7-29-93
Vol. 58 No. 144
Pages 40581-40716

federal register

Thursday
July 29, 1993

FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

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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 JUSTICE

Immigration and Naturalization Service

8 CFR Part 217

[INS No. 1622-93]

RIN 1115-AB93

Visa Waiver Pilot Program; Brunei

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: The Immigration and Naturalization Service (Service) amends its regulations by extending the Visa Waiver Pilot Program to permit nationals of Brunei to apply for admission for ninety (90) days or less as nonimmigrant visitors for business or pleasure without first obtaining a nonimmigrant visa. This action will facilitate travel to both the public and United States businesses.

DATES: This interim rule is effective July 29, 1993. Written comments must be submitted on or before August 30, 1993.

ADDRESSES: Please submit written comments, in triplicate, to the Records Systems Division, Director, Policy Directives and Instructions Branch, Immigration and Naturalization Service, 425 I Street, NW., room 5307, Washington, DC 20536.

FOR FURTHER INFORMATION CONTACT: Ronald J. Hays, Assistant Chief Inspector, Inspections Division, Immigration and Naturalization Service, 425 I Street NW., room 7228, Washington, DC 20536, telephone number (202) 514-3996.

SUPPLEMENTARY INFORMATION: Section 313 of the Immigration Reform and Control Act of 1986 (IRCA), Public law 99-603, added section 217 to the Immigration and Nationality Act which established the nonimmigrant Visa Waiver Pilot Program. The Visa Waiver Pilot Program waives the nonimmigrant visa requirement for the admission of certain aliens into the United States for a period not to exceed ninety (90) days. That original provision authorized the participation of eight countries in the Pilot Program. Initially, the United Kingdom was the only country designated to receive these benefits for its nationals. Japan, having agreed to reciprocal treatment for United States citizens entering Japan under similar circumstances, was added as a designated country under the Pilot Program effective December 13, 1988. France, The Federal Republic of Germany, Italy, The Netherlands, Sweden, and Switzerland, having met all of the requirements for participation in the Visa Waiver Pilot Program, were added later as designated countries participating in the Pilot Program. This action was accomplished by the Secretary of State and the Attorney General, acting jointly through their designees, in a final rule published at 54 FR 27120-27121, on June 27, 1989.

The Immigration Act of 1990 (IMMACT 90), Public Law 101-649, dated November 29, 1990, revised the Visa Waiver Pilot Program as set forth in section 313 of IRCA by removing the eight-country cap and extending its provisions to all countries that met the qualifying provisions of the Visa Waiver Pilot Program and were designated by the Secretary of State and the Attorney General as Pilot Program countries thereunder. Section 201 of IMMACT 90 also extended the period of the pilot program until September 30, 1994 for the eight Pilot Program countries already designated under IRCA, as well as for any additional Pilot Program countries that were designated under the law, as amended, subject to their continued qualification.

As a result of these amendments to section 217 of the Act, Andorra, Austria, Belgium, Denmark, Finland, Iceland, Liechtenstein, Luxembourg, Monaco, New Zealand, Norway, San Marino, and Spain, having met all of the requirements for participation in the nonimmigrant Visa Waiver Pilot Program, were added, effective October 1, 1991. (56 FR 46716).

This interim rule further amends 8 CFR part 217 to extend the Visa Waiver Pilot Program to include the country of Brunei, which has agreed to provide reciprocal treatment for United States citizens entering Brunei under similar circumstances. Therefore, having met all of the other requirements of section 201 of IMMACT 90, Brunei is designated as a country participating in the Visa Waiver Pilot Program by the Secretary of State and the Attorney General, acting jointly through their designees. (See the Department of State Rule published elsewhere in this issue of the **Federal Register**.)

The Service's implementation of this rule as an interim rule, with provisions for post-promulgation public comments, is based upon the "good cause" exceptions established by 5 U.S.C. 553 (b)(B) and (d)(3). The reasons and the necessity for immediate implementation of this interim rule without prior notice and comment are as follows: a notice and comment period for a proposed rule would have been impracticable and contrary to public interest. Moreover, this interim rule confers a benefit upon eligible persons and does not impose a penalty of any kind. It is imperative that this interim rule become effective upon publication so that those persons who are entitled to the benefit may apply accordingly.

In accordance with 5 U.S.C. 605(b), the Commissioner of the Immigration and Naturalization Service certifies that this rule will not have a significant adverse economic impact on a substantial number of small entities. This rule is not a major rule within the meaning of section 1(b) of E.O. 12291, nor does this rule have Federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612.

List of Subjects in 8 CFR Part 217

Administrative practice and procedures, Aliens, Nonimmigrants, Passports and visas.

Accordingly, part 217 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 217—VISA WAIVER PILOT PROGRAM

1. The authority citation for part 217 is revised to read as follows:

Authority: 8 U.S.C. 1103, 1187; 8 CFR part 2.

§217.5 [Amended]

2. In § 217.5 paragraph (a) is amended by replacing the word "and" with a "," immediately after the country name

"San Marino" and by adding the phrase ", and Brunei (effective July 29, 1993)" immediately after the phrase "Spain (effective October 1, 1991)".

Dated: July 23, 1993.

Chris Sale,

Acting Commissioner, Immigration and Naturalization Service.

[FR Doc. 93-18132 Filed 7-28-93; 8:45 am]

BILLING CODE 4410-10-M

FEDERAL RESERVE SYSTEM

12 CFR Part 226

[Regulation Z; Docket No. R-0805]

Truth in Lending

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final Rule; temporary exceptions.

SUMMARY: The Board is publishing a final rule amending Regulation Z (which implements the Truth in Lending Act). The amendment provides a temporary exception to Regulation Z provisions that prohibit the use of a preprinted form by a creditor to obtain a consumer's waiver of the right to rescind certain home-secured loans when loan proceeds are needed immediately to meet a consumer's bona fide personal financial emergency. Generally, Regulation Z requires a mandatory three-day waiting period on rescindable transactions before funds can be disbursed. In addition, a consumer's need to obtain funds immediately shall be regarded as a bona fide personal financial emergency for purposes of Regulation Z for transactions secured by consumers' principal dwellings located in areas of the Midwest recently declared to be major disaster areas because of extensive flooding. The exception expires one year from the date the area was declared a major disaster

EFFECTIVE DATE: July 29, 1993.

FOR FURTHER INFORMATION CONTACT: Adrienne Hurt, Managing Counsel, or Jane Jensen Gell, Staff Attorney, Division of Consumer and Community Affairs, at (202) 452-2412 or (202) 452-3667; for the hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf (TDD), at (202) 452-3544, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

(1) Background.

Under the Truth in Lending Act (TILA), 15 USC 1601-1666j, and Regulation Z, 12 CFR part 226, with some exceptions, a consumer has the right to rescind a credit obligation secured by the consumer's principal dwelling for three days after becoming obligated, due to the risk of loss of the consumer's home in the event of default. There is a mandatory waiting period of three business days before funds can be disbursed in order to give consumers an opportunity to reflect on the loan terms and to elect to cancel the transaction (12 CFR 226.15 and 226.23). A consumer may modify or waive this right of rescission to meet a bona fide personal financial emergency. The consumer must provide the creditor with a written, signed and dated waiver statement that describes the emergency. Under Regulation Z, 12 CFR 226.15(e) and 226.23(e), the waiver statement may not be executed on a preprinted form.

In November 1992, the Board adopted an exception to Regulation Z for transactions secured by homes located in areas declared major disaster areas as a result of Hurricanes Andrew and Iniki and the April 1992 Los Angeles civil unrest. (57 FR 53,545 (Nov. 12, 1992)). The Board's exception permitted a temporary waiver of the provisions in Regulation Z that prohibit an institution's use of a preprinted form to obtain a consumer's waiver of the right to rescind certain home-secured loans when loan funds were needed immediately to meet a consumer's bona fide personal financial emergency. In addition, a consumer's need to obtain funds immediately was regarded as a bona fide personal financial emergency, for purposes of Regulation Z, where the home securing the loan was located in the disaster area.

(2) Relief for Flood Affected Communities

From April through July of 1993, extensive flooding has occurred in several Midwestern States and, as a result, the President has determined that extensive major disaster areas exist in those states. To aid consumers in obtaining credit speedily to begin repairs in flood damaged areas and to ease the paperwork burden on creditors extending credit in these areas, the Board has determined to provide a temporary exception to the restrictions in §§ 226.15(e) and 226.23(e) of Regulation Z. This exception will expire one year from the date the President declared that an area was a major disaster.

The Board is amending Regulation Z to permit a temporary exception to its provisions that prohibit the use of a preprinted form by a creditor to obtain a consumer's waiver of the right to rescind certain home-secured loans. In addition, a consumer's need to obtain funds immediately shall be regarded as a bona fide personal financial emergency, where the home securing the loan is located in the disaster area. The exception is limited to loans secured by homes located in areas that the President has declared, pursuant to section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC 5170, are major disaster areas as a result of the extensive flooding in 1993 in the Midwest. The exception expires one year from the date an area was declared a major disaster. The Board notes, however, that the consumer must still sign and date the waiver statement. The following counties in Minnesota, Wisconsin, Missouri, Iowa, Illinois, Nebraska, and South Dakota have been declared major disaster areas during June and July 1993.

Minnesota: Brown, Cottonwood, Lincoln, Lyon, Murray, Nobles, Pipestone, Redwood, Rock, Blue Earth, Nicollet, Renville, Sibley, Watonwan, Yellow Medicine, Carver, Chippewa, Faribault, Jackson, Le Sueur, Martin, McLeod, Scott, Goodhue, Washington, Dakota, Houston, Ramsey, Big Stone, Clay, Stevens, Swift, Traverse.

Wisconsin: Calumet, Clark, Columbia, Dunn, Eau Claire, Fond du Lac, Green Lake, Jackson, Marquette, Outagamie, Portage, Saulk, Trempealeau, Waupaca, Waushara, Winnebago, Wood, Adams, Buffalo, Chippewa, Crawford, Dane, Green, Grant, Iowa, Juneau, LaCrosse, Lafayette, Lincoln, Marathon, Pepin, Pierce, Price, Rock, Rusk, St. Croix, Vernon.

Missouri: Lewis, Lincoln, Marion, Pike, St. Charles, Andrew, Atchison, Barry, Bates, Boone, Buchanan, Callaway, Camden, Carroll, Cape Giarardeau, Chariton, Clark, Clay, Cole, Cooper, Daviess, Franklin, Gasconade, Gentry, Harrison, Holt, Howard, Jackson, Jefferson, Lafayette, McDonald, Miller, Moniteau, Montgomery, Newton, Nodaway, Osage, Perry, Platte, Pulaski, Ralls, Ray, Saline, Shelby, St. Louis, St. Louis City, St. Genevieve, Stone, Warren, Worth.

