed) and the representative of the Solicitor of Labor (who must be served with a copy of the request).

(5) Inform the employer that, if no timely request for a hearing is filed pursuant to § ____.1020 of this part, the employer shall be disqualified from employing F-1 students, effective upon the expiration of the period for filing a request for a hearing. In such event, the Administrator shall, pursuant to § ____.1055 of this part, notify ETA and the Attorney General of the occurrence of a violation by the employer, and that the employer has been disqualified from employing F-1 students.

§ ____.1020 Request for hearing.

(a) An employer desiring to request an administrative hearing on a determination issued pursuant to § ____.1015 of this part shall make such request in writing to the Chief Administrative Law Judge at the address stated in the notice of determination. Copies of the request shall be served upon the Wage and Hour Division official who issued the notice of determination and upon the representative of the Solicitor of Labor identified in the notice of determination.

(b) No particular form is prescribed for any request for hearing permitted by this section. However, any such request shall:

(1) Be dated;

(2) Be typewritten or legibly written;

(3) Specify the issue or issues stated in the notice of determination giving rise to such request;

(4) State the specific reason or reasons why the employer believes such determination is in error;

(5) Be signed by the employer making the request or by an authorized representative of the employer; and

(6) Include the address at which the employer or authorized representative desires to receive further communications relating thereto.

(c) The request for such hearing must be received by the Chief Administrative Law Judge, at the address stated in the Administrator's notice of determination, no later than 15 calendar days after the date of the determination.

(d) The request may be filed in person, by facsimile transmission, by certified or regular mail, or by courier service. For the requesting party's protection, if the request is by mail, it should be by certified mail. If the request is by facsimile transmission, the original of the request, signed by the employer or authorized representative, shall be filed within ten days thereafter.

(e) A copy of the request for a hearing shall be sent by the requestor to the Administrator at the address shown on the Administrator's notice of determination.

§ ____.1025 Rules of practice for administrative law judge proceedings.

(a) Except as specifically provided in this subpart, and to the extent they do not conflict with the provisions of this subpart, the "Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges" established by the Secretary at 29 CFR part 18 shall apply to administrative proceedings under this

(b) As provided in the Administrative Procedure Act, 5 U.S.C. 556, any oral or documentary evidence may be received in proceedings under this part. The Federal Rules of Evidence and subpart B of the Rules of Practice and Procedure for Administrative Hearings Before the Office of Administrative Law Judges (29 CFR part 18, subpart B) shall not apply, but principles designed to ensure production of relevant and probative evidence shall guide the admission of evidence. The administrative law judge may exclude evidence which is immaterial, irrelevant, or unduly repetitive.

§ ____.1030 Service and computation of time.

(a) Under this subpart, a party may serve any pleading or document by regular mail. Service on a party is complete upon mailing to the last known address. No additional time for filing or response is authorized where service is by mail. In the interest of expeditious proceedings, the administrative law judge may direct the parties to serve pleadings or documents by a method other than regular mail.

(b) Two (2) copies of all pleadings and other documents in any administrative law judge proceeding shall be served on the attorneys for the Administrator. One copy shall be served on the Associate Solicitor, Division of Fair Labor Standards, Office of the Solicitor, U.S. Department of Labor, 200 Constitution Avenue NW., room N-2716, Washington,

DC 20210, and one copy on the attorney representing the Administrator in the proceeding.

(c) Time under this subpart shall be computed beginning with the day following the action and includes the last day of the period unless it is a Saturday, Sunday, or federally-observed holiday, in which case the time period includes the next business day.

§ ____.1035 Administrative law judge proceedings.

(a) Upon receipt of a timely request for a hearing filed pursuant to and in accordance with § ____.1020 of this part, the Chief Administrative Law Judge shall promptly appoint an administrative law judge to hear the case.

(b) The date of the hearing shall be not more than 60 calendar days from the date of the Chief Administrative Law Judge's receipt of the request for hearing.

(c) The administrative law judge may prescribe a schedule by which the parties are permitted to file a prehearing brief or other written statement of fact or law. Any such brief or statement shall be served upon each other party in accordance with § ____.1030 of this part. Posthearing briefs shall not be permitted except at the request of the administrative law judge. When permitted, any such brief shall be limited to the issue or issues specified by the administrative law judge, shall be due within the time prescribed by the administrative law judge, and shall be served in accordance with § ____.1030 of this part.

(d) Amicus curiae participation or intervention by interested parties may be permitted by the administrative law judge in his/her discretion pursuant to 29 CFR 18.10. If such participation is granted, the amicus curiae and/or intervenor shall serve all documents and be served by the parties in accordance with § ____.1030 of this part. In no event, however, shall such participation be permitted to delay the proceedings beyond the deadline specified in paragraphs (b) and (c) of this section.

§ ____.1040 Decision and order of administrative law judge.

(a) Within 90 calendar days after receipt of the transcript of the hearing, the administrative law judge shall issue a decision.

(b) The decision of the administrative law judge shall include a statement of findings and conclusions, with reasons and basis therefore, upon each material issue presented on the record. The decision shall also include an appropriate order which may affirm, deny, reverse, or modify, in whole or in part, the determination of the Administrator; the reason or reasons for such order shall be stated in the decision.

(c) The administrative law judge, in accordance with § ____.940 (d) and (e) of this part, shall impose upon the employer the burden of proving the validity of and compliance with the attestation.

(d) If the administrative law judge finds that the employer has failed to pay the required wage rate or has provided an attestation which is materially false, the judge shall order that the employer be disqualified from employing F-1 students.

(e) In the event that the Administrator's determination(s) of wage violation(s) is based upon a wage determination obtained by the Administrator from ETA during the investigation (paragraph (b)(6) of Appendix A of subpart J of this part), the administrative law judge shall not determine the prevailing wage rate *de novo*, but shall, based on the evidence (including the ETA administrative record), either accept the wage determination or vacate the wage determination. If the wage determination is vacated, the administrative law judge shall remand the case to the Administrator, who may then refer the matter to ETA and, upon the issuance of a new wage determination by ETA, resubmit the case to the administrative law judge. Under no circumstances shall source data obtained in confidence by ETA, or the names of establishments contacted by ETA, be submitted into evidence or otherwise disclosed.

(f) The administrative law judge shall not render determinations as to the legality of a regulatory provision or the constitutionality of a statutory provision.

(g) The decision shall be served on all parties in person or by certified or regular mail.

§ ____.1045 Secretary's review of administrative law judge's decision.

(a) Any party desiring review of the decision and order of an administrative law judge shall petition the Secretary to review the decision and order. To be effective, such petition must be received by the Secretary within 30 calendar days of the date of the decision and order. Copies of the petition shall be served on all parties and the administrative law judge.

(b) No particular form is prescribed for any petition for the Secretary's review permitted by this subpart. However, any such petition shall:

(1) Be dated;

(2) Be typewritten or legibly written;

(3) Specify the issue or issues stated in the administrative law judge decision and order giving rise to such petition;

(4) State the specific reason or reasons why the party petitioning for review believes such decision and order are in error;

(5) Be signed by the party filing the petition or by an authorized representative of such party;

(6) Include the address at which such party or authorized representative desires to receive further communications relating thereto; and

(7) Attach copies of the administrative law judge's decision and order, and any other record documents which would assist the Secretary in determining whether review is warranted.

(c) Whenever the Secretary determines to review the decision and order of an administrative law judge, a notice of the Secretary's determination shall be served upon the administrative law judge and all parties within 30 calendar days after the Secretary's receipt of the petition for review.

(d) Upon receipt of the Secretary's notice, the Office of Administrative Law Judges shall within 15 calendar days forward the complete hearing record to the Secretary.

(e) The Secretary's notice may specify:

(1) The issue or issues to be reviewed;

(2) The form in which submissions shall be made by the parties (*e.g.*, briefs);

(3) The time within which such submissions shall be made.

(f) All documents submitted to the Secretary shall be filed with the Secretary of Labor, U.S. Department of Labor, Washington, DC 20210, Attention: Executive Director, Office of Administrative Appeals, room S-4309. An original and two copies of all documents shall be filed. Documents are not deemed filed with the Secretary until actually received by the Secretary. All documents, including documents filed by mail, must be received by the Secretary either on or before the due date.

(g) Copies of all documents filed with the Secretary shall be served upon all other parties involved in the proceeding. Service upon the Administrator shall be in accordance with § ____.1030(b) of this part.

(h) The Secretary's final decision shall be issued within 180 calendar days from the date of the notice of intent to review. The Secretary's decision shall be served upon all parties and the administrative law judge.

(i) Upon issuance of the Secretary's decision, the Secretary shall transmit the entire record to the Chief Administrative Law Judge for custody pursuant to § ____.1050 of this part.

§ ____.1050 Administrative record.

The official record of every completed administrative hearing procedure provided by subpart K of this part shall be maintained and filed under the custody and control of the Chief Administrative Law Judge. Upon receipt of a complaint seeking review of the final agency action in a United States District Court, the Chief Administrative Law Judge shall certify the official record and shall transmit such record to the clerk of the court.

§ ____.1055 Notice to the Employment and Training Administration (ETA) and the Attorney General (AG).

(a) The Administrator shall notify the Attorney General and ETA of the final determination of a violation by an employer, and of the disqualification of the employer from employing F-1 students, upon the earliest of the following events:

(1) When the Administrator issues a written determination that the employer has committed a violation, and no timely request for hearing is made by the employer pursuant to § ____.1020 of this part; or

(2) When, after a hearing on a timely request pursuant to § ____.1020 of this part, the administrative law judge issues a decision and order finding a violation by the employer; or

(3) When, although the administrative law judge found that there was no violation by the employer, the Secretary, upon subsequent review upon a timely request pursuant to § ____.1045 of this part, issues a decision finding that a violation was committed by the employer.

(b) The Attorney General, upon receipt of notification from the Administrator pursuant to paragraph (a) of this section, shall take appropriate action to cancel work authorization to F-1 students for employment with that employer, and to prevent issuance of new work authorization with respect to that employer.

(1) The Administrator's notice to the Attorney General shall, to the extent known from the investigation, specify the school(s) which issued work authorization for the F-1 students who were employed by the employer. The Attorney General shall inform the appropriate authority at each of the specified school(s) that any work authorization(s) issued for F-1 student(s) to be employed by that employer shall immediately be revoked, and that no new work authorization shall be issued for employment of F-1 student(s) by that employer. The Attorney General shall, in addition, take any other appropriate action to effectuate the disqualification of that employer through revocation of work authorization(s) at any other school(s) that may authorize employment with the disqualified employer.

(2) A copy of the Administrator's notice to the Attorney General may also be sent by the Administrator to each school identified in the notice as a school from which F-1 students have been employed by the disqualified employer. Such copy of the Administrator's notice, upon receipt by the school, shall constitute sufficient notice for the DSO to revoke work authorization(s) and to refuse to issue new work authorization(s) for employment of F-1 students by that employer. Any school which issued or may issue work authorization(s) for employment of any F-1 student(s) by the employer, but which was not known by the Administrator to have done so, or notified by copy of the Administrator's decision, shall comply with any instructions from the Attorney General regarding revocation and nonissuance of work authorization for employment of any F-1 student(s) by the employer. In addition, any school (whether or not it received a copy of the Administrator's notice to the Attorney General regarding the employer) shall revoke F-1 work authorization(s) and refuse to issue new F-1 work authorization(s) for any employer which is identified as a disqualified employer on the list published periodically in the Federal Register by ETA.

(3) Continued or new employment of any F-1 student by the employer shall constitute a violation of the INA's employer sanctions provisions, irrespective of whether the F-1 student's work authorization has been formally revoked by the DSO or INS.

(c) ETA, upon receipt of the Administrator's notice pursuant to paragraph (a) of this section, shall cancel any F-1 attestation filed by the employer under subpart J of this part, shall not accept for filing any attestation submitted by the employer, and shall so notify the employer.

§ ____.1060 Non-applicability of the Equal Access to Justice Act.

A proceeding under subpart K of this part is not subject to the Equal Access to Justice Act, as amended, 5 U.S.C. 504. In such a proceeding, the administrative law judge shall have no authority to award attorney fees and/or other litigation expenses pursuant to the provisions of the Equal Access to Justice Act.

Adoption of the Interim Final Rule

The agency-specific adoption of the joint rule, which appears at the end of the common preamble, appears below:

TITLE 20—EMPLOYEES' BENEFITS

CHAPTER V—EMPLOYMENT AND TRAINING ADMINISTRATION, DEPARTMENT OF LABOR

Accordingly, part 655 of Chapter V of Title 20, Code of Federal Regulations, is amended as follows:

PART 655—TEMPORARY EMPLOYMENT OF ALIENS IN THE UNITED STATES

1. The authority citation for part 655 is revised to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(H) (i) and (ii), 1182 (m) and (n), 1184, 1188, and 1288(c); 29 U.S.C. 49 *et seq.;* sec. 3(c)(1), Pub. L. 101-238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101-649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); and 8 CFR 214.2(h)(4)(i).

Section 665.00 issued under 8 U.S.C. 1101(a)(15)(H)(ii), 1184, and 1188; 29 U.S.C. 49 *et seq.*; and 8 CFR 214.2(h)(4)(i).

Subparts A and C issued under 8 U.S.C. 1101(a)(l5)(H)(ii)(b) and 1184; 29 U.S.C. 49 *et seq.*: and 8 CFR 214.2(h)(4)(i).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184, and 1188; and 29 U.S.C. 49 *et seq.*

Subparts D and E issued under 8 U.S.C. 1101(a)(15)(H)(i)(a), 1182(m), and 1184; 29 U.S.C. 49 *et seq.*; and sec. 3(c)(1), Pub. L. 101-238, 103 Stat. 2099, 2103 (8 U.S.C. 1182 note).

Subparts F and G issued under 8 U.S.C. 1184 and 1288(c); and 29 U.S.C. 49 *et seq.*

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b), 1182(n), and 1184; and 29 U.S.C. 49 *et seq.*

Subparts J and K issued under 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101-649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

2. Section 655.0 is amended by adding a new paragraph (e), to read as follows:

§ 655.0 Scope and purpose of part.

* * * * *

(e) *Subparts J and K of this part.* Subparts J and K of this part set forth the process by which employers can file attestations with the Department of Labor for the purpose of employing nonimmigrant alien students on F-visas in off-campus employment and enforcement provisions relating thereto.

§ 655.000 [Redesignated]

3. Section 655.000 of part 655 is redesignated as § 655.4 of subpart A of part 655; and newly designated § 655.4 is revised to read as follows:

§ 655.4 Territory of Guam.

Subpart A of this part does not apply to temporary employment in the Territory of Guam, and the Department of Labor does not certify to the Immigration and Naturalization Service (INS) the temporary employment of nonimmigrant aliens under H-2B visas in the Territory of Guam. Pursuant to INS regulations, that function is performed by the Governor of Guam, or the Governor's designated representative within the Territorial Government.

4. A new § 655.215 is added to subpart C to read as follows:

§ 655.215 Territory of Guam.

Subpart C of this part does not apply to temporary employment in the Territory of Guam, and the Department of Labor does not certify to the Immigration and Naturalization Service (INS) the temporary employment of nonimmigrant aliens under H-2B visas in the Territory of Guam. Pursuant to INS regulations, that function is performed by the Governor of Guam, or the Governor's designated representative within the Territorial Government.

5. Part 655 is amended by adding new subparts J and K as set forth at the end of the common preamble.

Subpart J—Attestations by Employers Using F-1 Students in Off-Campus Work

Sec.
655.900 Purpose, procedure and applicability of subparts J and K of this part.
655.910 Overview of process.
655.920 Definitions.
655.930 Addresses of Department of Labor regional offices.
655.940 Employer attestations.
655.950 Public access.

Appendix A to Subpart J—Documentation in Support of Attestations Made by Employers

Subpart K—Enforcement of the Attestation Process for Attestations Filed by Employers Utilizing F-1 Students in Off-campus Work.

Sec.
655.1000 Enforcement authority of Administrator, Wage and Hour Division.
655.1005 Complaints and investigative procedures.
655.1010 Remedies.
655.1015 Written notice and service of Administrator's determination.
655.1020 Request for hearing.
655.1025 Rules of practice for administrative law judge proceedings.
655.1030 Service and computation of time.
655.1035 Administrative law judge proceedings.
655.1040 Decision and order of administrative law judge.
655.1045 Secretary's review of administrative law judge's decision.
655.1050 Administrative record.
655.1055 Notice to the Employment and Training Administration (ETA) and the Attorney General (AG).
655.1060 Non-applicability of the Equal Access to Justice Act.

Signed at Washington, DC, this 28th day of Oct, 1991.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

Cari M. Dominguez,

Assistant Secretary for Employment Standards.

Lynn Martin,

Secretary of Labor.

TITLE 29—LABOR

CHAPTER V—WAGE AND HOUR DIVISION, DEPARTMENT OF LABOR

Accordingly, title 29, Code of Federal Regulations, is amended by adding a new part 508 to read as set forth below and subparts J and K are added to new part 508 as set forth at the end of the common preamble.

PART 508—ATTESTATIONS FILED BY EMPLOYERS UTILIZING F-1 STUDENTS FOR OFF-CAMPUS WORK

Subparts A, B, C, D, E, F, G, H, and I [Reserved]

Subpart J—Attestations by Employers Using F-1 Students in Off-Campus Work

Sec.
508.900 Purpose, procedure and applicability of subparts J and K of this part.
508.910 Overview of process.
508.920 Definitions.
508.930 Addresses of Department of Labor regional offices
508.940 Employer attestations.
508.950 Public access.

Appendix A to Subpart J—Documentation in Support of Attestations Made by Employers

Subpart K—Enforcement of the Attestation Process for Attestations Filed by Employers Utilizing F-1 Students in Off-campus Work.

Sec.
508.1000 Enforcement authority of Administrator, Wage and Hour Division.
508.1005 Complaints and investigative procedures.
508.1010 Remedies.
508.1015 Written notice and service of Administrator's determination.
508.1020 Request for hearing.
508.1025 Rules of practice for administrative law judge proceedings.
508.1030 Service and computation of time.
508.1035 Administrative law judge proceedings.
508.1040 Decision and order of administrative law judge.
508.1045 Secretary's review of administrative law judge's decision.
508.1050 Administrative record.
508.1055 Notice to the Employment and Training Administration (ETA) and the Attorney General (AG).
508.1060 Non-applicability of the Equal Access to Justice Act.

Authority: 29 U.S.C. 49 *et seq.*; and sec. 221(a), Pub. L. 101-649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note).

Signed at Washington, DC, this 28th day of October 1991.

Roberts T. Jones,

Assistant Secretary for Employment and Training.

Cari M. Dominguez,

Assistant Secretary of Employment Standards.

Lynn Martin,

Secretary of Labor.

Note: Attachment (Not to be Codified with the CFR): Form ETA-9034. Printed below is a copy of Form ETA-9034.

BILLING CODE 4510-10-M, 4510-27-M

Attestation by Employers For Off-Campus Work Authorization for F-1 Students

U.S. Department of Labor
Employment and Training Administration
U.S. Employment Service

OMB Approval No. 1205-0315
Expiration Date: 04/30/92

PART A: OFFER OF EMPLOYMENT

1. Employer (Full Legal Name of Employer)

3. Telephone Number (Area Code and Number)

2. Address (No., Street, City, State and ZIP Code)

4. Federal Employer I.D. Number

5. Occupational Information (Continue on reverse side if necessary)

a. Titles of Jobs to be Filled by F-1 Students	b. Two Digit Occupational Division	c. Rate of Pay	d. Location(s) Where Alien(s) Will Work (see instructions)
		$ _____ per _____	
		$ _____ per _____	
		$ _____ per _____	
		$ _____ per _____	

PART B: EMPLOYER ATTESTATIONS

6. Recruitment Attestation.

a. Recruitment for the position(s) identified in this attestation was conducted for 60 days, and a sufficient number of U.S. workers were not able, qualified and available for the position(s):

(i) A job order for the position(s) was on file for 60 consecutive days ending _____ (Date) with the _____ (State Employment Service Name); and

(ii) A vacancy announcement(s) for the position(s) was posted at the place of employment for 60 consecutive days.

b. Recruitment for the position(s) identified in this attestation will be conducted for each F-1 student hired more than 90 days after the end of the recruitment period referenced in Item 6.a. F-1 students will be hired only when recruitment did not result in a sufficient number of U.S. workers who were able, qualified and available.

(i) A job order will be on file with the local office of the State employment service indicated above until September 30, 1994; or

(ii) A job order will be on file with the local office of the State employment service indicated above for 60 consecutive days ending no more than 90 days before the date of hire and a vacancy announcement(s) will be posted at the place of employment for 60 consecutive days ending no more than 90 days before the date of hire.

7. Wage Attestation.

F-1 Students and other similarly situated workers will be paid the actual wage for the occupation at the place of employment or the prevailing wage level for the occupation in the area of employment, whichever is greater.

PART C: EMPLOYER DECLARATION

This attestation will be submitted to the educational institution either simultaneous to or after filing with the Department of Labor (DOL). In no case will this attestation be filed with an educational institution prior to or without filing with DOL.

Pursuant to 28 USC 1746, I declare under penalty of perjury the information provided on this form is true and correct. In addition, I declare that I will comply with DOL regulations governing this program and in particular, that I will make this attestation, supporting documentation, and other records, files and documents available to officials of DOL, upon such official request, during any investigation under this attestation or the Immigration and Nationality Act.

Name and Title of the Hiring Official | Signature of the Hiring Official | Date

FOR US GOVERNMENT USE ONLY: By virtue of my signature below, I acknowledge that this attestation is accepted for filing on _____ (Date) and will be valid to September 30, 1994 unless the employer withdraws it or is disqualified from employing F-1 students by DOL.

Signature of Authorized DOL Official | ETA Case No. | Date

The Department of Labor is not the guarantor of the accuracy, truthfulness or adequacy of an attestation accepted for filing.

Public reporting burden for this collection of information is estimated to average 60 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Information Management, Department of Labor, Room N1301, 200 Constitution Avenue, N.W., Washington, D.C. 20210; and to the Office of Management and Budget, Paperwork Reduction Project (1205-0315) Washington, D.C. 20503.

INSTRUCTIONS FOR COMPLETING FORM ETA-9034
ATTESTATION BY EMPLOYERS FOR OFF-CAMPUS WORK
AUTHORIZATION FOR F-1 STUDENTS

IMPORTANT: READ CAREFULLY BEFORE COMPLETING THE FORM

Print legibly in ink or use a typewriter. Sign and date one form in original signature. Citations below to "regulation" are citations to identical provisions at 20 CFR 655, Subparts J and K, and 29 CFR Part 508, Subparts J and K.

Employers seeking to hire F-1 students for off-campus employment must submit the completed and dated original Form ETA-9034 (or a facsimile) and one copy of the completed original Form ETA-9034 to the Regional Certifying Officer in the Department of Labor (DOL), Employment and Training Administration (ETA) Regional Office having jurisdiction over the State in which the position is located, any time after the last date of recruitment, but no more than 60 days after the last day of recruitment. See § ____.930 for DOL Regional Office addresses.

Employers must also submit an attestation to the educational institution(s) at which the F-1 student(s) to be employed is enrolled in a full course of study. The attestation may be submitted simultaneously to DOL, and the educational institution; or it may be submitted first to DOL and subsequently to the educational institution, before an accepted copy is returned from DOL to the employer. In no case shall the attestation be submitted to the educational institution prior to or without submitting to DOL. See § ____.940 for detailed explanation.

To knowingly furnish any false information in the preparation of this form, or to aid, abet or counsel another to do so is a felony, punishable by $10,000 fine or five years in the penitentiary, or both (18 U.S.C. 1001). Other penalties apply as well to fraud and misuse of this immigration document (18 U.S.C. 1546) and to perjury with respect to this form (18 U.S.C. 1546 and 1621).

PART A: OFFER OF EMPLOYMENT

Item 1. Employer. Enter the full legal name of the business, firm, or organization, or, if an individual, enter name used for legal purposes on documents.

Item 2. Address. Self explanatory.

Item 3. Telephone Number. Self explanatory.

Item 4. Federal Employee I.D. Number. Enter the employer's Federal employer identification number assigned by the Internal Revenue Service.

Item 5(a). Titles of Jobs to be Filled by F-1 Students. Enter the common name(s) or payroll title(s) of the job(s) being offered.

Item 5(b). Two digit occupational division. Enter the two digit code which most closely describes the job(s) to be performed.

Item 5(c). Rate of Pay. Enter the salary to be paid in terms of the amount per hour, week, year, etc.

Item 5(d). Location(s) Where Alien(s) Will Work. Enter the full address of the site or location where the work will actually be performed, if different from the address in Item 2.

PART B: EMPLOYER ATTESTATIONS

Item 6. Recruitment attestation. Employers must attest that they have recruited for the position for 60 days, and that a sufficient number of U.S. workers were not able, qualified and available. To satisfy this requirement employers must: 1. place a job order for 60 consecutive days with the local office of the State employment service in the area of intended employment; and 2. post a vacancy announcement at the place of business.

Employers must also attest that for an F-1 student(s) hired more than 90 days after the end of the 60 day recruitment referenced above, subsequent recruitment will be conducted prior to hiring each student(s). To satisfy this attestation employers must either; 1. place an open job order for the position(s) with the local office of the Statement employment service in the intended area of employment until September 30, 1994; or, 2. place a job order with the local office of the State employment service in the area of intended employment for 60 consecutive days, and post an announcement of the job vacancy for 60 consecutive days, at the employer's place of business. The 60-day job order and the 60-day posting of the job vacancy shall not end more than 90 days before the date of hire.

Item 7. Wage attestation. Employers must attest that they will pay the F-1 student(s) and any other similarly situated worker(s) the actual wage for the occupation at the place of employment or the prevailing wage for the occupation in the intended area of employment, whichever is higher. The employer shall update the prevailing wage for the occupation named in the attestation on an annual basis and shall continue paying the actual wage or the prevailing wage for the entire validity period of the attestation.

The prevailing wage rate for positions named in the attestation, unless subject to the Davis-Bacon Act or the McNamara-O'Hara Service Contract Act, is the average rate of wages paid to workers similarly employed in the area of intended employment as determined by a prevailing wage survey published by an independent authoritative source or a prevailing wage finding from the State Employment Service in the intended area of employment.

Employers should be prepared to produce documentary evidence in support of the employer attestations for at least 18 months from the closing date of the recruitment period to which the documentation is applicable, and make it available to officials of DOL upon such officials' request. See Appendix A to subpart J for guidance on the documentation to support these attestations.

PART C: EMPLOYER DECLARATION

By signing this form, the hiring official is attesting to: the accuracy of the information on the form, and having complied with the conditions of PART B: EMPLOYER ATTESTATIONS. False statements are subject to Federal criminal penalties, as stated above. If the Secretary of Labor determines that an employer has provided an attestation that is materially false or has failed to pay wages in accordance with the attestation, after notice and an opportunity for a hearing, the employer shall be disqualified from employing an F-1 student.

The Department of Labor will accept this attestation upon receipt from the employer. The employer may submit it to the educational institution, without indication of Department of Labor acceptance, for off-campus work authorization for F-1 students. A copy of the attestation form indicating the Department's acceptance, or notification of nonacceptance will be returned to the employer. Within 15 days thereafter, the employer must provide the educational institution with a copy of the attestation accepted by the Department of Labor as indicated thereon. Failure to provide a copy of the accepted attestation to the educational institution shall result in notification to the U.S. Attorney General that the employer does not have a valid attestation on file with the Department of Labor.

