

Audit Report re:

Denver Consolidated Office, Cost Center—
307 (Memo dated November 8, 1989)

Discussion Agenda:

Application for Consent to Merge and
Establish a Branch:

American Bank and Trust, Edmond, Oklahoma, an insured State nonmember bank, for consent to merge, under its charter and title, with Heritage National Bank, Edmond, Oklahoma, and for consent to establish the sole office of Heritage National Bank as a branch of the resultant bank.

Memorandum regarding the Corporation's corporate activities.

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions 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 will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, N.W., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-3813.

Dated: November 28, 1989.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 89-28250 Filed 11-29-89; 11:47 am]

BILLING CODE 6714-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, December 6, 1989.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:**Summary Agenda**

Because of their routine nature, no substantive discussion of the following items is anticipated. These matters will be voted on without discussion unless a member of the Board requests that an item be moved to the discussion agenda.

1. Proposed amendment to Regulation D (Reserve Requirements of Depository Institutions) to index the low reserve tranche for transactions accounts, the reserve requirement exemption amount, and the reporting cutoff level for 1990.

2. Determination with respect to Switzerland under the Primary Dealers Act of 1988.

3. Cost of Federal Reserve notes in 1990.

Discussion Agenda

4. Proposed amendments to Regulation C (Home Mortgage Disclosure) to implement amendments to the Home Mortgage Disclosure Act regarding expanded coverage and additional disclosure of data concerning residential lending. (Published earlier for public comment; Docket No. R-0674)

5. Proposals regarding (a) clarifying amendments to Regulation CC (Availability of Funds and Collection of Checks); (b) Preemption determination under the regulation concerning funds availability laws of California; and (c) modifications to the Reserve Banks' notice of nonpayment service.

6. Proposed 1990 Federal Reserve Bank budgets.

7. Any item carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for \$5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: November 29, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-28280 Filed 11-30-89; 11:26 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 11:30 a.m., Wednesday, December 6, 1989, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE

INFORMATION: Mr. Joseph R. Coyne,

Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 29, 1989.

William W. Wiles,

Secretary of the Board.

[FR Doc. 89-28281 Filed 11-29-89; 11:26 am]

BILLING CODE 6210-01-M

NATIONAL CREDIT UNION ADMINISTRATION**Notice of Meeting**

TIME AND DATE: 9:30 a.m., Thursday, December 7, 1989.

PLACE: Filene Board Room, 7th Floor, 1776 G Street NW., Washington, DC 20456.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of Minutes of Previous Open Meeting.
2. Economic Commentary.
3. Central Liquidity Facility Report and Review of CLF Lending Rate.
4. Insurance Fund Report.
5. NCUSIF Insurance Premium for 1990.
6. Final Rule: Sections 701.13 and 741.2, Supervisory Committee Audits and Verifications, NCUA's Rules and Regulations.
7. Final Amendment: Part 705, Community Development Revolving Loan Program for Credit Unions, and Section 701.32, Nonmember Deposits.
8. Update on Student Credit Union Pilot Program.

FOR MORE INFORMATION CONTACT:

Becky Baker, Secretary of the Board, Telephone (202) 682-9600.

Becky Baker,

Secretary of the Board.

[FR Doc. 89-28305 Filed 11-29-89; 2:00 pm]

BILLING CODE 7535-01-M

NATIONAL LABOR RELATIONS BOARD

TIME AND DATE: 11:00 a.m., Monday, November 20, 1989.

PLACE: Board Conference Room, Sixth Floor, 1717 Pennsylvania Avenue, NW., Washington, DC 20570.

STATUS: Closed to public observation pursuant to 5 U.S.C. Section 552b(c)(2) (internal personnel rules and practices).

MATTERS TO BE CONSIDERED: Personnel matters.

CONTACT PERSON FOR MORE

INFORMATION: John C. Truesdale, Executive Secretary, National Labor Relations Board, Washington, DC 20570, Telephone: (202) 254-9430.

Dated, Washington, DC, November 29,
1989.