Iowa: Clayton, Clinton, Des Moines, Dickinson, Humboldt, Jackson, Johnson, Louisa, Muscaine, Scott, Wapello, Polk, Lyon, Osceola, Emmet, Kossuth, Winnebago, Worth, Mitchell, Howard, Winneshiek, Allamakee, Fayette, Chickasaw, Floyd, Cerro Gordo, Hancock, Palo Alto, Clay, O'Brien, Sioux, Plymouth, Cherokee, Buena Vista, Pocahontas, Wright, Franklin, Butler, Bremer, Dubuque, Delaware, Buchanan, Black Hawk, Grundy, Hardin, Hamilton, Webster, Calhoun, Sac, Ida, Woodbury, Monora, Crawford, Carroll, Greene, Boone, Story, Marshall, Tama, Benton, Linn, Jones, Cedar, Iowa, Poweshiek, Jasper, Dallas, Guthrie, Audubon, Shelby, Harrison, Pottawattamie, Cass, Adair, Madison, Warren, Marion, Mahaska, Keokuk, Washington, Henry, Jefferson, Monroe, Lacas, Clarke, Union, Adams, Montgomery, Mills, Fremont, Page, Taylor, Ringgold, Decatur, Wayne, Appanoosa, Davis, Van Buren, Lee.

Illinois: Adams, Calhoun, Carroll, Hancock, Henderson, Henry, Jersey, Jo Daviess, Mercer, Pike, Rock Island, Whiteside, Madison, Monroe, St. Clair, Boone, Lake, McHenry, Stephenson, Winnebago, Alexander, Jackson, Randolph, Union.

Nebraska: Buffalo, Cass, Lancaster, Sarpy, Seward, Washington, Adams, Hall, Kearney, Phelps.

South Dakota: Bon Homme, Brookings, Clay, Davison, Hanson, Hutchison, Kinsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union, Yankton.

Public Comment and Effective Date

The Administrative Procedures Act (APA), 5 U.S.C. 553, grants a specific exemption from its notice and public comment requirements for rulemakings when these requirements are contrary to the public interest (5 U.S.C. 553(b)(3)(B)). In the present case, the final rule amending Regulation Z provides a temporary exception and removes a restriction that otherwise may impair the availability of loan funds to consumers who encounter a bona fide personal financial emergency because their homes are located in an area devastated by flooding. The Board finds that it is in the public interest to provide this relief immediately and without advance notice and public comment. As explained above, the amendment to Regulation Z will reduce the paperwork burden on creditors extending credit in the disaster areas and aid in making credit speedily available to consumers in these areas. Consumers would continue to have the right to rescind certain loans unless they specifically waive that right. Moreover, the exception is limited in scope and duration. It will provide immediate assistance to consumers and lenders in their ongoing reconstruction and rehabilitation efforts in those areas that have been affected by recent major disasters recognized under the appropriate federal disaster relief statute.

The Board also believes that deferring the effective date in regard to the adoption of the final rule would be contrary to the public interest. The APA grants a specific exemption from its requirements relating to this item in such instances (12 U.S.C. 553(d)(3)). Accordingly, the amendments to Regulation Z are effective immediately.

Regulatory Flexibility Act Analysis

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Board believes that the adoption of this final rule would not have a significant adverse impact on a substantial number of small entities. The amendment imposes no new requirements and temporarily removes a restriction imposed by Regulation Z on entities subject to the regulation.

Paperwork Reduction Act Analysis

No collection of information pursuant to section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is contained in these changes.

List of Subjects in 12 CFR Part 226

Advertising; Banks; Banking; Consumer protection; Credit; Federal Reserve System; Finance; Penalties; Rate limitations; Truth in Lending.

Pursuant to authority granted in section 105 of the Truth in Lending Act (15 U.S.C. 1604 as amended), the Board is amending 12 CFR part 226 as follows. The Board is publishing only those sections of the regulation that are affected by the changes.

PART 226—TRUTH IN LENDING

1. The authority citation for part 226 continues to read:

Authority: Truth in Lending Act, 15 U.S.C. 1604 and 1637(c)(5); sec. 1204 (c), Competitive Equality Banking Act, 12 U.S.C. 3806.

Subpart B—Open-End Credit

3. Section 226.15 paragraph (e) is revised to read as follows:

§ 226.15 Right of rescission.

* * * * *

(e) *Consumer's waiver of right to rescind.* (1) The consumer may modify or waive the right to rescind if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the right to rescind, and bears the signature of all the consumers entitled to rescind. Printed forms for this purpose are prohibited, except as provided in paragraph (e)(2) of this section. (2) The need of the consumer to obtain funds immediately shall be regarded as a bona fide personal financial emergency provided that the dwelling securing the extension of credit is located in an area declared during June through September 1993, pursuant to 42 U.S.C. 5170, to be a major disaster area because of severe storms and flooding in the Midwest.[36a] In this instance, creditors may use printed forms for the consumer to waive the right to rescind. This exemption to paragraph (e)(1) of this section shall expire one year from the date an area was declared a major disaster.

* * * * *

2. Section 226.16 is amended by redesignating existing footnotes 36a and 36b as footnotes 36b and 36c, respectively.

Subpart C—Closed-End Credit

4. Section 226.23 paragraph (e) is revised to read as follows:

§ 226.23 Right of Rescission.

* * * * *

(e) *Consumer's waiver of right to rescind.* (1) The consumer may modify or waive the right to rescind if the consumer determines that the extension of credit is needed to meet a bona fide personal financial emergency. To modify or waive the right, the consumer shall give the creditor a dated written statement that describes the emergency, specifically modifies or waives the right to rescind, and bears the signature of all the consumers entitled to rescind. Printed forms for this purpose are prohibited, except as provided in paragraph (e)(2) of this section.

(2) The need of the consumer to obtain funds immediately shall be regarded as a bona fide personal financial emergency provided that the dwelling securing the extension of credit is located in an area declared during June through September 1993, pursuant to 42 U.S.C. 5170, to be a major disaster area because of severe storms and flooding in the Midwest.[48a] In this instance, creditors may use printed forms for the consumer to waive the right to rescind. This exemption to paragraph (e)(1) of this section shall expire one year from the date an area was declared a major disaster.

* * * * *

By order of the Board of Governors of the Federal Reserve System, July 23, 1993.

William W. Wiles,

Secretary of the Board.

[FR Doc. 93–18072 Filed 7–28–93; 8:45 am]

BILLING CODE 6210–01–P

[36a] A list of the affected areas will be maintained by the Board.

[48a] A list of the affected areas will be maintained by the Board.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 93-CE-20-AD; Amendment 39-8647; AD 93-15-01]

Airworthiness Directives: Fairchild Aircraft (Formerly Swearingen Aviation Corporation) SA226 and SA227 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes Airworthiness Directive (AD) 92-16-11, which applies to certain Fairchild Aircraft SA226 and SA227 series airplanes. This AD currently requires modifying the horizontal stabilizer aft spar attach fitting installation and stabilizer skin, and repetitively inspecting the radius area of the rib splice straps for cracks, and, if found cracked, modifying this area. Based upon installation reports from SA227 series airplane operators, Fairchild Aircraft has improved the modification procedures, and, the Federal Aviation Administration (FAA) has determined that these procedures should be incorporated. The actions specified by this AD are intended to prevent horizontal stabilizer failure caused by broken pivot fitting fasteners, which could result in loss of control of the airplane.

DATES: Effective September 16, 1993.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of September 16, 1993.

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

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

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations to include an AD that would apply to certain Fairchild Aircraft SA226 and SA227 series airplanes was published in the **Federal Register** on March 22, 1993 (58 FR 15309). The action proposed to supersede AD 92-16-11, Amendment 39-8320, with a new AD that would (1) retain the requirement of modifying the horizontal stabilizer aft spar attach fitting installation and stabilizer skin, and repetitively inspecting the radius area of the rib splice straps for cracks, and, if found cracked, modifying this area; and (2) incorporate improved modification procedures for the SA227 series airplanes as specified in Fairchild SB 227-55-006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993. The proposed actions would be accomplished in accordance with Fairchild Service Bulletin (SB) 226-55-010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or Fairchild SB 227-55-006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993, as applicable.

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the two comments received.

One commenter supports the proposed rule.

The other commenter states that the word "unless" in Note 1 of the proposed AD is not needed and should read: "Compliance with superseded AD 92-16-11 is considered 'already accomplished' * * *"; instead of "Compliance with superseded AD 92-16-11 is considered 'unless already accomplished' * * *". The FAA does not concur. The reason Note 1 appears is for informational purposes to provide clarification that the operator may have already performed part of the AD. Quoting "unless already accomplished" refers the operator back to this portion of the Compliance section of the proposed AD.

This same commenter points out that the reference to Fairchild SB 227-55-006 in paragraph (c) of the proposed AD contains an incorrect revised date, and should read Revised: May 22, 1991, instead of Revised: December 13, 1991. The FAA concurs and has revised the proposed AD accordingly.

No comments were received on the FAA's determination of the cost on the public.

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

The compliance statement of AD 92-16-11 referenced Fairchild Aircraft Model SA227-AC airplanes with serial numbers AC420 through AC783 and AC785. These particular model airplanes are either a Model SA227-AC or SA227-BC. The applicability statement in this AD is different than that of AD 92-16-11 in that it reflects this model and serial number effectivity. No additional serial number airplanes apply to the required AD than that which are already affected by AD 92-16-11.

The FAA estimates that 715 (368 SA226 series and 347 SA227 series) airplanes in the U.S. registry will be affected by this AD, that it will take approximately 32 workhours per SA226 series airplane and 33 workhours per SA227 series airplane to accomplish the required action, and that the average labor rate is approximately $55 an hour. Parts cost approximately $1,400 per airplane. Based on these figures, the total cost impact of this AD on U.S. operators is estimated to be $2,278,485 ($1,162,880 for the SA226 series airplanes and $1,115,605 for the SA227 series airplanes). The required AD provides no additional cost impact upon U.S. operators than that which is currently required by AD 92-16-11, except for a slight additional procedure in the modification already required for the SA227 series airplanes. This procedure is so slight that the FAA has no means of determining the additional cost impact upon the public.

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

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

of it may be obtained by contacting the Rules Docket at the location provided under the caption "ADDRESSES".

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by removing AD 92–16–11, Amendment 39–8320 (57 FR 31959, July 20, 1992), and by adding the following new airworthiness directive:

93–15–01 Fairchild Aircraft: Amendment 39–8647; Docket No. 93–CE–20–AD. Supersedes AD 92–16–11, Amendment 39–8320.

Applicability: The following model and serial number airplanes, certificated in any category:

Model	Serial Nos.
SA226–T	T201 through T275 and T277 through T291.
SA226–T(B)	T(B)276 and T(B)292 through T(B)417.
SA226–AT	AT001 through AT074.
SA226–TC	TC201 through TC419.
SA227–TT	TT421 through TT541.
SA227–AT	AT423 through AT695.
SA227–AC	AC406, AC415, and AC416.
SA227–AC	AC420 through AC783, and AC785.
SA227–BC	BC420 through BC783, and BC785.