TWO-DIGIT OCCUPATIONAL DIVISIONS

PROFESSIONAL, TECHNICAL, AND MANAGERIAL OCCUPATIONS

00/01 OCCUPATIONS IN ARCHITECTURE, ENGINEERING AND SURVEYING
02 OCCUPATIONS IN MATHEMATICS AND PHYSICAL SCIENCES
03 COMPUTER-RELATED OCCUPATIONS
04 OCCUPATIONS IN LIFE SCIENCES
05 OCCUPATIONS IN SOCIAL SCIENCES
07 OCCUPATIONS IN MEDICINE AND HEALTH
09 OCCUPATIONS IN EDUCATION
10 OCCUPATIONS IN MUSEUM, LIBRARY, AND ARCHIVAL SCIENCES
11 OCCUPATIONS IN LAW AND JURISPRUDENCE
12 OCCUPATIONS IN RELIGION AND THEOLOGY
13 OCCUPATIONS IN WRITING
14 OCCUPATIONS IN ART
15 OCCUPATIONS IN ENTERTAINMENT AND RECREATION
16 OCCUPATIONS ADMINISTRATIVE SPECIALIZATIONS
18 MANAGERS AND OFFICIALS
19 MISCELLANEOUS PROFESSIONAL, TECHNICAL, AND MANAGERIAL OCCUPATIONS

CLERICAL AND SALES OCCUPATIONS

20 STENOGRAPHY, TYPING, FILING AND RELATED OCCUPATIONS
21 COMPUTING AND ACCOUNT-RECORDING OCCUPATIONS
22 PRODUCTION AND STOCK CLERKS AND RELATED OCCUPATIONS
23 INFORMATION AND MESSAGE DISTRIBUTION OCCUPATIONS
24 MISCELLANEOUS CLERICAL OCCUPATIONS
25 SALES OCCUPATIONS, SERVICES
26 SALES OCCUPATIONS, CONSUMABLE COMMODITIES
27 SALES OCCUPATIONS, OTHER COMMODITIES
29 MISCELLANEOUS SALES OCCUPATIONS

SERVICE OCCUPATIONS

30 DOMESTIC SERVICE OCCUPATIONS
31 FOOD AND BEVERAGE PREPARATION AND SERVICE OCCUPATIONS
32 LODGING AND RELATED SERVICE OCCUPATIONS
33 BARBERING, COSMETOLOGY, AND RELATED SERVICE OCCUPATIONS
34 AMUSEMENT AND RECREATION SERVICE OCCUPATIONS
35 MISCELLANEOUS PERSONAL SERVICE OCCUPATIONS
36 APPAREL AND FURNISHINGS SERVICE OCCUPATIONS
37 PROTECTIVE SERVICE OCCUPATIONS
38 BUILDING AND RELATED SERVICE OCCUPATIONS

AGRICULTURAL, FISHERY, FORESTRY, AND RELATED OCCUPATIONS

40 PLANT FARMING OCCUPATIONS
41 ANIMAL FARMING OCCUPATIONS
42 MISCELLANEOUS AGRICULTURAL AND RELATED OCCUPATIONS
44 FISHERY AND RELATED OCCUPATIONS
45 FORESTRY OCCUPATIONS
46 HUNTING, TRAPPING AND RELATED OCCUPATIONS

PROCESSING OCCUPATIONS

50 OCCUPATIONS IN PROCESSING OF METAL
51 ORE REFINING AND FOUNDRY OCCUPATIONS
52 OCCUPATIONS IN PROCESSING OF FOOD, TOBACCO, AND RELATED PRODUCTS

53 OCCUPATIONS IN PROCESSING OF PAPER AND RELATED MATERIALS
54 OCCUPATIONS IN PROCESSING OF PETROLEUM, COAL, NATURAL AND MANUFACTURED GAS AND RELATED PRODUCTS
55 OCCUPATIONS IN PROCESSING OF RUBBER, PAINT AND RELATED PRODUCTS
56 OCCUPATIONS IN PROCESSING OF WOOD AND WOOD PRODUCTS
57 OCCUPATIONS IN PROCESSING OF STONE, CLAY, GLASS AND RELATED PRODUCTS
58 OCCUPATIONS IN PROCESSING OF LEATHER, TEXTILES AND RELATED PRODUCTS
59 OTHER PROCESSING OCCUPATIONS

MACHINE TRADES OCCUPATIONS

60 METAL MACHINING OCCUPATIONS
61 OTHER METALWORKING OCCUPATIONS
62/63 MECHANICS AND MACHINERY REPAIRERS
64 PAPERWORKING OCCUPATIONS
65 PRINTING OCCUPATIONS
66 WOOD MACHINING OCCUPATIONS
67 OCCUPATIONS IN MACHINING STONE, CLAY, GLASS, AND RELATED MATERIALS
68 TEXTILE OCCUPATIONS
69 OTHER MACHINE TRADES OCCUPATIONS

BENCHWORK OCCUPATIONS

70 OCCUPATIONS IN FABRICATION, ASSEMBLY, AND REPAIR OF METAL PRODUCTS
71 OCCUPATIONS IN FABRICATION AND REPAIR OF SCIENTIFIC, MEDICAL, PHOTOGRAPHIC, OPTICAL, HOROLOGICAL, AND RELATED PRODUCTS
72 OCCUPATIONS IN ASSEMBLY AND REPAIR OF ELECTRICAL EQUIPMENT
73 OCCUPATIONS IN FABRICATION AND REPAIR OF PRODUCTS MADE FROM ASSORTED MATERIALS
74 PAINTING, DECORATING, AND RELATED OCCUPATIONS
75 OCCUPATIONS IN FABRICATION AND REPAIR OF PLASTICS, SYNTHETICS, RUBBER, AND RELATED PRODUCTS
76 OCCUPATIONS IN FABRICATION AND REPAIR OF WOOD PRODUCTS
77 OCCUPATIONS IN FABRICATION AND REPAIR OF SAND, STONE, CLAY, AND GLASS PRODUCTS
78 OCCUPATIONS IN FABRICATION AND REPAIR OF TEXTILE, LEATHER, AND RELATED PRODUCTS
79 OTHER BENCHWORK OCCUPATIONS

STRUCTURAL WORK OCCUPATIONS

80 OTHER OCCUPATIONS IN METAL FABRICATING
81 WELDERS, CUTTERS AND RELATED OCCUPATIONS
82 ELECTRICAL ASSEMBLING, INSTALLING, AND REPAIRING OCCUPATIONS
84 PAINTING, PLASTERING, WATERPROOFING, CEMENTING, AND RELATED OCCUPATIONS
85 EXCAVATING, GRADING, PAVING, AND RELATED OCCUPATIONS
86 OTHER CONSTRUCTION OCCUPATIONS
89 OTHER STRUCTURAL WORK OCCUPATIONS

MISCELLANEOUS OCCUPATIONS

90 MOTOR FREIGHT OCCUPATIONS
91 OTHER TRANSPORTATION OCCUPATIONS
92 PACKAGING AND MATERIALS HANDLING OCCUPATIONS
93 OCCUPATIONS IN EXTRACTION OF MINERALS
95 OCCUPATIONS IN PRODUCTION AND DISTRIBUTION OF UTILITIES
96 OTHER AMUSEMENT, RECREATION, MOTION PICTURE, RADIO AND TELEVISION OCCUPATIONS
97 OCCUPATIONS IN GRAPHIC ART WORK

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Wednesday
November 6, 1991

Part IV

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 5-Year Review of Listed Species; Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; 5-Year Review of Listed Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of review.

SUMMARY: The Service announces a review of all endangered and threatened species listed before January 1, 1991, under the Endangered Species Act (Act) of 1973, as amended. The Act requires such a review at least once every 5 years. The purpose of the review is to ensure that the Lists of Endangered and Threatened Wildlife and Plants accurately reflect the most current status information for each listed species. The Service requests comments and any scientific or commercial information on these species. If the present status classification is not consistent with the best scientific and commercial information available at the conclusion of this review, the Service will propose changes to the list accordingly.

DATES: In order to be considered in this review, comments must be received no later than May 4, 1992. The Service will continue to accept information about any listed species at any time.

ADDRESSES: U.S. Fish and Wildlife Service Regional Offices with lead responsibility for species in the tables at the end of this notice are identified in **SUPPLEMENTARY INFORMATION.** Comments should be submitted to the appropriate Region.

Comments and materials sent in response to this notice of review will be available for public inspection at the appropriate office (see "Addresses of Regional Offices" in **SUPPLEMENTARY INFORMATION** and the tables of species at the end of the notice) by appointment during normal business hours.

FOR FURTHER INFORMATION CONTACT: Dr. Larry Shannon, Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, Mail Stop 452–ARLSQ, Washington, DC 20240 (703/358–2171, FTS 921–2171).

SUPPLEMENTARY INFORMATION:

Addresses of Regional Offices

The following Regional Offices have lead responsibilities for species in the tables at the end of this notice:

Region 1.—California, Hawaii, Idaho, Nevada, Oregon, Washington, Commonwealth of the Northern Mariana Islands, and Pacific Territories of the United States.

Regional Director (FWE–SE), U.S. Fish and Wildlife Service, Eastside Federal Complex, 911 NE. 11th Avenue, Portland, Oregon 97232–4181 (503/231–6150 or FTS 429–6150).

Region 2.—Arizona, New Mexico, Oklahoma, and Texas.

Regional Director (FWE–SE), U.S. Fish and Wildlife Service, P.O. Box 1306, Albuquerque, New Mexico 87103 (505/766–2914 or FTS 474–2914).

Region 3.—Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio, and Wisconsin.

Regional Director (FWE/SE), U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minnesota 55111 (612/725–3276 or FTS 725–3276).

Region 4.—Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Puerto Rico, and the U.S. Virgin Islands.

Regional Director (FWE), U.S. Fish and Wildlife Service, The Richard B. Russell Federal Building, 75 Spring Street, SW., Atlanta, Georgia 30303 (404/331–3580 or FTS 841–3580).

Region 5.—Connecticut, Delaware, District of Columbia, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, and West Virginia.

Regional Director (FWE), U.S. Fish and Wildlife Service, One Gateway Center, suite 700, Newton Corner, Massachusetts 02158 (617/965–5100, ext. 316, 317, or 318 or FTS 829–9316).

Region 6.—Colorado, Kansas, Montana, Nebraska, North Dakota, South Dakota, Utah, and Wyoming.

Regional Director (FWE), U.S. Fish and Wildlife Service, P.O. Box 25486, Denver Federal Center, Denver, Colorado 80225 (303/236–7398 or FTS 776–7398).

Region 7.—Alaska.

Regional Director (FWE), U.S. Fish and Wildlife Service, 1011 East Tudor Street, Anchorage, Alaska 99501 (907/786–3505 or FTS 907/786–3505).

Region 8. All foreign species (i.e., historic range totally outside U.S. jurisdiction) in Table 3 below; comments on foreign populations of species in Tables 1 or 2 should be directed to the Region indicated in column 1 of the appropriate table.

Regional Director (ARD/Research), U.S. Fish and Wildlife Service, Mail Stop 725–ARLSQ, Washington, DC 20240.

Background

The Lists of Endangered and Threatened Wildlife and Plants are found in 50 CFR 17.11 (wildlife) and 17.12 (plants). The most recent codification of such lists was in the Code of Federal Regulations of October 1, 1990 (the lists were reprinted July 15, 1991, in a document available free of charge from the Publication Unit, U.S. Fish and Wildlife Service, 130–ARLSQ, Washington, DC 20240). The recovery status of each U.S. listed species has been detailed in a recent Report to Congress (U.S. Fish and Wildlife Service 1991). The previous 5-year review notice was published July 7, 1987 (52 FR 25523).

The procedural rules for listing, reclassifying, or removing species from the lists are codified at 50 CFR part 424. The Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*), as amended, and 50 CFR 424.21 require the Secretary to conduct a review of each listed species at least once every 5 years. The present review will be completed during Fiscal Year 1992, and will consider all species initially listed prior to January 1, 1991, as detailed in the tables below. Some 578 U.S. and 514 foreign species (including populations with separate classifications) are included in this review. Species listings subsequently affected by rules reclassifying all or significant parts of their populations are considered for this review according to their dates of initial listing.

Tables 1–3 below are lists of the species under consideration in this review. Table 1 contains a group of species being reviewed somewhat more intensively because they are already prospective candidates for reclassification, either because they may be extinct or because they are responding well to recovery efforts and have met a large fraction of the recovery goals that have been established for them in recovery planning. Table 2 contains the remainder of U.S. listed species, and Table 3 separately groups the foreign species listed as endangered or threatened by the United States.

The Office of Scientific Authority will review all comments submitted to Region 8 regarding species in Table 3. The Office of Scientific Authority would also appreciate receiving copies of comments on foreign populations of the saltwater crocodile, *Crocodylus porosus,* a species that occurs in U.S. Pacific Island territories but for which most regulatory activity involves foreign populations.

Comments regarding the U.S. listed species in Tables 1 and 2 should be forwarded to the appropriate Fish and Wildlife Service Regional Office given in column 1 of those two tables as listed above under "Addresses of Regional

Offices" in SUPPLEMENTARY INFORMATION.

Definitions

The following definitions are provided to assist those persons who contemplate submitting information regarding the status of the species given in the tables below:

1. *Critical Habitat* means (i) the specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features (I) essential to the conservation of the species and (II) which may require special management considerations or protection, and (ii) specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

2. *Endangered* means any species that is in danger of extinction throughout all or a significant portion of its range.

3. *Species* includes any species or subspecies of fish or wildlife or plant, and any distinct population segment of any species or subspecies of a vertebrate, which is capable of interbreeding when mature.

4. *Threatened* means any species that is likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range.

A species is determined to be endangered or threatened because of any of the following factors in 50 CFR 424.11(c)):

(a) The present or threatened destruction, modification, or curtailment of its habitat or range;

(b) Overutilization for commercial, recreational, scientific, or educational purposes;

(c) Disease or predation;

(d) The inadequacy of existing regulatory mechanisms; or

(e) Other natural or manmade factors affecting its continued existence.

These same five factors must be considered before removing a species from the lists. Under 50 CFR 424.11(d) the data to support such removal must be the best scientific and commercial information available to the Service to substantiate that the species is neither endangered nor threatened for one or more of the following reasons:

1. *Extinction.* Unless all individuals of the listed species have been previously identified and located and are later found to be extirpated from their previous range, a sufficient period of time must be allowed before delisting to indicate clearly that the species is in fact extinct.

2. *Recovery of the species.* The principal goal of the Service is to return listed species to a point at which protection under the Act is no longer required. A species may be delisted on the basis of recovery only if the best scientific and commercial information available indicate that it is not longer endangered or threatened.

3. *Original data for classification in error.* Subsequent investigation may show that the best scientific or commercial information available when a species was listed, or the interpretation of such data, was erroneous.

Effects of the Review

If substantial new information is available to the Service or is presented by any party for one or more species in the tables below, the Service may propose new rules that could do any of the following:

(a) Reclassify a species from endangered to threatened,

(b) Reclassify a species from threatened to endangered, or

(c) Remove a species from the Lists of Endangered and Threatened Wildlife and Plants.

Distinct geographic populations of vertebrate species, as well as subspecies of all listed species, may be proposed for separate reclassification or for removal from the lists. If substantial information is not available after completing this 5-year review of a particular species to suggest a status change for that species, then the next formal status review for that species will be announced no later than 5 years hence. The Service continuously reviews the status of listed species, however, and tries to initiate reclassification or delisting whenever substantial new information indicates that such action is appropriate.

Public Comments Solicited

The Service requests comments concerning the status of any of the species in the tables below. Comments from any foreign government or agency, the public, other Federal, State, and local governmental agencies, the scientific community, industry, or any other interested party are hereby solicited. The proposed and final listing rules for each species described the data that formed the basis for the original classification. The recovery status of each U.S. listed species has been recently reviewed (U.S. Fish and Wildlife Service 1991). The Service primarily seeks any new or additional information that indicates a need for a change in status. If significant new information is available warranting a change in a species' classification under the Act, the Service may propose a rule to modify its status.

Comments and data are requested regarding past and present numbers and distribution of the involved species, subspecies, or distinct vertebrate populations; particularly factors threatening the species; and, if appropriate, the features and importance of any critical habitat. Preferably, this information should be supported by documentation, such as maps, a list of bibliographic references, or copies of any pertinent publications, reports or letters by knowledgeable sources.

References Cited

U.S. Fish and Wildlife Service. 1991. Report to Congress: Endangered and Threatened Species Recovery Program—1990. U.S. Department of the Interior, Fish and Wildlife Service, Washington, DC vii+406 pp.

Author

The primary author of this notice is Dr. George E. Drewry, Division of Endangered Species, U.S. Fish and Wildlife Service, Mail Stop 452–ARLSQ, Washington, DC 20240 (703/358–2171).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: October 25, 1991.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

TABLE 1. U.S. SPECIES UNDER SPECIAL REVIEW FOR POSSIBLE RECLASSIFICATION OR DELISTING

Lead Region[1]	Status	Common name	Scientific name	Likely Current Range
1	E	Deer, Columbian white-tailed	*Odocoileus virginianus leucurus*	OR, WA.
5	T	Shrew, Dismal Swamp southeastern	*Sorex longirostris fisheri*	NC, VA.
3	E,T	Eagle, bald	*Haliaeetus leucocephalus*	E= CA, ID, NV, AZ, UT, MT, CO, WY, NM, TX, OK, ND, SD, NE, IA, KS, LA, MS, AR, MO, TN, KY, OH, IL, IN, PA, WV, VA, FL, GA, NC, SC, MD, DE, NJ, NY, RI, CT, MA, NH, VT, ME, AL T= WA, OR, MN, WI, MI.
7	E (CH)	Falcon, American peregrine (Alaskan)	*Falco peregrinus anatum*	AK.
5	E (CH)	Falcon, American peregrine (Eastern)	*Falco peregrinus anatum*	IA, LA, MS, AR, MO, TN, KY, OH, IL, IN, PA, WV, VA, FL, GA, NC, SC, MD, DE, NJ, NY, CT, RI, MA, VT, NH, ME, AL, MN, WI, MI, DC, PR, VI.
1	E (CH)	Falcon, American peregrine (Western)	*Falco peregrinus anatum*	CA, ID, NV, AZ, UT, CO, WY, MT, NM, TX, OK, ND, SD, NE, KS, WA, OR.
7	T	Falcon, Arctic peregrine	*Falco peregrinus tundrius*	AK, WA, OR, ID, CA, NV, MT, WY, UT, CO, AZ, NM, TX, OK, NE, SD, ND, MN, WI, IA, MI, IL, IN, OH, MO, KY, TN, AR, LA, AL, MS, FL, GA, SC, NC, VA, WV, MD, DE, NJ, PA, NY, CT, RI, MA, VT, NH, ME, KS, DC, PR, VI, entire hemisphere.
1	E	Pelican, brown (California)	*Pelecanus occidentalis californicus*	CA, OR, WA.
1	E	Hawk, Hawaiian (Io)	*Buteo solitarius*	HI.
4	E	Woodpecker, ivory-billed	*Campephilus principalis principalis*	Thought to be extirpated from the wild except in Cuba.
4	T	Turtle, ringed sawback	*Graptemys oculifera*	LA, MS.
2	E (CH)	Toad, Houston	*Bufo houstonensis*	TX.
4	T (CH)	Darter, slackwater	*Etheostoma boschungi*	AL, TN.
1	E	Killifish, Pahrump	*Empetrichthys latos latos*	NV.
2	E (CH)	Gambusia, San Marcos	*Gambusia georgei*	TX.
4	E	Pocketbook, fat	*Potamilus (=Proptera) capax*	AR, IA, IL, IN, KY, MO.
4	E	Pearly mussel, pink mucket	*Lampsilis orbiculata*	AL, IN, IL, KY, MO, OH, TN, VA, WV.
2	E	Cactus, Siler pincushion	*Pediocactus sileri*	AZ, UT.
2	E	Cactus, Sneed pincushion	*Coryphantha sneedii* var. *sneedii*	TX, NM.
5	E	Cinquefoil, Robbins'	*Potentilla robbinsiana*	NH, VT
1	E	Coyote-thistle, Loch Lomond	*Eryngium constancei*	CA.
1	E	Four-o'clock, MacFarlane's	*Mirabilis macfarlanei*	ID, OR.
2	E	Globe-berry, Tumamoc	*Tumamoca macdougalii*	AZ, Mexico (Sonora).
5	E	Mallow, Peter's Mountain	*Iliamna corei*	VA.
5	E	Pogonia, small whorled	*Isotria medeoloides*	CT, DC, DE, GA, IL, MA, MD, ME, MI, MO, NC, NG, NJ, NY, PA, RI, SC, TN, VA, VT, Canada (ON).
4	E	Rattleweed, hairy	*Baptisia arachnifera*	GA.

[1] See "Addresses of Regional Offices" in SUPPLEMENTARY INFORMATION for explanation of this column.

TABLE 2. U.S. LISTED SPECIES TO BE REVIEWED [2]

Lead Region[1]	Status	Common name	Scientific name	Likely Current Range
		VERTEBRATES		
		MAMMALS		
3	E	Bat, gray	*Myotis grisescens*	IN, IL, TN, KY, MO, AR, OK, FL, GA, VA, KS, AL.
1	E	Bat, Hawaiian hoary	*Lasiurus cinereus semotus*	HI.
3	E (CH)	Bat, Indiana	*Myotis sodalis*	WI, MI, OH, IL, IN, MO, IA, KS, OK, AR, AL, MS, FL, GA, SC, NC, VA, KY, TN, WV, MD, PA, NY, NJ, VT, NY.
1	E	Bat, little Mariana fruit	*Pteropus tokudae*	GU.
1	E	Bat, Mariana fruit	*Pteropus mariannus mariannus*	GU.
2	E	Bat, Mexican long-nosed	*Leptonycteris nivalis*	NM, TX, Mexico, Central America.
2	E	Bat, Ozark big-eared	*Plecotus townsendii ingens*	MO, OK, AR.
2	E	Bat, Sanborn's long-nosed	*Leptonycteris sanborni (=yerbabuenae)*	AZ, NM, Mexico, Central America.
5	E (CH)	Bat, Virginia big-eared	*Plecotus townsendii virginianus*	KY, WV, VA, NC.
6	T	Bear, grizzly or brown	*Ursus arctos (=U.a. horribilis)*	WA, ID, MT, WY (Extirpated from Regions 2 and 3).
1	E	Caribou, woodland	*Rangifer tarandus caribou*	ID, WA, Canada-S.E. British Columbia.
5	E	Cougar, eastern	*Felis concolor couguar*	Presumed extinct in wild.
4	E	Deer, key	*Odocoileus virginianus clavium*	FL.
1	E	Dugong	*Dugong dugon*	PW (Palau), East Africa to southern Japan.
6	E	Ferret, black-footed	*Mustela nigripes*	CO, MT, ND, SD, UT, WY (Presumed to be extirpated in other States of range and Canada).
1	E	Fox, San Joaquin kit	*Vulpes macrotis mutica*	CA.
2	E	Jaguarundi	*Felis yagouaroundi cacomitli*	TX, Mexico.
2	E	Jaguarundi	*Felis yagouaroundi tolteca*	AZ, Mexico.
4	E (CH)	Manatee, West Indian (Florida)	*Trichechus manatus*	NC, SC, GA, FL, MS, LA, TX, PR, VI, Mexico, Caribbean.
4	E (CH)	Mouse, Alabama beach	*Peromyscus polionotus ammobates*	AL.
4	E	Mouse, Anastasia Island beach	*Peromyscus polionotus phasma*	FL.
4	E (CH)	Mouse, Choctawahatchee beach	*Peromyscus polionotus allophrys*	FL.
4	E	Mouse, Key Largo cotton	*Peromyscus gossypinus allapaticola*	FL.
4	E (CH)	Mouse, Perdido Key beach	*Peromyscus polionotus trissyllepsis*	AL, FL.
1	E	Mouse, Salt marsh harvest	*Reithrodontomys raviventris*	CA.

TABLE 2. U.S. LISTED SPECIES TO BE REVIEWED [2]—Continued

Lead Region[1]	Status	Common name	Scientific name	Likely Current Range
4	T	Mouse, southeastern beach	*Peromyscus polionotus niveiventris*	FL.
2	E	Ocelot	*Felis pardalis*	AZ, TX, Mexico, Central & South America.
1	T	Otter, southern sea	*Enhydra lutris nereis*	CA, Mexico.
4	E	Panther, Florida	*Felis concolor coryi*	FL.
6	T	Prairie dog, Utah	*Cynomys parvidens*	UT.
2	E	Pronghorn, Sonoran	*Antilocapra americana sonoriensis*	AZ, Mexico.
4	E	Rabbit, Lower Keys	*Sylvilagus palustris hefneri*	FL.
1	E (CH)	Rat, Fresno kangaroo	*Dipodomys nitratoides exilis*	CA.
1	E	Rat, giant kangaroo	*Dipodomys ingens*	CA.
1	E (CH)	Rat, Morro Bay kangaroo	*Dipodomys heermanni morroensis*	CA.
1	E	Rat, Stephens' kangaroo	*Dipodomys stephensi* (incl. *D. cascus*)	CA.
1	E	Rat, Tipton kangaroo	*Dipodomys nitratoides nitratoides*	CA.
4	E	Squirrel, Carolina northern flying	*Glaucomys sabrinus coloratus*	NC, TN.
5	E	Squirrel, Delmarva Peninsula fox	*Sciurus niger cinereus*	(Delmarva Peninsula) MD, VA, DE (except Sussex Co.).
2	E (CH)	Squirrel, Mount Graham red	*Tamiasciurus hudsonicus grahamensis*	AZ.
5	E	Squirrel, Virginia northern flying	*Glaucomys sabrinus fuscus*	VA, WV.
1	E (CH)	Vole, Amargosa	*Microtus californicus scirpensis*	CA.
2	E	Vole, Hualapai Mexican	*Microtus mexicanus hualpaiensis*	AZ.
3	E,T (CH)	Wolf, gray	*Canis lupus*	T=MN E=ID, MI, MT, WA, WI, WY (Extirpated in Regions 2, 4, 5, probably Mexico).
4	E	Wolf, red	*Canis rufus*	Presumed extinct in wild except experimental population in NC.
4	E	Woodrat, Key Largo	*Neotoma floridana smalli*	FL.
		BIRDS		
1	E	Akepa, Hawaii (honeycreeper)	*Loxops coccineus coccineus*	HI.
1	E	Akepa, Maui (honeycreeper)	*Loxops coccineus ochraceus*	HI.
1	E	'Akialoa, Kauai (honeycreeper)	*Hemignathus procerus*	HI.
1	E	'Akiapolaau (honeycreeper)	*Hemignathus munroi*	HI.
4	E (CH)	Blackbird, yellow-shouldered	*Agelaius xanthomus*	PR.
2	E	Bobwhite, masked (quail)	*Colinus virginianus ridgwayi*	AZ, Mexico.
1	E	Broadbill, Guam	*Myiagra freycineti*	GU, Western Pacific.
4	T	Caracara, Audubon's (Florida) crested	*Polyborus plancus audubonii*	FL.
1	E (CH)	Condor, California	*Gymnogyps californianus*	CA.
1	E	Coot, Hawaiian (=alae keo keo)	*Fulica americana alai*	HI.
4	E (CH)	Crane, Mississippi sandhill	*Grus canadensis pulla*	MS.
2	E (CH)	Crane, whooping	*Grus americana*	MT, ND, SD, NE, KS, TX, ID, NM, OK, UT, WY, CO, Canada, Mexico.
1	E	Creeper, Hawaiian	*Oreomystis mana*	HI.
1	E	Creeper, Molokai (Kakawahie)	*Oreomystis flammea*	HI.
1	E	Creeper, Oahu (alauwahio)	*Paroreomyza maculata*	HI.
1	E	Crow, Hawaiian ('alala)	*Corvus hawaiiensis*	HI.
1	E	Crow, Mariana	*Corvus kubaryi*	GU, MP (Rota).
7	E	Curlew, Eskimo	*Numenius borealis*	AK, KS, NE, OK, SD, TX, Canada, Central & South America.
1	E	Duck, Hawaiian (Koloa)	*Anas wyvilliana*	HI.
1	E	Duck, Laysan	*Anas laysanensis*	HI.
2	E	Falcon, northern aplomado	*Falco femoralis septentrionalis*	TX, Mexico, Guatemala.
1	E	Finch, Laysan (honeycreeper)	*Telespyza cantans*	HI.
1	E	Finch, Nihoa (honeycreeper)	*Telespyza ultima*	HI.
7	E	Goose, Aleutian Canada	*Branta canadensis leucopareia*	AK, CA, OR, WA, Japan, Mexico.
1	E	Goose, Hawaiian (nene)	*Nesochen sandvicensis*	HI.
1	E	Honeycreeper, crested ('akohekohe)	*Palmeria dolei*	HI.
4	T	Jay, Florida scrub	*Aphelocoma coerulescens coerulescens*	FL.
1	E	Kingfisher, Guam Micronesian	*Halcyon cinnamomina cinnamomina*	GU, Western Pacific.
4	E (CH)	Kite, Everglade snail	*Rostrhamus sociabilis plumbeus*	FL.
1	E	Mallard, Mariana	*Anas oustaleti*	MP (Saipan), Western Pacific.
1	E	Megapode, Micronesian (La Perouse's)	*Megapodius laperouse*	PW (Palau), MP, Western Pacific.
1	E	Millerbird, Nihoa (old world warbler)	*Acrocephalus familiaris kingi*	HI.
1	T	Monarch, Tinian	*Mónarcha takatsukasae*	MP (Tinian), Western Pacific.
1	E	Moorhen (gallinule), Hawaiian common	*Gallinula chloropus sandvicensis*	HI.
1	E	Moorhen (gallinule), Mariana common	*Gallinula chloropus guami*	GU, MP (Tinian, Saipan), Western Pacific.
4	E	Nightjar (whip-poor-will), Puerto Rico	*Caprimulgus noctitherus*	PR.
1	E	Nukupu'u (honeycreeper)	*Hemignathus lucidus*	HI.
1	E	'O'o, Kauai (= 'O'o 'A'a)	*Moho braccatus*	HI.
1	E	'O'u (honeycreeper)	*Psittirostra psittacea*	HI.
1	T	Owl, northern spotted	*Strix occidentalis caurina*	CA, OR, WA, Canada (BC).
1	E (CH)	Palila (honeycreeper)	*Loxioides (=Psittirostra) bailleui*	HI.
4	E	Parrot, Puerto Rican	*Amazona vittata*	PR.
1	E	Parrotbill, Maui (honeycreeper)	*Pseudonestor xanthophrys*	HI.
2	E	Pelican, brown (Eastern)	*Pelecanus occidentalis carolinensis*	TX, MS, LA, PR, VI, Central and South America.
1	E	Petrel, Hawaiian dark-rumped	*Pterodroma phaeopygia sandwichensis*	HI.
4	E	Pigeon, Puerto Rican plain	*Columba inornata wetmorei*	PR.
5	T	Plover, piping (Atlantic)	*Charadrius melodus*	NY, FL, GA, SC, NC, VA, MD, DE, NJ, CT, RI, MA, ME, Can., W. Indies.