By direction of the Board.

John C. Truesdale,
*Executive Secretary, National Labor
Relations Board.*

[FR Doc. 89-28282 Filed 11-29-89; 11:47 am]

BILLING CODE 7445-01-M

Corrections

Federal Register

Vol. 54, No. 230

Friday, December 1, 1989

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 180, 185 and 186

[OPP-300202; FRL-3643-1]

Daminozide; Revocation and Amendment of Tolerances and Food Additive Regulations

Correction

In proposed rule document 89-21162 beginning on page 37278 in the issue of Thursday, September 7, 1989, make the following corrections:

1. On page 37278, in the first column, under **SUMMARY**, in the fourth line, "regulatory" should read "regulator".
2. On page 37279, in the second column, in the table, in the third column, in the seventh line from the bottom, "0.2" should read "2.0".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 160

[OPP-300165A; FRL-3518-2]

RIN 2070-AB68

Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); Good Laboratory Practice Standards

Correction

In rule document 89-19087 beginning on page 34052 in the issue of Thursday, August 17, 1989, make the following correction:

§ 160.31 [Corrected]

On page 34069, in the first column, in section heading § 160.31, "facility" was misspelled.

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 795 and 799

[OPTS-42100B; FRL-3627-4]

Tributyl Phosphate; Final Test Rule

Correction

In rule document 89-18850 beginning on page 33400 in the issue of Monday, August 14, 1989, make the following corrections:

1. On page 33400, in the second column, under *A. Exposure*, in the 16th line, delete the commas after "Sloane" and "Inc."
2. On page 33401, in the first column, under *B. Testing*, in the second paragraph, in the third line, "teset" should read "test".
3. On the same page, in the second column, in the first complete paragraph, in the last line, "absorption" should read "absorption".
4. On the same page, in the same column, under "3. *Oncogenicity*", in the eighth line, "efforts" should read "effects".
5. On the same page, in the third column, under "7. *Neurotoxicity*", in the seventh line, "review" was misspelled.
6. On page 33403, in the third column, in the second line, "for" should read "are".
7. On page 33406, in the first column, in the sixth line, "rats" should read "rat".
8. On the same page, in the third column, in the sixth line, "of" should read "to".
9. On page 33408, in the first column, in the second paragraph, in the 10th line from the bottom, insert "the" after "in".
10. On the same page, in the same column, under *D. Persons Required to Test*, in the third line, "proceeding" should read "processing".
11. On the same page, in the second column, in the first complete paragraph, in the eighth line, "to" should read "or".
12. On the same page, in the same column, in the fourth complete paragraph, in the first line, delete, "rule to this subject", and add "subject to this rule".

§ 795.228 [Corrected]

13. On page 33411, in the first column, in § 795.228(a), in the first line the

second "purpose" should read "purposes".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 799

[OPTS-42099A; FRL-3645-8]

Methyl Ethyl Ketoxime; Final Test Rule

Correction

In rule document 89-21497 beginning on page 37799 in the issue of Wednesday, September 13, 1989, make the following corrections:

1. On page 37800, in the first column, under *A. Route of Administration*, in the second paragraph, in the fourth line from the bottom remove the "I" after "reproductive".
2. On page 37801, in the first column, in the third complete paragraph, in the fourth line from the bottom, "sex-relinked" should read "sex-linked".
3. On the same page, in the second column, in the first paragraph, in the 12th line, "tests" should read "testes".
4. On the same page, in the same column, in the same paragraph, in the fifth line from the bottom, "not" should be removed.
5. On the same page, in the third column, in the third complete paragraph, in the first line, "commented" should read "comments".
6. On the same page, in the same column, in the same paragraph, in the third line, "tisses" should read "tissues".
7. On page 37802, in the second column, in the second complete paragraph, in the fourth line from the bottom, "approach" should read "approach".
8. On the same page, in the third column, in the second complete paragraph, in the last line, "mutagenci" should read "mutagenic".
9. On the same page, in the same column, in the third complete paragraph, in the third line, "tests" should read "testes".
10. On page 37803, in the third column, under *B. Required Testing and Test Standards*, in the second line, "preamble" was misspelled.
11. On the same page, in the table at the bottom, in the third column, "Reporting deadline for final report", in

the sixth line, "18/17" should read "14/17".