Compliance: Required initially upon the accumulation of 10,000 hours time-in-service (TIS) or within the next 1,000 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished (see Note 1), and thereafter as indicated.

Note 1: Compliance with superseded AD 92–16–11 is considered "unless already accomplished" for the initial inspection and modification requirements of this AD except as specified in paragraph (c) of this AD.

To prevent failure of the horizontal stabilizer caused by broken pivot fitting fasteners, which could result in loss of control of the airplane, accomplish the following:

(a) Modify the horizontal stabilizer aft spar attach fitting installation in accordance with the Accomplishment Instructions section of Fairchild Service Bulletin (SB) 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993, as applicable.

(b) Modify the stabilizer skin in accordance with the Accomplishment Instructions section of Fairchild SB 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993, as applicable.

(c) If any Model SA227–AC or SA227–BC airplane incorporating any serial number of AC528 through AC783, AC785, BC528 through BC783, or BC785 has been modified as required by AD 92–16–11 in accordance with Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: May 22, 1991, then the only modification required by paragraphs (a) and (b) of this AD is that which is specified in paragraph B(3) of the Accomplishment Instructions section of Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993.

(d) Visually inspect the radius area of the rib splice strap for cracks in accordance with Figure 2 of Fairchild SB 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or Figure 3 of Fairchild SB 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993, as applicable.

(i) If cracks are found, prior to further flight, repair in accordance with a scheme obtained from the manufacturer through the Fort Worth Airplane Certification Office at the address specified in paragraph (f) of this AD, and reinspect thereafter at intervals not to exceed 5,000 hours TIS.

(ii) If no cracks are found, reinspect thereafter at intervals not to exceed 5,000 hours TIS.

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

(f) An alternative method of compliance or adjustment of the initial or repetitive compliance times that provides an equivalent level of safety may be approved by the Manager, Airplane Certification Office, FAA, 4400 Blue Mound Road, Fort Worth, Texas 76193–0150. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Fort Worth Airplane Certification Office.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Fort Worth Airplane Certification Office.

(g) The inspections and modifications required by this AD shall be done in accordance with Fairchild Service Bulletin 226–55–010, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: December 13, 1991, or Fairchild Service Bulletin 227–55–006, Horizontal Stabilizer Fitting Fasteners, Issued: May 13, 1991; Revised: January 20, 1993, as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Fairchild Aircraft, P.O. Box 790490, San Antonio, Texas 78279–0490. Copies may be inspected at the FAA, Central Region, Office of the Assistant Chief Counsel, room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(h) This amendment (39–8647) supersedes AD 92–16–11, Amendment 39–8320.

(i) This amendment (39–8647) becomes effective on September 16, 1993.

Issued in Kansas City, Missouri, on July 21, 1993.

Barry D. Clements,

Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 93–18109 Filed 7–28–93; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF STATE

Bureau of Consular Affairs

22 CFR Part 41

[Public Notice 1842]

Visas: Passports and Visas Not Required for Certain Nonimmigrants

AGENCY: Bureau of Consular Affairs, DOS.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends part 41, title 22 of the Code of Federal Regulations concerning visas for nonimmigrants pursuant to section 217 of the Immigration and Nationality Act (INA), 8 U.S.C. 1187, as amended. Section 217, as amended, extends the Visa Waiver Pilot Program to all countries that qualify under the provisions of the Pilot Program and which are designated by the Secretary of State and the Attorney General as countries whose nationals benefit from the waiver of the nonimmigrant B–1/B–2 visa requirement. Section 217, as amended, also extends the time period of the Pilot Program to September 30, 1994 for those countries already in the program as well as to any countries which may be designated thereunder. This amendment extends the Visa Waiver Pilot Program to Brunei, which has met all of the requirements for the Program.

DATES: This interim rule is effective July 29, 1993. Written comments are invited and must be received on or before August 30, 1993.

ADDRESSES: Written comments may be submitted, in duplicate, to the Deputy Chief, Legislation and Regulations Division, Visa Services, Department of State, Washington, DC 20522–0113.

FOR FURTHER INFORMATION CONTACT: A. Roy Mackay, Deputy Chief, Legislation and Regulations Division, Visa Office, Department of State, Washington, DC 20522–0113 (202) 663–1205.

SUPPLEMENTARY INFORMATION: Section 313 of the Immigration Reform and Control Act of 1986 (IRCA), Public Law 99–603 added section 217 to the INA. Section 217, 8 U.S.C. 1187, established the nonimmigrant Visa Waiver Pilot Program (VWPP) which waives the nonimmigrant visa requirement for the admission of certain aliens into the United States for a period not to exceed ninety days. That original provision authorized the participation of eight countries in the VWPP. A final rule containing regulations designed to implement facilitation of the admission of certain nonimmigrant alien visitors under the VWPP was published at 53 FR 24903–24904 of the **Federal Register** of June 30, 1988. Its publication was codified in part 41 of title 22 of the Code of Federal Regulations (CFR), 22 CFR 41.2(l). Under that final rule the United Kingdom was the only country designated to receive these benefits for its nationals. Japan, having agreed to reciprocal treatment for United States citizens entering Japan under similar circumstances, was added as a designated country under the Pilot Program effective on December 15, 1988 in a final rule published at 53 FR 50161–50162 of the **Federal Register** of December 13, 1988. France, The Federal Republic of Germany, Italy, The Netherlands, Sweden, and Switzerland, having met all of the requirements for participants in the Visa Waiver Pilot Program, were added later as designated countries participating in the Pilot Program (i.e., the six remaining countries under the Eight Country Pilot Program established by section 313 of IRCA). This action was accomplished by the Secretary of State and the Attorney General, acting jointly through their designees, in a Final Rule published at 54 FR 27120–27121 of the **Federal Register** of June 27, 1989.

On November 29, 1990, the President approved The Immigration Act of 1990 (Pub. L. 101–649, 104 Stat.4978) [IA]. Section 201 thereof revised the Visa Waiver Pilot Program set forth in section 313 of IRCA (Sec. 217 INA, 8 U.S.C. 1187). It removed the eight-country cap and extended its provisions to all countries that meet the qualifying provisions of the Visa Waiver Pilot Program and are designated by the Secretary of State and the Attorney General as Pilot Program Countries thereunder. Section 201 also extended the period of the pilot program until September 30, 1994 for the eight pilot program countries already designated under IRCA as well as for any additional Pilot Program countries that may be designated under the law, as amended, subject to their continued qualification thereunder. [See also: Section 303 of the Immigration Technical Corrections Act of 1991, Pub. L. 102–232.]

As a result of these amendments to Section 217 of the INA, Andorra, Austria, Belgium, Denmark, Finland, Iceland, Liechtenstein, Luxembourg, Monaco, New Zealand, Norway, San Marino, and Spain, having met all of the requirements for participants in the nonimmigrant Visa Waiver Pilot Program, were added, effective on October 1, 1991. They were so designated as participants in the Visa Waiver Pilot Program by the Secretary of State and the Attorney General, acting jointly through their designees, in an Interim Rule published at 56 FR 46716–46717 of the **Federal Register** of September 13, 1991.

Each of the above rules amended 22 CFR 41.2. This interim rule, with request for comments, further amends part 41, title 22 to extend the Visa Waiver Pilot Program to Brunei, which has agreed to provide reciprocal treatment for United States citizens entering Brunei under similar circumstances upon the commencement of its participation in the Program. Therefore, having met all of the other requirements of that Section, Brunei is added effective upon publication in the **Federal Register** and designated as a country participating in the Visa Waiver Pilot Program by the Secretary of State and the Attorney General, acting jointly through their designees. (See the Immigration and Naturalization Service Rule published elsewhere in this issue of the **Federal Register**.) The last sentence of § 41.2(l) is amended by adding at the end thereof the name of the newly designated country, effective upon publication in the **Federal Register**. Therefore, effective on that date, citizens of Brunei shall be eligible for participation in the Visa Waiver Pilot Program.

The implementation of this rule as an interim rule, with a 30-day provision for post-promulgation public comments, is based upon the "good cause" exceptions established by 5 U.S.C. 553(b)(B) and 553(d)(3). This rule grants or recognizes an exemption or relieves a restriction under 5 U.S.C. 553(d)(1) and is considered beneficial to both the travelling public and United States businesses. Therefore, it is being made effective less than thirty days after publication in the **Federal Register**.

In accordance with 5 U.S.C. 605(b) [Regulatory Flexibility Act], it is certified that this rule does not have a "significant adverse economic impact" on a substantial number of small entities, because it is inapplicable. No Regulatory Impact Analysis is required because this rule is not a major rule within the meaning of section 1(b) of E.O. 12291. The rule imposes no reporting or record-keeping action from the public requiring the approval of the Office of Management and Budget under the Paperwork Reduction Act requirements. Nor does this rule have federalism implications warranting the preparation of a Federalism Assessment in accordance with E.O. 12612. This rule has been reviewed as required by E.O. 12778 and is certified to be in compliance therewith.

List of Subjects in 22 CFR Part 41

Aliens, Nonimmigrants, Visas, Passports, Temporary visitors, Waivers.

In view of the foregoing, 22 CFR part 41 is amended as follows:

PART 41—VISAS; DOCUMENTATION OF NONIMMIGRANTS UNDER THE IMMIGRATION AND NATIONALITY ACT, AS AMENDED

1. The authority citation is revised to read:

Authority: 8 U.S.C. 1104, 1153 Note, 1187

2. In § 41.2 the last sentence of paragraph (l) is amended by removing the period and adding the following text at the end of the sentence:

§ 41.2 Waiver by the Secretary of State and Attorney General of passport and/or visa requirements for certain categories of nonimmigrants.

* * * * *

(l) Visa Waiver Pilot Program. * * *; and Brunei (effective July 29, 1993).

Dated: June 28, 1993.

Mary A. Ryan,

Assistant Secretary for Consular Affairs.

[FR Doc. 93–18126 Filed 7–28–93; 8:45 am]

BILLING CODE 4710–06–P

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Part 178

[T.D. ATF-346]

Domestic Assembly of Nonimportable Firearms (91-0001F)

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Department of the Treasury.

ACTION: Final Rule (Treasury Decision).

SUMMARY: This final rule amends 27 CFR part 178, relating to firearms, to implement section 2204 of the Crime Control Act of 1990, Public Law 101-647 (104 Stat. 4789), approved November 29, 1990. Section 2204 makes it unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under the Gun Control Act of 1968, as amended, as not being particularly suitable for or readily adaptable to sporting purposes.

EFFECTIVE DATE: August 30, 1993.

FOR FURTHER INFORMATION CONTACT: Lawrence G. White, ATF Specialist, Firearms and Explosives Imports Branch, Bureau of Alcohol, Tobacco and Firearms, Washington, DC 20226 (202-927-8320).