TABLE 2. U.S. LISTED SPECIES TO BE REVIEWED [2]—Continued

Lead Region [1]	Status	Common name	Scientific name	Likely Current Range
3	E,T	Plover, piping (Interior)	*Charadrius melodus*	E=GtLks.:IL, IN, MI, MN, OH, PA, WI, NY, Canada(Ont), T= IL, IN, MI, MN, OH, WI, MT, ND, SD, CO, NE, KS, OK, TX, IA, MO, KY, LA, MS, AL, FL, Can., Mex..
1	E	Po'ouli (honeycreeper)	*Melamprosops phaeosoma*	HI.
2	E	Prairie-chicken, Attwater's	*Tympanuchus cupido attwateri*	TX.
1	E	Rail, California clapper	*Rallus longirostris obsoletus*	CA.
1	E	Rail, Guam	*Rallus owstoni*	GU.
1	E	Rail, light-footed clapper	*Rallus longirostris levipes*	CA.
2	E	Rail, Yuma clapper	*Rallus longirostris yumanensis*	AZ, CA.
1	T	Shearwater, Newell's Townsend's	*Puffinus auricularis newelli*	HI.
1	E	Shrike, San Clemente loggerhead	*Lanius ludovicianus mearnsi*	CA.
4	E (CH)	Sparrow, Cape Sable seaside	*Ammodramus (=Ammospiza) maritimus mirabilis.*	FL.
4	E (CH)	Sparrow, dusky seaside	*Ammodramus (=Amospiza) maritimus nigrescens.*	Presumed extinct.
4	E	Sparrow, Florida grasshopper	*Ammodramus savannarum floridanus*	FL.
1	T	Sparrow, San Clemente sage	*Amphispiza belli clementeae*	CA.
1	E	Stilt, Hawaiian (=Ae'o)	*Himantopus himantopus knudseni*	HI.
4	E	Stork, wood	*Mycteria americana*	AL, FL, GA, SC.
1	E	Swiftlet, Mariana gray (=Vanikoro)	*Aerodramus vanikorensis bartschi*	GU, MP (Rota, Tinian, Saipan, Agiguan), Western Pacific.
1	E	Tern, California least	*Sterna antillarum browni*	CA, Mexico.
3	E	Tern, least (interior population)	*Sterna antillarum*	AR, CO, IA, IL, IN, KS, KY, LA, MS, MO, MT, NE, NM, ND, OK, SD, TN, TX, (Miss. R. & trib. N.).
5	E,T	Tern, roseate	*Sterna dougalli dougalli*	E= ME, MA, RI, CT, NY, Canada-NS, QU, T= FL, PR, VI, Bermuda, Western Hemisphere and adjacent oceans and seas where not listed as endangered.
1	E	Thrush, large Kauai	*Myadestes myadestinus*	HI.
1	E	Thrush, Molokai (oloma'o)	*Myadestes lanaiensis rutha*	HI.
1	E	Thrush, small Kauai(puaiohi)	*Myadestes palmeri*	HI.
1	T (CH)	Towhee, Inyo brown	*Pipilo fuscus eremophilus*	CA.
2	E	Vireo, black-capped	*Vireo atricapillus*	KS, OK, TX, Mexico.
1	E	Vireo, least Bell's	*Vireo bellii pusillus*	CA, Mexico.
1	E	Warbler (willow), nightingale reed	*Acrocephalus luscinia*	MP (Saipan, Alamagan), FSM (Caroline Is.), Western Pacific.
4	E	Warbler (wood), Bachman's	*Vermivora bachmanii*	Presumed near extinction--no known localities of regular occurence in since early 1970's (Cuba).
2	E	Warbler (wood), golden-cheeked	*Dendroica chrysoparia*	TX, Mexico, Guatemala, Honduras, Nicaragua.
3	E	Warbler (wood), Kirtland's	*Dendroica kirtlandii*	MI, WI, Canada, West Indies.
1	E	White-eye, bridled	*Zosterops conspicillatus conspicillatus*	GU, Western Pacific.
4	E	Woodpecker, red-cockaded	*Picoides borealis*	TX, OK, LA, MS, AR, FL, GA, SC, NC, VA, KY, TN, AL.
		REPTILES		
4	E (CH)	Anole, Culebra Island giant	*Anolis roosevelti*	PR-Culebra Is..
4	T (CH)	Boa, Mona	*Epicrates monensis monensis*	PR.
4	E	Boa, Puerto Rican	*Epicrates inornatus*	PR.
4	E	Boa, Virgin Islands tree	*Epicrates monensis (=inornatus) granti*	British VI (presumed extirpated in US Virgin Is.).
4	E (CH)	Crocodile, American	*Crocodylus acutus*	FL, Mexico, West Indies, Central & South America.
1	E	Crocodile, saltwater	*Crocodylus porosus*	PW, Western Pacific.
4	E (CH)	Gecko, Monito	*Sphaerodactylus micropithecus*	PR.
4	T (CH)	Iguana, Mona ground	*Cyclura stejnegeri*	PR.
1	E	Lizard, blunt-nosed leopard	*Gambelia (Crotaphytus) silus*	CA.
1	T (CH)	Lizard, Coachella Valley fringe-toed	*Uma inornata*	CA.
1	T	Lizard, Island night	*Xantusia (Klauberina) riversiana*	CA.
4	E (CH)	Lizard, St. Croix ground	*Ameiva polops*	VI.
2	T (CH)	Rattlesnake, New Mexican ridge-nosed	*Crotalus willardi obscurus*	NM, Mexico.
4	T	Skink, blue-tailed mole	*Eumeces egregius lividus*	FL.
4	T	Skink, sand	*Neoseps reynoldsi*	FL.
4	T	Snake, Atlantic salt marsh	*Nerodia fasciata taeniata*	FL.
2	T	Snake, Concho water	*Nerodia harteri paucimaculata*	TX.
4	T	Snake, eastern indigo	*Drymarchon corais couperi*	AL, FL, GA, MS, SC.
1	E	Snake, San Francisco garter	*Thamnophis sirtalis tetrataenia*	CA.
1	T (CH)	Tortoise, desert	*Gopherus (=Scaptochelys, =Xerobates) agassizii.*	T=AZ (north of Colorado R.), CA, NV, UT.
4	T	Tortoise, gopher	*Gopherus polyphemus*	AL (west of Tombigbee and Mobile R.), MS, LA.
4	E	Turtle, Alabama red-bellied	*Pseudemys alabamensis*	AL.
4	T	Turtle, flattened musk	*Sternotherus depressus*	AL.
2	E,T	Turtle, green sea	*Chelonia mydas*	T= AL, AS, , GA, GU, HI, LA, MP, MS, NC, PR, PW, SC, TX, VA, VI, circumglobal in tropical and temperate waters E= FL (breeding pop), CA, OR, WA, Mexico-Pacific Coast breeding pop..
2	E (CH)	Turtle, hawksbill sea (=carey)	*Eretmochelys imbricata*	AL, AS, CT, DE, FL, GA, GU, HI, LA, MA, MP, MD, MS, NC, NJ, NY, PR, PW, RI, SC, TX, VA, VI, tropical seas.
2	E	Turtle, Kemp's (Atlantic) ridley sea	*Lepidochelys kempii*	AL, FL, GA, LA, MS, NC, SC, TX, VA, Mexico-Atlantic Coast, tropical and temperate waters in Atlantic Basin.

TABLE 2. U.S. LISTED SPECIES TO BE REVIEWED [2]—Continued

Lead Region [1]	Status	Common name	Scientific name	Likely Current Range
2	E (CH)	Turtle, leatherback sea	*Dermochelys coriacea*	AL, AS, CA, CT, DE, FL, GA, GU, HI, LA, MA, MD, MP, MS, NC, NJ, NY, OR, PR, PW, RI, SC, TX, VA, VI, WA, tropical, temperate, subpolar waters.
2	T	Turtle, loggerhead sea	*Caretta caretta*	AL, AS, CT, DE, FL, GA, GU, HI, LA, MA, MD, MP, MS, NC, NJ, NY, PR, PW, RI, SC, TX, VA, VI, GU, tropical and temperate seas.
2	E,T	Turtle, olive (Pacific) ridley sea	*Lepidochelys olivacea*	T= AS, GU, HI, MP, PW, Pacific Ocean, except breeding pops on Pacific Coast of Mexico; E=CA, OR, WA, Mexico (Pacific Coast breeding pop. only).
5	E (CH)	Turtle, Plymouth red-bellied	*Pseudemys (Chrysemys) rubriventris bangsi.*	MA.
		AMPHIBIANS		
4	T (CH)	Coqui, golden	*Eleutherodactylus jasperi*	PR.
5	T	Salamander, Cheat Mountain	*Plethodon nettingi*	WV.
1	E	Salamander, desert slender	*Batrachoseps aridus*	CA.
4	T	Salamander, Red Hills	*Phaeognathus hubrichti*	AL.
2	T (CH)	Salamander, San Marcos	*Eurycea nana*	TX.
1	E	Salamander, Santa Cruz long-toed	*Ambystoma macrodactylum croceum*	CA.
5	E	Salamander, Shenandoah	*Plethodon shenandoah*	VA.
2	E	Salamander, Texas blind	*Typhlomolge rathbuni*	TX.
4	T	Toad, Puerto Rican crested	*Peltophryne lemur*	PR, BVI.
6	E	Toad, Wyoming	*Bufo hemiophrys baxteri*	WY.
		FISHES		
2	T (CH)	Catfish, Yaqui	*Ictalurus pricei*	AZ, Mexico.
4	E (CH)	Cavefish, Alabama	*Speoplatyrhinus poulsoni*	AL.
4	T	Cavefish, Ozark	*Amblyopsis rosae*	MO, OK, AR.
6	E	Chub, bonytail	*Gila elegans*	AZ, CA, CO, NV, UT.
1	E (CH)	Chub, Borax Lake	*Gila boraxobius*	OR.
2	T	Chub, Chihuahua	*Gila nigrescens*	NM, Mexico-Chihuahua.
6	E	Chub, humpback	*Gila cypha*	AZ, CO, UT, .
1	T	Chub, Hutton tui	*Gila bicolor ssp.*	OR.
1	E	Chub, Mohave tui	*Gila bicolor mohavensis*	CA.
1	E (CH)	Chub, Owens tui	*Gila bicolor snyderi*	CA.
1	E	Chub, Pahranagat roundtail	*Gila robusta jordani*	NV.
4	T (CH)	Chub, slender	*Hybopsis cahni*	TN, VA.
2	T (CH)	Chub, Sonora	*Gila ditaenia*	AZ, Mexico.
4	T (CH)	Chub, spotfin	*Cyprinella (=Hybopsis) monacha*	NC, TN, VA.
6	E	Chub, Virgin River	*Gila robusta seminuda*	AZ, NV, UT.
2	E (CH)	Chub, Yaqui	*Gila purpurea*	AZ, Mexico.
1	E	Cui-ui	*Chasmistes cujus*	NV.
1	E (CH)	Dace, Ash Meadows speckled	*Rhinichthys osculus nevadensis*	NV.
4	T	Dace, blackside	*Phoxinus cumberlandensis*	KY, TN.
1	E	Dace, Clover Valley speckled	*Rhinichthys osculus oligoporus*	NV.
1	T (CH)	Dace, desert	*Eremichthys acros*	NV.
1	T	Dace, Foskett speckled	*Rhinichthys osculus ssp.*	OR.
1	E	Dace, Independence Valley speckled	*Rhinichthys osculus lethoporus*	NV.
6	E	Dace, Kendall Warm Springs	*Rhinichthys osculus thermalis*	WY.
1	E	Dace, Moapa	*Moapa coriacea*	NV.
4	E (CH)	Darter, amber	*Percina antesella*	AL, GA.
4	T	Darter, bayou	*Etheostoma rubrum*	MS.
4	E	Darter, boulder (=Elk River)	*Etheostoma wapiti*	AL, TN.
2	E (CH)	Darter, fountain	*Etheostoma fonticola*	TX.
2	T (CH)	Darter, leopard	*Percina pantherina*	AR, OK.
5	E (CH)	Darter, Maryland	*Etheostoma sellare*	MD.
3	T (CH)	Darter, Niangua	*Etheostoma nianguae*	MO.
4	E	Darter, Okaloosa	*Etheostoma okaloosae*	FL.
4	T	Darter, snail	*Percina tanasi*	AL, GA, TN.
4	E	Darter, watercress	*Etheostoma nuchale*	AL.
2	E	Gambusia, Big Bend	*Gambusia gaigei*	TX.
2	E	Gambusia, Clear Creek	*Gambusia heterochir*	TX.
2	E	Gambusia, Pecos	*Gambusia nobilis*	NM, TX.
4	E (CH)	Logperch, Conasauga	*Percina jenkinsi*	GA, TN.
5	E	Logperch, Roanoke	*Percina rex*	VA.
6	T	Madtom, Neosho	*Noturus placidus*	KS, MO, OK.
3	E	Madtom, Scioto	*Noturus trautmani*	OH.
4	E (CH)	Madtom, Smoky	*Noturus baileyi*	TN.
4	T (CH)	Madtom, yellowfin	*Noturus flavipinnis*	TN, VA.
2	T	Minnow, loach	*Tiaroga cobitis*	AZ, NM, Mexico.
1	E (CH)	Pupfish, Ash Meadows Amargosa	*Cyprinodon nevadensis mionectes*	NV.
2	E	Pupfish, Comanche Springs	*Cyprinodon elegans*	TX.
2	E (CH)	Pupfish, desert	*Cyprinodon macularius*	AZ, CA, Mexico.
1	E	Pupfish, Devil's Hole	*Cyprinodon diabolis*	NV.
2	E (CH)	Pupfish, Leon Springs	*Cyprinodon bovinus*	TX.
1	E	Pupfish, Owens	*Cyprinodon radiosus*	CA.
1	E	Pupfish, Warm Springs	*Cyprinodon nevadensis pectoralis*	NV.
4	T	Sculpin, pygmy	*Cottus pygmaeus*	AL.
2	T (CH)	Shiner, beautiful	*Cyprinella formosa*	AZ, NM, Mexico.

TABLE 2. U.S. LISTED SPECIES TO BE REVIEWED [2]—Continued

Lead Region[1]	Status	Common name	Scientific name	Likely Current Range
4	E (CH)	Shiner, Cape Fear	*Notropis mekistocholas*	NC.
2	T (CH)	Shiner, Pecos bluntnose	*Notropis simus pecosensis*	NM.
4	T (CH)	Silverside, Waccamaw	*Menidia extensa*	NC.
2	T	Spikedace	*Meda fulgida*	AZ, NM, Mexico.
1	T (CH)	Spinedace, Big Spring	*Lepidomeda mollispinis pratensis*	NV.
2	T (CH)	Spinedace, Little Colorado	*Lepidomeda vittata*	AZ.
1	E (CH)	Spinedace, White River	*Lepidomeda albivallis*	NV.
1	E (CH)	Springfish, Hiko White River	*Crenichthys baileyi grandis*	NV.
1	T (CH)	Springfish, Railroad Valley	*Crenichthys nevadae*	NV.
1	E (CH)	Springfish, White River	*Crenichthys baileyi baileyi*	NV.
6	E	Squawfish, Colorado	*Ptychocheilus lucius*	AZ (except Salt & Verde R.), CA, CO, UT, WY.
1	E	Stickleback, unarmored threespine	*Gasterosteus aculeatus williamsoni*	CA.
6	E	Sturgeon, pallid	*Scaphirhynchus albus*	AR, IA, IL, KS, KY, LA, MO, MS, MT, ND, NE, SD, TN.
6	E (CH)	Sucker, June	*Chasmistes liorus*	UT.
1	E	Sucker, Lost River	*Deltistes luxatus*	CA, OR.
1	E (CH)	Sucker, Modoc	*Catostomus microps*	CA.
1	E	Sucker, shortnose	*Chasmistes brevirostris*	CA, OR.
1	T (CH)	Sucker, Warner	*Catostomus warnerensis*	OR.
2	E	Topminnow, Yaqui	*Poeciliopsis occidentalis*	AZ, NM.
2	T	Trout, Apache	*Oncorhynchus apache*	AZ.
2	E	Trout, Gila	*Oncorhynchus gilae*	NM, AZ.
6	T	Trout, greenback cutthroat	*Oncorhynchus clarki stomias*	CO.
1	T	Trout, Lahontan cutthroat	*Oncorhynchus clarki henshawi*	CA, NV, OR, UT.
1	T (CH)	Trout, Little Kern golden	*Oncorhynchus aguabonita whitei*	CA.
1	T	Trout, Paiute cutthroat	*Oncorhynchus clarki seleniris*	CA.
6	E	Woundfin	*Plagopterus argentissimus*	AZ, NV, UT (except Gila R. drainage of AZ, NM).
		INVERTEBRATES		
		SNAILS		
4	T	Shagreen, Magazine Mountain	*Mesodon magazinensis*	AR.
5	T	Snail, Chittenango ovate amber	*Succinea chittenangoensis*	NY.
5	T	Snail, flat-spired three-toothed land	*Triodopsis platysayoides*	WV.
3	E	Snail, Iowa Pleistocene	*Discus macclintocki*	IA, IL.
4	T	Snail, Noonday	*Mesodon clarki nantahala*	NC.
1	E	Snails, Oahu tree (19 spp.)	*Achatinella spp.*	HI.
4	T	Snail, painted snake coiled forest	*Anguispira picta*	TN.
4	T	Snail, Stock Island	*Orthalicus reses* (not incl. *nesodryas*)	FL.
5	E	Snail, Virginia fringed mountain	*Polygyriscus virginianus*	VA.
		CLAMS		
4	E	Fanshell	*Cyprogenia stegaria* (=*irrorata*)	AL, IL, IN, KY, OH, PA, TN, VA, WV.
4	T	Fatmucket, Arkansas	*Lampsilis powelli*	AR.
4	T	Heelsplitter, inflated	*Potamilus inflatus*	AL, LA, MS.
4	E	Mussel, Curtus'	*Pleurobema curtum*	AL, MS.
5	E	Mussel, dwarf wedge	*Alasmidonta heterodon*	MA, MD, NC, NH, NY, VA, VT, Canada (NB).
4	E	Mussel, Judge Tait's	*Pleurobema taitianum*	AL, MS.
4	E	Mussel, Marshall's	*Pleurobema marshalli*	AL, MS.
4	E	Mussel, penitent	*Epioblasma* (=*Dysnomia*) *penita*	AL, MS.
4	E	Mussel, ring pink	*Obovaria retusa*	AL, KY, PA, TN, WV.
4	E	Pearlshell, Louisiana	*Margaritifera hembeli*	LA.
4	E	Pearly mussel, Alabama lamp	*Lampsilis virescens*	AL, TN.
4	E	Pearly mussel, Appalachain monkeyface	*Quadrula sparsa*	TN, VA.
4	E	Pearly mussel, birdwing	*Conradilla caelata*	TN, VA.
4	E	Pearly mussel, cracking	*Hemistena* (=*Lastena*) *lata*	AL, KY, TN, VA.
4	E	Pearly mussel, Cumberland bean	*Villosa* (=*Micromya*) *trabalis*	KY, TN, VA.
4	E	Pearly mussel, Cumberland monkeyface	*Quadrula intermedia*	AL, TN, VA.
3	E	Pearly mussel, Curtis'	*Epioblasma* (=*Dysnomia*) *florentina curtisi.*	MO.
4	E	Pearly mussel, dromedary	*Dromus dromas*	KY, TN, VA.
4	E	Pearly mussel, green-blossom	*Epioblasma* (=*Dysnomia*) *torulosa gubernaculum.*	TN, VA.
3	E	Pearly mussel, Higgins' eye	*Lampsilis higginsi*	IL, IA, MN, MO, NE, WI.
4	E	Pearly mussel, little-wing	*Pegias fabula*	AL, KY, NC, TN, VA.
4	E	Pearly mussel, orange-footed	*Plethobasus cooperianus*	AL, IL, KY, TN.
4	E	Pearly mussel, pale lilliput	*Toxolasma* (=*Carunculina*) *cylindrellus*	AL, TN.
4	E	Pearly mussel, purple cat's paw	*Epioblasma* (=*Dysnomia*) *obliquata* (=*sulcata*) *o.*.	AL, KY, TN.
4	E	Pearly mussel, tubercled-blossom	*Epioblasma* (=*Dysnomia*) *torulosa torulosa.*	IL, KY, TN, WV, IN.
4	E	Pearly mussel, turgid-blossum	*Epioblasma* (=*Dysnomia*) *turgidula*	AL, TN.
3	E	Pearly mussel, white cat's paw	*Epioblasma* (=*Dysnomia*) *sulcata delicata.*	IN, OH.
4	E	Pearly mussel, white wartyback	*Plethobasus cicatricosus*	AL, IN, IL, KY, TN.
4	E	Pearly mussel, yellow-blossom	*Epioblasma* (=*Dysnomia*) *florentina florentina.*	AL, TN.
4	E	Pigtoe, fine-rayed	*Fusconia cuneolus*	AL, TN, VA.
4	E	Pigtoe, rough	*Pleurobema plenum*	KY, TN, VA.

TABLE 2. U.S. LISTED SPECIES TO BE REVIEWED [2]—Continued

Lead Region[1]	Status	Common name	Scientific name	Likely Current Range
4	E	Pigtoe, shiny	*Fusconaia edgariana*	AL, TN, VA.
4	E	Pocketbook, speckled	*Lampsilis streckeri*	AR.
4	E	Riffle shell, tan	*Epioblasma walkeri*	KY, TN, VA.
4	E	Shell, stirrup	*Quadrula stapes*	AL, MS.
5	E	Spinymussel, James River (=Virginia)	*Pleurobema collina*	VA, WV.
4	E	Spinymussel, Tar River	*Elliptio (=Canthyria) steinstansana*	NC.
		CRUSTACEANS		
5	E	Amphipod, Hay's spring	*Stygobromus hayi*	DC.
4	E	Crayfish, Cave	*Cambarus zophonastes*	AR.
4	E	Crayfish, Nashville	*Orconectes shoupi*	TN.
1	E	Crayfish, Shasta (=placid)	*Pacifastacus fortis*	CA.
5	T	Isopod, Madison Cave	*Antrolana lira*	VA.
2	E	Isopod, Socorro	*Thermosphaeroma (=Exosphaeroma) thermophilus.*	NM.
4	E	Shrimp, Alabama cave	*Palaemonias alabamae*	AL.
1	E	Shrimp, California freshwater	*Syncaris pacifica*	CA.
4	E (CH)	Shrimp, Kentucky Cave	*Palaemonias ganteri*	KY.
4	T	Shrimp, Squirrel Chimney (=Florida) cave.	*Palaemonetes cummingi*	FL.
		INSECTS		
5	E	Beetle, Amer. burying (=giant carrion)	*Nicrophorus americanus*	AR, KY, MA, NE, OK, RI; Canada (ON).
1	T (CH)	Beetle, delta green ground	*Elaphrus viridis*	CA.
2	E	Beetle, Kretschmarr Cave mold	*Texamaurops reddelli*	TX.
5	T	Beetle, northeastern beach tiger	*Cicindela dorsalis dorsalis*	CT, MA, MD, NJ, NY, PA, RI, VA.
5	T	Beetle, Puritan tiger	*Cicindela puritana*	CT, MA, MD, NH, VT.
2	E	Beetle, Tooth Cave ground	*Rhadine persephone*	TX.
1	T (CH)	Beetle, valley elderberry longhorn	*Desmocerus californicus dimorphus*	CA.
1	T	Butterfly, bay checkerspot	*Euphydryas editha bayensis*	CA.
1	E	Butterfly, El Segundo blue	*Euphilotes (=Shijimiaeoides) battoides allyni.*	CA.
1	E	Butterfly, Lange's metalmark	*Apodemia mormo langei*	CA.
1	E	Butterfly, lotis blue	*Lycaeides argyrognomon lotis*	CA.
1	E	Butterfly, mission blue	*Icaricia icarioides missionensis*	CA.
1	T (CH)	Butterfly, Oregon silverspot	*Speyeria zerene hippolyta*	CA, OR, WA.
1	E (CH)	Butterfly, Palos Verde blue	*Glaucopsyche lygdamus palosverdesensis.*	CA.
1	E	Butterfly, San Bruno elfin	*Callophrys mossii bayensis*	CA.
4	E	Butterfly, Schaus swallowtail	*Heraclides (Papilio) aristodemus ponceanus.*	FL.
1	E	Butterfly, Smith's blue	*Euphilotes (=Shijimiaeoides) enoptes smithi.*	CA.
1	T	Moth, Kern primrose sphinx	*Euproserpinus euterpe*	CA.
1	T (CH)	Naucorid, Ash Meadows	*Ambrysus amargosus*	NV.
6	T	Skipper, Pawnee montane	*Hesperia leonardus (=pawnee) montana*	CO.
		ARACHNIDS		
2	E	Harvestman, Bee Creek Cave	*Texella reddelli*	TX.
2	E	Pseudoscorpion, Tooth Cave	*Microcreagris texana*	TX.
2	E	Spider, Tooth Cave	*Leptoneta myopica*	TX.
		PLANTS		
1	E	'Akoko, Ewa Plains	*Chamaesyce (=Euphorbia) skottsbergii* var. *kalaeloana.*	HI.
2	E	Agave, Arizona	*Agave arizonica*	AZ.
4	T	Amphianthus, little	*Amphianthus pusillus*	AL, GA, SC.
4	E	Arrowhead, bunched	*Sagittaria fasciculata*	NC, SC.
3	T	Aster, decurrent false	*Boltonia decurrens*	IL, MO.
4	E	Aster, Florida golden	*Chrysopsis floridana (=Heterotheca floridana).*	FL.
4	E	Aster, Ruth's golden	*Pityopsis ruthii (=Heterotheca r. Chrysopsis r.).*	TN.
4	E	Avens, spreading	*Geum radiatum*	NC, TN.
1	E	Barberry, Truckee	*Berberis sonnei (=Mahonia s.)*	CA.
4	E	Bariaco	*Trichilia triacantha*	PR.
6	E	Bear-poppy, dwarf	*Arctomecon humilis*	UT.
6	E	Beardtongue, Penland	*Penstemon penlandii*	CO.
4	E	Beauty, Harper's	*Harperocallis flava*	FL.
4	E	Bellflower, Brooksville	*Campanula robinsiae*	FL.
1	E	Bidens, cuneate	*Bidens cuneata*	HI.
5	E	Birch, Virginia round-leaf	*Betula uber*	VA.
1	E	Bird's beak, palmate-bracted	*Cordylanthus palmatus*	CA.
1	E	Bird's-beak, salt marsh	*Cordylanthus maritimus* ssp. *maritimus*	CA, Mexico (Baja California).
4	E	Bittercress, small-anthered	*Cardamine micranthera*	NC.
6	T	Bladderpod, Dudley Bluffs	*Lesquerella congesta*	CO.
4	T	Bladderpod, lyrate	*Lesquerella lyrata*	AL.
3	E	Bladderpod, Missouri	*Lesquerella filiformis*	MO.
2	E	Bladderpod, white	*Lesquerella pallida*	TX.