12. On page 37804, in the second column, under *C. Test Substance*, in the third line from the bottom, "teting" should read "testing".

13. On the same page, in the third column, in the third line, "Processor" should read "Processors".

BILLING CODE 1505-01-D

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-62079; FRL 3638-2]

Asbestos-Containing Materials in Schools; EPA Approved Courses and Accredited Laboratories Under the Asbestos Hazard Emergency Response Act (AHERA)

Correction

In notice document 89-20575 beginning on page 36166 in the issue of Thursday, August 31, 1989, make the following correction:

On page 36168, in the second column, in the first complete paragraph, in the fourth line from the bottom, "Eighteen" should read "Fifteen".

BILLING CODE 1505-01-D

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

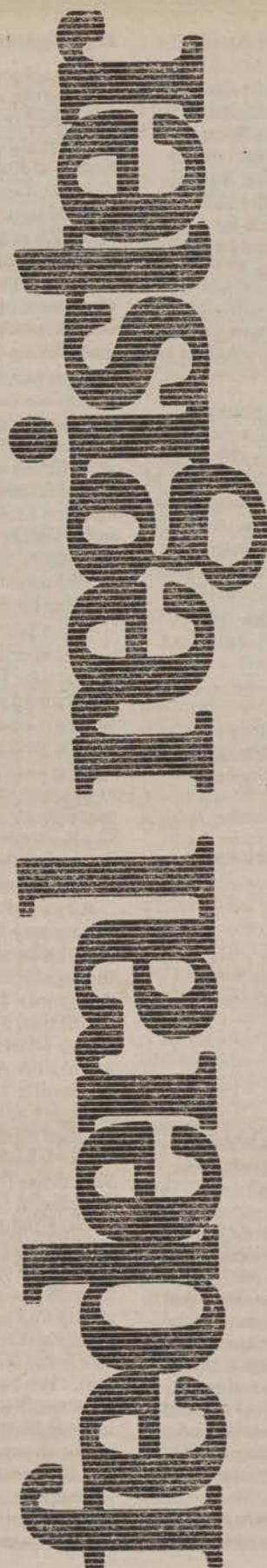
[MM Docket No. 88-330; RM-6210, RM-6304, RM-6473]

Radio Broadcasting Services; Gadsden, Holly Pond, and Attalla, AL

Correction

Rule document 89-26639 beginning on page 47361 in the issue of Tuesday, November 14, 1989, was published incorrectly as a proposed rule in the rule section.

BILLING CODE 1505-01-D



Friday
December 1, 1989

Part II

Environmental Protection Agency

40 CFR Part 35

Technical Assistance Grants to Groups
at National Priorities List Sites;
Amendments to Interim Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 35

[FRL-3555-9]

Technical Assistance Grants to Groups at National Priorities List Sites

AGENCY: Environmental Protection Agency (EPA).

ACTION: Amendments to the interim final rule with request for comments.

SUMMARY: Pursuant to section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, 42 U.S.C. 9617(e), the Environmental Protection Agency (EPA or the Agency) published in the *Federal Register* on March 24, 1988 (53 FR 9736) an Interim Final Rule (IFR) for the Technical Assistance Grant Program. The IFR detailed the specific requirements for citizens' group to obtain technical assistance grants. EPA stated that publication of the rule as an IFR with an immediate effective date allowed the Agency to begin accepting applications from citizens' groups for financial assistance without delay, while simultaneously accepting comments on, and developing the Final Rule.

Today EPA is publishing amendments to the IFR regarding the Technical Assistance Grant Program in order to foster greater participation of citizens' groups in the grant program. The Agency has benefitted from its early experience with the grant program and the public comments on the IFR and has decided to make immediate changes to the program. Thus, EPA has determined that publication of amendments to the IFR at this time will help streamline the grant award process while allowing the Agency the opportunity to continue to evaluate the Technical Assistance Grant Program, to accept public comments on the amendments to the IFR, and to proceed with the development of the Final Rule.