SUPPLEMENTARY INFORMATION: Section 2204 of the Crime Control Act of 1990, Public Law 101-647, approved November 29, 1990, amended the Gun Control Act of 1968, as amended (18 U.S.C. chapter 44) (GCA) by adding a new section 922(r) to 18 U.S.C. 922(r) makes it unlawful for any person to assemble from imported parts any semiautomatic rifle or any shotgun which is identical to any rifle or shotgun prohibited from importation under the GCA as not being particularly suitable for or readily adaptable to sporting purposes. Section 922(r) excepts from the general prohibition the assembly of rifles or shotguns for distribution by a licensed manufacturer to the United States or to any State and the assembly of such firearms for purposes of testing or experimentation authorized by the Secretary.

This prohibition was intended to preclude the circumvention of the importation restrictions on nonsporting rifles and shotguns by importing parts for "nonsporting" firearms and assembling them in the United States using domestically manufactured frames or receivers capable of accepting the imported parts.

On August 19, 1991, the Bureau published a Notice of Proposed Rulemaking, Notice No. 723, with a 90-day comment period. The proposed regulation would have prohibited the assembly of any semiautomatic rifle or any shotgun which would not qualify for importation as sporting firearms under 18 U.S.C. 925(d)(3) if two or more major components of the weapon were imported.

The proposed regulation would not have required that all parts of a firearm be imported before the prohibition would apply. Under current law, the frame or receiver alone of a nonsporting firearm cannot lawfully be imported into the United States. This prohibition flows from the GCA definition of "firearm" which includes the frame or receiver of a firearm. 18 U.S.C. 921(a)(3)(B). In addition, section 925(d)(3) expressly prohibits from importation the frame or receiver of a nonimportable firearm. Consequently, the assembly in this country of nonsporting semiautomatic rifles and nonsporting shotguns generally requires use of domestically made frames or receivers. If section 922(r) is interpreted to require that all of the parts, including the frame or receiver, be imported, the statute would address conduct that would not ordinarily occur. This interpretation would result in a statute which would have virtually no practical application and no meaning. Moreover, such an interpretation would totally ignore and defeat the purpose of the legislation, which was to curb the assembly of nonimportable firearms from imported parts on domestically made frames or receivers. Thus, the proposed regulation recognized that Congress was aware of the statutory prohibition on the importation of frames or receivers of nonimportable firearms, i.e., they could not have intended that the statute reach only the assembly of those weapons from totally imported parts.

On the other hand, the proposed regulation would not have prohibited the assembly of firearms containing any imported parts. There is no doubt that many essentially domestic weapons contain some minor imported parts, such as screws or springs. Accordingly, the proposed regulation would have prohibited the assembly utilizing imported parts which are required for the design function of the firearm. Further, because the assembly prohibition in the statute focuses on the plural "parts" rather than the singular "part", the proposed regulation would have only prohibited assembly of nonsporting rifles and shotguns utilizing two or more of these major firearms components.

This final rule lists the 20 major firearms components which ATF has determined are required for the design function of the weapon. Further, the rule modifies the proposed regulation by prohibiting the assembly of nonsporting firearms where the majority (11 or more) of the components used in their assembly are imported. As noted above, the purpose of the amendment was to prevent the circumvention of the importation restrictions by importing foreign parts and assembling them into complete nonsporting firearms. Thus, the amendment was concerned with the assembly of what are essentially foreign made weapons. However, by restricting the assembly of nonsporting firearms utilizing two or more imported parts, the regulation as proposed was unnecessarily broad. It would have gone beyond preventing circumvention of the importation ban, and actually would have precluded the assembly of domestically made weapons that use few foreign parts. Since the legislation was not intended to regulate or prohibit the legitimate use of foreign parts in domestic firearms, ATF concluded that the "two or more parts" aspect of the proposed rule needed to be refined. ATF believes that if a majority of the components were imported, the assembled weapon would reasonably be considered a foreign weapon prohibited from importation. By identifying the major firearms parts, and addressing only the assembly of those firearms using a majority of foreign components, ATF has determined that the rule will effectively preclude the assembly of foreign made firearms in the United States without interfering with legitimate use of foreign parts by domestic manufacturers.

Comments Received

During the comment period on Notice No. 723, 3,002 written comments with 3,392 signatures were received. Comments were received from United States Senators, members of the House of Representatives, several firearms industry members, and firearms interest groups.

The Meaning of the Phrase "Assemble from Imported Parts"

The most frequent comment related to the meaning of the term "assemble from imported parts." The concern expressed was that section 922(r) should be interpreted as only prohibiting the assembly of nonsporting rifles and shotguns exclusively from imported parts. ATF continues to believe that the history of the amendment does not

support such an interpretation. Moreover, as a practical matter, such an interpretation would render the prohibition virtually meaningless. As the Notice of Proposed Rulemaking indicated, the assembly prohibition originated as part of the President's crime bill, S. 1225, 101st Cong., 1st Sess. (1989), "Comprehensive Violent Crime Control Act of 1989." The President's proposal, however, was not limited to the assembly of firearms from imported parts, but would have prohibited the assembly from any parts, either imported or nonimported. Significantly, this legislation followed ATF's administrative determination that certain semiautomatic assault-type rifles and certain shotguns were no longer considered to meet the requirement for importation under 18 U.S.C. 925(d)(3) as firearms "generally recognized as particularly suitable for or readily adaptable to sporting purposes."

Specifically, on March 14, 1989 and April 5, 1989, ATF announced that it was suspending the importation of assault-type rifles, pending the decision as to whether these weapons met the statutory test that they were of a type generally recognized as particularly suitable for or readily adaptable to sporting purposes. Report and Recommendation of the ATF Working Group on the Importability of Certain Semiautomatic Rifles, July 6, 1989. (hereinafter, "Report of the ATF working Group"). The principal purpose of S. 1225 was to avoid the circumvention of the import restrictions of the GCA by importing firearms parts and assembling them in the United States using domestically manufactured frames or receivers. The President's Message to Congress Transmitting A Draft of Proposed Legislation Entitled the "Comprehensive Violent Crime Control Act of 1989," H.R. Doc. No. 101–73, 101st Cong., 1st Sess. 81 (June 15, 1989). The Administration's bill would also have generally prohibited the assembly of these nonimportable firearms from domestically made parts that were not imported.

The assembly prohibition in the Administration's bill was substantially incorporated in section 705 of H.R. 5269, 101st Cong., 2d Sess. (1990) the "Comprehensive Crime Control Act of 1990." Consistent with the purpose of the Administration's bill, the House Judiciary Committee stated that the intent of section 705 was to preclude the circumvention of the importation restriction on nonsporting rifles and shotguns by the importation of their parts and the assembly of the firearms in the United States. H.R. Rep. No. 101–681, Part 1, 101st Cong., 2 Sess., 107 (Sept. 5, 1990). As in the case of the Administration's bill, H.R. 5269 would also have prohibited the assembly of these nonimportable firearms from domestically made parts that were not imported.

The language "from imported parts" was added to H.R. 5269 as a floor amendment in the House and was included in section 922(r) as enacted by the Congress. The concern of those House members who favored the amendment was that, without the amendment, the provision would make it unlawful for American firearms manufacturers to assemble semiautomatic rifles that had been in production in the United States for many years. In these members' view, the amendment was a technical, clarifying one which would carry out the principal purpose of the bill—to prevent the circumvention of the current prohibition on the importation of nonsporting firearms. To carry out congressional intent not to preclude the assembly of firearms manufactured in this country, the proposed regulation and the final rule only prohibit an assembly utilizing imported, foreign-made parts but not an assembly from imported parts which were originally produced in the United States.

The comments of most of these members shed no light on whether the assembly prohibition was intended to apply to the assembly of firearms from all or less than all imported parts. From a review of the legislative history of this issue, ATF does not believe that the amendment supports the interpretation that the phrase "from imported parts" was intended to require that all parts used in the assembly must be imported before the prohibition would apply. On the other hand, ATF believes that Congress did not intend to ban the assembly of essentially domestic firearms but rather to prevent the circumvention of the importation restriction as it applied to essentially foreign made firearms. Thus, the proposed regulation barring the assembly of nonimportable firearms using two or more imported parts was too restrictive. This final rule modifies the proposed regulation by prohibiting the assembly of nonsporting firearms where the majority of the major firearm components, *i.e.*, 11 or more of the 20 components listed in the regulation, were imported. This modification to the proposed regulation will ensure that only "foreign" firearms are subject to the assembly prohibition. ATF believes this is a reasonable interpretation of the statute which was intended by Congress to preclude the assembly of essentially foreign made weapons but not firearms which are essentially American-made or domestic weapons.

An additional comment was received in support of the position that section 922(r) should be interpreted to require that all of the parts, including the frame and receiver, be imported. This commenter stated that a person could import a frame or receiver as part of a "sporting" firearm and use the frame in the assembly of a nonsporting firearm using all imported parts. The commenter believes this is the only activity section 922(r) intended to address. ATF has not adopted this comment since it would address conduct that would not ordinarily occur. Moreover, this interpretation would result in a statute which would have virtually no practical application. Moreover, such an interpretation would totally ignore and defeat the purpose of the legislation which was to curb the assembly of nonimportable firearms from imported parts on domestically made frames or receivers.

Meaning of the Term "Identical"

The comment was made that the use of term "identical" in section 922(r) was intended to require that firearms prohibited from assembly under section 922(r) be exact copies of specific rifles or shotguns which ATF has found to be nonimportable. The comment has not been adopted because such an interpretation would result in a prohibition which could easily be circumvented by merely changing a minor feature on the assembled firearm, e.g., slightly changing the barrel length. Additionally, if the regulation adopted the position that only those specific firearms previously found to be nonimportable are prohibited from assembly under section 922(r), ATF would constantly be one step behind in enforcing the law. For example, an importer could make one or more minor changes in an existing nonimportable weapon, import the parts, and assemble the weapon without violating section 922(r), since the modified weapon would not have been ruled upon by ATF.

For the statute to have any definitive meaning, the phrase "identical to any rifle or shotgun prohibited from importation" must be interpreted to mean that a firearm may not be lawfully assembled from imported parts if the firearm would not be importable under 18 U.S.C. 925(d)(3). In the Report of the Working Group, ATF determined that semiautomatic assault rifles are a distinctive type of rifle prohibited from importation under section 925(d)(3) since they are not generally recognized as particularly suitable for, or readily

adaptable for sporting purposes. Thus, any rifle which would be classified as a semiautomatic assault rifle under the criteria specified in the Report of the Working Group could not be assembled in the United States from imported parts. Even if such a rifle had never been imported into the United States and ATF had never denied its importation, it could not be assembled from imported parts.

Use of Replacement Parts

The comment was made that ATF should allow the replacement of broken or defective parts in any rifle or shotgun which had been legally imported into or assembled in the United States. Pursuant to this comment, the regulation has been revised to allow the replacement of damaged or defective parts on firearms which were lawfully imported into the United States or which were lawfully assembled prior to November 30, 1990, the effective date of section 922(r). For example, the regulation will allow for the replacement of a broken stock or pistol grip on a damaged semiautomatic AK-47 which was legally imported into or legally assembled in the United States. Further, a defective fixed shoulder stock of an SKS type rifle which was lawfully imported as a sporting firearm could lawfully be replaced with a fixed shoulder stock. On the other hand, the shoulder stock could not be replaced with a folding stock since the assembly of the SKS rifle with a folding stock would result in a firearm which would be nonimportable.