TABLE 2. U.S. LISTED SPECIES TO BE REVIEWED [2]—Continued

Lead Region[1]	Status	Common name	Scientific name	Likely Current Range
1	T	Blazingstar, Ash Meadows	*Mentzelia leucophylla*	05/20.
4	T	Blazingstar, Heller's	*Liatris helleri*	NC.
4	E	Blazingstar, scrub	*Liatris ohlingerae*	FL.
2	E	Blue-star, Kearney's	*Amsonia kearneyana*	AZ.
4	E	Bluet, Roan Mountain	*Hedyotis purpurea* var. *montana*	NC, TN.
4	T	Bonamia, Florida	*Bonamia grandiflora*	FL.
4	E	Boxwood, Vahl's	*Buxus vahlii*	PR.
1	E	Broom, San Clemente Island	*Lotus dendroideus* ssp. *traskiae*	CA.
1	E	Buckwheat, steamboat	*Eriogonum ovalifolium* var. *williamsiae*	NV.
3	T	Bush-clover, prairie	*Lespedeza leptostachya*	IA, IL, MN, WI.
1	E	Bush-mallow, San Clemente Island	*Malacothamnus clementinus*	CA.
6	E	Buttercup, autumn	*Ranunculus acriformis* var. *aestivalis*	UT.
4	E	Button, Mohr's Barbara	*Marshallia mohrii*	AL, GA.
2	E	Cactus, Arizona hedgehog	*Echinocereus triglochidiatus* var. *arizonicus.*	AZ.
1	E	Cactus, Bakersfield	*Opuntia treleasei*	CA.
2	E	Cactus, black lace	*Echinocereus reichenbachii* var. *albertii*	TX.
2	E	Cactus, Brady pincushion	*Pediocactus bradyi*	AZ.
2	T	Cactus, bunched cory	*Coryphantha ramillosa*	TX, Mexico (Coahuila).
2	T	Cactus, Chisos Mtn. hedgehog	*Echinocereus chisoensis* var. *chisoensis*	TX.
2	T	Cactus, Cochise pincushion	*Coryphantha robbinsorum* (=*Cochiseia r.*,*Escobaria r.*	AZ, Mexico (Sonora).
4	E	Cactus, Key tree	*Cereus robinii*	FL.
2	E	Cactus, Knowlton	*Pediocactus knowltonii*	NM, CO.
2	E	Cactus, Kuenzler hedgehog	*Echinocereus fendleri* var. *kuenzleri*	NM.
2	T	Cactus, Lee pincushion	*Coryphantha sneedii* var. *leei*	NM.
2	E	Cactus, Lloyd's hedgehog	*Echinocereus lloydii*	TX.
2	T	Cactus, Lloyd's Mariposa	*Neolloydia mariposensis*	TX, Mexico (Coahuila).
2	T	Cactus, Mesa Verde	*Sclerocactus mesae-verdae*(=*Pediocactus m.*).	CO, NM.
2	E	Cactus, Nellie cory	*Coryphantha minima*	TX.
2	E	Cactus, Nichol's Turk's head	*Echinocactus horizonthalonius* var. *nicholii.*	AZ.
2	E	Cactus, Peebles Navajo	*Pediocactus peeblesianus* var. *peeblesianus.*	AZ.
6	E	Cactus, San Rafael	*Pediocactus despainii*	UT.
6	E	Cactus, spineless hedgehog	*Echinocereus triglochidiatus* var. *inermis*	CO, UT.
2	E	Cactus, Tobusch fishhook	*Ancistrocactus tobuschii* (=*Echinocactus t.*, *Mammilaria t.*).	TX.
6	T	Cactus, Unita Basin hookless	*Sclerocactus glaucus* (=*Echinocactus g.*, *S. whipplei*).	CO, UT.
6	E	Cactus, Wright fishhook	*Sclerocactus wrightiae* (=*Pediocactus w.*).	UT.
4	E	Cassia mirabilis (=Sci. name)	*Cassia mirabilis*	PR.
1	T	Centaury, spring-loving	*Centaurium namophilum* (=*C. n.* var. *namophilum*).	CA, NV.
1	E	Chaff-flower, round-leaved	*Achyranthes splendens* var. *rotundata*	HI.
1	E	Checker-mallow, pedate	*Sidalcea pedata*	CA.
4	T	Chumbo, higo	*Harrisia* (=*Cereus*) *portoricensis*	PR.
2	E	Cliff-rose, Arizona	*Purshia subintegra* (=*Cowania s.*)	AZ.
3	E	Clover, running buffalo	*Trifolium stoloniferum*	AR, IL, IN, KS, KY, MO, OH, WV.
4	E	Coneflower, Tennessee purple	*Echinacea tennessoensis*	TN.
6	E	Cress, toad-flax	*Glaucocarpum suffrutescens*	UT.
6	T	Cycladenia, Jones	*Cycladenia humilis* var. *jonesii*	AZ, UT.
1	E	Cypress, Santa Cruz	*Cupressus abramsiana*	CA.
3	T	Daisy, lakeside	*Hymenoxys acaulis* var. *glabra*	OH, IL, Canada (ON).
6	E	Daisy, Maguire	*Erigeron maguirei* var. *maguirei*	UT.
4	E	Daphnopsis hellerana (no common name).	*Daphnopsis hellerana*	PR.
2	E	Dawn-flower, Texas prairie	*Hymenoxys texana*	TX.
2	E	Dogweed, ashy	*Thymophylla tephroleuca* (=*Dyssodia tephroleuca*).	TX.
4	E	Dropwort, Canby's	*Oxypolis canbyi*	DE, GA, MD, NC, SC.
4	E	Erubia	*Solanum drymophilum*	PR.
1	E	Evening-primrose, Antioch Dunes	*Oenothera deltoides* ssp. *howellii*	CA.
1	E	Evening-primrose, Eureka Valley	*Oenothera avita* ssp. *eurekensis*	CA.
1	T	Evening-primrose, San Benito	*Camissonia benitensis*	CA.
7	E	Fern, Aleutian shield	*Polystichum aleuticum*	AK.
4	T	Fern, American hart's-tongue	*Phyllitis scolopendrium* var. *americana*	AL, MI, NY, TN, Canada.
4	E	Fern, Elfin tree	*Cyathea dryopteroides*	PR.
1	E	Fiddleneck, Large-flowered	*Amsinckia grandiflora*	CA.
2	T	Fleabane, Rhizome	*Erigeron rhizomatus*	NM.
2	E	Frankenia, Johnston's	*Frankenia johnstonii*	TX, Mexico (Nuevo Leon).
1	E	Gardenia, Hawaiian (na'u)	*Gardenia brighamii*	HI.
4	T	Geocarpon minimum (no common name)	*Geocarpon minimum*	AR, MO.
5	E	Gerardia, sandplain	*Agalinis acuta*	CT, MA, MD, NY, RI.
4	E	Goetzea, beautiful (matabuey)	*Goetzea elegans*	PR.
4	T	Goldenrod, Blue Ridge	*Solidago spithamaea*	NC, TN.
3	T	Goldenrod, Houghton's	*Solidago houghtonii*	MI, Canada (ON).

TABLE 2. U.S. LISTED SPECIES TO BE REVIEWED [2]—Continued

Lead Region[1]	Status	Common name	Scientific name	Likely Current Range
4	E	Goldenrod, Short's	*Solidago shortii*	KY.
4	T	Goldenrod, white-haired	*Solidago albopilosa*	KY.
4	T	Gooseberry, Miccosukee (Florida)	*Ribes echinellum*	FL, SC.
1	E	Gouania hillebrandii (no common name)	*Gouania hillebrandii*	HI.
1	E	Grass, Eureka Dune	*Swallenia alexandrae*	CA.
1	E	Grass, Solano	*Tuctoria mucronata* (=*Orcuttia m.*)	CA.
2	T	Groundsel, San Francisco Peaks	*Senecio franciscanus*	AZ.
1	T	Gumplant, Ash Meadows	*Grindelia fraxinopratensis*	CA, NV.
1	E	Haplostachya, narrow-leaved	*Haplostachys haplostachya* var. *angustifolia.*	HI.
4	E	Harperella	*Ptilimnium nodosum* (=*P. fluviatile*)	AL, GA, MD, NC, SC, WV.
4	T	Heartleaf, dwarf-flowered	*Hexastylis naniflora*	NC, SC.
4	T	Heather, mountain golden	*Hudsonia montana*	NC.
4	E	Higuero de Sierra	*Crescentia portoricensis*	PR.
4	E	Holly, Cook's	*Ilex cookii*	PR.
4	E	Hypericum, highlands scrub	*Hypericum cumulicola*	FL.
1	E	Indian paintbrush, San Clemente Island	*Castilleja grisea*	CA.
3	T	Iris, dwarf lake	*Iris lacustris*	MI, WI, Canada (ON).
1	T	Ivesia, Ash Meadows	*Ivesia kingii* var. *eremica*	NV.
1	E	Jewelflower, California	*Caulanthus californicus*	CA.
1	E	Kauai hau kuahiwi	*Hibiscadelphus distans*	HI.
1	E	Ko'oloa'ula	*Abutilon menziesii*	HI.
1	E	Koki'o (=hau-hele'ula or Hawaii tree cotton).	*Kokia drynarioides*	HI.
1	E	Kokio, Cooke's	*Kokia cookei*	HI.
2	E	Ladies'-tresses, Navasota	*Spiranthes parksii*	05/06.
1	E	Lagu, Hyan	*Serianthes nelsonii*	Guam, Rota.
1	E	Larkspur, San Clemente Island	*Delphinium kinkiense*	CA.
4	E	Lead-plant, Crenulate	*Amorpha crenulata*	FL.
4	E	Leather flower, Alabama	*Clematis socialis*	AL.
3	E	Lily, Minnesota trout	*Erythronium propullans*	MN.
1	E	Lipochaeta venosa (no common name)	*Lipochaeta venosa*	HI.
1	E	Liveforever, Santa Barbara Island	*Dudleya traskiae*	CA.
3	T	Locoweed, Fassett's	*Oxytropis campestris* var. *chartacea*	WI.
1	E	Lomatium, Bradshaw's	*Lomatium bradshawii*	OR.
4	E	Loosestrife, rough-leaved	*Lysimachia asperulaefolia*	NC, SC.
5	E	Lousewort, Furbish	*Pedicularis furbishiae*	ME, Canada (New Brunswick).
4	E	Lupine, scrub	*Lupinus aridorum*	FL.
1	E	Mallow, Kern	*Eremalche kernensis*	CA.
4	T	Manaca, palma de	*Calyptronoma rivalis*	PR.
1	E	Manzanita, Presido (=Raven's)	*Arctostaphylos pungens* ssp. *ravenii*	CA.
4	E	Meadowrue, Cooley's	*Thalictrum cooleyi*	NC, FL.
1	E	Mesa-mint, San Diego	*Pogogyne abramsii*	CA.
1	T	Milk-vetch, Ash meadows	*Astragalus phoenix*	NV.
6	T	Milk-vetch, heliotrope	*Astragalus montii* (=*A. limnocharis* var. *montii*).	UT.
5	E	Milk-vetch, Jesup's	*Astragalus robbinsii* var. *jesupi*	NH, VT.
2	E	Milk-vetch, Mancos	*Astragalus humillimus*	CO, NM.
6	E	Milk-vetch, Osterhout	*Astragalus osterhoutii*	CO.
2	E	Milk-vetch, Sentry	*Astragalus cremnophylax* var. *cremnophylax.*	AZ.
4	E	Milkpea, Small's	*Galactia smallii*	FL.
3	T	Milkweed, Mead's	*Asclepias meadii*	IL, IN, IA, KS, MO, WI.
6	T	Milkweed, Welsh's	*Asclepias welshii*	AZ, UT.
4	E	Mint, Garrett's (=scrub, in part)	*Dicerandra christmanii* (*formerly* =*frutescens*).	FL.
4	E	Mint, Lakela's	*Dicerandra immaculata*	FL.
4	E	Mint, longspurred	*Dicerandra cornutissima*	FL.
4	E	Mint, scrub	*Dicerandra frutescens*	FL.
3	E	Monkey-flower, Michigan	*Mimulus glabratus* var. *michiganensis*	MI.
3	T	Monkshood, northern wild	*Aconitum noveboracense*	IA, NY, OH, WI.
4	E	Mustard, Carter's	*Warea carteri*	FL.
1	E	Mustard, slender-petaled	*Thelypodium stenopetalum*	CA.
1	E	Naupaka, dwarf	*Scaevola coriacea*	HI.
4	T	Negra, cobana	*Stahlia monosperma*	PR.
1	E	Niterwort, Amargosa	*Nitrophila mohavensis*	CA.
2	T	Oak, Hinckley	*Quercus hinckleyi*	TX.
3	T	Orchid, eastern prairie fringed	*Platanthera leucophaea*	AR, IA, IL, IN, ME, MI, MO, NE, NJ, NY, OH, OK, PA, VA, WI, Canada.
3	T	Orchid, western prairie fringed	*Platanthera praeclara*	IA, MN, MO, NE, ND, OK, KS, SD, Canada.
4	E	Palo de Nigua	*Cornutia obovata*	PR.
4	E	Palo de Ramon	*Banara vanderbiltii*	PR.
1	E	Panicgrass, Carter's	*Panicum fauriei* var. *carteri*	HI.
4	E	Pawpaw, beautiful	*Deeringothamnus pulchellus*	FL.
4	E	Pawpaw, four-petal	*Asimina tetramera*	FL.
4	E	Pawpaw, Rugel's	*Deeringothamnus rugelii*	FL.
4	E	Pelos del diablo	*Aristida portoricensis*	PR.
2	T	Pennyroyal, McKittrick	*Hedeoma apiculatum*	TX, NM.
2	E	Pennyroyal, Todsen's	*Hedeoma todsenii*	NM.

TABLE 2. U.S. LISTED SPECIES TO BE REVIEWED [2]—Continued

Lead Region [1]	Status	Common name	Scientific name	Likely Current Range
6	E	Penstemon, blowout	*Penstemon haydenii*	NE.
4	E	Peperomia, Wheeler's	*Peperomia wheeleri*	PR.
6	E	Phacelia, clay	*Phacelia argillacea*	UT.
6	E	Phacelia, North Park	*Phacelia formosula*	CO.
5	T	Pink, swamp	*Helonias bullata*	DE, GA, MD, NC, NJ, NY, SC, VA.
4	E	Pinkroot, gentian	*Spigelia gentianoides*	FL.
2	E	Pitaya, Davis' green	*Echinocereus viridiflorus* var. *davisii*	TX.
4	E	Pitcher-plant, Alabama canebrake	*Sarracenia rubra* ssp. *alabamensis*	AL.
4	E	Pitcher-plant, green	*Sarracenia oreophila*	AL, GA, TN.
4	E	Pitcher-plant, mountain sweet	*Sarracenia rubra* ssp. *jonesii*	NC, SC.
4	E	Plum, scrub	*Prunus geniculata*	FL.
4	E	Polygala, tiny	*Polygala smallii*	FL.
4	E	Pondberry	*Lindera melissifolia*	AL, AR, FL, GA, LA, MO, MS, NC, SC.
2	E	Poppy, Sacramento prickly	*Argemone pleiacantha* ssp. *pinnatisecta*	NM.
2	E	Poppy-mallow, Texas	*Callirhoe scabriuscula*	TX.
4	T	Potato-bean, Price's	*Apios priceana*	AL, IL, KY, MS, TN.
4	E	Prickly-apple, fragrant	*Cereus eriophorus* var. *fragrans*	FL.
4	E	Prickly-ash, St. Thomas	*Zanthoxylum thomasianum*	PR, VI.
6	T	Primrose, Maguire	*Primula maguirei*	UT.
4	E	Quillwort, black spored	*Isoetes melanospora*	GA,SC.
4	E	Quillwort, mat-forming	*Isoetes tegetiformans*	GA.
4	E	Rhododendron, Chapman	*Rhododendron chapmanii*	FL.
6	E	Ridge-cress (=pepper-cress), Barneby	*Lepidium barnebyanum*	UT.
1	E	Rock-cress, McDonald's	*Arabis mcdonaldiana*	CA.
5	E	Rock-cress, shale barren	*Arabis serotina*	VA, WV.
4	E	Rosa, palo de	*Ottoschulzia rhodoxylon*	PR.
2	E	Rush-pea, slender	*Hoffmannseggia tenella*	TX.
2	E	Sand-verbena, large-fruited	*Abronia macrocarpa*	TX.
1	E	Sandalwood, Lanai or 'iliahi	*Santalum freycinetianum* var. *lanaiense*	HI.
4	E	Sandwort, Cumberland	*Arenaria cumberlandensis*	KY, TN.
1	E	Schiedea, Diamond Head	*Schiedea adamantis*	HI.
2	T	Sedge, Navajo	*Carex specuicola*	AZ.
1	E	Silversword, 'Ahinahina Mauna Kea	*Argyroxiphium sandwicense* ssp. *sandwicense.*	HI.
4	E	Skullcap, large-flowered	*Scutellaria montana*	GA,TN.
4	E	Snakeroot	*Eryngium cuneifolium*	FL.
2	E	Snowbells, Texas	*Styrax texana*	TX.
1	E	Spineflower, slender-horned	*Dodecahema leptoceras* (=*Centrostegia l.*).	CA.
5	T	Spiraea, Virginia	*Spiraea virginiana*	GA, KY, NC, PA, TN, VA, WV.
4	E	Spurge, deltoid	*Chamaesyce deltoidea* ssp. *deltoidea* (=*Euphorbia d.* spp. *d.*).	FL.
4	T	Spurge, Garber's	*Chamaesyce* (=*Euphorbia*) *garberi*	FL.
1	E	Stenogyne, narrow-leaved	*Stenogyne angustifolia* var. *angustifolia*	HI.
4	E	Sumac, Michaux's	*Rhus michauxii*	NC, SC, GA.
1	T	Sunray, Ash Meadows	*Enceliopsis nudicaulis* var. *corrugata*	NV.
3	T	Thistle, Pitcher's	*Cirsium pitcheri*	IL, IN, MI, WI, Canada (ON).
2	T	Thistle, Sacramento Mountains	*Cirsium vinaceum*	NM.
1	E	Thornmint, San Mateo	*Acanthomintha obovata* ssp. *duttonii*	CA.
4	E	Torreya, Florida	*Torreya taxifolia*	FL, GA.
6	T	Townsendia, Last Chance	*Townsendia aprica*	UT.
4	E	Tree, pygmy fringe	*Chionanthus pygmaeus*	FL.
4	E	Trillium, persistent	*Trillium persistens*	GA, SC.
4	E	Trillium, relict	*Trillium reliquum*	AL, GA, SC.
6	T	Twinpod, Dudley Bluffs	*Physaria obcordata*	CO.
1	E	Uhiuhi	*Caesalpinia kavaiense* (=*Mezoneuron k.*).	HI.
1	E	Vetch, Hawaiian	*Vicia menziesii*	HI.
1	E	Wallflower, Contra Costa	*Erysimum capitatum* var. *angustatum*	CA.
4	E	Warea, wide-leaf	*Warea amplexifolia*	FL.
4	T	Water-plantain, Kral's	*Sagittaria secundifolia*	AL, GA.
4	E	Water-willow, Cooley's	*Justicia cooleyi*	FL.
4	T	Whitlow-wort, papery	*Paronychia chartacea*	FL.
6	E	Wild-buckwheat, clay-loving	*Eriogonum pelinophilum*	CO.
2	T	Wild-buckwheat, gypsum	*Eriogonum gypsophilum*	NM.
2	E	Wild-rice, Texas	*Zizania texana*	TX.
1	E	Wire-lettuce, Malheur	*Stephanomeria malheurensis*	OR.
4	E	Wireweed	*Polygonella basiramia*	FL.
1	T	Woolly-star, Hoover's	*Eriastrum hooveri*	CA.
1	E	Woolly-star, Santa Ana River	*Eriastrum densifolium* ssp. *sanctorum*	CA.
1	E	Wooly-threads, San Joaquin	*Lembertia congdonii*	CA.
4	E	Ziziphus, florida	*Ziziphus celata*	FL.

[1] See "Addresses of Regional Offices" in SUPPLEMENTARY INFORMATION for explanation of this column.
[2] Table 2 does not include species listed in Table 1.

TABLE 3. FOREIGN SPECIES TO BE REVIEWED [1]

Status	Common name	Scientific name	Range
		VERTEBRATES	
		MAMMALS	
E	Anoa, Lowland	*Bubalus depressicornis* (=*B. anoa depressicornis*).	Indonesia
E	Anoa, mountain	*Bubalus quarlesi* (=*B. anoa quarlesi*)	Indonesia
E	Antelope, giant sable	*Hippotragus niger variani*	Angola
E	Argali	*Ovis ammon hodgsoni*	China (Tibet, Himalayas)
E	Armadillo, giant	*Priodontes maximus* (=*giganteus*)	Venezuela and Guyana to Argentina
E	Armadillo, pink fairy	*Chlamyphorus truncatus*	Argentina
E	Ass, African wild	*Equus asinus* (=*africanus*)	Somalia, Sudan, Ethiopia
E	Ass, Asian wild (=kulan, onager)	*Equus hemionus*	Southwestern and Central Asia
E	Avahi	*Avahi* (=*Lichanotus*) *laniger* (= *entire genus*)	Malagasy Republic (=Madagascar)
E	Aye-Aye	*Daubentonia madagascariensis*	Malagasy Republic (=Madagascar)
E	Babirusa	*Babyrousa babyrussa*	Indonesia
E	Bandicoot, barred	*Perameles bougainville*	Australia
E	Bandicoot, desert	*Perameles eremiana*	Australia
E	Bandicoot, lesser rabbit	*Macrotis leucura*	Australia
E	Bandicoot, pig-footed	*Chaeropus ecaudatus*	Australia
E	Bandicoot, rabbit	*Macrotis lagotis*	Australia
E	Banteng	*Bos javanicus* (=*banteng*)	Southeast Asia
E	Bat, Bulmer's fruit (flying fox)	*Aproteles bulmerae*	Papua New Guinea
E	Bat, bumblebee	*Craseonycteris thonglongyai*	Thailand
E	Bat, Rodrigues fruit (flying fox)	*Pteropus rodricensis*	Indian Ocean: Rodrigues Island
E	Bat, Singapore roundleaf horseshoe	*Hipposideros ridleyi*	Malaysia
E	Bear, Baluchistan	*Ursus thibetanus gedrosianus*	Iran, Pakistan
E	Bear, brown	*Ursus arctos pruinosus*	China (Tibet)
E	Bear, brown	*Ursus arctos arctos*	Italy
E	Bear, grizzly or brown	*Urus arctos* (=*U. a. nelsonii*)	Mexico
E	Beaver	*Castor fiber birulai*	Mongolia
E	Bison, wood	*Bison bison athabascae*	Canada
E	Bobcat (Mexico)	*Felis rufus escuinapae*	Central Mexico
E	Bontebok (antelope)	*Damaliscus dorcas dorcas*	South Africa
E	Camel, Bactrian	*Camelus bactrianus* (=*ferus*)	Mongolia, China
E	Cat, Andean	*Felis jacobita*	Chile, Peru, Bolivia, Argentina
E	Cat, black-footed	*Felis nigripes*	Southern Africa
E	Cat, flat-headed	*Felis planiceps*	Malaysia, Indonesia
E	Cat, Iriomote	*Felis* (*Mayailurus*) *iriomotensis*	Japan (Iriomote Island, Ryukyu Islands)
E	Cat, leopard	*Felis bengalensis bengalensis*	India, Southeast Asia
E	Cat, marbled	*Felis marmorata*	Nepal, Southeast Asia, Indonesia
E	Cat, Pakistan sand	*Felis margarita scheffeli*	Pakistan
E	Cat, Temminck's (=golden cat)	*Felis temmincki*	Nepal, China, Southeast Asia, Indonesia (Sumatra)
E	Cat, tiger	*Felis tigrinus*	Costa Rica to northern Argentina
E	Chamois, Apennine	*Rupicapra rupicapra ornata*	Italy
E	Cheetah	*Acinonyx jubatus*	Africa to India
E	Chimpanzee, pygmy	*Pan paniscus*	Zaire
E	Chinchilla	*Chinchilla brevicaudata boliviana*	Bolivia
E	Civet, Malabar large-spotted	*Viverra megaspila civettina*	India
E	Deer, Bactrian	*Cervus elaphus bactrianus*	U.S.S.R., Afghanistan
E	Deer, Barbary	*Cervus elaphus barbarus*	Morocco, Tunisia, Algeria
E	Deer, Bawean	*Axis* (=*Cervus*) *porcinus kuhli*	Indonesia
E	Deer Cedros Island mule	*Odocoileus hemionus cedrosensis*	Mexico (Cedros Island)
E	Deer, Corsican red	*Cervus elaphus corsicanus*	Corsica, Sardinia
E	Deer, Eld's brow-antlered	*Cervus eldi*	India to Southeast Asia
E	Deer, Formosan sika	*Cervus nippon taiouanus*	Taiwan
E	Deer, hog	*Axis* (=*Cervus*) *porcinus annamiticus*	Thailand, Indochina
E	Deer, marsh	*Blastocerus dichotomus*	Argentina, Uruguay, Paraguay, Bolivia, Brazil
E	Deer, McNeill's	*Cervus elaphus macneilii*	China (Sinkiang, Tibet)
E	Deer, musk (all species)	*Moschus spp.*	Central and East Afghanistan, Asia, Bhutan, Burma, China (Tibet, Yunnan), India, Nepal, Pakistan, Sikkim
E	Deer, North China sika	*Cervus nippon mandarinus*	China (Shantung and Chihli Provinces)
E	Deer, pampas	*Ozotoceros bezoarticus*	Brazil, Argentina, Uruguay, Bolivia, Paraguay
E	Deer, Persian fallow	*Dama dama mesopotamica*	Iraq, Iran
E	Deer, Philippine	*Axis* (=*Cervus*) *porcinus calamianensis*	Philippines (Calamian Islands)
E	Deer, Ryukyu sika	*Cervus nippon keramae*	Japan (Ryukyu Islands)
E	Deer, Shansi sika	*Cervus nippon grassianus*	China (Shansi Province)
E	Deer, South China sika	*Cervus nippon kopschi*	Southern China
E	Deer, swamp (=barasingha)	*Cervus duvauceli*	India, Nepal
E	Deer, Visayan	*Cervus alfredi*	Philippines
E	Deer, Yarkand	*Cervus elaphus yarkandensis*	China (Sinkiang)
E	Dhole (=Asiatic wild dog)	*Cuon alpinus*	U.S.S.R., Korea, China, India, Southeast Asia
E	Dibbler	*Antechinus apicalis*	Australia
E	Dog, African wild	*Lycaon pictus*	Sub-Saharan Africa
E	Drill	*Papio leucophaeus*	Equatorial West Africa
E	Duiker, Jentink's	*Cephalophus jentinki*	Sierra Leone, Liberia, Ivory Coast
E	Eland, Western giant	*Taurotragus derbianus derbianus*	Senegal to Ivory Coast
E	Elephant, Asian	*Elephas maximus*	South-central and Southeast Asia
E	Fox, northern swift	*Vulpes velox hebes*	Canada (Technically not listed in the U.S.)
E	Fox, Simien	*Canis* (*Simenia*) *simensis*	Ethiopia
E	Gazelle, Arabian	*Gazella gazella*	Arabian Peninsula, Palestine, Sinai