DATES: *Effective Date:* December 1, 1989.

Comments: Written comments must be submitted on or before January 30, 1990.

ADDRESSES: Written comments must be submitted to: Superfund Docket Clerk, Office of Emergency and Remedial Response (OS-240), Room M 2447, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Comments on today's amendments to the IFR must identify the regulatory docket as follows: "Docket CERCLA

117(e), Technical Assistance Grant Regulation."

Docket: Copies of materials relevant to this rulemaking are contained in the Superfund docket located on the second floor of the Mall (Room M 2447) at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The docket is available for inspection by appointment only between the hours of 9 a.m. and 4 p.m. Monday through Friday, excluding Federal holidays. The docket phone number is (202) 382-3046. As provided in 40 CFR part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Murray Newton, Office of Emergency and Remedial Response, OS-220, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460 at (202) 382-2460 or the RCRA/Superfund Hotline from 8:30 a.m. to 7:30 p.m., Monday-Friday, toll free at 1-(800)-424-9346 or in Washington, DC at 382-3000.

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

- I. Introduction
 - A. Authority
 - B. Background of the Rulemaking
- II. Responses to Major Public Comments on Issues Being Reconsidered in the Amendments to the IFR
 - A. The 35 Percent Matching Funds Requirement
 - B. The 15 Percent Cap on Administrative Costs
 - C. Incorporation
 - D. Language Clarification
- III. Existing Grants
- IV. Regulatory Analyses
 - A. Regulatory Impact Analysis
 - B. Regulatory Flexibility Analysis
 - C. Paperwork Reduction Act
- V. Supporting Information

I. Introduction

A. Authority

These amendments to the IFR are issued under the authority of section 117(e) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, hereinafter cited as CERCLA, 42 U.S.C. 9617(e). Section 117(e) authorizes the President to make available technical assistance grants of up to \$50,000 to groups of individuals to obtain assistance in interpreting information related to Superfund sites. Section 117(e) requires the President to promulgate rules for issuing these grants before processing any grant applications. Executive Order No. 12580 delegated to EPA the authority to implement section 117(e) in consultation with the Attorney General.

B. Background of the Rulemaking

As background to this rulemaking, pursuant to section 117(e), EPA published in the June 10, 1987 *Federal Register* (52 FR 22244) an Advance Notice of Rulemaking (ANRM) which discussed and solicited comments on several issues and various approaches that EPA was considering for accepting and evaluating applications, and for awarding and managing technical assistance grants. EPA stated that it would consider those comments in formulating the IFR.

After careful consideration of the public comments on the ANRM, EPA published the IFR in the March 24, 1988 *Federal Register*. The IFR detailed the specific requirements for obtaining technical assistance grants. The IFR enabled EPA to issue grants immediately while continuing to receive comments that the Agency stated that it would consider in the development of the Final Rule.

The Agency has benefitted from its early experience with the Technical Assistance Grant Program and has determined that certain changes need to be made immediately while the Final Rule is being developed. The Agency is issuing today amendments to the IFR to encourage more citizens' groups to participate in the Technical Assistance Grant Program and to elicit further input by the public into the development of the Final Rule.

A total of 42 comments were received in response to the IFR. Approximately two-thirds of the commenters stated that the regulations made the Technical Assistance Grant Program overly restrictive. This view was also reflected in two letters from members of Congress to the EPA Administrator: one dated September 15, 1988 signed by 10 Senators and another letter dated June 10, 1988 signed by 49 Representatives. These letters have been submitted to the Superfund Docket and are now part of the official record for the development of the Final Rule. The letter from the 49 Representatives expressed the view that the IFR, as written, would "significantly impede the ability of citizens to receive grants and use the funds in ways consistent with the intent of Congress." The letter from the 10 Senators stated that, "We believe that most 'Superfund Communities' will find the program unnecessarily difficult to use unless major changes are made to these regulations. The current regulations: (1) Discourage groups from applying; (2) unnecessarily complicate the already difficult task of obtaining a technical

advisor(s); and (3) excessively restrict the uses of the Fund."