Publication of List of Nonimportable Firearms

A commenter suggested that ATF is required to publish in the **Federal Register** a list of firearms which have been classified as nonsporting and prohibited from importation. This comment has not been adopted since there is no requirement that firearms classified as nonsporting be published in the **Federal Register**. Indeed, since the enactment of the GCA in 1968 ATF has never published a list of firearms found to be nonimportable under section 925(d)(3). Moreover, any person may request an opinion as to whether the assembly of any particular firearm would violate section 922(r).

Executive Order 12291

It has been determined that this document is not a "major rule" as defined in E.O. 12291 and a regulatory impact analysis is not required because the economic consequences of the regulations are the direct result of the implementation of a statute. Additionally, this final rule will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or foreign markets.

Regulatory Flexibility Act

It is hereby certified that this regulation will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis is not required.

This certification is based upon the fact that the general economic effects flow directly from the underlying statute as well as from the fact that this final rule is not expected (1) to have secondary or incidental effects on a substantial number of small entities; or (2) to impose, or otherwise cause a significant increase in the reporting, recordkeeping or other compliance burdens on a substantial number of small entities.

Paperwork Reduction Act

The collection of information contained in this final rule has been reviewed and approved by the Office of Management and Budget in accordance with the requirements of the Paperwork Reduction Act [44 U.S.C. 3504(h)] under control number 1512-0510. The estimated average annual burden associated with this collection of information is 3 hours per respondent or recordkeeper depending on individual circumstances. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to Reports Management Officer, Information Programs Branch, room 3110, Bureau of Alcohol, Tobacco and Firearms, 650 Massachusetts Avenue, NW., Washington, DC 20226, and the Office of Management and Budget, Paperwork Reduction Project (1512-0510), Washington, DC 20530.

Drafting Information

The originating drafter of this Treasury Decision is Robert Trainor of the Firearms and Explosives Operations Branch, Bureau of Alcohol, Tobacco and Firearms. Officials from the Bureau and from the Treasury Department, however, participated in developing this Treasury Decision, both on matters of substance and style.

List of Subjects in 27 CFR Part 178

Administrative Practice and Procedure, Arms and Ammunition, Authority delegations, Customs duties and inspections, Exports, Imports, Military personnel, Penalties, Reporting requirements, Research, Seizures and forfeiture, and Transportation.

Authority and Issuance

Therefore, as set forth in the preamble 27 CFR part 178—Commerce in Firearms and Ammunition is amended as follows:

PART 178—COMMERCE IN FIREARMS AND AMMUNITION

Paragraph 1. The authority citation for part 178 continues to read as follows:

Authority: 5 U.S.C. 552(a); 18 U.S.C. 847, 921-930; 44 U.S.C. 3504(h).

Par. 2. Section 178.11 is amended by adding the following definition of "semiautomatic rifle" after the definition of "rifle" to read as follows:

§ 178.11 Meaning of terms.

* * * * *

Semiautomatic rifle. Any repeating rifle which utilizes a portion of the energy of a firing cartridge to extract the fired cartridge case and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge.

* * * * *

Par. 3. Section 178.39 is added to Subpart C to read as follows:

§ 178.39 Assembly of semiautomatic rifles or shotguns.

(a) No person shall assemble a semiautomatic rifle or any shotgun using more than 10 of the imported parts listed in paragraph (c) of this section if the assembled firearm is prohibited from importation under section 925(d)(3) as not being particularly suitable for or readily adaptable to sporting purposes.

(b) The provisions of this section shall not apply to:

(1) The assembly of such rifle or shotgun for sale or distribution by a licensed manufacturer to the United States or any department or agency thereof or to any State or any department, agency, or political subdivision thereof; or

(2) The assembly of such rifle or shotgun for the purposes of testing or experimentation authorized by the Director under the provisions of § 178.151; or

(3) The repair of any rifle or shotgun which had been imported into or assembled in the United States prior to November 30, 1990, or the replacement of any part of such firearm.

(c) For purposes of this section, the term *imported parts* are:

(1) Frames, receivers, receiver castings, forgings or stampings
(2) Barrels
(3) Barrel extensions
(4) Mounting blocks (trunions)
(5) Muzzle attachments
(6) Bolts
(7) Bolt carriers
(8) Operating rods
(9) Gas pistons
(10) Trigger housings
(11) Triggers
(12) Hammers
(13) Sears
(14) Disconnectors
(15) Buttstocks
(16) Pistol grips
(17) Forearms, handguards
(18) Magazine bodies
(19) Followers
(20) Floorplates

Par. 4. Section 178.151 is added to subpart I to read as follows:

§ 178.151 Semiautomatic rifles or shotguns for testing or experimentation.

(a) The provisions of § 178.39 shall not apply to the assembly of semiautomatic rifles or shotguns for the purpose of testing or experimentation as authorized by the Director.

(b) A person desiring authorization to assemble nonsporting semiautomatic rifles or shotguns shall submit a written request, in duplicate, to the Director. Each such request shall be executed under the penalties of perjury and shall contain a complete and accurate description of the firearm to be assembled, and such diagrams or drawings as may be necessary to enable the Director to make a determination. The Director may require the submission of the firearm parts for examination and evaluation. If the submission of the firearm parts is impractical, the person requesting the authorization shall so advise the Director and designate the place where the firearm parts will be available for examination and evaluation.

Signed: June 21, 1993.

Stephen E. Higgins,

Director.

Approved: June 25, 1993.

Ronald K. Noble,

Assistant Secretary (Enforcement).

[FR Doc. 93-18108 Filed 7-28-93; 8:45 am]

BILLING CODE 4810-31-U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5 91-054]

Drawbridge Operation Regulations: Rancocas River (Creek), NJ

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: At the request of the Burlington County Bridge Commission, the Coast Guard is changing the regulations governing the Riverside-Delanco (SR#543) bridge, mile 1.3. In conjunction with this change, the Coast Guard is also revising the regulations governing the Conrail bridge, mile 1.6 at Delanco and the SR#38 bridge, mile 7.8 at Centerton all over the Rancocas River. The change eliminates the requirement to open the bridges on signal from 7 a.m. to 11 p.m. from 1 through 30 November and requires at least 24 hour notice during that period. This action will relieve the bridge owners of the burden of having a person constantly available to open the draws during this time period but should still provide for the reasonable needs of navigation.

EFFECTIVE DATE: These regulations become effective on August 30, 1993.

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

SUPPLEMENTARY INFORMATION:

Drafting Information

The principal persons involved in drafting this document are Joe Arca Jr., Project Manager, and LT Monica Lombardi, Project Counsel, Fifth Coast Guard District, Legal Office.

Regulatory History

On 26 October 1992, the Coast Guard published a notice of proposed rulemaking (57 FR 48488), concerning this amendment. The Commander, Fifth Coast Guard District, also published the proposal as a Public Notice dated 27 October, 1992. In each notice interested persons were given until 10 December and 21 November 1992 respectively, to submit comments.

Background and Purpose

Rancocas River (Creek), New Jersey is primarily a seasonal recreational waterway. The Riverside-Delanco (SR#543) bridge, mile 1.3, the Conrail bridge, mile 1.6 at Delanco and the SR#38 bridge, mile 7.8 at Centerton provide a vertical clearance to low steel in the closed position of 4, 3, and 6 feet at mean high water and 10, 9 and 10 feet at mean low water, respectively. The primary marine operations are located between the Conrail and SR#38 bridges. Additionally, except during the winter months, the Conrail bridge is left in the open position because of the limited number of trains crossing the bridge and increased boating. The Burlington County Bridge Commission requested a change in the hours of operation at the Riverside-Delanco bridge over the Rancocas River due limited number of openings during the month of November. In conjunction with the change, the Coast Guard also revised the regulations for the other two drawbridges on the waterway. This action should accommodate the reasonable needs of navigation and relieve the bridge owners of the burden of having persons constantly available to open the draws during the winter.

Discussion of Comments

No comments were received to the Notice of Proposed Rulemaking or Public Notice #5-798.

Regulatory Evaluation

These regulations are considered to be non-major under Executive Order 12291 on Federal Regulation, and nonsignificant under the Department of Transportation Regulatory Policies and Procedures (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact to be so minimal that a regulatory evaluation is unnecessary. This opinion is based on the fact that the regulations will not prevent the mariners from transiting the bridges during the period in question, but just require advance notice for openings. Additionally, all the moveable bridges on this waterway presently have and maintain clearance gauges. The minor cost of maintaining clearance gauges will be offset by reduced requests for openings.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard considered whether this action will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this action to be minimal, as stated in the regulatory evaluation, the Coast Guard certifies under 5 U.S.C. 605(b) that this action will not have a significant

economic impact on a substantial number of small entities.

Collection of Information

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

Federalism

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

Environment

The Coast Guard considered the environmental impact of this rule and concluded that, under section 2.B.2 of Commandant Instruction M16475.1B, this final rule is categorically excluded from further environmental documentation. Section 2.B.2g.(5) provides that Bridge Administration program actions relating to the promulgation of operating requirement or procedures for drawbridges are excluded. A Categorical Exclusion Determination is available in the docket for inspection at the Office of Bridge Administrator-NY, Fifth Coast Guard District, Bldg. 135A, Governors Island, NY 10004-5073.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, part 117 of title 33, Code of Federal Regulations, is amended 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. Section 117.745 is revised to read as follows:

§ 117.745 Rancocas River (Creek).

(a) The following requirements apply to all bridges across the Rancocas River (Creek):

(1) Public vessels of the United States, state or local vessels used for public safety and vessels in distress shall be passed through the draw of each bridge as soon as possible without delay at any time. The opening signal from these vessels is four or more short blasts of a whistle or horn, or a radio request.

(2) The owners of these bridges shall provide and keep in good legible condition clearance gauges for each draw with figures not less than 12 inches high designed, installed and maintained according to the provisions of § 118.160 of this chapter.

(3) Trains and locomotives shall be controlled so that any delay in opening the draw span shall not exceed ten minutes. However, if a train moving toward the bridge has crossed the home signal for the bridge before the signal requesting opening of the bridge is given, that train may continue across the bridge and must clear the bridge interlocks before stopping or reversing.

(b) The draws of the SR#543 bridge, mile 1.3 at Riverside, the Conrail bridge, mile 1.6 at Delanco and the SR#38 bridge, mile 7.8 at Centerton, shall operate as follows:

(1) From April 1 through October 31 open on signal from 7 a.m. to 11 p.m.

(2) From November 1 through March 31 from 7 a.m. to 11 p.m., open on signal if at least 24 hours notice is given, except as provided in paragraph (a)(1) of this section.

(3) Year round from 11 p.m. to 7 a.m. need not open for the passage of vessels, except as provided in paragraph (a)(1) of this section.