TABLE 3. FOREIGN SPECIES TO BE REVIEWED [1]—Continued

Status	Common name	Scientific name	Range
E	Gazelle, Clark's (=Dibatag)	*Ammodorcas clarkei*	Somalia, Ethiopia
E	Gazelle, Cuvier's	*Gazella cuvieri*	Morocco, Algeria, Tunisia
E	Gazelle, Mhorr	*Gazella dama mhorr*	Morocco
E	Gazelle, Moroccan (=Dorcas)	*Gazella dorcas massaesyla*	Morocco, Algeria, Tunisia
E	Gazelle, Pelzeln's	*Gazella dorcas pelzelni*	Somalia
E	Gazelle, Rio de Oro Dama	*Gazella dama lozanol*	Western Sahara
E	Gazelle, sand	*Gazella subgutturosa marica*	Jordan, Arabian Peninsula
E	Gazelle, Saudi Arabian	*Gazella dorcas saudiya*	Israel, Iraq, Jordan, Syria, Arabian Peninsula
E	Gazelle, slender-horned (=Rhim)	*Gazella leptoceros*	Sudan, Egypt, Algeria, Libya
E	Gibbon Family (9 spp.)	*Hylobates spp.(including Nomascus)*	China, India, Southeast Asia
E	Goat, wild (=Chiltan markhor)	*Capra aegagrus (=falconeri) chiltanensis*	Chiltan Range of west-central Pakistan
E	Goral	*Nemorhaedus goral*	East Asia
E	Gorilla	*Gorilla gorilla*	Central and Western Africa
E	Hare, hispid	*Caprolagus hispidus*	India, Nepal, Bhutan
E	Hartebeest, Swayne's	*Alcelaphus buselaphus swaynei*	Ethiopia, Somalia
E	Hartebeest, Tora	*Alcelaphus buselaphus tora*	Ethiopia, Sudan, Egypt
E	Hog, pygmy	*Sus salvanius*	India, Nepal, Bhutan, Sikkim
E	Horse, Przewalski's	*Equus przewalskii*	Mongolia, China
E	Huemul, North Andean	*Hippocamelus antisensis*	Ecuador, Peru, Chile, Bolivia, Argentina
E	Huemul, South Andean	*Hippocamelus bisulcus*	Chile, Argentina
E	Hutia, Cabrera's	*Capromys angelcabrerai*	Cuba
E	Hutia, dwarf	*Capromys nana*	Cuba
E	Hutia, large-eared	*Capromys auritus*	Cuba
E	Hutia, little earth	*Capromys sanfelipensis*	Cuba
E	Hyena, Barbary	*Hyaena hyaena barbara*	Morocco, Algeria, Tunisia
E	Hyena, brown	*Hyaena brunnea*	Southern Africa
E	Ibex, Pyrenean	*Capra pyrenaica pyrenaica*	Spain
E	Ibex, Walia	*Capra walie*	Ethiopia
E	Impala, black-faced	*Aepyceros melampus petersi*	Namibia, Angola
E	Indri	*Indri indri (=entire genus)*	Malagasy Republic (=Madagascar)
E	Jaguar	*Panthera onca*	Mexico southward
E	Jaguarundi	*Felis yagouaroundi fossata*	Mexico, Nicaragua
E	Jaguarundi	*Felis yagouaroundi panamensis*	Nicaragua, Costa Rica, Panama
E	Kangaroo, Tasmanian forester	*Macropus giganteus tasmaniensis*	Australia (Tasmania)
E	Kouprey	*Bos sauveli*	Vietnam, Laos, Cambodia, Thailand
E	Langur, capped	*Presbytis pileata*	India, Burma, Bangladesh
E	Langur, Douc	*Pygathrix nemaeus*	Cambodia, Laos, Vietnam
E	Langur, entellus	*Presbytis entellus*	China (Tibet), India, Pakistan, Kashmir, Sri Lanka, Sikkim, Bangladesh
E	Langur, Francois'	*Presbytis francoisi*	China (Kwangsi), Indochina
E	Langur, golden	*Presbytis geei*	India (Assam), Bhutan
E	Langur, Pagi Island	*Nasalis (Simias) concolor*	Indonesia
E	Lemurs	Lemuridae (incl. Cheirogaleidae, Lepilemuridae):all members of genera *Lemur, Phaner, Hapalemur, Lepilemur, Microcebus, Allocebus, Cheirogaleus, Varecia*..	Malagasy Republic (Madagascar)
E	Leopard, clouded	*Neofelis nebulosa*	Southeast and south-central Asia, Taiwan
E	Leopard, snow	*Panthera uncia*	Central Asia
E	Linsang, spotted	*Prionodon pardicolor*	Nepal, Assam, Vietnam, Cambodia, Laos, Burma
E	Lion, Asiatic	*Panthera leo persica*	Turkey to India
E	Lynx, Spanish	*Felis (=Lynx) pardina*	Spain, Portugal
E	Macaque, lion-tailed	*Macaca silenus*	India
E	Manatee, Amazonian	*Trichechus inunguis*	South America (Amazon River Basin)
E	Mandrill	*Papio sphinx*	Equatorial West Africa
E	Mangabey, Tana River	*Cercocebus galeritus*	Kenya
E	Mangabey, white-collared	*Cercocebus torquatus*	Senegal to Ghana; Nigeria to Gabon
E	Margay	*Felis wiedii*	Mexico southward
E	Markhor, Kabal	*Capra falconeri megaceros*	Afghanistan, Pakistan
E	Markhor, straight-horned	*Capra falconeri jerdoni*	Afghanistan, Pakistan
E	Marmoset, buff-headed	*Callithrix flaviceps*	Brazil
E	Marmoset, buffy tufted-ear	*Callithrix jacchus aurita*	Brazil
E	Marmoset, cotton-top	*Saguinus oodipus*	Costa Rica to Colombia
E	Marmoset, Goeldi's	*Callimico goeldii*	Brazil, Colombia, Ecuador, Peru, Bolivia
E	Marmot, Vancouver Island	*Marmota vancouverensis*	Canada (Vancouver Island)
E	Marsupial, eastern jerboa	*Antechinomys laniger*	Australia
E	Marsupial-mouse, large desert	*Sminthopsis psammophila*	Australia
E	Marsupial-mouse, long-tailed	*Sminthopsis longicaudata*	Australia
E	Marten, Formosan yellow-throated	*Martes flavigula chrysospila*	Taiwan
E	Monkey (=langur), Yunnan snub-nosed	*Rhinopithecus (=Pygathrix) bieti*	China
E	Monkey (=langur), Tonkin snub-nosed	*Rhinopithecus (=Pygathrix) avunculus*	Viet Nam
E	Monkey (=langur), Sichuan snub-nosed	*Rhinopithecus (=Pygathrix) roxellana*	China
E	Monkey (=langur), Guizhou snub-nosed	*Rhinopithecus (=Pygathrix) brelichi*	China
E	Monkey, black colobus	*Colobus satanas*	Equatorial Guinea, People's Republic of Congo, Cameroon, Gabon
E	Monkey, Diana	*Cercopithecus diana*	Coastal West Africa
E	Monkey, howler	*Alouatta palliata (=villosa)*	Mexico to South America
E	Monkey, L'hoest's	*Cercopithecus lhoesti*	Upper Eastern Congo Basin, Cameroon
E	Monkey, Preuss' red colobus	*Colobus badius preussi*	Cameroon
E	Monkey, proboscis	*Nasalis larvatus*	Borneo

TABLE 3. FOREIGN SPECIES TO BE REVIEWED [1]—Continued

Status	Common name	Scientific name	Range
E	Monkey, red-backed squirrel	*Saimiri oerstedii*	Costa Rica, Panama
E	Monkey, red-bellied	*Cercopithecus erythrogaster*	Western Nigeria
E	Monkey, red-eared nose-spotted	*Cercopithecus erythrotis*	Nigeria, Cameroon, Fernando Po
E	Monkey, spider	*Ateles geoffroyi panamensis*	Costa Rica, Panama
E	Monkey, spider	*Ateles geoffroyi frontatus*	Costa Rica, Nicaragua
E	Monkey, Tana River red colobus	*Colobus rufomitratus (=badius) rufomitratus*	Kenya
E	Monkey, woolly spider	*Brachyteles arachnoides*	Brazil
E	Monkey, yellow-tailed woolly	*Lagothrix flavicauda*	Andes of northern Peru
E	Monkey, Zanzibar red colobus	*Colobus kirki*	Tanzania
E	Mouse, Australian native	*Notomys aquilo*	Australia
E	Mouse, Australian native	*Zyzomys (=Notomys) pedunculatus*	Australia
E	Mouse, Field's	*Pseudomys fieldi*	Australia
E	Mouse, Gould's	*Pseudomys gouldii*	Australia
E	Mouse, New Holland	*Pseudomys novaehollandiae*	Australia
E	Mouse, Shark Bay	*Pseudomys praeconis*	Australia
E	Mouse, Shortridge's	*Pseudomys shortridgei*	Australia
E	Mouse, smoky	*Pseudomys fumeus*	Australia
E	Mouse, western	*Pseudomys occidentalis*	Australia
E	Muntjac, Fea's	*Muntiacus feae*	Northern Thailand, Burma
E	Native-cat, eastern	*Dasyurus viverrinus*	Australia
E	Numbat	*Myrmecobius fasciatus*	Australia
E	Orangutan	*Pongo pygmaeus*	Borneo, Sumatra
E	Oryx, Arabian	*Oryx leucoryx*	Arabian Peninsula
E	Otter, Cameroon clawless	*Aonyx (Paraonyx) congica microdon*	Cameroon, Nigeria
E	Otter, giant	*Pteronura brasiliensis*	South America
E	Otter, long-tailed	*Lutra longicaudis (incl. platensis)*	South America
E	Otter, marine	*Lutra felina*	Peru south to Straits of Magellan
E	Otter, southern river	*Lutra provocax*	Chile, Argentina
E	Panda, giant	*Ailuropoda melanoleuca*	People's Republic of China
E	Pangolin (=scaly anteater)	*Manis temmincki*	Africa
E	Planigale, little	*Planigale ingrami subtilissima (=P. subtilissima).*	Australia
E	Planigale, southern	*Planigale tenuirostris*	Australia
E	Porcupine, thin-spinned	*Chaetomys subspinosus*	Brazil
E	Possum, Leadbeater's	*Gymnobelideus leadbeateri*	Australia
E	Possum, mountain pygmy	*Burramys parvus*	Australia
E	Possum, scaly-tailed	*Wyulda squamicaudata*	Australia
E	Prairie dog, Mexican	*Cynomys mexicanus*	Mexico
E	Pronghorn, peninsular	*Antilocapra americana peninsularis*	Mexico (Baja California)
E	Pudu (deer)	*Pudu pudu*	Southern South America
E	Puma, Costa Rican	*Felis concolor costaricensis*	Nicaragua, Panama, Costa Rica
E	Quokka	*Setonix brachyurus*	Australia
E	Rabbit, Ryukyu	*Pentalagus furnessi*	Japan (Ryukyu Islands)
E	Rabbit, volcano	*Romerolagus diazi*	Mexico
E	Rat, false water	*Xeromys myoides*	Australia
E	Rat, stick-nest	*Leporillus conditor*	Australia
E	Rat-kangaroo, brush-tailed	*Bettongia penicillata*	Australia
E	Rat-kangaroo, Gaimard's	*Bettongia gaimardi*	Australia
E	Rat-kangaroo, Lesuer's	*Bettongia lesueur*	Australia
E	Rat-kangaroo, plain	*Caloprymnus campestris*	Australia
E	Rat-kangaroo, Queensland	*Bettongia tropica*	Australia
E	Rhinoceros, black	*Diceros bicornis*	Sub-Saharan Africa
E	Rhinoceros, great Indian	*Rhinoceros unicornis*	India, Nepal
E	Rhinoceros, Javan	*Rhinoceros sondaicus*	Indonesia, Indochina, Burma, Thailand, Sikkim, Bangladesh, Malaysia
E	Rhinoceros, northern white	*Ceratotherium simum cottoni*	Zaire, Sudan, Uganda, Central African Republic
E	Rhinoceros, Sumatran	*Dicerorhinus (=Didermoceros) sumatrensis*	Bangladesh to Vietnam to Indonesia (Borneo)
E	Saiga, Mongolian (Antelope)	*Saiga tatarica mongolica*	Mongolia
E	Saki, southern bearded	*Chiropotes satanas satanas*	Brazil
E	Saki, white-nosed	*Chiropotes albinasus*	Brazil
E	Seledang (=Gaur)	*Bos gaurus*	Bangladesh, Southeast Asia, India
E	Serow, Sumatran	*Capricornis sumatraensis*	East Asia, Sumatra
E	Serval, Barbary	*Felis serval constantina*	Algeria
E	Shapo	*Ovis vignei vignei*	Kashmir
E	Shou	*Cervus elaphus wallichi*	Tibet, Bhutan
E	Siamang (gibbon)	*Symphalangus syndactylus*	Malaysia, Indonesia
E	Sifakas	*Propithecus spp. (all species)*	Malagasy Republic (=Madagascar)
E	Sloth, Brazilian three-toed	*Bradypus torquatus*	Brazil
E	Solenodon, Cuban	*Solendon (Atopogale) cubanus*	Cuba
E	Solenodon, Haitian	*Solenodon paradoxus*	Dominican Republic, Haiti
E	Stag, Barbary	*Cervus elephus barbarus*	Tunisia, Algeria
E	Stag, Kashmir	*Cervus elephus hanglu*	Kashmir
E	Suni, Zanzibar	*Neotragus (Nesotragus) moschatus moschatus*	Zanzibar (and nearby islands)
E	Tahr, Arabian	*Hemitragus jayakari*	Oman
E	Tamaraw	*Bubalus mindorensis*	Philippines
E	Tamarin, golden-rumped	*Leontopithecus (=Leontideus) spp. (all species).*	Brazil
E	Tamarin, pied	*Saguinus bicolor*	Northern Brazil

TABLE 3. FOREIGN SPECIES TO BE REVIEWED [1]—Continued

Status	Common name	Scientific name	Range
E	Tapir, Asian	*Tapirus indicus*	Burma, Laos, Cambodia, Vietnam, Malaysia, Indonesia, Thailand
E	Tapir, Brazilian	*Tapirus terrestris*	Colombia and Venezuela south to Paraguay and Argentina
E	Tapir, Central American	*Tapirus bairdii*	Southern Mexico to Colombia and Ecuador
E	Tapir, mountain	*Tapirus pinchaque*	Colombia, Ecuador and possibly Peru and Venezuela
E	Tiger	*Panthera tigris*	Temperate and Tropical Asia
E	Tiger, Tasmanian (=Thylacine)	*Thylacinus cynocephalus*	Australia
E	Uakari (all species)	*Cacajao spp. (all species)*	Peru, Brazil, Ecuador, Colombia, Venezuela
E	Urial	*Ovis musimon (=orientalis) ophion*	Cyprus
E	Vicuna	*Vicugna vicugna*	South America (Andes)
E	Wallaby, banded hare	*Lagostrophus fasciatus*	Australia
E	Wallaby, brindled nail-tailed	*Onychogalea fraenata*	Australia
E	Wallaby, crescent nail-tailed	*Onychogalea lunata*	Australia
E	Wallaby, Parma	*Macropus parma*	Australia
E	Wallaby, western hare	*Lagorchestes hirsutus*	Australia
E	Wallaby, yellow-footed rock	*Petrogale xanthopus*	Australia
E	Wolf, maned	*Chrysocyon brachyurus*	Argentina, Bolivia, Brazil, Paraguay, Uruguay
E	Wombat, hairy-nosed (=Barnard's and Queensl.).	*Lasiorhinus krefftii*	Australia
E	Yak, wild	*Bos grunniens*	China (Tibet), India
E	Zebra, mountain	*Equus zebra zebra*	South Africa
E,T	Chimpanzee	*Pan troglodytes*	E=in wild in West and Central Africa, T=in captivity outside natural range
E,T	Leopard	*Panthera pardus*	E= Africa, Asia (except where T) T= Africa in wild south of, and including, Gabon, Congo, Zaire, Uganda, Kenya
T	Baboon, gelada	*Theropithecus gelada*	Ethiopia
T	Elephant, African	*Loxodonta africana*	Africa
T	Kangaroo, eastern gray	*Macropus giganteus (all ssp. except tasmaniensis).*	Australia
T	Kangaroo, red	*Macropus (Megaleia) rufus*	Australia
T	Kangaroo, western gray	*Macropus fuliginosus*	Australia
T	Langur, long-tailed	*Presbytis potenziani*	Indonesia
T	Langur, purple-faced	*Presbytis senex*	Sri Lanka (=Cylon)
T	Langur, Tonkin snub-nosed	*Presbytis (Rhinopithecus) avunculus*	Vietnam
T	Lechwe, red	*Kobus leche*	Southern Africa
T	Loris, lesser slow	*Nycticebus pygmaeus*	Indochina
T	Macaque, Formosan rock	*Macaca cyclopis*	Taiwan
T	Macaque, Japanese	*Macaca fuscata*	Japan (Shikoku, Kyushu and Honshu Islands)
T	Macaque, stump-tailed	*Macaca arctoides*	India (Assam) to southern China
T	Macaque, Toque	*Macaca sinica*	Sri Lanka (=Ceylon)
T	Manatee, West African	*Trichechus senegalensis*	West Coast of Africa from Senegal River to Cuanza River
T	Monkey, black howler	*Alouatta pigra*	Mexico, Guatemala, Belize
T	Tamarin, white-footed	*Saguinus leucopus*	Columbia
T	Tarsier, Philippine	*Tarsius syrichta*	Philippines
T	Zebra, Grevy's	*Equus grevyi*	Kenya, Ethiopia, Somalia
T	Zebra, Hartmann's mountain	*Equus zebra hartmannae*	Namibia, Angola
		BIRDS	
E	Albatross, short-tailed	*Diomedea albatrus*	Northern Pacific Ocean, Japan, U.S.S.R.
E	Booby, Abbott's	*Sula abbotti*	Indian Ocean: Christmas Island
E	Bristlebird, western	*Dasyornis brachypterus longirostris*	Australia
E	Bristlebird, western rufous	*Dasyornis broadbenti littoralis*	Australia
E	Bulbul, Mauritius olivaceous	*Hypsipetes borbonicus olivaceus*	Indian Ocean: Mauritius
E	Bullfinch, Sao Miguel (finch)	*Pyrrhula pyrrhula murina*	Eastern Atlantic Ocean: Azores
E	Bushwren, New Zealand	*Xenicus longipes*	New Zealand
E	Bustard, great Indian	*Choriotis nigriceps*	India, Pakistan
E	Cahow (=Bermuda Petrel)	*Pterodroma cahow*	North Atlantic Ocean: Bermuda
E	Condor, Andean	*Vultur gryphus*	Colombia to Chile and Argentina
E	Cotinga, banded	*Cotinga maculata*	Brazil
E	Cotinga, white-winged	*Xipholena atropurpurea*	Brazil
E	Crane, black-necked	*Grus nigricollis*	China (Tibet)
E	Crane, Cuba sandhill	*Grus monacha*	West Indies: Cuba
E	Crane, hooded	*Grus monacha*	Japan, U.S.S.R.
E	Crane, Japanese	*Grus japonensis*	China, Japan, Korea, U.S.S.R.
E	Crane, Siberian white	*Grus leucogeranus*	U.S.S.R. (Siberia) to India, including Iran and China
E	Crane, white-naped	*Grus vipio*	Mongolia
E	Cuckoo-shrike, Mauritius	*Coquus (=Coracina) typicus*	Indian Ocean: Mauritius
E	Cuckoo-shrike, Reunion	*Coquus (=Coracina) newtoni*	Indian Ocean: Reunion
E	Curassow, razor-billed	*Mitu (=Crax) mitu mitu*	Brazil (Eastern)
E	Curassow, red-billed	*Crax blumenbachii*	Brazil
E	Curassow, Trinidad white-headed	*Pipile pipile pipile*	West Indies: Trinidad
E	Dove, cloven-feathered	*Drepanoptila holosericea*	Southwest Pacific Ocean: New Caledonia
E	Dove, Grenada gray-fronted	*Leptotila rufaxilla wellsi*	West Indies: Grenada
E	Duck, pink-headed	*Rhodonessa caryophyllacea*	India
E	Duck, white-winged wood	*Cairina scutulata*	India, Malaysia, Indonesia, Thailand
E	Eagle, Greenland white-tailed	*Haliaeetus albicilla groenlandicus*	Greenland and adjacent Atlantic Islands
E	Eagle, harpy	*Harpia harpyja*	Mexico south to Argentina

TABLE 3. FOREIGN SPECIES TO BE REVIEWED [1]—Continued

Status	Common name	Scientific name	Range
E	Eagle, Philippine (=monkey-eating)	*Pithecophaga jefferyi*	Philippines
E	Eagle, Spanish imperial	*Aquila heliaca adalberti*	Spain, Morocco, Algeria
E	Egret, Chinese	*Egretta eulophotes*	China, Korea
E	Falcon, Eurasian peregrine	*Falco peregrinus peregrinus*	Europe, Eurasia south to Africa and Mideast
E	Flycatcher, Euler's	*Empidonax euleri johnstonei*	West Indies: Grenada
E	Flycatcher, Seychelles paradise	*Terpsiphone corvina*	Indian Ocean: Seychelles
E	Flycatcher, Tahiti	*Pomarea nigra*	South Pacific Ocean: Tahiti
E	Fody, Seychelles (weaver-finch)	*Foudia sechellarum*	Indian Ocean: Seychelles
E	Frigatebird, Andrew's	*Fregata andrewsi*	East Indian Ocean
E	Goshawk, Christmas Island	*Accipiter fasciatus natalis*	Indian Ocean: Christmas Island
E	Grackle, slender-billed	*Quisicalus (=Cassidix) palustris*	Mexico
E	Grasswren, Eyrean (flycatcher)	*Amytornis goyderi*	Australia
E	Grebe, Atitlan	*Podilymbus gigas*	Guatemala
E	Greenshank, Nordmann's	*Tringa guttifer*	U.S.S.R., Japan south to Malaya Borneo
E	Guan, horned	*Oreophasis derbianus*	Guatemala, Mexico
E	Guan, white-winged	*Penelope albipennis*	Peru
E	Gull, Audouin's	*Larus audouinii*	Mediterranean Sea
E	Gull, relict	*Larus relictus*	India, China
E	Hawk, Anjouan Island sparrow	*Accipiter francesii pusillus*	Indian Ocean: Comoro Islands
E	Hawk, Galapagos	*Buteo galapagoensis*	Ecuador (Galapagos Islands)
E	Hermit, hook-billed (hummingbird)	*Glaucis (=Ramphodon) dohrnii*	Brazil
E	Honeyeater, helmeted	*Meliphaga cassidix*	Australia
E	Hornbill, helmeted	*Rhinoplax vigil*	Thailand, Malaysia
E	Ibis, Japanese crested	*Nipponia nippon*	China, Japan, U.S.S.R., Korea
E	Ibis, Northern bald	*Geronticus eremita*	Southern Europe, southwestern Asia, northern Africa
E	Kagu	*Rhynochetos jubatus*	South Pacific Ocean: New Caledonia
E	Kakapo (=owl-parrot)	*Strigops habroptilus*	New Zealand
E	Kestrel, Mauritius	*Falco punctatus*	Indian Ocean: Mauritius
E	Kestrel, Seychelles	*Falco araea*	Indian Ocean: Seychelles Islands
E	Kite, Cuba hook-billed	*Chondrohierax uncinatus wilsoni*	West Indies: Cuba
E	Kite, Grenada hook-billed	*Chondrohierax uncinatus mirus*	West Indies: Grenada
E	Kokako (wattlebird)	*Callaeas cinerea*	New Zealand
E	Macaw, glaucous	*Anodorhynchus glaucus*	Paraguay, Uruguay, Brazil
E	Macaw, indigo	*Anodorhynchus leari*	Brazil
E	Macaw, little blue	*Cyanopsitta spixii*	Brazil
E	Magpie-robin, Seychelles (thrush)	*Copsychus sechellarum*	Indian Ocean: Seychelles Islands
E	Malkoha, red-faced (cuckoo)	*Phaenicophaeus pyrrhocephalus*	Sri Lanka (=Ceylon)
E	Megapode, Maleo	*Macrocephalon maleo*	Indonesia (Celebes)
E	Ostrich, Arabian	*Struthio camelus syriacus*	Jordan, Saudi Arabia
E	Ostrich, West African	*Struthio camelus spatzi*	Spanish Sahara
E	Owl, Anjouan scops	*Otus rutilus capnodes*	Indian Ocean: Comoro Island
E	Owl, giant scops	*Otus gurneyi*	Philippines: Marinduque and Mindanao Island
E	Owl, Madagascar red	*Tyto soumagnei*	Madagascar
E	Owl, Seychelles	*Otus insularis*	Indian Ocean: Seychelles Islands
E	Owlet, Morden's (=Sokoke)	*Otus ireneae*	Kenya
E	Parakeet, Forbes'	*Cyanoramphus auriceps forbesi*	New Zealand
E	Parakeet, golden	*Aratinga guarouba*	Brazil
E	Parakeet, golden-shouldered (=hooded)	*Psephotus chrysopterygius*	Australia
E	Parakeet, Mauritius	*Psittaculla echo*	Indian Ocean: Mauritius
E	Parakeet, Norfolk Island	*Cyanoramphus novazealandiae cookii*	Australia (Norfolk Island)
E	Parakeet, ochre-marked	*Pyrrhura cruentata*	Brazil
E	Parakeet, orange-bellied	*Neophema chrysogastar*	Australia
E	Parakeet, paradise (=beautiful)	*Psephotus pulcherrimus*	Australia
E	Parakeet, scarlet-chested (=splendid)	*Neophema splendida*	Australia
E	Parakeet, turquoise	*Neophema pulchella*	Australia
E	Parrot, Australian	*Geopsittacus occidentalis*	Australia
E	Parrot, Bahaman or Cuban	*Amazona leucocephala*	West Indies: Cuba, Bahamas, Caymans
E	Parrot, ground	*Pezoporus wallicus*	Australia
E	Parrot, imperial	*Amazona imperialis*	West Indies: Dominica
E	Parrot, red-browed	*Amazona rhodocorytha*	Brazil
E	Parrot, red-capped	*Pionopsitta pileata*	Brazil
E	Parrot, red-necked	*Amazona arausiaca*	West Indies: Dominica
E	Parrot, red-spectacled	*Amazona pretrei pretrei*	Brazil, Argentina
E	Parrot, red-tailed	*Amazona braziliensis*	Brazil
E	Parrot, St. Vincent	*Amazona guildingii*	West Indies: St. Vincent
E	Parrot, St. Lucia	*Amazona versicolor*	West Indies: St. Lucia
E	Parrot, thick-billed	*Rhynchopsitta pachyrhyncha*	Mexico
E	Parrot, vinaceous-breasted	*Amazona vinacea*	Brazil
E	Penguin, Galapagos	*Spheniscus mendiculus*	Ecuador (Galapagos Islands)
E	Pheasant, bar-tailed	*Syrmaticus humiae*	Burma, China
E	Pheasant, Blyth's tragopan	*Tragopan blythii*	Burma, China, India
E	Pheasant, brown eared	*Crossoptilon mantchuricum*	China
E	Pheasant, Cabot's tragopan	*Tragopan caboti*	China
E	Pheasant, cheer	*Catreus wallichii*	India, Nepal, Pakistan
E	Pheasant, Chinese monal	*Lophophorus lhuysi*	China
E	Pheasant, Edward's	*Lophura edwardsi*	Vietnam
E	Pheasant, Elliot's	*Syrmaticus ellioti*	China
E	Pheasant, imperial	*Lophura imperialis*	Vietnam
E	Pheasant, Mikado	*Syrmaticus mikado*	Taiwan