Moreover, since publication of the IFR, the Agency has learned through experience implementing the program that certain requirements of the IFR tend to dissuade citizens' groups from applying for technical assistance grants. This experience supports the statements made by the formal commenters that the Technical Assistance Grant Program is, in their view, overly restrictive and, therefore, citizens' groups are discouraged from submitting applications.

Therefore, as a result of EPA's internal review of the program, public comments, and program experience, the Agency has concluded that certain immediate changes to the IFR need to be made. The Agency believes that these changes will promote greater participation of citizens' groups in the grant program and facilitate the use of technical assistance grants at Superfund sites. Today EPA is amending the following sections of the IFR with this rule: (a) the 35 percent match required of recipient groups as discussed in § 35.4085(a); (b) the 15 percent cap on administrative costs as set forth in § 35.4085(e); and (c) the requirement for incorporation as discussed in § 35.4020.

It should also be noted that elsewhere in the March 24, 1988 Federal Register (53 FR 9753), EPA published an Advance Notice of Rulemaking (ANRM) to solicit comments from the public on a proposal to provide technical assistance grant applications and/or recipients with the services of an Administrative Services Contractor (ASC). It was stated that these services could include both assistance in preparing grant applications and the procurement of technical assistance, and contract management.

In light of the negative public comments, the Agency has decided not to pursue the ASC concept further. As an assistance alternative, the Agency has provided additional personnel, through its Senior Environmental Employees (SEE) Program, to assist the EPA Regional Offices in administering the Technical Assistance Grant Program. With the addition of SEE Program employees, the EPA Regional Offices are able to provide more assistance to citizens' groups than they would otherwise.

II. Responses to Major Public Comments on Issues Being Reconsidered in the Amendments to the IFR

The Agency received comments from a wide range of interested parties, including State and Federal legislators, lawyers, consultants, academicians,

national and State environmental groups, State agencies, political subdivisions of a State, community groups and industry. The issues under consideration in today's rulemaking that were addressed by these commenters and EPA's responses to them are described below.

A. The 35 Percent Matching Funds Requirement

Section 117(e)(2) of CERCLA states that "[e]ach grant recipient shall be required, as a condition of the grant, to contribute at least 20 percent of the total costs of the technical assistance for which such grant is made. The President may waive the 20 percent contribution requirement if the grant recipient demonstrates financial need and such waiver is necessary to facilitate public participation in the selection of remedial action at the facility."

The Agency stated at 53 FR 9743 that this language clearly expressed the intent of Congress that the affected community's ability to pay should affect the size of the match for the technical assistance grant. In the IFR, EPA set the matching funds requirement at a figure of 35 percent of total project costs. EPA invited comments on how to develop a workable system for determining the matching share based on financial need and other factors for inclusion in the Final Rule.

However, EPA believes that the 35 percent matching funds requirement has been an impediment to citizens' groups applying for technical assistance grants and that a reduction in the matching funds requirement will encourage formerly reluctant groups to apply. The Agency has arrived at this conclusion based on the following.

Every commenter who addressed this issue stated that the 35 percent matching funds requirement is excessive. Several recommended that it be set at 20 percent; while others suggested that even 20 percent would be difficult for citizens' groups to raise and offered variations. Some suggested a lenient waiver policy instead.

Several members of Congress expressed the same concerns. For example, the September 15, 1988, letter of the 10 Senators stated that "[T]he 35 percent match required of recipient groups is excessive. The figure must be lowered to 20 percent, which is the minimum level specified in the law."