Dated: June 29, 1993.

W.T. Leland,

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

[FR Doc. 93-18010 Filed 7-28-93; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-4684-7]

Standards of Performance for New Stationary Sources: Calciners and Dryers in Mineral Industries; Amendment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Correcting amendment.

SUMMARY: This document contains corrections to the standards of performance for new, modified, and reconstructed calciners and dryers in mineral industries published on September 28, 1992 (57 FR 44496). Corrections are made to the definition of exceedances for recordkeeping and reporting purposes.

EFFECTIVE DATE: July 29, 1993.

FOR FURTHER INFORMATION CONTACT: For further information about this correction contact Mr. Warren Johnson, (919) 541-5124, Standards Development Branch, Emission Standards Division (MD-13), U.S. Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

SUPPLEMENTARY INFORMATION:

Background

This correction document amends § 60.735 of subpart UUU of 40 CFR part 60. This section deals with the monitoring, recordkeeping and reporting requirements for the standards of performance for new, modified, and reconstructed calciners and dryers in mineral industries. As published, the final regulation contains errors that cause compliant monitoring records to be defined as exceedances, and vice versa.

Appropriate language defining exceedances for reporting purposes appeared in the notice of proposed rulemaking in the Federal Register, April 23, 1986, for which the public had no negative comments. Between proposal and promulgation, an attempt to shorten sentence structure inadvertently reversed the meaning of the intended exceedances provisions. Also, in the compliance provisions for a wet scrubber, the word "an" was inadvertently changed to "and" in describing an arithmetic average. This document restores the exceedances provisions to the language and meaning originally intended in the proposal, and also corrects the wet scrubber compliance provisions word error.

List of Subjects in 40 CFR Part 60

Air pollution control, Intergovernmental relations, Metallic minerals, Nonmetallic minerals, Reporting and recordkeeping requirements.

Dated: July 2, 1993.

Robert D. Brenner,

Acting Assistant Administrator for Air and Radiation.

Title 40, chapter I, part 60 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for part 60 is revised to read as follows:

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Authority: 42 U.S.C. 7401-7601.

§ 60.735 [Amended]

2. In § 60.735, paragraph (b), the phrase "and arithmetic average" is revised to read "an arithmetic average".

3. In § 60.735, paragraph (c)(2), the phrase "that is within 10 percent of" is

revised to read "that is less than 90 percent of".

4. In § 60.735, paragraph (c)(3), the phrase "that is within 20 percent of" is revised to read "that is less than 80 percent or greater than 120 percent of".

[FR Doc. 93-18103 Filed 7-28-93; 8:45 am]

BILLING CODE 6560-50-P

GENERAL SERVICES ADMINISTRATION

41 CFR Part 101-18

[FPMR Amendment D-92]

Acquisition of Real Property

AGENCY: Public Buildings Service, General Services Administration.

ACTION: Final rule.

SUMMARY: On December 9, 1991, the General Services Administration published in the **Federal Register** (56 FR 64221) a Proposed Rule which set forth certain revisions to the basic policy under which GSA leases, or delegates to other agencies the authority to lease, space in privately owned buildings. There are no major changes to the Final Rule as a result of agency comments on the Proposed Rule. These comments and GSA's response to them are addressed in the SUPPLEMENTARY INFORMATION below.

This Final Rule reinserts regulatory provisions which were inadvertently omitted from the CFR beginning with the July 1, 1986, issue. These provisions outline the scope of part and authority and are reinserted unchanged from the issued dated July 1, 1985. This Final Rule also increases to 20 years the allowable lease terms for certain categorical and agency special purpose space delegations. The maximum allowable lease term set forth in the Proposed Rule was 5 years.

DATES: Effective date: July 29, 1993.

ADDRESSES: Copies of comments that have been received are available in room 2324 of the General Services Building, 18th & F Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Robert E. Ward, Director, Office of Real Estate, Office of Real Property Development, Public Buildings Service, General Services Administration, Washington, DC 20405, telephone 202-501-4266.

SUPPLEMENTARY INFORMATION: Subsequent to the December 9, 1991, publication of this proposed amendment to 41 CFR part 101-18, comments were received from the Departments of Agriculture, Air Force, Commerce, Interior, Justice, and Veterans Affairs. The United States Postal Service and the Advisory Council on Historic Preservation also submitted comments. The majority of the suggested changes have been incorporated into this Final Rule. In those cases where suggested changes could not be accommodated, agencies have been provided with explanations for not incorporating their comments into the Final Rule. All agency comments have been resolved either through incorporation or explanation.

This Final Rule also (a) corrects and/or updates authority citations; (b) rearranges the order of paragraphs and/or placement of information within paragraphs to promote clarity and more logical sequence of material presented therein; and (c) streamlines the listing of agency special purpose space delegations in § 101-18.104-3. Those authorities granted to agencies by statute and/or specific delegation(s) granted by the Administrator of General Services are not reiterated in this section.

Executive Order 12291

GSA has determined that this Final Rule is not a major rule for purposes of Executive Order 12291 of February 17, 1981, because it will not result in an annual effect on the economy of $100 million or more, will not cause a major increase in costs to consumers or others, and will not have significant adverse effects. Therefore, a Regulatory Impact Analysis has not been prepared. GSA has based all administrative decisions on this Final Rule on adequate information concerning the need for and consequences of this Final Rule. GSA has also determined that the potential benefits to society from this Final Rule far outweigh the potential costs, has maximized the net benefits, and has chosen the alternative involving the least net cost to society.

Regulatory Flexibility Act

The General Services Administration has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

List of Subjects in 41 CFR Part 101-18

Acquisition of real property by lease. Acquisition of real property by purchase or condemnation.

Accordingly, 41 CFR part 101-18 is amended as follows:

PART 101-18—ACQUISITION OF REAL PROPERTY

1. The authority citation for 41 CFR part 101-18 is revised to read as follows:

Authority: 40 U.S.C. 486(c); sec. 1-201(b), E.O. 12072, 43 FR 36869.

2. Subpart 101-18.0 is added and subpart 101-18.1 is revised to read as follows:

PART 101-18—ACQUISITION OF REAL PROPERTY

Sec.
101-18.000 Scope of part.
101-18.001 Authority.

Subpart 101-18.1—Acquisition by Lease

101-18.100 Basic policy.
101-18.101 Acquisition by GSA.
101-18.102 Acquisition by other agencies.
101-18.103 Agency cooperation.
101-18.104 Delegation of leasing authority.
101-18.104-1 Limitations on the use of delegated authority.
101-18.104-2 Categorical space delegations.
101-18.104-3 Agency special purpose space delegations.
101-18.105 Contingent fees and related procedure.
101-18.106 Application of socioeconomic considerations.

§ 101-18.000 Scope of part.

This part prescribes policies and procedures governing acquisition of interests in real property.

§ 101-18.001 Authority.

This part implements applicable provisions of the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377 (40 U.S.C. 471 *et seq.*); the Act of August 27, 1935, as amended, 49 Stat. 886 (40 U.S.C. 304c); the Public Buildings Act of 1959, as amended, Pub. L. 86-249, 73 Stat. 479 (40 U.S.C. 601-615); the Public Buildings Cooperative Use Act of 1976, Pub. L. 94-541, 90 Stat. 2505; the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894; the Federal Urban Land-Use Act, Pub. L. 90-577, 82 Stat. 1104 (40 U.S.C. 531-535); the Rural Development Act of 1972, as amended, Pub. L. 92-419, 86 Stat. 657 (42 U.S.C. 3122); the Fair Housing Act, as amended, Pub. L. 90-284, 82 Stat. 81 (42 U.S.C. 3601 *et seq.*); Reorganization Plan No. 18 of 1950, 15 FR 3177, 64 Stat. 1270 (40 U.S.C. 490 note); Executive Order 12072, 43 FR 36869 (40 U.S.C. 490 note); and OMB Circular A-95 (41 FR 2052).

Subpart 101–18.1 Acquisition by Lease

§ 101–18.100 Basic policy.

(a) GSA will lease privately owned land and building space only when needs cannot be satisfactorily met in Government-controlled space and:

(1) Leasing proves to be more advantageous than the construction of a new or alteration of an existing Federal building;

(2) New construction or alteration is not warranted because requirements in the community are insufficient or indefinite in scope or duration; or

(3) Completion of a new building within a reasonable time cannot be ensured.

(b) Available space in buildings under the custody and control of the United States Postal Service (USPS) will be given priority consideration in fulfilling Federal agency space needs.

(c) Acquisition of space by lease will be on the basis most favorable to the Government, with due consideration to maintenance and operational efficiency, and only at charges consistent with prevailing scales for comparable facilities in the community.

(d) Acquisition of space by lease will be by negotiation except where the sealed bid procedure is required by 41 U.S.C. 253(a). Except as otherwise provided in 41 U.S.C. 253, full and open competition will be obtained among suitable available locations meeting minimum Government requirements.

(e) When acquiring space by lease, the provisions of § 101–17.205 regarding determination of the location of Federal facilities shall be strictly adhered to.

(f) When acquiring space by lease, the provisions of section 110(a) of the National Historic Preservation Act of 1966 (16 U.S.C. 470), as amended, regarding the use of historic properties shall be strictly adhered to.

§ 101–18.101 Acquisition by GSA.

(a) GSA will perform all functions of leasing building space, and land incidental thereto, for Federal agencies except as provided in this subpart.

(b) Officials or employees of agencies for which GSA will acquire leased space shall at no time, before or after a space request is submitted to GSA or after a lease agreement is made, directly or indirectly contact lessors, offerors, or potential offerors for the purpose of making oral or written representation or commitments or agreements with respect to the terms of occupancy of particular space, tenant improvements, alterations and repairs, or payment for overtime services, unless authorized by the Director of the Real Estate Division in the responsible GSA regional office or facility support center.

§ 101–18.102 Acquisition by other agencies.

(a) Acquisitions of leased space by agencies possessing independent statutory authority to acquire such space are not subject to GSA approval or authority.

(b) Upon request, GSA will perform, on a reimbursable basis, all functions of leasing building space, and land incidental thereto, for Federal agencies possessing independent leasing authority.

(c) GSA reserves the right to accept or reject reimbursable leasing service requests on a case-by-case basis.

§ 101–18.103 Agency cooperation.

The heads of executive agencies shall:

(a) Cooperate with and assist the Administrator of General Services in carrying out his responsibilities respecting office buildings and space;

(b) Take measures to give GSA early notice of new or changing space requirements;

(c) Seek to economize their requirements for space; and

(d) Continuously review their needs for space in and near the District of Columbia, taking into account the feasibility of decentralizing services or activities which can be carried on elsewhere without excessive costs or significant loss of efficiency.

§ 101–18.104 Delegation of leasing authority.