TABLE 3. FOREIGN SPECIES TO BE REVIEWED [1]—Continued

Status	Common name	Scientific name	Range
E	Pheasant, Palawan peacock	*Polyplectron emphanum*	Phillipines
E	Pheasant, Sclater's monal	*Lophophorus sclateri*	Burma, China, India
E	Pheasant, Swinhoe's	*Lophura swinhoii*	Taiwan
E	Pheasant, western tragopan	*Tragopan meianocephalus*	India, Pakistan
E	Pheasant, white eared	*Crossoptilon crossoptilon*	China (Tibet), India
E	Pigeon, Azores wood	*Columba palumbus azorica*	East Atlantic Ocean: Azores
E	Pigeon, Chatham Island	*Hemiphaga novaeseelandiae chathamensis*	New Zealand
E	Pigeon, Mindoro zone-tailed	*Ducula mindorensis*	Philippines
E	Piping-guan, black-fronted	*Pipile jacutinga*	Argentina
E	Pitta, Koch's	*Pitta kochi*	Philippines
E	Plover, New Zealand shore	*Thinornis novaeseelandiae*	New Zealand
E	Quail, Merriam's Montezuma	*Cyrtonyx montezumae merriami*	Mexico (Vera Cruz)
E	Quetzel, resplendent	*Pharomachrus mocinno*	Mexico to Panama
E	Rail, Aukland Island	*Rallus pectoralis muelleri*	New Zealand
E	Rail, Lord Howe wood	*Tricholimnas sylvestris*	Australia (Lord Howe Island)
E	Rhea, Darwin's	*Pterocnemia pennata*	Argentina, Bolivia, Peru, Uruguay
E	Robin, Chatham Island	*Petroica traversi*	New Zealand
E	Robin, scarlet-breasted (flycatcher)	*Petroica multicolor multicolor*	Australia (Norfolk Island)
E	Rockfowl, grey-necked	*Picathartes oreas*	Cameroon, Gabon
E	Rockfowl, white-necked	*Picathartes gymnocephalus*	Africa: Togo to Sierra Leone
E	Roller, long-tailed ground	*Uratelornis chimaera*	Malagasy Republic (=Madagascar)
E	Scrub-bird, noisy	*Atrichornis clamosus*	Australia
E	Shama, Cebu black (thrush)	*Copsychus niger cebuensis*	Philippines
E	Siskin, red	*Carduelis (=Spinus) cucullata*	South America
E	Starling, Ponape mountain	*Aplonis pelzelni*	Caroline Is. (Western Pacific)
E	Starling, Rothschild's (myna)	*Leucopsar rothschildi*	Indonesia (Bali)
E	Stork, oriental white	*Ciconia ciconia boyciana*	China, Japan, Korea, U.S.S.R.
E	Teal, Campbell Island flightless	*Anas aucklandica nesiotis*	New Zealand - Campbell Island
E	Thrasher, white-breasted	*Ramphocinclus brachyurus*	West Indies: St. Lucia, Martinique
E	Thrush, New Zealand (wattlebird)	*Turnagra capensis*	New Zealand
E	Tinamou, solitary	*Tinamus solitarius*	Brazil, Paraguay, Argentina
E	Trembler, Martinique (thrasher)	*Cinclocerthia ruficauda gutturalis*	West Indies: Martinique
E	Wanderer, plain (collared-hemipode)	*Pedionomous torquatus*	Australia
E	Warbler (willow), Seychelles	*Bebrornis sechellensis*	Indian Ocean: Seychelles Island
E	Warbler (willow), Rodrigues	*Bebrornis rodericanus*	Mauritius (Rodrigues Islands)
E	Warbler (wood), Semper's	*Leucopeza semperi*	West Indies: St. Lucia
E	Warbler (wood), Barbados yellow	*Dendroica petechia petechia*	West Indies: Barbados
E	Whipbird, western	*Psophodes nigrogularis*	Australia
E	White-eye, Norfolk Island	*Zosterops albogularis*	Indian Ocean: Norfolk Islands
E	White-eye, Ponape great	*Rukia longirostra (=sanfordi)*	Caroline Is. (Western Pacific)
E	White-eye, Seychelles	*Zosterops modesta*	Indian Ocean: Seychelles
E	Woodpecker, imperial	*Campephilus imperialis*	Mexico
E	Woodpecker, Tristam's	*Dryocopus javensis richardsi*	Korea
E	Wren, Guadeloupe house	*Troglodytes aedon guadeloupensis*	West Indies: Guadeloupe
E	Wren, St. Lucia house	*Troglodytes aedon mesoleucus*	West Indies: St. Lucia
		REPTILES	
E	Alligator, Chinese	*Alligator sinensis*	China
E	Boa, Jamaican	*Epicrates subflavus*	Jamaica
E	Boa, Round Island	*Casarea dussumieri*	Indian Ocean: Mauritius
E	Boa, Round Island	*Bolyeria multocarinata*	Indian Ocean: Mauritius
E	Caiman, Apaporis River	*Caiman crocodilus apaporiensis*	Colombia
E	Caiman, black	*Melanosuchus niger*	Amazon basin
E	Caiman, broad-snouted	*Caiman latirostris*	Brazil, Argentina, Paraguay, Uruguay
E	Caiman, Yacare	*Caiman crocodilus yacare*	Bolivia, Argentina, Peru, Brazil
E	Chuckwalla, San Esteban Island	*Sauromalus varius*	Mexico
E	Crocodile, African slender-snouted	*Crocodylus cataphractus*	Western and central Africa
E	Crocodile, African dwarf	*Osteolaemus tetraspis tetraspis*	West Africa
E	Crocodile, Ceylon mugger	*Crocodylus palustris kimbula*	Sri Lanka
E	Crocodile, Congo dwarf	*Osteolaemus tetraspis osborni*	Congo River drainage
E	Crocodile, Cuban	*Crocodylus rhombifer*	Cuba
E	Crocodile, Morelet's	*Crocodylus moreletii*	Mexico, Belize, Guatemala
E	Crocodile, mugger	*Crocodylus palustris palustris*	India, Pakistan, Iran, Bangladesh
E	Crocodile, Orinoco	*Crocodylus intermedius*	South America: Orinoco River Basin
E	Crocodile, Philippine	*Crocodylus novaeguineae mindorensis*	Philippine Islands
E	Crocodile, Siamese	*Crocodylus siamensis*	Southeast Asia, Malay Peninsula
E	Gavial (=gharial)	*Gavialis gangeticus*	Pakistan, Burma, Bangladesh, India, Nepal
E	Gecko, day	*Phelsuma edwardnewtoni*	Indian Ocean: Mauritius
E	Gecko, Round Island day	*Phelsuma guentheri*	Indian Ocean: Mauritius
E	Iguana, Anegada ground	*Cyclura pinguis*	West Indies: British Virgin Islands (Anegada Islands)
E	Iguana, Barrington land	*Conolophus pallidus*	Ecuador (Galapagos Islands)
E	Iguana, Fiji crested	*Brachylophus vitiensis*	Pacific: Fiji
E	Iguana, Fiji banded	*Brachylophus fasciatus*	Pacific: Fiji, Tonga
E	Iguana, Grand Cayman ground	*Cyclura nubila lewisi*	West Indies: Cayman Islands
E	Iguana, Jamaican	*Cyclura collei*	West Indies: Jamaica
E	Iguana, Watling Island ground	*Cyclura rileyi rileyi*	West Indies: Bahamas
E	Lizard, Hierro giant	*Gallotia simonyi simonyi*	Spain (Canary Islands)
E	Monitor, Bengal	*Varanus bengalensis*	Iran, Iraq, India, Sri Lanka, Malaysia, Afghanistan, Burma, Vietnam, Thailand

TABLE 3. FOREIGN SPECIES TO BE REVIEWED [1]—Continued

Status	Common name	Scientific name	Range
E	Monitor, desert	*Varanus griseus*	North Africa to Near East, Caspian Sea through U.S.S.R. to Pakistan, Northwest India
E	Monitor, Komodo Island	*Varanus komodoensis*	Indonesia (Komodo, Rintja, Padar, and western Flores Island)
E	Monitor, yellow	*Varanus flavescens*	West Pakistan through India to Bangladesh
E	Python, Indian	*Python molurus molurus*	Sri Lanka and India
E	Tartaruga	*Podocnemis expansa*	South America: Orinoco and Amazon River basins
E	Terrapin, river (=Tuntong)	*Batagur baska*	Malaysia, Bangladesh, Burma, India, Indonesia
E	Tomistoma	*Tomistoma schlegelii*	Malaysia, Indonesia
E	Tortoise, angulated	*Geochelone yniphora*	Malagasy Republic (=Madagascar)
E	Tortoise, Bolson	*Gopherus flavomarginatus*	Mexico
E	Tortoise, Galapagos	*Geochelone elephantopus*	Ecuador (Galapagos Islands)
E	Tortoise, radiated	*Geochelone (=Testudo) radiata*	Malagasy Republic (=Madagascar)
E	Tracaja	*Podocnemis unifilis*	South America: Orinoco and Amazon River basins
E	Tuatara	*Sphenodon punctatus*	New Zealand
E	Turtle, aquatic box	*Terrapene coahuila*	Mexico
E	Turtle, black softshell	*Trionyx nigricans*	Bangladesh
E	Turtle, Burmese peacock	*Morenia ocellata*	Burma
E	Turtle, Central American river	*Dermatemys mawii*	Mexico, Belize, Guatemala
E	Turtle, Cuatro Cienegas softshell	*Trionyx ater*	Mexico
E	Turtle, geometric	*Psammobates geometricus (=Geochelone geometrica).*	South Africa
E	Turtle, Indian softshell	*Trionyx gangeticus*	Pakistan, India
E	Turtle, Indian sawback	*Kachuga tecta tecta*	India
E	Turtle, peacock softshell	*Trionyx hurum*	India, Bangladesh
E	Turtle, short-necked or western swamp	*Pseudemydura umbrina*	Australia
E	Turtle, spotted pond	*Geoclemys (=Damonia) hamiltonii*	North India, Pakistan
E	Turtle, three-keeled Asian	*Melanochelys (=Geoemyda, Nicoria) tricarinata.*	Central India
E	Viper, Lar Valley	*Vipera latifii*	Iran
E,T	Crocodile, Nile	*Crocodylus niloticus*	T=Zimbabwe, E=Entire, except Zimbabwe
T	Gecko, Serpent Island	*Cyrtodactylus serpensinsula*	Indian Ocean: Mauritius
T	Iguana, Acklins ground	*Cyclura nileyi nuchalis*	West Indies: Bahamas
T	Iguana, Allen's Cay	*Cyclura cychlura inornata*	West Indies: Bahamas
T	Iguana, Andros Island ground	*Cyclura cychlura cychlura*	West Indies: Bahamas
T	Iguana, Cayman Brac ground	*Cyclura nubila caymanensis*	West Indies: Cayman Islands
T	Iguana, Cuban ground	*Cyclura nubila nubila*	Cuba (excl. pop. introduced into Puerto Rico)
T	Iguana, Exuma Island	*Cyclura cychlura figginsi*	West Indies: Bahamas
T	Iguana, Mayaguana	*Cyclura carinata bartschi*	West Indies: Bahamas
T	Iguana, Turks and Caicos	*Cyclura carinata carinata*	West Indies: Turks and Caicos Islands
T	Iguana, White Cay ground	*Cyclura nileyi cristata*	West Indies: Bahamas
T	Lizard, Ibiza wall	*Podarcis pityusensis*	Spain (Balearic Islands)
T	Rattlesnake, Aruba Island	*Crotalus unicolor*	Aruba Island (Netherland Antilles)
T	Skink, Round Island	*Leiolopisma telfairi*	Indian Ocean: Mauritius
		AMPHIBIANS	
E	Frog, Israel painted	*Discoglossus nigriventer*	Israel
E	Frog, Panamanian golden	*Atelopus varius zeteki*	Panama
E	Frog, Stephen Island	*Leiopelma hamiltoni*	New Zealand
E	Salamander, Chinese giant	*Andrias davidianus davidianus*	Western China
E	Salamander, Japanese giant	*Andrias davidianus japonicus*	Japan
E	Toad, African viviparous	*Nectophrynoides spp. (entire genus)*	Tanzania, Guinea, Ivory Coast, Cameroon, Liberia, Ethiopia
E	Toad, Cameroon	*Bufo superciliaris*	Equatorial Africa
E	Toad, Monte Verde	*Bufo periglenes*	Costa Rica
		FISHES	
E	Ala Balik (trout)	*Salmo platycephalus*	Turkey
E	Ayumodoki (loach)	*Hymenophysa (=Botia) curta*	Japan
E	Blindcat, Mexican (catfish)	*Prietella phreatophila*	Mexico
E	Bonytongue, Asian	*Scleropages formosus*	Thailand, Indonesia, Malaysia
E	Catfish (no common name)	*Pangasius sanitwongsei*	Thailand
E	Catfish, giant	*Pangasianodon gigas*	Thailand
E	Cicek (minnow)	*Acanthorutilus handlirschi*	Turkey
E	Nekogigi (catfish)	*Coreobagrus ichikawai*	Japan
E	Tango, Miyako (Tokyo bitterling)	*Tanakia tanago*	Japan
E	Temoleh, Ikan (minnow)	*Probarbus jullieni*	Thailand, Cambodia, Vietnam, Malaysia, Laos
		INVERTEBRATES	
		SNAILS	
E	Snail, Manus Island tree	*Papustyla pulcherrima*	Pacific Ocean: Admiralty Island (Manus Island)
		CLAMS	
E	Pearly mussel, Nicklin's	*Megalonaias nicklineana*	Mexico
E	Pearly mussel, Tampico	*Cyrtonaias tampicoensis*	Mexico
		INSECTS	
E	Butterfly, Queen Alexandra's birdwing	*Troides (=Ornithoptera) alexandrae*	Papua New Guinea

TABLE 3. FOREIGN SPECIES TO BE REVIEWED [1]—Continued

Status	Common name	Scientific name	Range
		PLANTS	
T	Fir, Guatemalan (=pinabete)	*Abies guatemalensis*	Mexico, Guatemala, Honduras, El Salvador
E	Jatropha, Costa Rican	*Jatropha costaricensis*	Costa Rica
T	Larch, Chilean false (=alerce)	*Fitzroya cupressoides*	Chile, Argentina

[1] Submit all comments on foreign species to FWS Region 8 (see "Addresses of Regional Offices" in SUPPLEMENTARY INFORMATION section).

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November 6, 1991

Part V

Department of Housing and Urban Development

24 CFR Part 570

Community Development Block Grants; Section 108 Loan Guarantee Program; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 570

[Docket No. R-91-1519; FR 2959-F-02]

RIN 2506-AB21

Amendments to the Section 108 Loan Guarantee Program

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: Section 108 of the Housing and Community Development Act of 1974 authorizes a program of community development loan guarantee assistance. The regulations governing this program are codified at 24 CFR part 570, subpart M. This final rule amends these regulations to implement certain changes made to the Section 108 Loan Guarantee Program by section 910 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–615, approved November 28, 1990) (the 1990 Act). The specific revisions made to these regulations by this final rule are discussed in the Supplementary Information portion of this document.

EFFECTIVE DATE: December 6, 1991.

FOR FURTHER INFORMATION CONTACT: Paul D. Webster, Director, Financial Management Division, Office of Community Planning and Development, Room 7178, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410, telephone (202) 708–1871. A telecommunications device number (TDD) is available for the hearing-impaired at (202) 708–9300. (These are not toll-free telephone numbers.)

SUPPLEMENTARY INFORMATION:

I. Paperwork Reduction Act Statement

The information collection requirements contained in this final rule have been approved by the Office of Management and Budget (OMB) under section 3504(h) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520), and assigned OMB control number 2506–0123.

II. Background

Section 108 of the Housing and Community Development Act of 1974 authorizes a program of community development loan guarantee assistance (Section 108 or Section 108 Program). Under the Section 108 Program, the Department provides metropolitan cities and urban counties that receive entitlement grants (entitlement public entities) with front-end financing for large-scale community and economic development projects that cannot be financed from annual grants. Projects eligible for this financing include the acquisition of real property, the rehabilitation of publicly owned real property, the rehabilitation of housing, and related relocation, clearance and site improvements. As with all Community Development Block Grant (CDBG) program activities, the projects financed under the Section 108 Program must either principally benefit low- and moderate-income persons, aid in the elimination or prevention of slums and blight, or meet other community development needs having a particular urgency.

The regulations governing this program are codified at 24 CFR part 570, subpart M. On May 9, 1991 (56 FR 21560), the Department published a rule that proposed to amend these regulations to implement certain changes made to the Section 108 Program by section 910 of the Cranston-Gonzalez National Affordable Housing Act (Pub. L. 101–625, approved November 28, 1990) (the 1990 Act).

The 1990 Act made several significant changes to the Section 108 Program, which included the following. The 1990 Act made nonentitlement public entities eligible for loan guarantee assistance; authorized the use of guaranteed loan funds for the financing of the construction of housing by nonprofit organizations for homeownership under the Housing Development Grants Program or the Nehemiah Housing Opportunities Grant Program; and also made significant changes in the limitations on the amount of loan guarantee assistance that can be made available to a public entity. Additionally, the 1990 Act also provides for special priority for projects located in areas designated as enterprise zones by the Federal Government or by any State. However, since assistance under Section 108 is not based on competition, it is unnecessary to give priority to such projects unless funds are unavailable in the amount requested.

In addition to implementing the changes made to the Section 108 Program by the 1990 Act, the May 9, 1991 rule proposed to implement the requirements of section 102 of the Department of Housing and Urban Development Reform Act of 1989 (Reform Act), as these requirements apply to the Section 108 Program. Section 102 is designed to ensure greater accountability and integrity in the provision of certain types of assistance administered by the Department. The May 9, 1991 rule also proposed to make a number of organizational, editorial and clarifying changes to the Section 108 regulations.

The changes made to the Section 108 Program by the 1990 Act, the applicable requirements of the Reform Act, and the specific revisions proposed to be made to the Section 108 regulations are discussed in detail in the preamble to the May 9, 1991 rule. (*See* 56 FR 21560–21563.)

III. Discussion of Public Comments

The Department invited public comment on the May 9, 1991 proposed rule. During the comment period, which expired June 10, 1991, the Department received five comments. The commenters included four city public entities involved in city, urban and metropolitan development, and one trade association of housing and redevelopment officials. Following careful consideration of the issues raised by the commenters, the Department has decided to adopt the May 9, 1991 rule with certain changes, in response to issues raised by the commenters. These changes are described below in the discussion of public comments.

The following presents a discussion of the specific issues raised by the commenters, and the Department's response to each issue.

1. Clarification of Use of Section 108 Funds for Construction of Public Facilities. (§ 570.703(k))

Section 570.703 describes the activities that are eligible for funding under the Section 108 Program. Paragraph (k) of this section includes the following activities as eligible for funding: "Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), site improvements, and utilities for an economic development purpose."

Comment

One commenter stated that it requested use of Section 108 funds for construction of a unit for the treatment of elderly victims of Alzheimer's disease, and was advised by the Department that the proposed construction was not eligible for funding under the Section 108 Program, because paragraph (k) does not authorize the construction of public facilities, except when the project is for economic development. The commenter stated

that it interpreted § 570.703(k) to be comparable to § 570.201(c), which exempts certain public facilities, including hospital, nursing homes, and other special need facilities, from the prohibition of new construction of housing, set forth in § 570.207(b)(3). The commenter requested that the Department clarify when Section 108 funds may be used for new construction.

Response

Section 108(a) permits the construction of public facilities only for economic development. (Public facilities generally eligible for Community Development Block Grant funding are not so limited.) The Department agrees that § 570.703 requires clarification regarding the use of guaranteed loan funds to carry out economic development activities. Accordingly, this section has been revised for greater clarity.

2. Description of Security Requirements for Loan Guarantee. (§ 570.704(a)(1)(i)(C))

Section 570.704 describes the application requirements for Section 108 loan guarantee assistance. Paragraph (a)(1)(i)(C) of this section requires applicants to provide a description of the security requirements for the loan guarantee, including the pledge of grants required under § 570.705(b)(2) and other security the public entity or State proposes to offer HUD.

Comment

One commenter stated that this requirement seems premature since security requirements for the proposed loan will be determined by the Department at its discretion after it receives the application pursuant to § 570.705(b). (section 570.705 sets forth the loan requirements, and paragraph (b) of this section sets forth the security requirements.) The commenter stated that the public entity submitting the application will not know what forms of security the Department deems appropriate since this is based on the terms of the loan requested.

Response

The Department agrees that discussion of additional security in the proposed application would be premature. The requirement that the proposed application include a description of other security the public entity or State proposes to offer has been deleted.

3. Clarification of Application Publication Requirements. (§ 570.704(a)(1)(iii))

Section 570.704(a)(1)(iii) requires an applicant to publish communitywide its proposed application so as to afford affected citizens an opportunity to examine the application's contents and to provide comments on the proposed application.

Comment

One commenter stated that it was not clear what the Department meant by "publish." The commenter inquired whether the application needs to be published in a newspaper of general circulation, or if copies of the application may be made available for public comment at local libraries or other convenient locations.

Response

Publication is a statutory requirement. Making copies available at local libraries or other locations would not satisfy that statutory requirement. The requirement to "publish" refers to publication in a newspaper of general circulation, or in a State or local periodical that is similar to the Federal Register.

Comment

Two commenters (both of which are entitlement public entities) stated that applications for section 108 loan guarantee assistance are very lengthy, and that if the entire application must be published, it will be very costly. One of the commenters stated that even publication of a detailed summary could be costly. The commenter stated that the well-publicized public hearing, as provided in § 570.704, allows more than ample opportunity for public input.

Response

As explained above, publication is a statutory requirement. However, where the application is to be submitted with an entitlement public entity's submission for its entitlement grant, a separate publication of the proposed application is not required. In such cases the proposed loan guarantee assistance is to be included in the proposed and final statements required pursuant to § 570.301. The final rule clarifies this in § 570.704(a)(1)(v).

4. Requirement of Other Security for Loan With Repayment Periods of Ten Years or More. (§ 570.705(b)(3))

Section 570.705 sets forth loan requirements. Paragraph (b) of this section describes the loan security requirements. Paragraph (b)(3) requires the applicant to furnish, at the discretion of HUD, such other security as may be deemed appropriate by HUD in making such guarantees. This paragraph also provides that other security shall be required for all loans with repayment periods of ten years or longer, and that such other security shall be specified in the contract entered into pursuant to § 570.705(b)(1). Paragraph (b)(3) includes examples of other security HUD may require.

Comment

One commenter stated that § 570.705(b)(3) was not consistent with "either the letter or the spirit of the law." The commenter stated that section 901(c) of the 1990 Act provides for repayment periods up to 20 years and makes no reference to "other security," but does provide for a determination by HUD that a proposed repayment period (up to 20 years) "constitutes an unacceptable financial risk." The commenter stated that although it recognized the Department's desire to establish a uniform method of managing potential risk, particularly, in anticipation of increase program activity, it is inadvisable to create such an "arbitrary standard" without any legislative basis. The commenter stated that by providing the Department with the opportunity to decline the loan guarantee based on the financial risk that may be created by an extended repayment period, the intent of the legislation is to allow HUD to examine the risk on a case-by-case basis. The commenter recommended that the rule be revised to reflect that intent.

Response

Section 108(d)(1)(C) of the statute, unchanged by the 1990 Act, permits the Department to require the borrower to "furnish, at the discretion of the Secretary, such other security as may be deemed appropriate by the Secretary in making such guarantees * * *" Although the Department agrees that the financial risk associated with a loan guarantee must be evaluated on a case-by-case basis, at some point on the continuum of maturities a loan secured primarily by the pledge of grants pursuant to § 570.705(b)(2) constitutes an unacceptable risk. Before the 1990 Act, the Department normally required any program income generated by the activity or activities carried out with the guaranteed loan funds to be pledged as security for repayment of the guaranteed loan. If the loan repayment period extended beyond six years, the Department typically required the public entity or designated public agency, or both, to furnish other security (i.e.,

security in addition to the pledge of grants and program income). Other security was typically required in such cases because the loan repayment period extended significantly beyond the budgetary planning horizon for the grants pledged as security. The factors considered in evaluating the financial risk will not change materially as a consequence of the 1990 Act. The risk associated with reliance on the pledge of grants increases with the loan repayment period because of the difficulty of predicting the funding levels for the pledged grants. The Department does not envision any circumstances under which the pledge of grants alone would be deemed sufficient security for loans with repayment periods of ten years or longer. Since other security is always envisioned to be a requirement for such loans, this requirement should be reflected in the regulations.

Comment

The same commenter also requested that the Department provide a description in the final rule of situations that may constitute an "unacceptable financial risk."

Response

In most cases, a determination that a loan guarantee constitutes an unacceptable financial risk will be based on a subjective evaluation of several factors. (Factors that will be considered in assessing financial risk are already specified in the regulations at § 570.710(c)(3)(i).) The evaluation may also require consideration of the nature of the activity to be carried out with the guaranteed loans funds (e.g., a housing rehabilitation activity or an economic development activity). In view of the subjectivity involved and the variety of activities that can be undertaken with guaranteed loan funds, the Department does not believe that describing situations that constitute unacceptable financial risks would be feasible except in such extreme cases as to be meaningless.

Comment

The same commenter also stated that the proposed rule was not clear with respect to whether the Department would specify the form of security in each case. The commenter stated that: "Clearly, in cases where additional security is deemed to be required, the form must be at the discretion of and acceptable to the jurisdiction."

Response

The Department agrees with the commenter's observation that additional security must be acceptable to the public entity and its designated public agency, if any. The nature and form of additional security are matters that will be determined through negotiation among the parties involved (including the State or public entity, where appropriate) and specified in the contract required under § 570.705(b)(1). The loan guarantee cannot be provided unless the public entity agrees to the additional security requirements. No change is required to ensure that additional security requirements are acceptable to the public entity.

5. Clarification of Reform Act Requirements. (§ 570.704(f))

The May 9, 1991 Section 108 Program ruled proposed to implement the applicable requirements of the Reform Act. However, the preamble to the rule noted that §§ 12.30 and 12.50 of the Reform Act regulations (24 CFR part 12), which impose disclosure requirements on applicants, were not yet effective. The preamble stated that when these provisions of the Reform Act regulations become effective, the Department would amend the Section 108 rule to conform to the coverage contained in 24 CFR part 12.

Comment

One commenter stated that notwithstanding the preamble's statement that the Reform Act's applicant disclosure requirements were not yet effective, § 570.704(f) of the proposed rule indicated that these disclosure requirements currently were applicable to applicants. The commenter stated that the Reform Act final rule, published in the **Federal Register** on March 14, 1991 (56 FR 11032), indicated that the rule's applicant disclosure requirements (contained in subpart C of 24 CFR part 12) were effective as of April 15, 1991.

Response

The Reform Act requirements implemented in 24 CFR part 12 imposed on HUD were made effective as of April 15, 1991. The Reform Act disclosure requirements imposed on applicants seeking assistance under programs administered by HUD are not yet effective. The Department will provide further guidance on these requirements by a separately published notice. (*See* 56 FR 11032.) The applicant disclosure requirements will be made effective as provided by such notice. Section 570.704(f) was inadvertently included in the proposed rule. It has been removed from this final rule. Section 570.704 will be amended to include the disclosure requirements provided by paragraph (f) at such time as the Reform Act regulations governing these requirements become effective.

Comment

The same commenter asked whether the applicant disclosure requirements, when made effective, would apply to applicants who have applied for Section 108 loan guarantee assistance, or who were approved for Section 108 assistance, on or before the effective date of the regulations.

Response

Section 12.32(c)(1) of the Reform Act final rule (56 FR 11047) requires applicants to update disclosures during the period in which an application for assistance is pending, or during the period in which the assistance is being provided. In the preamble to the proposed rule, the Department listed the stages at which updates should be made as follows: "The Department believes that updates should cover three areas: Information that should have been reported at the application stage, but was not; information that would have been subject to disclosure, but that initially arose after the application stage; and changes in previously disclosed information that represents a change in previously reported information and is important to carrying out the disclosure requirements of section 102(c)." (*See* 55 FR 25041.) Section 12.32(c)(2) of the Reform Act final rule clarifies the period of time covered by the terms—application pending, and assistance being provided.

6. Section 108 Final Rule Should Incorporate the Provisions of Section 910(f) of the 1990 Act

Section 910(f) of the 1990 Act, entitled "Debt Payment Assistance," provides that the Secretary may, "to the extent approved in appropriations Acts, assist the issuer of a note or other obligation guaranteed under this section in the payment of all or a portion of the principal and interest amount due under the note or other obligation, if the Secretary determines that the issuer is unable to pay the amount because of circumstances of extreme hardship beyond the control of the issuer."

Comment

One commenter stated that the May 9, 1991 proposed rule did not incorporate section 910(f) of the 1990 Act, and requested that the final rule incorporate this provision.

Response

The Department does not intend to seek an appropriation to implement

section 910(f) of the 1990 Act. In the absence of an appropriation, incorporation of this provision may well lead to unrealistic expectations that the Department can provide relief if a loan cannot be repaid from the intended sources. Both the Department and the public entity will be better served if loans are underwritten on the basis of repayment without reliance on further assistance under section 910(f).

7. Activity Descriptions in Proposed Application and Final Application. (§ 570.704(a))

In addition to changes made as a result of comments received on the May 9, 1991 proposed rule, § 570.704(a)(1) has been changed pursuant to comments received on a proposed rule amending 24 CFR part 570, published in the **Federal Register** on March 28, 1990 (55 FR 11556). Changes to §§ 570.704(a)(1) (i) and (iv) will provide for more uniformity with respect to the description of each activity in the proposed application and the description of that activity in the final application.

8. Submission of Request for Release of Funds and Related Certification. (§ 570.704(d))

Section 570.704(d) has been modified to make it clear that all public entities, including nonentitlement public entities, shall submit the request for release of funds (RROF) and related certification with respect to each project assisted with guaranteed loan funds to the appropriate HUD Field Office. Although States are statutorily authorized to assume environmental responsibilities with respect to grants made under subpart I (including the approval of the RROF and related certification), no statutory authority exists for States to assume these responsibilities with respect to loans guaranteed under subpart M. Since guaranteed loan funds are administered by States in accordance with essentially the same requirements that apply to grants under subpart I, the change to § 570.704(d) is necessary to avoid confusion regarding environmental responsibilities.

9. Certification by the State Assisting a Nonentitlement Public Entity. (§ 570.704(b))

An application submitted by a nonentitlement public entity must include certain certifications (described in § 570.704(b)(9)) by the State assisting the public entity in submission of its application. Section 570.704(b)(9)(iii) has been revised to require that at least 70 percent of the aggregate use of CDBG funds received by the State, guaranteed loan funds, and program income during the one, two, or three consecutive years specified by the State for its CDBG program will be for activities that benefit low and moderate income persons. This percentage was omitted in the May 9, 1991 Section 108 Program rule.

10. Displacement, Relocation, Acquisition and Replacement of Housing. (§ 570.704(e))

Section 570.704(e) has been changed to make it clear that requirements imposed under §§ 570.496a and 570.606 with respect to replacement of housing pertain to replacement of low/moderate-income housing.

Other Matters

Environmental Impact

At the time of publication of the proposed rule, a Finding of No Significant Impact with respect to the environment was made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The initial Finding of No Significant Impact remains applicable to this final rule, and is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410.