EPA's experience with the program, public comments, and comments from EPA Regional personnel indicate that the 35 percent matching funds requirement has served as an impediment to citizens' groups applying for a technical assistance grant,

especially those groups with few financial resources—the very groups that the grant program was designed to help. Even citizens' groups from more affluent communities have had trouble raising the 35 percent "match" of the total project costs. For example, for a \$50,000 grant, which would amount to 65 percent of the total project funds, citizens' groups were required to provide the remaining \$26,923 (\$50,000 of Federal funds represents 65 percent of the total project funds—or \$76,923—which would require a 35 percent "match" of \$26,923 from the grant recipient in cash or in-kind contributions).

In today's amendments to the IFR, the Agency has determined that each grant recipient must contribute 20 percent, instead of 35 percent, of the total project costs. For example, with a \$50,000 grant, which would amount to 80 percent of the total project funds, citizens' groups will be required to provide the remaining \$12,500. (\$50,000 of Federal funds represents 80 percent of the total project funds—or \$62,500—which would require a 20 percent "match" of \$12,500 from the grant recipient in cash or in-kind contributions.)

B. The 15 Percent Cap on Administrative Costs

In formulating the IFR, the Agency was concerned with the purposes for which technical assistance grant funds would be used. The Agency, for example, stated in the Preamble to the IFR at 53 FR 9743 that "In order to ensure the best use of limited technical assistance grant funds, costs of administering the grant are allowable to the extent that they do not exceed 15 percent of total project costs."

The Agency continues to be concerned with the uses of technical assistance grant funds but has determined, based upon experience and public comment, that most of the eligible goods and services for in-kind contributions fall within the administrative category. Citizens' groups tend to be able to meet the administrative portion of the matching funds requirement but have had difficulty in meeting the non-administrative portion. EPA has, therefore, concluded that the elimination of the 15 percent cap on administrative costs will enable citizens' groups to meet their matching funds requirement without having to ask for a waiver of the remaining 5 percent. The Agency believes that this will encourage greater participation of citizens' groups in the Technical Assistance Grant Program.

C. Incorporation

In formulating the IFR, the Agency determined that each grant recipient must be incorporated as a non-profit organization for the purpose of addressing the Superfund site for which the grant was provided in order to receive a technical assistance grant. In the Preamble to the IFR at 53 FR 9740, the Agency stated that EPA's analysis concluded that incorporation offers advantages to both recipients and EPA, and does so at relatively little cost to both.

As set forth at § 35.4020(b) of the IFR, the citizens' group receiving a technical assistance grant must be a non-profit corporation that includes all the individuals and groups that joined in applying for the grant and was incorporated for the purpose of addressing the Superfund site for which the grant was to be awarded. At the time of the award, a recipient must either be incorporated or demonstrate that it has taken all necessary and appropriate actions to incorporate. Thus, applicants are not required to be incorporated at the time that the application is submitted; only recipients of technical assistance grant awards must be incorporated. However, the recipient must submit proof that the group had been incorporated by the State no later than the time of the group's first request for reimbursement for costs incurred.

The Agency has considered further those situations where the existing regulation requires an incorporated group to reincorporate for the purposes of the Technical Assistance Grant Program. Several commenters suggested this requirement could be overly restrictive in some circumstances.

The Agency has determined that in situations where a group is already incorporated with a broader mandate than addressing the site and has a substantial history of involvement at the site, the group need not reincorporate for the purpose of addressing the problems at a Superfund site. The IFR is, therefore, amended to permit a grant to an incorporated group having a history of substantial involvement at the site and if the corporation includes all the individuals and groups that joined in applying for the grant.

D. Language Clarification

Section 35.4035 of the IFR set out the evaluation criteria EPA will use in reviewing tag applications. One of the five criteria is representation of the groups and individuals affected by the site. Commenters have asked for clarification of what the Agency

considers to be a "representative" group.

The Agency's intent is to make technical assistance available to a broad range of affected individuals in the community. This would include residents, other property owners, recreational and environmental interest groups, and any others (except, of course, potentially responsible parties, who are ineligible under § 35.4030) who believe their health, property values, recreation, local ecological balance, or aesthetic appreciation of their community to be diminished by the site. EPA believes that groups promoting a single interest (e.g., economic, environmental, or societal) to the exclusion of other interests do not represent the full range of community interests. Such groups exclude community members who are legitimately affected by the site, but who do not necessarily support the views of mission of the interest group. Accordingly, EPA will give preference to groups representing a diversity of community interests which require objective information from independent advisors to understand how the site and the cleanup activities affect their well-being.