Impact on the Economy

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it does not (1) have an annual effect on the economy of $100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Impact on Small Entities

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities. The rule implements certain changes made to the Section 108 Program by the Cranston-Gonzalez National Affordable Housing Act of 1990. One of the changes made to the program by this Act is to make nonentitlement public entities eligible for Section 108 Loan Guarantee Assistance. Thus, the rule increases the number of public entities eligible for assistance under this program. While this may have a beneficial impact on an increased number of small entities (units of general local government), the number of entities that may be affected by this rule is not considered to be substantial, nor is the economic impact considered to be significant.

Regulatory Agenda

This rule was listed as sequence number 1459 in the Department's Semiannual Agenda of Regulations published on October 21, 1991 (56 FR 53380, 53418) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

Executive Order 12606, The Family

The General Counsel, as the Designated Official under Executive Order 12606, The Family, has determined that this rule does not have potential for significant impact on family formation, maintenance, and general well-being, and, thus, is not subject to review under the Order. No significant change in existing HUD policies or programs will result from promulgation of this rule, as those policies and programs relate to family concerns.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies contained in this rule will not have substantial direct effects on the States or their political subdivisions, or the relationship between the Federal government and the States, or on the distribution of power and responsibilities among the various levels of government. Specifically, this rule proposes to implement statutory requirements affecting eligible applicants, eligible activities, allocation of loan guarantee assistance, and loan terms under the Section 108 Program. These requirements do not impinge upon the relationship between the Federal government and State and local governments. As a result, the rule is not subject to review under the Order.

List of Subjects in 24 CFR Part 570

Administrative practice and procedure, American Samoa, Community development block grants; Grant programs—housing and community development; Grant

programs—education, Guam, Lead poisoning, Loan programs—housing and community development; Low and moderate income housing; Northern Mariana Islands, Pacific Islands Trust Territory, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands, Student aid.

Accordingly, 24 CFR part 570, subpart M, is amended as follows:

PART 570—COMMUNITY DEVELOPMENT BLOCK GRANTS

1. The authority citation for 24 CFR part 570 is revised to read as follows:

Authority: Title I, Housing and Community Development Act of 1974, as amended (42 U.S.C. 5300–5320); Sec. 102, Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235, approved December 15, 1989); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. 24 CFR part 570, subpart M, consisting of §§ 570.700 to 570.710, is revised to read in its entirety as follows:

Subpart M—Loan Guarantees

Sec.

570.700 Purpose.
570.701 Definitions.
570.702 Eligible applicants.
570.703 Eligible activities.
570.704 Application requirements.
570.705 Loan requirements.
570.706 Federal guarantee.
570.707 Applicability of rules and regulations.
570.708 Sanctions.
570.709 Allocation of loan guarantee assistance.
570.710 State responsibilities.

Subpart M—Loan Guarantees

§ 570.700 Purpose.

This subpart contains requirements governing the guarantee under section 108 of the Act of notes or other obligations issued by public entities or by public agencies designated by public entities.

§ 570.701 Definitions.

Designated public agency means a public agency designated by a public entity to receive a loan guarantee under this subpart.

Entitlement public entity means a metropolitan city or an urban county receiving a grant under subpart D of this part.

Guaranteed loan funds means the proceeds from the issuance of notes or other obligations that are guaranteed under this subpart.

Nonentitlement public entity means a unit of general local government in a nonentitlement area.

Public entity means any unit of general local government, including units of general local government in a nonentitlement are

§ 570.702 Eligible applicants.

The following public entities may apply for loan guarantee assistance under this subpart.

(a) Entitlement public entities.

(b) Nonentitlement public entities that are assisted in the submission of applications by States that administer the CDBG program (under subpart I of this part). Such assistance shall consist, at a minimum, of the certifications required under § 570.704(b)(9) (and actions pursuant thereto).

§ 570.703 Eligible activities.

Guaranteed loan funds may be used for the following activities, provided such activities meet the requirements of § 570.200. However, guaranteed loan funds may not be used to reimburse the CDBG program account or line of credit for costs incurred by the public entity or designated public agency and paid with CDBG grant funds or program income.

(a) Acquisition of improved or unimproved real property in fee or by long-term lease, including acquisition for economic development purposes.

(b) Rehabilitation of real property owned or acquired by the public entity or its designated public agency.

(c) Payment of interest on obligations guaranteed under this subpart.

(d) Relocation payments and other relocation assistance for individuals, families, businesses, nonprofit organizations, and farm operations who must relocate permanently or temporarily as a result of an activity financed with guaranteed loan funds, where the assistance is—

(1) Required under the provisions of §§ 570.496a (b) or (c) or 570.606 (b) or (c); or

(2) Determined by the public entity to be appropriate under the provisions of §§ 570.496a(d) or 570.606(d).

(e) Clearance, demolition and removal, including movement of structures to other sites, of buildings and improvements on real property acquired or rehabilitated pursuant to paragraphs (a) and (b) of this section.

(f) Site preparation, including construction, reconstruction, or installation of public improvements, utilities, or facilities (other than buildings) related to the redevelopment or use of the real property acquired or rehabilitated pursuant to paragraphs (a) and (b) of this section.

(g) Payment of issuance, underwriting, servicing, and other costs associated with private sector financing of notes or other obligations guaranteed under this subpart.

(h) Housing rehabilitation eligible under § 570.202.

(i) The following economic development activities:

(1) Activities eligible under § 570.203;

(2) Community economic development projects eligible under § 570.204;

(3) Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities (except for buildings for the general conduct of government), site improvements, and utilities, for an economic development purpose.

(j) Construction of housing by nonprofit organizations for homeownership under section 17(d) of the United States Housing Act of 1937 (Housing Development Grants Programs, 24 CFR part 850) or title VI of the Housing and Community Development Act of 1987 (Nehemiah Housing Opportunity Grants Program, 24 CFR part 280).

(k) A debt service reserve to be used in accordance with requirements specified in the contract entered into pursuant to § 570.705(b)(1).

§ 570.704 Application requirements.

(a) *Presubmission and citizen participation requirements.* (1) Before submission of an application for loan guarantee assistance to HUD, the public entity must:

(i) Develop a proposed application that includes the following items: (A) The community development objectives the public entity proposes to pursue with the guaranteed loan funds.

(B) The activities the public entity proposes to carry out with the guaranteed loan funds. Each activity must be described in sufficient detail, including the specific provision of § 570.703 under which it is eligible and the national objective to be met, amount of guaranteed loan funds expected to be used, and location, to allow citizens to determine the degree to which they will be affected. The proposed application must indicate which activities are expected to generate program income. The application must also describe where citizens may obtain additional information about proposed activities.

(C) A description of the pledge of grants required under § 570.705(b)(2). In the case of applications by nonentitlement public entities, the description shall note that the pledge of grants will be made by the State.

(ii) Fulfill the applicable requirements in its citizen participation plan developed in accordance with § 570.704(a)(2).

(iii) Publish community-wide its proposed application so as to afford affected citizens an opportunity to examine the application's contents and to provide comments on the proposed application.

(iv) Prepare its final application. Once the public entity has held the public hearing and published the proposed application as required by paragraphs (a)(1) (ii) and (iii) of this section, respectively, the public entity must consider any such comments and views received and if the public entity deems appropriate, modify the proposed application. Upon completion, the public entity must make the final application available to the public. The final application must describe each activity in sufficient detail to permit a clear understanding of the nature of each activity, as well as identify the specific provision of § 570.703 under which it is eligible, the national objective to be met, and the amount of guaranteed loan funds to be used. The final application must also indicate which activities are expected to generate program income.

(v) If an application for loan guarantee assistance is to be submitted by an entitlement public entity simultaneously with the public entity's submission for its entitlement grant, the public entity shall include and identify in its proposed and final statements of community development objectives and projected use of funds prepared for its annual grant pursuant to § 570.301 the activities to be undertaken with the guaranteed loan funds, the national objective to be met by each of these activities, the amount of any program income expected to be received during the program year, and the amount of guaranteed loan funds to be used; the public entity shall also include in these statements a description of the pledge of grants required under § 570.705(b)(2). In such cases the proposed and final application requirements of paragraphs (a)(1) (i), (iii), and (iv) of this section will be deemed to have been met.

(2) *Citizen participation plan.* The public entity must develop and follow a detailed citizen participation plan and make the plan public. The plan must be completed and available before the application is submitted to HUD. The plan may be the plan required for the CDBG program, modified to include guaranteed loan funds. The public entity is not required to hold a separate public hearing for its CDBG program and for the guaranteed loan funds to obtain citizens' views on community development and housing needs. The plan must set forth the public entity's policies and procedures for:

(i) Giving citizens timely notice of local meetings and reasonable and timely access to local meetings, information, and records relating to the public entity's proposed and actual use of guaranteed loan funds, including, but not limited to:

(A) The amount of guaranteed loan funds expected to be made available for the coming year, including program income anticipated to be generated by the activities carried out with guaranteed loan funds;

(B) The range of activities that may be undertaken with guaranteed loan funds;

(C) The estimated amount of guaranteed loan funds (including program income derived therefrom) proposed to be used for activities that will benefit low and moderate income persons;

(D) The proposed activities likely to result in displacement and the public entity's plans, consistent with the policies developed under § 570.606 or § 570.496a for minimizing displacement of persons as a result of its proposed activities.

(ii) Providing technical assistance to groups representative of persons of low and moderate income that request assistance in developing proposals. The level and type of assistance to be provided is at the discretion of the public entity. Such assistance need not include the provision of funds to such groups.

(iii) Holding a minimum of two public hearings, each at a different stage of the public entity's program, for the purpose of obtaining the views of citizens and formulating or responding to proposals and questions. Together the hearings must address community development and housing needs, development of proposed activities and review of program performance. At least one of these hearings must be held before submission of the application to obtain the views of citizens on community development and housing needs. Reasonable notice of the hearing must be provided and the hearing must be held at times and locations convenient to potential or actual beneficiaries, with accommodation for the handicapped. The public entity must specify in its plan how it will meet the requirement for a hearing at times and locations convenient to potential or actual beneficiaries.

(vi) Meeting the needs of non-English speaking residents in the case of public hearings where a significant number of non-English speaking residents can reasonably be expected to participate.

(v) Providing affected citizens with reasonable advance notice of, and opportunity to comment on, proposed activities not previously included in an application and activities which are proposed to be deleted or substantially changed in terms of purpose, scope, location, or beneficiaries. The criteria the public entity will use to determine what constitutes a substantial change for this purpose must be described in the citizen participation plan.

(vi) Responding citizens complaints and grievances, including the procedures that citizens must follow when submitting complaints and grievances. The public entity's policies and procedures must provide for timely written answers to written complaints and grievances within 15 working days where practicable of the receipt of the complaint.

(vii) Encouraging citizen participation, particularly by low and moderate income persons who reside in slum or blighted areas, and other areas in which guaranteed loan funds are proposed to be used.

(b) *Submission requirements.* An application for loan guarantee assistance may be submitted at any time. The application (or final statement) shall be submitted to the appropriate HUD field office and shall be accompanied by the following:

(1) A description of how each of the activities to be carried out with the guaranteed loan funds meets one of the criteria in § 570.208.

(2) A schedule for repayment of the loan which identifies the sources of repayment.

(3) For entitlement public entities only, a certification providing assurance that the public entity possesses the legal authority to make the pledge of grants required under § 570.705(b)(2).

(4) A certification providing assurance that the public entity has made efforts to obtain financing for activities described in the application without the use of the loan guarantee, the public entity will maintain documentation of such efforts for the term of the loan guarantee, and the public entity cannot complete such financing consistent with the timely execution of the program plans without such guarantee.

(5) The drug-free workplace certification required under 24 CFR part 24 (appendix C).

(6) The certification regarding debarment and suspension required under 24 CFR part 24 (appendix A).

(7) The anti-lobbying statement required under 24 CFR part 87 (Appendix A).

(8) Certifications by the public entity that:

(i) It possesses the legal authority to submit the application for assistance under this subpart and to use the guaranteed loan funds in accordance with the requirements of this subpart.

(ii) Its governing body has duly adopted or passed as an official act a resolution, motion or similar action authorizing the person identified as the official representative of the public entity to submit the application and amendments thereto and all understandings and assurances contained therein, and directing and authorizing the person identified as the official representative of the public entity to act in connection with the application to provide such additional information as may be required.

(iii) Before submission of its application to HUD, the public entity has:

(A) Furnished citizens with information required by § 570.704(a)(2)(i);

(B) Held at least one public hearing to obtain the views of citizens on community development and housing needs; and

(C) Prepared its application in accordance with § 570.704(a)(1)(iv) and made the application available to the public.

(iv) It is following a detailed citizen participation plan which meets the requirements described in § 570.704(a)(2).

(v) The public entity will affirmatively further fair housing, and the guaranteed loan funds will be administered in compliance with:

(A) Title VI of the Civil Rights Act of 1964 (Pub. L. 88–352, 42 U.S.C. 2000d *et seq.*); and

(B) The Fair Housing Act (42 U.S.C. 3601–20).

(vi) (For entitlement public entities only) In the aggregate, at least 70 percent of all CDBG funds, as defined at § 570.3(e), to be expended during the one, two, or three consecutive years specified by the public entity for its CDBG program will be for activities which benefit low and moderate income persons, as described in criteria at § 570.208(a).

(vii) It will comply with the requirements governing displacement, relocation, real property acquisition, and the replacement of low and moderate income housing described in § 570.496a or § 570.606.

(viii) It will comply with the requirements of § 570.200(c)(2) with regard to the use of special assessments to recover the capital costs of activities assisted with guaranteed loan funds.

(ix) (Where applicable, the public entity may also include the following additional certification.) It lacks sufficient resources from funds provided under this subpart or program income to allow it to comply with the provisions of § 570.200(c)(2), and it must therefore assess properties owned and occupied by moderate income persons, to recover the guaranteed loan funded portion of the capital cost without paying such assessments in their behalf from guaranteed loan funds.

(x) It will comply with the other provisions of the Act and with other applicable laws.

(9) In the case of an application submitted by a nonentitlement public entity, certifications by the State that:

(i) It agrees to make the pledge of grants required under § 570.705(b)(2).

(ii) It possessed the legal authority to make such pledge.

(iii) At least 70 percent of the aggregate use of CDBG grant funds received by the State, guaranteed loan funds, and program income during the one, two, or three consecutive years specified by the State for its CDBG program will be for activities that benefit low and moderate income persons.

(iv) It agrees to assume the responsibilities described in § 570.710.

(c) *HUD review and approval of applications.* (1) HUD will normally accept the certifications submitted with the application. HUD may, however, consider relevant information which challenges the certifications and require additional information or assurances from the public entity or State as warranted by such information.

(2) The field offices shall review the application for compliance with requirements specified in this subpart and forward the application together with its recommendation for approval or disapproval of the requested loan guarantee to HUD Headquarters.

(3) HUD may disapprove an application, or may approve loan guarantee assistance for an amount less than requested, for any of the following reasons:

(i) HUD determines that the guarantee constitutes an unacceptable financial risk. Factors that will be considered in assessing financial risk shall include, but not be limited to, the following:

(A) The length of the proposed repayment period;

(B) The ratio of expected annual debt service requirements to expected annual grant amount;

(C) The likelihood that the public entity or State will continue to receive grant assistance under this part during the proposed repayment period; and

(D) The public entity's ability to furnish adequate security pursuant to § 570.705(b).

(ii) The requested loan amount exceeds any of the limitations specified under § 570.705(a).

(iii) Funds are not available in the amount requested.

(iv) The performance of the public entity or State under this part is unacceptable.

(v) Activities to be undertaken with the guaranteed loan funds are not eligible under § 570.703.

(vi) Activities to be undertaken with the guaranteed loan funds do not meet the criteria in § 570.208 for compliance with one of the national objectives of the Act.

(4) HUD will notify the public entity in writing that the loan guarantee request has either been approved, reduced or disapproved. If the request is reduced or disapproved, the public entity shall be informed of the specific reasons for reduction or disapproval. If the request is approved, HUD shall issue an offer of commitment to guarantee obligations of the public entity or the designated public agency subject to such conditions as HUD may prescribe, including the conditions for release of funds described in paragraph (d) of this section.

(5) *Amendments.* If the public entity wishes to carry out an activity not previously described in its application or to substantially change the purpose, scope, location, or beneficiaries of an activity, the amendment must be approved by HUD. Amendments by nonentitlement public entities must also be approved by the State. The public entity shall follow the citizen participation requirements for amendments in § 570.704(a)(2).

(d) *Environmental review.* The public entity shall comply with HUD environmental review procedures (24 CFR part 58) for the releases of funds for each project carried out with loan guarantee assistance. These procedures set forth the regulations, policies, responsibilities and procedures governing the carrying out of environmental review responsibilities of public entities. All public entities, including nonentitlement public entities, shall submit the request for release of funds and related certification for each project to be assisted with guaranteed loan funds to the appropriate HUD Field Office.

(e) *Displacement, relocation, acquisition, and replacement of housing.* The public entity (or the designated public agency) shall comply with the displacement, relocation, acquisition and replacement of low/moderate-

income housing requirements in §§ 570.496a or 570.606 in connection with any activity financed in whole or in part with guaranteed loan funds.

(Approved by the Office of Management and Budget under control number 2506–0123)

§ 570.705 Loan requirements.

(a) *Limitation on commitments.* (1) If loan guarantee commitments have been issued in any fiscal year in an aggregate amount equal to 50 percent of the amount approved in an appropriation act for that fiscal year, HUD may limit the amount of commitments any one public entity may receive during such fiscal year as follows (except that HUD will not decrease commitments already issued):

(i) The amount any one entitlement public entity may receive may be limited to $35,000,000.

(ii) The amount any one nonentitlement public entity may receive may be limited to $7,000,000.

(iii) The amount any one public entity may receive may be limited to such amount as is necessary to allow HUD to give priority to applications containing activities to be carried out in areas designated as enterprise zones by the Federal Government or by any State.

(2) In addition to the limitations specified in paragraph (a)(1) of this section, the following limitations shall apply.

(i) *Entitlement public entities.* No commitment to guarantee shall be made if the total outstanding notes or obligations guaranteed under this subpart (excluding any amount defeased under the contract entered into under § 570.705(b)(1)) on behalf of the public entity and its designated public agency would thereby exceed an amount equal to five times the amount of the most recent grant made pursuant to § 570.304 to the public entity.

(ii) *Nonentitlement public entities.* No commitment to guarantee shall be made if the total outstanding notes or obligations guaranteed under this subpart (excluding any amount defeased under the contract entered into under § 570.705(b)(1)) on behalf of the public entity and other public entities assisted by a State would thereby exceed an amount equal to five times the amount of the most recent grant received by such State under subpart I of this part.

(b) *Security requirements.* To assure the repayment of notes or other obligations and charges incurred under this subpart and as a condition for receiving loan guarantee assistance, the public entity (and State or designated public agency, where appropriate) shall:

(1) Enter into a contract with HUD, in a form acceptable to HUD, for repayment of notes or other obligations guaranteed hereunder;

(2) Pledge all grants made or for which the public entity or State may become eligible under this part; and

(3) Furnish, at the discretion of HUD, such other security as may be deemed appropriate by HUD in making such guarantees. Other security shall be required for all loans with repayment periods of ten years or longer. Such other security shall be specified in the contract entered into pursuant to § 570.705(b)(1). Examples of other security HUD may require are:

(i) program income as defined in § 570.500(a);

(ii) liens on real and personal property;

(iii) debt service reserves; and

(iv) increments in local tax receipts generated by activities carried out with the guaranteed loan funds.

(c) *Use of grants for loan repayment.* Notwithstanding any other provision of this part:

(1) Community Development Block Grants allocated pursuant to section 106 of the Act (including program income derived therefrom) maybe used for:

(i) Paying principal and interest due (including such servicing, underwriting, or other costs as may be authorized by HUD) on the notes or other obligations guaranteed pursuant to this subpart;

(ii) Defeasing notes or other obligations guaranteed pursuant to this subpart; and

(iii) Establishing debt service reserves as additional security pursuant to paragraph (b)(3) of this section.

(2) HUD may apply grants pledged pursuant to paragraph (b)(2) of this section to any amounts due under the notes or other obligations guaranteed pursuant to this subpart, the payment of costs of issuance of notes or other obligations guaranteed pursuant to this subpart, or to the purchase or defeasance of such notes or other obligations, in accordance with the terms of the contract required by paragraph (b)(1) of this section.

(d) *Debt obligations.* Notes or other obligations guaranteed under this subpart shall be in the form and denominations prescribed by HUD. Such notes or other obligations may be issued and sold only under such terms and conditions as may be prescribed by HUD.

(e) *Taxable obligations.* Interest earned on obligations guaranteed under this subpart shall be subject to Federal taxation as provided in section 108(j) of the Act. All public entities or designated public agencies issuing guaranteed obligations must bear the full cost of interest.

(f) *Loan repayment period.* The repayment period for a loan guaranteed under this subpart shall not exceed twenty years.

(g) *Issuance, underwriting, servicing, and other costs.* Each public entity or its designated public agency issuing guaranteed obligations must pay the issuance, underwriting, servicing, and other costs associated with the private sector financing of the guaranteed obligations. Such costs are payable out of the guaranteed loan funds.

§ 570.706 Federal guarantee.

The full faith and credit of the United States is pledged to the payment of all guarantees made under this subpart. Any such guarantee made by HUD shall be conclusive evidence of the eligibility of the obligations for such guarantee with respect to principal and interest, and the validity of such guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligations.

§ 570.707 Applicability of rules and regulations.

(a) *Entitlement public entities.* The provisions of subparts A, C, J, K and O of this part applicable to entitlement grants shall apply equally to guaranteed loan funds and other CDBG funds, except to the extent they are specifically modified or augmented by the provisions of this subpart.

(b) *Nonentitlement public entities.* The provisions of subpart I and the requirement the State imposes on units of general local government receiving Community Development Block Grants or program income shall apply equally to guaranteed loan funds and Community Development Block Grants (including program income derived therefrom) administered by the State under the CDBG program, except to the extent they are specifically modified or augmented by the provisions of this subpart.

(Approved by the Office of Management and Budget under control number 2506–0123)

§ 570.708 Sanctions.

(a) *Entitlement public entities.* The performance review procedures described in subpart O of this part apply to entitlement public entities receiving guaranteed loan funds. Performance deficiencies in the use of guaranteed loan funds (or program income derived therefrom) or violations of the contract entered into pursuant to § 570.705(b)(1) may result to the imposition of a sanction authorized pursuant to § 570.900(b)(7) against the pledged entitlement grants. In addition, upon a

finding by HUD that the public entity has failed to comply substantially with any provision of the Act with respect to either the pledged entitlement grants or the guaranteed loan funds or program income, HUD may take action against the pledged grants as provided in § 570.913 and/or may take action as provided in the contract.

(b) *Nonentitlement public entities.* Performance deficiencies in the use of guaranteed loan funds (or program income derived therefrom) or violations of the contract entered into pursuant to § 570.705(b)(1) may result in an action authorized pursuant to §§ 570.499 or 570.499a. In addition, upon a finding by HUD that the public entity has failed to comply substantially with any provision of the Act with respect to the pledged CDBG nonentitlement funds, the guaranteed loan funds, or program income, HUD may take action against the pledged funds as provided in § 570.499a and/or may take action as provided in the contract.

§ 570.709 Allocation of loan guarantee assistance.

Of the amount approved is any appropriation act for guarantee under this subpart in any fiscal year, 70 percent shall be allocated for entitlement public entities and 30 percent shall be allocated for nonentitlement public entities. HUD may waive these percentage requirements in any fiscal year to the extent that there is an absence of qualified public entities or proposed activities from entitlement or nonentitlement public entities.

§ 570.710 State responsibilities.

The State is responsible for choosing public entities that it will assist under this subpart. States are free to develop procedures and requirements for determining which activities will be assisted, subject to the requirements of this subpart. Upon approval by HUD of an application from a nonentitlement public entity, the State will be responsible for ensuring that the public entity complies with all applicable requirements governing the use of the guaranteed loan funds. The State shall administer guaranteed loan funds in the same manner as it administers Community Development Block Grant funds distributed to units of general local government. Notwithstanding the State's responsibilities described above, HUD will also have responsibility for ensuring compliance with requirements affecting the security interests of HUD with respect to the guaranteed loan.

Dated: October 28, 1991.

Anna Kondratas,

Assistant Secretary for Community Planning and Development.

[FR Doc. 91-26752 Filed 11-5-91; 8:45 am]

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Federal Register

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November 6 1991

Part VI

Department of Education

34 CFR Part 690
Pell Grant Program; Final Regulations

DEPARTMENT OF EDUCATION

34 CFR Part 690

Pell Grant Program

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the Pell Grant Program regulations to clarify them, to make minor technical changes, and to implement statutory changes made to the Higher Education Act of 1965, as amended (HEA) by the Higher Education Amendments of 1986, and the Consolidated Omnibus Budget Reconciliation Act of 1985.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments, with the exception of §§ 690.77 and 690.83. Sections 690.77 and 690.83 will become effective after the information collection requirements contained in those sections have been submitted by the Department of Education and approved by the Office of Management and Budget under the Paperwork Reduction Act of 1980. If you want to know the effective date of these regulations, call or write the Department of Education contact person. A document announcing the effective date will be published in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Joyce R. Coates, Program Specialist, Pell Grant Branch, Division of Policy and Program Development, U.S. Department of Education, 400 Maryland Avenue, SW. (room 4318, ROB-3), Washington, DC 20202, (202) 708-7888. Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

SUPPLEMENTARY INFORMATION: On September 12, 1990, the Secretary published a notice of proposed rulemaking (NPRM) for 34 CFR part 690 in the **Federal Register** (55 FR 37610-37613). Part 690 contains the regulations governing the Pell Grant Program. The changes to the Pell Grant regulations implement statutory changes, make technical corrections, and clarify the current regulations. The NPRM included a discussion of the major issues surrounding the proposed changes. The following list summarizes those changes and identifies the pages of the preamble to the NPRM on which discussion of those issues may be found:

Change in terminology used on the Student Aid Report (SAR) from Student Aid Index to Pell Grant Index (page 37610);

Revision to the definition of Valid Student Aid Report (page 37610);

Change in terminology from Pell Grant Electronic Data Exchange to Electronic Data Exchange (page 37610);

Modification of the definition of "payment period" (page 37610);

Clarification of the requirement that an institution may make a second payment only after the student has completed the credit hours for which the student has been paid (page 37610);

Revision to clarify that an institution may pay funds in one lump sum for prior payment periods within the award year (page 37610);

Clarification of conditions for first disbursement without a valid SAR (pages 37610-37611);

Clarification of circumstances under which an institution may credit a student's account for tuition and fees, room and board (page 37611);

Amendment to provide that a student is ineligible for a Pell Grant if the student received an overpayment at any institution (page 37611);

Change in terminology from Payment Document to Payment Voucher (page 37611);

Change in the deadline date for the final submission of Payment Vouchers to September 30 following the end of an award year (page 37611);

Requirement that an institution submit certain Payment Vouchers during the institutions's next required reporting period (page 37611); and

Amendment to assess a fine per violation if an institution fails to meet reporting requirements for the submission of Payment Vouchers and other reports (page 37611).

These final regulations contain one major change from the NPRM. The deadline for the submission of Payment Vouchers for a given award year is revised from September 30 to October 31 following that award year. A more detailed discussion of this change is found in the Analysis of Comments and Changes.

These regulations also contain changes in §§ 690.2, 690.3, 690.63, 690.64, 690.75, 690.76, 690.77, 690.78, 690.79, 690.83, and 690.84 that are technical, implement statutory changes, or clarify existing policies and procedures.

Analysis of Comments and Changes

In response to the Secretary's invitation in the NPRM, 225 parties submitted comments on the proposed regulations. An analysis of the comments and of any changes in the regulations since publication of the NPRM follows.

Substantive issues are discussed under the section of the regulations to which they pertain. Technical and other minor changes—and suggested changes that the Secretary is not legally authorized to make under the applicable statutory authority—are not addressed.

Section 690.2 General Definitions

Comments: Most commenters supported the proposed changes to the general definitions found in this section. Seven commenters supported the signature requirement for the Electronic Data Exchange that institutions need only obtain a signature by one of the applicant's parents if the applicant is a dependent student. Two commenters opposed this change because they believed requiring even one parental signature on the Electronic Student Aid Report (ESAR) is a deterrent to electronic processing; these commenters recommended that the requirement for signatures be eliminated. Seven commenters supported the name change from Pell Grant Electronic Data Exchange to Electronic Data Exchange. Two commenters opposed the name change because of concern that too many changes have been made recently.

Discussion: The Secretary revised the definition of a Valid Student Aid Report to further reduce the administrative burden on institutions and students. The Secretary changed the name Pell Grant Electronic Data Exchange to Electronic Data Exchange to reflect the expanded use of the electronic exchange system for all programs administered under Title IV of the Higher Education Act of 1965, as amended.