The Agency stated in the Preamble to the IFR at 53 FR 9743 that "[C]osts associated with disputes with the Agency or challenges to final Agency decisions (e.g., Records of Decisions) are not allowable since this also would be inconsistent with Congressional intent of 'interpreting information'."

The IFR at § 35.4055(a)(7) prohibits the use of technical assistance grant funds for "conducting disputes with the Agency." This phrasing has been misconstrued as requiring technical assistance grant recipients to agree with EPA on every issue and decision. In fact, the provision is not meant to inhibit citizens from disagreeing with the Agency on any issue. It does mean, however, that if a citizens' group is in a dispute with the Agency as to whether it has managed its grant properly, technical assistance grant funds may not be used during the formal dispute resolution process outlined in 40 CFR Part 30, Subpart L. For example, should the Agency determine that a certain cost for which the citizens' group seeks reimbursement is an unallowable cost under the technical assistance grant agreement, the citizens' group could not use technical assistance grant funds to cover the preparation or processing of costs to appeal that decision under subpart L of the Agency's grant regulations.

The language regarding "challenges to final Agency decisions" nevertheless

apparently has been misinterpreted. The IFR at § 35.4055(a)(7) prohibits the use of technical assistance grant funds to reopen final Agency decisions. Once a Record of Decision (ROD) is signed, for example or a design plan is final, grant funds cannot ordinarily be used to challenge that decision or plan, but must be spent on the next phase of the process. By limiting the use of technical assistance grant funds in this manner, however, the Agency is not seeking to constrain technical assistance grant recipients from expressing their disagreements with or opposition to any Agency action or decision. On the contrary, the Agency recognizes the importance of informed comment from citizens' groups and the need for citizens to be well-informed at the sites. However, the process of cleaning up a Superfund site requires detailed technical studies of site conditions and wastes, analysis of methods, and techniques for remediation over an extended period of time. The Records of Decision are culminations of these efforts and revisiting settled issues and past decisions is not a cost effective use of limited technical assistance grant funds for citizens' groups. However, if the Agency or a court officially reopens a Record of Decision, or formally requests comments on it, then the grant money can be used to review appropriate documents.

The Agency stated at § 35.4090(b) of the IFR that "Waivers of the matching funds requirement will only be granted in exceptional cases." Some readers have mistakenly understood this to be an independent requirement for a waiver, erroneously believing that they had to meet this standard in addition to the three criteria listed in § 35.4090(b). In fact, waivers can be granted whenever the three requirements at § 35.4090(b) are met. The Agency has concluded that the reference to "exceptional cases" should be eliminated and has amended § 35.4095(b) accordingly.

III. Existing Grants

Citizen groups that have received technical assistance grants with a matching funds requirement of greater than 20 percent or an administrative cap of 15 percent may seek an amendment of their grants. Those citizens' groups should contact the appropriate EPA Regional Office.

IV. Regulatory Analyses

A. Regulatory Impact Analysis

Executive Order No. 12291 requires that regulations be classified as "major" or "non-major" for purposes of review

by the Office of Management and Budget (OMB). According to Executive Order No. 12291, "major" rules are regulations that are likely to result in:

- (1) An annual adverse (cost) effect on the economy of \$100 million or more; or
- (2) A major increase in costs or prices for consumers, individual industries, Federal, State, or local government, or geographical regions; or
- (3) Significant adverse effects on the competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The IFR for the Technical Assistance Grant Program is a "non-major" rule, therefore these amendments are considered "non-major." The amendments would have no significant annual adverse effect on the economy of \$100 million or more; or a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that Agencies evaluate the effects of a rule for three types of small entities:

- (1) Small businesses (as defined in the Small Business Administration regulations);
- (2) Small organizations (independently owned, nondominant in their field, non-profit); and
- (3) Small government jurisdictions (serving communities of less than 5,000 people).