Changes: A change has been made. The definition of a Valid SAR provides that, for the purpose of the ESAR, a parent's or spouse's signature is required only when the student is correcting the ESAR. If no corrections are necessary, only the student's signature is required. If all information on the ESAR is accurate, no parent's or spouse's signature is needed if the student is a dependent student; if the student is an independent student, no spouse's signature is needed. However, the student's signature is always required.

Section 690.75 Determination of Eligibility for Payment

Comments: Several commenters expressed concern with the proposed requirement to withhold payments to students until the student has completed the required credit hours for which he or she has been paid, if the student is enrolled in an eligible program that is measured in credit hours and that does

not have academic terms. The commenters asserted that this proposal defeats the intent of the law recognizing the eligibility of less-than-half-time students. Moreover, these commenters claimed that this provision will deny payment to the neediest students for direct educational costs until long after the expenses are incurred. They also indicated that this proposal would create undue hardship for these students. A few commenters recommended that this provisions be deleted. Two commenters strongly opposed the provision that permits Pell Grant awards to less-than-half-time students. They asserted that awards to less than half-time students will be administratively burdensome and lead to an increase in program abuse. Two commenters supported the less-than-half-time eligibility provision for a Pell Grant; they indicated that less than half-time eligibility will encourage greater college attendance.

Discussion: The Secretary would like to clarify the provisions requiring an institution to withhold payments to a student until the student has completed the required credit hours for which he or she has been paid, if the student is enrolled in an eligible program that is measured in credit hours and that does not have academic terms. Under the Department's current policy (which has been a longstanding financial aid practice), a student is not eligible for a second payment until the student has completed the required clock hours for which he or she has been paid. In other words, the hours for which a first disbursement was made must be completed before a second disbursement may be made. Under the proposed provision of § 690.75, the Secretary is including the completion of credit hours under this policy for those programs that do not have academic terms.

The NPRM included provisions for the eligibility of certain less-than-half-time students for award years 1989–90 and 1991–92. The policy changes discussed above regarding credit hours were construed by the commenters to be changes that are connected in some way with less-than-half-time eligibility; they are separate and unrelated. The provision regarding credit hours does not defeat the intent of the statute regarding the eligibility of less-than-half-time students. It simply requires a less-than-half-time student, with all other students, to complete the requisite number of credit hours before the student is eligible for a second payment.

These regulations do not include provisions for the eligibility of less-than-half-time students for the following reasons. First, the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1990 provides eligibility for less-than-half-time students for award year 1989–90. A student who, for award year 1989–90, was enrolled as an undergraduate student on a less-than-half-time basis, had a PGI less than or equal to zero, received a Pell Grant for a period of enrollment before January 1, 1990, and was otherwise eligible, was eligible to receive a Pell Grant for less-than-half-time attendance. These statutory conditions are not provided in these regulations, given that the award year has been completed. Secondly, since the publication of the NPRM, the eligibility of less-than-half-time students was rescinded for award year 1991–92 by the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 1991.

Changes: The less-than-half-time eligibility provisions were deleted.

Section 690.76 Frequency of Payment

Comments: Seven commenters concurred with the proposal that an institution may pay funds in one lump sum for all the prior payment periods for which the student was an eligible student within that award year, based on the coursework completed by the student. All commenters believed it would greatly decrease the administrative workload.

Discussion: The Secretary agrees with the commenters that this provision will reduce administrative burden.

Changes: None.

Section 690.77 Initial Disbursement of a Pell Grant in an Award Year Without a Valid SAR

Comments: One commenter indicated an appreciation for the clarification regarding the initial disbursement of a Pell Grant without a valid SAR. One commenter opposed this change because the commenter believed that the change would only assist highly computerized institutions which inherently have fewer problems delivering aid to students promptly than do institutions that are not computerized.

Discussion: The Secretary proposed this clarification to reflect changes to the new student aid delivery system for the 1990–91 award year. While the Secretary encourages the use of electronic systems to provide prompt delivery of aid to students, and while there is a greater burden placed on institutions that do not choose to be computerized, an institution does not have to be computerized in order to make an initial disbursement without a valid SAR. However, the Secretary believes that this clarification is necessary to ensure that an institution uses the PGI produced by the Secretary for awarding and disbursing Pell Grant funds.

Changes: None.

Section 690.78 Method of Disbursement—by Check or Credit to a Student's Account

Comments: A few commenters objected to the requirement that prohibits an institution from including any charges other than tuition and fees, room, and board in determining which outstanding charges may be paid by a credit to a student's account, if a student has not picked up his or her check within 15 days after the student's enrollment. These commenters indicated that under current regulations any amount owed by the student to the institution for educational costs should be allowed to be paid by a credit to the student's account.

Discussion: The Secretary included this provision in the NPRM to clarify that the statutory requirement regarding the crediting of a student's account also applies in the case where the student did not pick up his or her check within 15 days after the end of the student's enrollment. Section 411(e) of the HEA expressly provides that any disbursement to be made by crediting a student's account is generally limited to tuition and fees, room and board. Under Section 690.78(a)(2) of the current regulations, unless the student has agreed otherwise, an institution may only credit tuition and fees, room and board to a student's account. The Secretary would also like to emphasize that if an institution has, without a student's agreement, credited an account for expenses other than tuition and fees, room and board, the institution has not been following the statutory and regulatory requirements and may be subject to a fine and corrective actions.

Changes: None.

Section 690.79 Recovery of Overpayments

Comments: Two commenters agreed with the proposed change to the regulations regarding a student's ineligibility for Title IV aid due to an overpayment. One commenter opposed this change because of its effect on transfer students. He indicated that, in the case of a student who transfers from institution A to institution, B, institution B may find itself in an overpayment situation because of a decision to

disburse a Pell Grant before the receipt of a transcript, which, when it arrives, indicates a previous overpayment. Another commenter recommended that a tracking system be established by the Department to prevent the student from receiving any future Student Aid Reports, and to monitor any repayments made by the student. The commenter also suggested that institutions have an approved form for referring overpayments.

Discussion: The Secretary does not have discretion with respect to making this change because this provision is required by statute. However, the Secretary appreciates all other comments regarding overpayments and will consider them in the development of future legislative proposals and any implementing regulations or delivery system changes resulting from those legislative revisions.

Changes: None.

Section 690.83 Submission of Reports

Comments: Most commenters opposed both changing the final deadline date for the submission of all SAR Payment Vouchers (or the equivalent as defined by the Secretary) for a given award year from December 31 to September 30 following the end of that award year and the imposition of fines for not submitting SAR Payment Vouchers within the reporting period following the change or transaction at issue. The commenters objected to this change in the final reporting deadline from December 31 to September 30 because September is generally regarded as the busiest month of a new school year; they asserted that this proposed deadline date will impose unnecessary burdens on institutions at a time when institutions are least able to cope with those increased burdens. The commenters also indicated that students cannot be served on a timely basis with an unworkable and unrealistic deadline date of September 30. A student-by-student reconciliation of accounts and the submission of Pell Grant reports cannot be accommodated during the Fall term enrollment period without significantly impairing the delivery of funds. Moreover, at some institutions with a second summer term starting as late as July and ending in mid-to-late August, a September 30 reporting date does not allow adequate time to reconcile prior year records. Several commenters indicated that the proposed deadline date change will impose hardship on institutions that have little or no computerized support services. One commenter believed the September 30 deadline was not an unreasonable deadline because the campus-based Fiscal Operations Report and Application to Participate (FISAP) requires the reporting of Pell Grant expenditures for the most recent year and the FISAP deadline is usually before October 1. A number of commenters suggested an October 31 deadline as a more favorable and workable deadline that would alleviate the burden imposed by the September 30 deadline. Several commenters suggested that November 30th is a more manageable deadline date.

A large number of commenters objected to the requirement that an institution submit a Payment Voucher during the institution's next required reporting period for each student whose Pell Grant award has changed as a result of changes in enrollment status, a change in the cost of attendance or a change in the student's eligibility. The commenters claimed that this reporting requirement will impose an administrative burden on institutions. Many commenters asserted that this proposed requirement will be particularly difficult for institutions that do not have the computerization capabilities necessary to provide adjustments to awards, particularly for those cases in which there is a short time frame in which to submit the changes. For example, this could occur if a student makes a change in enrollment status but the financial aid office does not receive notice of that change until after a report has been filed for that reporting period. Some commenters approved of this requirement because, while some institutions continually carry excessive authorization levels, students at other institutions are deprived because of artificially low authorization levels. Three commenters supported the requirement for the submission of Payment Vouchers during the next required reporting period because they felt that this change will ensure that the Pell Grant allocations are accurate and reflect actual and anticipated spending.

Many commenters strongly opposed the imposition of fines on institutions that fail to comply with the requirement to file reports during each required reporting period and that fail to submit Payment Vouchers (or the equivalent as defined by the Secretary) during the next required reporting period. A few commenters wanted more information to be provided in terms of how fines will be assessed, the amount of fines, and any appeal procedures. A commenter objected that consequences of failing to submit required reports, or filing inaccurate or untimely reports, were not made sufficiently clear, and that institutions must be informed of the penalties for such noncompliance, and the grounds and methods used to increase or decrease the amount of Pell Grant funds authorized and available for payment to the institution. Several commenters strongly opposed this change because there appears to be no mechanism for appeals. Other commenters indicated that the imposition of fines based on the timing of the reporting of adjustments is illogical because the behavior of students is not within the institution's control. Most commenters recommended that the proposal to fine institutions be eliminated.

Discussion: In response to the commenters' concern that the September 30 deadline for the submission of all Payment Vouchers is unreasonable and burdensome, the Secretary has reviewed the comments and determined that the need to better control the cash flow process in the Pell Grant Program makes a September 30 deadline date necessary.

The Secretary recognizes that possible additional administrative burden may be incurred by institutions. However, the increasing need to manage carefully funds appropriated for Pell Grants for each year, and the consequences for students and for the public of inadequate reporting on the control and availability of Pell Grant funds, demonstrates the need for more regular reporting. Pursuant to 20 U.S.C. § 1070a, the Department has the obligation to manage the provision of appropriated funds in such a way as to determine whether the funds already appropriated for a particular year will suffice for all Pell grants to be made for an award year. That process relies on timely receipt of information from institutions on their Pell Grant transactions, and the principal method for transmitting that information is the reporting mechanism described in § 690.83.

The revisions to the regulations made here are designed to codify the Secretary's consistent interpretation of the meaning of § 690.83, and to improve compliance with the requirement in § 690.83 that institutions timely report grant transactions. Tardiness by institutions in reporting their Pell Grant awards and adjustments to those awards can cause serious distortions in the measurement of the need for funds in the program. Failure to submit an initial SAR Payment Voucher for an award in a timely manner can cause an underestimate of funding needs, and under-allocation of funds; on the other hand, tardiness in reporting adjustments causes distortions in the assessment of the sufficiency of existing

appropriations. Unneeded funds provisionally committed by the Department of finance grants for one institution should be promptly made available to meet the actual needs of students at other institutions; tardiness by institutions in releasing their reservation of unneeded funds distorts the need for supplemental appropriations. Delays by institutions in releasing reserved but unneeded funds similarly complicate the Federal budget process by distorting the need to use out-year appropriated funds, when legally available, to meet current year grant funding needs.

The Secretary strongly believes that the benefits to the Federal Government and institutions resulting from this change far outweigh any administrative burden; institutions will benefit from reallocation of funds. The proposal to require an institution to submit its Payment Vouchers during the next required reporting period for those students whose Pell Grant awards or payments have changed as a result of changes in enrollment status, transferring, dropping out, or the loss of eligibility for future payment will better control the Pell Grant cash flow process. The Secretary considered that a large number of institutions do not submit Payment Vouchers in a timely fashion and believes it is essential to ensure that institutions' Pell Grant allocations are both adequate and accurate to serve students' needs. The Secretary believes that this change would alleviate much of the cash flow problem of managing expenditures for the Department.

The comment regarding the need to inform institutions regarding the consequences of not meeting the various reporting deadlines suggests, first, the need to clarify the consequence of failing to meet the annual SAR Payment Voucher deadline date established in § 690.83(a) at issue here. Although the eligible student who submits a valid SAR to the institution by the deadline established under § 690.61(b) for the award year in question and who meets verification requirements has an unqualified right pursuant to § 690.61 to receive a Pell Grant disbursement from the institution, the right of the institution itself to payment from the Department is governed by § 690.83(a), which requires the institution to submit for each Pell Grant recipient the SAR Payment Voucher needed to establish the amount of the individual's award. The Department promulgated § 690.83(a), like § 690.61 for the student applicant, as part of its establishment of the payment procedures for Pell Grant awards, in order to require an institution seeking payment for an award to a Pell Grant applicant, or seeking credit for Federal advances disbursed to a student recipient, to submit all supporting SAR records by the annual deadline date. The Department promulgated § 690.83(a) in 1985 to induce institutions to present their documentation for claims for funding with reasonable diligence within or shortly after the close of the award year for which the funds were appropriated, or have those claims barred.

The Department has likewise recognized, since implementation of this deadline regulation in 1985, that at times institutions have not succeeded in reporting adjustments to awards that were at least initially reported; this resulted in less serious distortions of the funding needs and availability. The Department has regarded, and continues to regard, timely initial SAR Payment Voucher submission as an essential first step in responsible compliance with the Department's reporting needs, but has not construed the annual deadline requirement in a way that would bar even minor adjustments where necessary to correct the amount needed for previously-reported awards. Imposition of that deadline in a strict manner would bar any adjustment, and, therefore, any additional payments for an institution that did not submit by that deadline, the documents needed to correct a previous report. The Department has, therefore, in annual notices establishing the deadline, interpreted the regulation to allow certain exceptions that are consistent with the intent of § 690.83 to secure accuracy as well as timeliness in award justification for those student grant accounts previously established by timely submission of a SAR record. These notices recognized certain specific circumstances in which post-deadline adjustments are allowed in order to correct individual student grant account records that were timely established by a satisfactory SAR record submission, and described procedures for such corrections. In these cases in which the Department allows an adjustment to a student recipient's account, the institution may qualify for additional funds, or for credit in the adjusted amount against Federal advances already received.

To clarify and codify the Department's interpretation of § 690.83, therefore, the interpretation included in the several annual deadline notices is now included in § 690.83 as revised in this final regulation.

There is no change to the proposal to impose fines on institutions that fail to comply with the requirement to report during each required reporting period, and that fail to submit Payment Vouchers (or the equivalent as defined by the Secretary) during the next required reporting period. In response to the request for more information concerning how fines will be assessed and the amount of fines, the Secretary is exploring various options to ensure that fines are tailored to the nature of violation. The Secretary believes that 34 CFR 668.84 provides an adequate appeal process for institutions that wish to contest fines.

Changes: None.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the order.

Assessment of Educational Impact

In the notice of proposed rulemaking, the Secretary requested comments on whether the proposed regulations would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

Based on the response to the proposed rules and on its own review, the Department has determined that the regulations in this document do not require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

List of Subjects in 34 CFR Part 690

Administrative practice and procedure, Education, Education of disadvantaged, Grant programs—education, Reporting and recordkeeping requirements, Student aid.

(Catalog of Federal Domestic Assistance Number, 84.063 Pell Grant Program)

Dated: November 1, 1991.

Lamar Alexander,

Secretary of Education.

The Secretary amends part 690 of title 34 of the Code of Federal Regulations as follows:

PART 690—PELL GRANT PROGRAM

1. The authority citation for part 690 continues to read as follows:

Authority: 20 U.S.C. 1070a through 1070a–6 unless otherwise noted.

2. Section 690.2 is amended by redesignating paragraphs (a) and (b) as paragraphs (b) and (c) respectively, and

by adding a new paragraph (a) to read as follows:

§ 690.2 General definitions.

(a) Definitions of the following terms used in this part are found in subpart A of the regulations for Institutional Eligibility under the Higher Education Act of 1965, as amended, 34 CFR part 600:

Accredited
Clock hour
Educational program
Eligible institution
One-year training program
Program of study by correspondence
Proprietary institution of higher education
Postsecondary vocational institution
Recognized equivalent of high school diploma
Secretary
Six-month training program

* * * * *

§ 690.2 [Amended]

3. In § 690.2, redesignated paragraph (b) is amended by removing the definitions for the terms Clock hour, One-year training program, Proprietary institution of higher education, Postsecondary vocational institution, Recognized equivalent of a high school diploma, Secretary, and Six-month training program.

§ 690.2 [Amended]

4. In § 690.2, redesignated paragraph (c) is amended by removing the term "Pell Grant Electronic Data Exchange", and adding in its place the term "Electronic Data Exchange"; by removing the term "Student Aid Index", and adding in its place the term "Pell Grant Index", by redesignating paragraphs (a) and (b) as paragraphs (1) and (2) respectively, in the definition of "Valid Student Aid Report" and revising redesignated paragraph (2), and by revising the definition of "institution of higher education" to read as follows:

§ 690.2 General definitions.

* * * * *

(c) * * *

Institution of higher education (Institution). An institution of higher education, or a proprietary institution of higher education, or a postsecondary vocational institution as defined in 34 CFR part 600.

* * * * *

Valid Student Aid Report: * * *

(2) For the Electronic Data Exchange, that is signed by the applicant and, if corrections are made—

(i) Is signed by the applicant's spouse; and

(ii) If the applicant is dependent, is signed by one of his or her parents.

§ 690.3 [Amended]

5. In § 690.3, paragraphs (a), (a)(1), (a)(2) and (b) are amended by removing the words "an institution", and adding in their place, the words "an eligible program."

§ 690.7 [Amended]

6. In § 690.7 paragraph (a)(1)(i) is amended by removing the term "34 CFR part 668, subpart A" and adding in its place, the term "34 CFR part 600".

§ 690.13 [Amended]

7. Section 690.13 is amended by removing the words "student aid index" and adding in their place the words "Pell Grant Index".

§ 690.61 [Amended]

8. In § 690.61, paragraph (b)(2) is amended by removing "§ 680.60" and adding in its place "§ 668.60".

§ 690.63 [Amended]

9. In § 690.63, paragraphs (a) and (c) and amended by removing the words "At an institution", and adding in their place the words "in an eligible program"; paragraphs (a)(3)(i) and (a)(3)(ii) are amended by removing the words "of an institution", and adding in their place the words "in an eligible program".

10. Section 690.64 is amended by revising paragraph (c)(1) and the introductory text of paragraph (c)(2) to read as follows:

§ 690.64 Calculation of a Pell Grant for a payment period which occurs in two award years.

* * * * *

(c)(1) If an eligible program uses academic terms and offers a series of mini-sessions which occurs in two award years, the combined sessions must be treated as one term. A student may not receive more than one term's award for completing any combination of these mini-sessions.

(2) For each mini-session, an institution that uses academic terms in an eligible program shall determine the student's enrollment status for the entire term. That enrollment status shall be based upon—

* * * * *

11. Section 690.75 is amended by revising paragraph (a)(3) to read as follows:

§ 690.75 Determination of eligibility for payment.

* * * * *

(3)(i) Has completed the required clock hours for which he or she has been paid a Pell Grant, if the student is enrolled in an eligible program that is measured in clock hours; or

(ii) Has completed the required credit hours for which he or she has been paid a Pell Grant, if the student is enrolled in an eligible program that is measured in credit hours and that does not have academic terms.

* * * * *

12. Section 690.76 is amended by revising paragraph (b) to read as follows:

§ 690.76 Frequency of payment.

* * * * *

(b) The institution may pay funds in one lump sum for all the prior payment periods for which the student was an eligible student within the award year. The student's enrollment status must be determined according to work already completed.

* * * * *

13. Section 690.77 is amended by removing the term "SAI" each time it appears, and adding, in its place, the term "PGI", and by revising paragraph (a)(3) and the introductory text of paragraph (b) to read as follows:

§ 690.77 Initial disbursement of a Pell Grant in an award year without a valid SAR.

(a) * * *

(3) (i) Receives a PGI from the Secretary; or

(ii) Receives the PGI produced by the Secretary from an organization that has a contract to transmit application data to the Secretary.

(b) If an institution receives a student's application information and his or her PGI from the Secretary, or his or her PGI produced by the Secretary from an organization that has a contract to transmit application data to the Secretary, but the institution has documentation that indicates that the application information is inaccurate, the institution may make one disbursement within an award year of a student's Pell Grant before receiving the student's valid SAR if the institution—

* * * * *

14. Section 690.78 is amended by revising paragraph (d)(3) to read as follows:

§ 690.78 Method of disbursement—by check or credit to a student's account.

* * * * *

(d) * * *

(3) If the student has not picked up his or her payment at the end of the 15-day period, the institution may credit the student's account only for any outstanding charges for tuition and fees and room and board for the award year

incurred by the student while he or she was eligible.

* * * * *

15. Section 690.79 is amended by revising paragraph (c) to read as follows:

§ 690.79 Recovery of overpayments.

* * * * *

(c) If an institution refers a student who received an overpayment for which it is not liable to the Secretary for recovery, the student remains ineligible for further title IV, HEA program assistance for attendance at any institution until the student repays the overpayment or the Secretary determines the overpayment has been resolved.

* * * * *

16. Section 690.83 is amended by revising paragraph (a), by redesignating paragraph (b) as paragraph (b)(2), and by adding new paragraphs (b)(1), (c), and (d), and by revising the authority citation, to read as follows:

§ 690.83 Submission of reports.

(a)(1) An institution may receive either a payment from the Secretary for an award to a Pell Grant recipient, or a corresponding reduction in the amount of Federal funds received in advance for which it is accountable, if—

(i) The institution submits to the Secretary all SAR Payment Vouchers (or the equivalent as defined by the Secretary) for that award in the manner and form prescribed in paragraph (a)(2) of this section by September 30 following the end of the award year in which the grant is made, and

(ii) The Secretary accepts those SAR Payment Vouchers.

(2) The Secretary accepts SAR Payment Vouchers that are submitted in accordance with procedures established through publication in the **Federal Register**, and that contain information the Secretary considers to be accurate in light of other available information including that previously provided by the student and the institution.

(3) An institution that does not comply with the requirements of this paragraph may receive a payment or reduction in accountability only as provided in paragraph (c) of this section.

(b)(1) An institution shall report to the Secretary any change in enrollment status, cost of attendance, or other event or condition that causes a change in the amount of a Pell Grant for which a student qualifies, by submitting to the Secretary an SAR Payment Voucher (or the equivalent as defined by the Secretary) that discloses the basis and result of the change in award for each student. Through publication in the **Federal Register**, the Secretary divides the award year into periods and establishes the deadlines by which the institution shall report changes occurring during each period. The institution shall submit the SAR Payment Voucher reporting a change to the Secretary by the end of that reporting period that next follows the reporting period in which the change occurred.

* * * * *

(c)(1) An institution that has timely submitted an SAR Payment Voucher for a student in accordance with paragraph (a) of this section but does not timely submit to the Secretary, or have accepted by the Secretary, an SAR Payment Voucher necessary to document the full amount of the award to which the student is entitled, may receive a payment or reduction in accountability in the full amount of that award, if—

(i) A program review or an audit report produced in accordance with the standards prescribed in 34 CFR 668.23(c) demonstrates to the satisfaction of the Secretary that the student was eligible to receive an amount greater than that reported on the SAR Payment Voucher timely submitted to, and accepted by the Secretary; and

(ii) The institution seeks an adjustment to reflect an over payment for that award that is at least $100.

(2) An institution that has timely submitted and had accepted an SAR Payment Voucher for a student in accordance with this section shall report a reduction in the amount of a Pell Grant award that the student received when it determines that an overpayment has occurred, unless that overpayment is one for which the institution is not liable under § 690.79(a).

(3) The Secretary pays or recognizes a reduction in accountability under this paragraph after deducting the amount of any overpayments for which the institution is liable under § 690.79(a).

(d) In accordance with 34 CFR 668.84 the Secretary may impose a fine on the institution if the institution fails to comply with the requirements specified in paragraphs (a), (b) or (c) of this section.

(Authority: 20 U.S.C. 1070a, 1094, 1226a–1)

§ 690.84 [Removed]

17. Section 690.84 is removed.

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Reader Aids

Federal Register

Vol. 56, No. 215

Wednesday, November 6, 1991

INFORMATION AND ASSISTANCE

Federal Register

Index, finding aids & general information	202-523-5227
Public inspection desk	523-5215
Corrections to published documents	523-5237
Document drafting information	523-5237
Machine readable documents	523-3447

Code of Federal Regulations

Index, finding aids & general information	523-5227
Printing schedules	523-3419

Laws

Public Laws Update Service (numbers, dates, etc.)	523-6641
Additional information	523-5230

Presidential Documents

Executive orders and proclamations	523-5230
Public Papers of the Presidents	523-5230
Weekly Compilation of Presidential Documents	523-5230

The United States Government Manual

General information	523-5230

Other Services

Data base and machine readable specifications	523-3447
Guide to Record Retention Requirements	523-3187
Legal staff	523-4534
Privacy Act Compilation	523-3187
Public Laws Update Service (PLUS)	523-6641
TDD for the hearing impaired	523-5229

FEDERAL REGISTER PAGES AND DATES, NOVEMBER

56145-56288.....1
56289-56460.....4
56461-56566.....5
56567-56918.....6

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6368.....56145
Executive Orders:
12780.....56289
Administrative Orders
Memorandums:
October 21, 1991.....56147
Presidential Determinations:
No. 92-4 of
October 24, 1991.....56567

5 CFR

Proposed Rules:
531.....56276
550.....56276
575.....56276
771.....56276

7 CFR

434.....56569
435.....56569
447.....56569
451.....56569
802.....56293
1600.....56275
1610.....56461
Proposed Rules:
Ch. IV.....56605
1413.....56335
1955.....56474

11 CFR

100.....56570
102.....56570
106.....56570
110.....56570
113.....56570
116.....56570
9001.....56570
9002.....56570
9003.....56570
9004.....56570
9005.....56570
9006.....56570
9007.....56570
9012.....56570
9031.....56570
9032.....56570
9033.....56570
9034.....56570
9035.....56570
9036.....56570
9037.....56570
9038.....56570
9039.....56570

12 CFR

922.....56691
931.....56691
932.....56691

14 CFR

39.....56149-56153, 56462
61.....56571
71.....56463, 56464
97.....56464, 56571
Proposed Rules:
Ch. I.....56174
21.....56605
25.....56605
39.....56174-56177
71.....56480; 56481, 56607
75.....56608

15 CFR

400.....56544

17 CFR

230.....56294
239.....56294
270.....56154, 56294
274.....56294
Proposed Rules:
180.....56482

18 CFR

2.....56544
154.....56544
157.....56544
271.....56466
284.....56544
375.....56544
380.....56544

19 CFR

Proposed Rules:
101.....56179
141.....56608
142.....56608

20 CFR

655.....56860

23 CFR

140.....56576
Proposed Rules:
1212.....56692

24 CFR

Ch. I.....56544
570.....56902
Proposed Rules:
17.....56336

25 CFR

Proposed Rules:
502.....56278, 56282

26 CFR

52.....56303

602 56303

Proposed Rules:

1 ..... 56545, 56609
301 56545

28 CFR

0 56578

29 CFR

508 56860

30 CFR

915 56578

32 CFR

292a 56595
319 56595

33 CFR

Proposed Rules:

95 56180
100 56180
117 ..... 56609, 56610
157 56284
173 56180
174 56180
175 56180
177 56180
179 56180
181 56180
183 56180

34 CFR

328 56456
690 56911

36 CFR

228 56155

37 CFR

307 56157

40 CFR

52 ..... 56158, 56159, 56467
62 56320
81 56694
122 56548
721 56470

Proposed Rules:

52 56485
122 56555

42 CFR

62 56596

Proposed Rules:

36 56691
400 56612
420 56612
421 56612

43 CFR

Public Land Orders:

6884 56275
6901 56321
6902 56322

46 CFR

583 56322

Proposed Rules:

25 56180
31 56284
32 56284
35 56284
586 56487

47 CFR

1 56599
13 56599
64 56160
68 56160
73 ..... 56166-56169, 56472, 56473, 56602
74 56169
97 56171

Proposed Rules:

2 56611
73 ..... 56181, 56182, 56489, 56490
76 56329
90 56611

48 CFR

1801 56691
1815 56691
1852 56691

Proposed Rules:

935 56621

49 CFR

571 56323
821 56172

Proposed Rules:

541 56339
552 56343
1063 56490

50 CFR

17 56325
216 56603
247 56603
285 56544
611 56603
663 56603

Proposed Rules:

17 ..... 56344, 56491, 56882
672 ..... 56355, 56623
675 ..... 56355, 56623

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 "P L U S" (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. 1720/Pub. L. 102-150

District of Columbia Mental Health Program Assistance Act of 1991. (Oct. 31, 1991; 105 Stat. 980; 3 pages) Price: $1.00

Last List November 4, 1991