EPA has consistently considered the interests of small non-profit entities in designing the Technical Assistance Grant Program. Today EPA is amending the IFR to encourage small entities to apply. And, for some applicants the Agency may waive the matching funds requirement.

Since today's rule is not expected to have a significant impact on small non-profit entities, EPA certifies that no Regulatory Flexibility Analysis is necessary.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget under the provisions of the *Paperwork Reduction Act*, U.S.C. 3501 *et seq.* and have been assigned OMB control number 2030-

0020 for activities involving the grant application process, and 2050-0083 for activities specifically related to the rule.

Public reporting burden for this collection of information is estimated to average 8 hours per response, including 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 the burden estimate or any other aspect of the collection of information, including suggestions for reducing this burden the Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC, 20460; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC, 20503, marked "Attention, Desk Officer for EPA."

V. Supporting Information

List of Subjects in 40 CFR Part 35

Grant programs—environmental protection, Matching funds, Public involvement, Reporting and recordkeeping requirements, Hazardous wastes, Superfund.

Dated: November 27, 1989.

William K. Reilly,
Administrator.

For the reasons set out in the preamble, Title 40, Chapter I, of the Code of Federal Regulations is amended as follows:

PART 35—[AMENDED]

Subpart M—Grants for Technical Assistance

1. The authority citation for subpart M continues to read as follows:

Authority: 42 U.S.C. 9617(e); sec. 9(g), E.O. 12580.

2. Section 35.4020 is amended by revising paragraph (b) and adding paragraph (c) to read as follows:

§ 35.4020 Responsibility requirements.

(b) Each recipient of a technical assistance grant must be incorporated as a non-profit organization for the purpose of addressing the Superfund site for which the grant is provided in order to receive a grant, except as provided in paragraph (c) of this section. At the time of award, a recipient must either be incorporated or must demonstrate to EPA that the group has filed the necessary documents for incorporation

with the appropriate State agency. No later than the time of the first request for reimbursement for costs incurred, a recipient must submit proof that the group has been incorporated by the State.

(c) Unless a consolidation agreement makes site-specific incorporation necessary, a previously incorporated group that includes all the individuals and groups that joined in applying for the technical assistance grant shall not be required to incorporate for the specific purpose of representing affected individuals at the site provided that the group can demonstrate that it has a substantial history of involvement at the site.

3. Section 35.4030 is amended by revising paragraph (a)(2) to read as follows:

§ 35.4030 Ineligible applicants.

(a) * * *

(2) Corporations that are not incorporated for the specific purpose of representing affected individuals at the site except as provided in § 35.4020(c);

* * * * *

4. Section 35.4055 is amended by revising paragraphs (a)(1) and (a)(7) to read as follows:

§ 35.4055 Ineligible activities.

(a) * * *

(1) Litigation or underwriting legal actions such as paying for attorney fees or paying for the time of the technical advisor to assist an attorney in preparing a legal action or preparing for and serving as an expert witness at any legal proceeding regarding or affecting the site;

* * * * *

(7) Reopening final Agency decisions such as the Records of Decision or conducting disputes with the Agency in accordance with its dispute resolution procedures set forth at 40 CFR Part 30, Subpart L.

5. Section 35.4085 is amended by revising paragraph (a) introductory text and removing paragraph (e) to read as follows:

§ 35.4085 Grant limitations.

* * * * *

(a) The recipient must contribute 20 percent of the total costs of the technical assistance grant project, except as provided in § 35.4095(b) of this regulation.

* * * * *

6. Section 35.4090 is amended by revising paragraph (b) introductory text to read as follows:

§ 35.4090 Waivers.

* * * * *

(b) Waivers of the matching funds requirement will be granted only when it is established that the grant recipient cannot meet the matching funds requirement. The Agency may waive all or part of the recipient's matching funds requirement only after a finding by the Agency that:

* * * * *

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