(a) Agencies are authorized to perform for themselves all functions with respect to the acquisition of leased space in buildings and land incidental thereto when the following conditions are met:

(1) The space may be leased for no rental, or for a nominal consideration of $1.00 per annum, and shall be limited to terms not to exceed one (1) year;

(2) Authority has been requested by an executive agency and a specific delegation has been granted by the Administrator of General Services;

(3) A categorical delegation has been granted by the Administrator of General Services for space to accommodate particular types of agency activities, such as military recruiting offices or space for certain county level agricultural activities. A listing of categorical delegations is found at § 101–18.104–2; or

(4) The required space is found by the Administrator of General Services to be wholly or predominantly utilized for the special purposes of the agency to occupy such space and is not generally suitable for use by other agencies. Prior approval of GSA shall be obtained before an agency initiates a leasing action involving 2,500 or more square feet of such special purpose space. The request for approval and a Standard Form 81 shall be filed with the GSA regional office having jurisdiction in the area of the proposed leasing action as shown in § 101–17.4801. GSA's approval shall be based upon a finding that there is no vacant Government-owned or leased space available that will meet the agency's requirements.

A listing of agency special purpose space delegations is found at § 101–18.104–3.

(b) The Departments of Agriculture, Commerce, and Defense may lease their own building space, and land incidental to its use, and provide for its operation, maintenance, and custody when the space is situated outside an urban center. Such leases shall be for terms not to exceed five (5) years. A list of urban centers follows.

List of Urban Centers

Aberdeen, SD:
  Brown County.
Abil:
  Jones County.
  Taylor County.
Akron, OH:
  Portage County.
  Summit County.
Alaska:
  The entire State.
Albany, GA:
  Dougherty County.
Albany, IL:
  Whiteside County.
Albany, OR:
  Linn County.
Albany-Schenectady-Troy, NY:
  Albany County.
  Rensselaer County.
  Saratoga County.
  Schenectady County.
Albuquerque, NM:
  Bernalillo County.
Alexandria, LA:
  Rapides Parish.
Allentown-Bethlehem-Easton, PA–NJ:
  Lehigh County, PA.
  Northampton County, PA.
  Warren, NJ.
Altoona, PA:
  Blair County.
Amarillo, TX:
  Potter County.
  Randall County.
Anaheim-Santa Ana-Garden Grove, CA:
  Orange County.
Ann Arbor, MI:
  Washtenaw County.
Asheville, NC:
  Buncombe County.
Athens, GA:
  Clarke County.
Atlanta, GA:
  Clayton County.
  Cobb County.
  De Kalb County.
  Fulton County.

Gwinnett County.
Atlantic City, NJ:
Atlantic County.
Augusta, GA–SC:
Richmond County, GA.
Aiken County, SC.
Augusta, ME:
Kennebec County.
Austin, TX:
Travis County.
Bakersfield, CA:
Kern County.
Baltimore, MD:
Baltimore City.
Anne Arundel County.
Baltimore County.
Carroll County.
Howard County.
Baton Rough, LA:
East Baton Rouge Parish.
Battle Creek, MI:
Calhoun County.
Bay City, MI:
Bay County.
Beaumont-Port Arthur, TX:
Jefferson County.
Orange County.
Billings, MT:
Yellowstone County.
Binghampton, NY-PA:
Broome County, NY.
Tioga County, NY.
Susquehanna County, PA.
Birmingham, AL:
Jefferson County.
Bismarck, ND:
Burleigh County.
Boise, ID:
Ada County.
Boston, MA:
Essex County.
Middlesex County.
Norfolk County.
Plymouth County.
Suffolk County.
Bridgeport, CT:
Fairfield County.
New Haven County.
Brockton, MA:
Bristol County.
Norfolk County.
Plymouth County.
Brownsville-Harlingen-San Benito, TX:
Cameron County.
Buffalo, NY:
Erie County.
Niagara County.
Burlington, VT:
Chittenden County.
Butte, MT:
Silver Bow County.
Calexico-El Centro, CA:
Imperial County.
Canton, OH:
Stark County.
Casper, WY:
Narrona County.
Cedar Rapids, IA:
Linn County.
Champaign-Urbana, IL:
Champaign County.
Charleston, SC:
Berkeley County.
Charleston, County.
Charleston, WV:
Kanawha County.
Charlotte, NC:
Mecklenburg County.
Union County.
Charlottesville, VA:
Charlottesville City.
Albemarle County.
Chattanooga, TN-GA:
Hamilton County, TN.
Walker County, GA.
Cheyenne, WY:
Laramie County.
Chicago, IL:
Cook County.
Du Page County.
Kane County.
Lake County.
McHenry County.
Will County.
Cincinnati, OH-KY-IN:
Clermont County, OH.
Hamilton County, OH.
Warren County, OH.
Boone County, KY.
Campbell County, KY.
Kenton County, KY.
Dearborn County, IN.
Cleveland, OH:
Cuyahoga County.
Geauga County.
Lake County.
Medina County.
Clinton, OK:
Custer County.
Cody, WY:
Park County.
Colorado Springs, CO:
El Paso County.
Columbia, MO:
Boone County.
Columbia, SC:
Lexington County.
Richland County.
Columbus, GA-AL:
Chattahoochee County, GA.
Muscogee County, GA.
Russell County, AL.
Columbus, OH:
Delaware County.
Franklin County.
Pickaway County.
Concord, NH:
Merrimack County.
Corpus Christi, TX:
Nueces County.
Dallas, TX:
Collin County.
Dallas County.
Denton County.
Ellis County.
Davenport-Rock Island-Moline, IA–IL:
Scott County, IA.
Henry County, IL.
Rock Island County, IL.
Dayton, OH:
Greene County.
Miami County.
Montgomery County.
Preble County.
Decatur, IL:
Macon County.
Denver, CO:
Adams County.
Arapahoe County.
Boulder County.
Denver County.
Jefferson County.
Des Moines, IA:
Polk County.
Detroit, MI:
Macomb County.
Oakland County.
Wayne County.
Dubuque, IA:
Dubuque County.
Duluth-Superior, MN-WI:
St. Louis County, MN.
Douglas County, WI.
Durango, CO:
LaPlata County.
Durham, NC:
Durham County.
Elkins, WV:
Randolph County.
El Paso, TX:
El Paso County.
Erie, PA:
Erie County.
Eugene, OR:
Lane County.
Evansville, IN-KY:
Vanderburgh County, IN.
Warrick County, IN.
Henderson County, KY.
Fall River, MA-RI:
Bristol County, MA.
Newport County, RI.
Fargo-Moorhed, ND-MN:
Cass County, ND.
Clay County, MN.
Fayetteville, NC:
Cumberland County.
Fitchburg-Leominster, MA:
Middlesex County.
Worcester County.
Flint, MI:
Genesee County.
Lapeer County.
Fort Collins, CO:
Larimer County.
Fort Lauderdale-Hollywood, FL:
Broward County.
Fort Smith, AR–OK:
Crawford County, AR.
Sebastian County, AR.
Le Flore County, OK.
Sequoyah County, OK.
Fort Wayne, IN:
Allen County.
Fort Worth, TX:
Johnson County.
Tarrant County.
Frankfort, KY:
Franklin County.
Fresno, CA:
Fresno County.
Gadsden, AL:
Etowah County.
Gainesville, FL:
Alachua County.
Galveston-Texas City, TX:
Galveston County.
Gary-Hammond-East Chicago, IN:
Lake County.
Porter County.
Grand Forks, ND:
Grand Forks County.
Grand Island, NE:
Hall County.
Grand Junction, CO:
Mesa County.
Grand Rapids, MI:
Kent County.
Ottawa County.
Great Falls, MT:

Cascade County.
Greeley, CO:
Weld County.
Green Bay, WI:
Brown County.
Greensboro-High Point, NC:
Guilford County.
Greenville, SC:
Greenville County.
Pickens County.
Greenwood, MS:
Le Flore County.
Hamilton-Middletown, OH:
Butler County.
Harrisburg, PA:
Cumberland County.
Dauphin County.
Perry County.
Hartford, CT:
Hartford County.
Middlesex County.
Tolland County.
Hawaii:
The entire State.
Helena, MT:
Lewis and Clark County.
Hot Springs, AR:
Garland County.
Houston, TX:
Harris County.
Huntington-Ashland, WV-KY-OH:
Cabell County, WV.
Wayne County, WV.
Boyd County, KY.
Lawrence County, OH.
Huntsville, AL:
Limestone County.
Madison County.
Huron, SD:
Beadle County.
Idaho Falls, ID:
Bonneville County.
Indianapolis, IN:
Hamilton County.
Hancock County.
Hendricks County.
Johnson County.
Marion County.
Morgan County.
Shelby County.
Jackson, MI:
Jackson County
Jackson, MS:
Hinds County.
Rankin County.
Jackson, TN:
Madison County.
Jacksonville, FL:
Duval County.
Jefferson City, MO:
Cole County.
Jersey City, NJ:
Hudson County.
Johnstown, PA:
Cambria County.
Somerset County.
Kalamazoo, MI:
Kalamazoo County.
Kansas City, MO-KS:
Cass County, MO.
Clay County, MO.
Jackson County, MO.
Platte County, MO.
Johnson County, KS.
Wyandotte County, KS.
Kenosha, WI:
Kenosha County.
Klamath Falls, OR:
Klamath County.
Knoxville, TN:
Anderson County.
Blount County.
Knox County.
Lafayette, LA:
Lafayette Parish.
Lake Charles, LA:
Calcasieu Parish.
Lancaster, PA:
Lancaster County.
Lansing, MI:
Clinton County.
Eaton County.
Ingham County.
Laredo, TX:
Webb County.
Las Vegas, NV:
Clark County.
Lawrence-Haverhill, MA-NH:
Essex County, MA.
Rockingham County, NH.
Lawton, OK:
Comanche County.
Lewiston-Auburn, ME:
Androscoggin County.
Lexington, KY:
Fayette County.
Lima, OH:
Allen County.
Lincoln, NE:
Lancaster County.
Little Rock-North Little Rock, AR:
Pulaski County.
Logan, UT:
Cache County.
Lorain-Elyria, OH:
Lorain County,
Los Angeles-Long Beach, CA:
Los Angeles County.
Louisville, KY/IN.
Jefferson County, KY.
Clark County, IN.
Floyd County, IN.
Lowell, MA:
Middlesex County.
Lubbock, TX:
Lubbock County.
Lynchburg, VA:
Lynchburg City.
Amherst County.
Campbell County.
Macon, GA:
Bibb County.
Houston County.
Madison, WI:
Dane County.
Manchester, NH:
Hillsborough County.
Merrimack County.
Manhattan, KS:
Riley County.
McCook, NE:
Red Willow County.
Medford, OR:
Jackson County.
Memphis, TN-AR:
Shelby County, TN.
Crittenden County, AR.
Meriden, CT:
New Haven County.
Meridian, MS:
Lauderdale County.
Miami, FL:
Dade County.
Midland, TX:
Midland County.
Milwaukee, WI:
Milwaukee County.
Ozaukee County.
Waukesha County.
Minneapolis-St. Paul, MN:
Anoka County.
Dakota County.
Hennepin County.
Ramsey County.
Washington County.
Missoula, MT:
Missoula County.
Mobile, AL:
Baldwin County.
Mobile County.
Monroe, LA:
Ouachita Parish.
Montgomery, AL:
Elmore County.
Montgomery County.
Morgantown, WV:
Monongahela County.
Muncie, IN:
Delaware County.
Muskegon-Muskegon Heights, MI:
Muskegon County.
Muskogee, OK:
Muskogee County.
Nashville, TN:
Davidson County.
Sumner County.
Wilson County.
Newark, NY:
Essex County.
Morris County.
Union County.
New Bedford, MA:
Bristol County.
Plymouth County.
New Britain, CT:
Hartford County.
New Haven, CT:
New Haven County.
New London-Groton-Norwich, CT:
New London County.
New Orleans, LA:
Jefferson Parish.
Orleans Parish.
St. Bernard Parish.
St. Tammany Parish.
Newport News-Hampton, VA:
Hampton City.
Newport News City.
York County.
New York, NY:
Bronx County.
Kings County.
Nassau County.
New York County.
Queens County.
Richmond County.
Rockland County.
Suffolk County.
Westchester County.
Norfolk-Portsmouth, VA:
Chesapeake City.
Norfolk City.
Portsmouth City.
Virginia Beach City.
Norwalk, CT:
Fairfield County.
Odessa, TX:
Ector County.
Ogden, UT:

Weber County.
Oklahoma City, OK:
Canadian County.
Cleveland County.
Oklahoma County.
Olympia, WA:
Thurston County.
Omaha, NE–IA:
Douglas County, NE.
Sarpy County, NE.
Pottawattamie County, IA.
Orlando, FL:
Orange County.
Seminole County.
Parkersburg, WV:
Wood County.
Paterson-Clifton-Passaic, NJ:
Bergen County.
Passaic County.
Pensacola, FL:
Escambia County.
Santa Rosa County.
Peoria, IL:
Peoria County.
Tazewell County.
Woodford County.
Philadelphia, PA-NJ:
Bucks County, PA.
Chester County, PA.
Delaware County, PA.
Montgomery County, PA.
Philadelphia County, PA.
Burlington County, NJ.
Camden County, NJ.
Gloucester County, NJ.
Phoenix, AZ:
Maricopa County.
Pierre, SD:
Hughes County.
Pittsburgh, PA:
Allegheny County.
Beaver County.
Washington County.
Westmoreland County.
Pittsfield, MA:
Berkshire County.
Portland, ME:
Cumberland County.
Portland, OR-WA:
Clackamas County, OR.
Multnomah County, OR:
Washington County, OR.
Clark County, WA.
Portsmouth, NH:
Rockingham County.
Providence-Pawtucket-Warwick, RI-MA:
Bristol County, RI.
Kent County, RI.
Newport County, RI.
Providence County, RI.
Washington County, RI.
Bristol County, MA.
Norfolk County, MA.
Worcester County, MA.
Provo-Orem, UT:
Utah County.
Pueblo, CO:
Pueblo County.
Puerto Rico:
The entire Commonwealth.
Racine, WI:
Racine County.
Raleigh, NC:
Wake County.
Rapid City, SD:
Pennington County.
Reading, PA:
Berks County.
Reno, NV:
Washoe County.
Richmond, VA:
Richmond City.
Chesterfield County.
Hanover County.
Henrico County.
Roanoke, VA:
Roanoke City.
Roanoke County.
Rochester, NY:
Livingston County.
Monroe County.
Orleans County.
Wayne County.
Rockford, IL:
Boone County.
Winnebago County.
Rolla, MO:
Phelps County.
Rome, GA:
Floyd County.
Sacramento, CA:
Placer County.
Sacramento County.
Yolo County.
Saginaw, MI:
Saginaw County.
St. Albans, VT:
Franklin County.
St. Joseph, MO:
Buchanan County.
St. Louis, MO-IL:
St. Louis City, MO.
Jefferson County, MO.
St. Charles County, MO.
St. Louis County, MO.
Madison County, IL.
St. Clair County, IL.
Salem, OR:
Marion County.
Polk County.
Salina, KS:
Saline County.
Salisbury, MD:
Wicomico County.
Salt Lake City, UT:
Davis County.
Salt Lake County.
San Angelo, TX:
Tom Green County.
San Antonio, TX:
Bexar County.
Guadalupe County.
San Bernardino-Riverside-Ontario, CA:
Riverside County.
San Bernardino County.
San Diego, CA:
San Diego County.
San Francisco-Oakland, CA:
Alameda County.
Contra Costa County.
Marin County.
San Francisco County.
San Mateo County.
San Jose, CA:
Santa Clara County.
Santa Barbara, CA:
Santa Barbara County.
Santa Fe, NM:
Santa Fe County.
Savannah, GA:
Chatham County.
Scottsbluff, NE:
Scotts Bluff County.
Scranton, PA:
Lackawanna County.
Seattle-Everett, WA:
King County.
Snohomish County.
Sheridan, WY:
Sheridan County
Shreveport, LA:
Bossier Parish.
Caddo Parish.
Sioux City, IA-NE:
Woodbury County, IA.
Dakota County, NE.
Sioux Falls, SD:
Minnehaha County.
South Bend, IN:
St. Joseph County.
Marshall County.
Spartanburg, SC:
Spartanburg County.
Spokane, WA:
Spokane County.
Springfield-Chicopee-Holyoke, MA:
Hampden County.
Hampshire County.
Worcester County.
Springfield, IL:
Sangamon County.
Springfield, MO:
Greene County.
Springfield, OH:
Clark County.
Stamford, CT:
Fairfield County.
Steubenville-Weirton, OH-WV:
Jefferson County, OH.
Brooke County, WV.
Hancock County, WV.
Stillwater, OK:
Payne County.
Stockton, CA:
San Joaquin County.
Syracuse, NY:
Madison County.
Onondaga County.
Oswego County.
Tacoma, WA:
Pierce County.
Tallahassee, FL:
Leon County.
Tampa-St. Petersburg, FL:
Hillsborough County.
Pinellas County.
Temple, TX:
Bell County.
Terre Haute, IN:
Clay County.
Sullivan County.
Vermillion County.
Vigo County.
Texarkana, TX-AR:
Bowie County, TX.
Miller County, AR.
Toledo, OH-MI:
Lucas County, OH.
Wood County, OH.
Monroe County, MI.
Topeka, KS:
Shawnee County.
Trenton, NJ:
Mercer County.
Tucson, AZ:
Pima County.
Tulsa, OK:
Creek County.
Osage County.
Tulsa County.
Tuscaloosa, AL:

Tuscaloosa County.
Tyler, TX:
Smith County.
Utica-Rome, NY:
Herkimer County.
Oneida County.
Vallejo-Napa, CA:
Napa County.
Solano County.
Vicksburg, MS:
Warren County.
Virgin Islands:
The entire Territory.
Waco, TX:
McLennan County.
Walla Walla, WA:
Walla Walla County.
Benton County.
Washington, DC-MD-VA:
District of Columbia.
Montgomery County, MD.
Prince Georges County, MD.
Alexandria City, VA.
Fairfax City, VA.
Falls Church, VA.
Arlington County, VA.
Fairfax County, VA.
Waterbury, CT:
Litchfield County.
New Haven County.
Waterloo, IA:
Black Hawk County.
Wenatchee, WA:
Chelan County.
West Palm Beach, FL:
Palm Beach County.
Wheeling, WV-OH:
Marshall County, WV
Ohio County, WV.
Belmont County, OH.
Wichita, KS:
Butler County.
Sedgwick County.
Wichita Falls, TX:
Archer County.
Wichita County.
Wilkes Barre-Hazleton, PA:
Luzerne County.
Wilmington, DE-NJ-MD:
New Castle County, DE.
Salem County, NJ.
Cecil County, MD.
Wilmington, NC:
New Hanover County.
Winston-Salem, NC:
Forsyth County.
Worcester, MA:
Worcester County.
Yakima, WA:
Yakima County.
York, PA:
Adams County.
York County.
Youngstown-Warren, OH:
Mahoning County.
Trumbull County.
Yuma, AZ:
Yuma County.

(c) The Administrator of General Services has granted specific delegations of lease acquisition authority which designate urban or major urban centers different from those listed in paragraph (b) of this section. The list in paragraph (b) does not supersede or alter in any way leasing areas which are attached to such specific delegations. Agencies may continue to exercise the leasing authority granted in specific delegations in the manner and to the extent provided in those delegations.

§ 101–18.104–1 Limitations on the use of delegated authority.

(a) The authority granted in and pursuant to this subpart shall be exercised in accordance with the requirements and limitations of the Federal Property and Administrative Services Act of 1949, as amended; the Budget Enforcement Act of 1990 and OMB Bulletin 91–02, Part B; Federal Property Management Regulations, subchapter D, those authorities listed in § 101–18.001; and other applicable laws and regulations, including the General Services Administration Acquisition Regulation (GSAR), the Competition in Contracting Act (CICA), and other OMB requirements.

(b) Pursuant to GSA's long-term authority contained in section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, as amended, (40 U.S.C. 490(h)(1)), agencies delegated the authorities outlined herein may enter into leases for the term specified. In those cases where agency special purposes space delegations include the authority to acquire unimproved land, the land may be leased only on a fiscal year basis.

(c) In accordance with section 7(a) of the Public Buildings Act of 1959, as amended (40 U.S.C. 606), agencies must submit a prospectus to the Administrator of General Services for leases involving a net annual rental in excess of $1.6 million excluding services and utilities.

Note: The thresholds for prospectuses are indexed, and change each year.

(d) Agencies having a need for other than temporary parking accommodations in the urban centers listed in § 101–18.102, for Government-owned motor vehicles not regularly house by GSA, shall ascertain the availability of Government-owned or-controlled parking from GSA in accordance with the procedures outlined in § 101–17.202–2 prior to instituting procurement action to acquire parking facilities or services.

§ 101–18.104–2 Categorical space delegations

Subject to the limitations cited in § 101–18.104–1, all agencies are authorized to acquire the types of space listed in paragraphs (a) through (p) of this section. Except where otherwise noted, leases may be for terms, including all options, of up to 20 years. The types of space subject to categorical space delegations may be located inside or outside urban centers and are as follows:

(a) Space to house antennas, repeaters, or transmission equipment;

(b) Depots, including, but not limited to, stockpiling depots and torpedo net depots;

(c) Docks, piers, and mooring facilities (including closed storage space required in combination with such facilities);

(d) Fumigation areas;

(e) Garage space (may be leased only on a fiscal year basis);

(f) Greenhouses;

(g) Hangars and other airport operating facilities including, but not limited to, flight preparation space, aircraft storage areas, and repair shops;

(h) Hospitals, including medical clinics;

(i) Housing (temporary), including hotels (does not include quarters obtained pursuant to temporary duty travel or employee relocation);

(j) Laundries;

(k) Quarantine facilities for plants, birds, and other animals;

(l) Ranger stations; i.e., facilities which typically include small offices staffed by one or more uniformed employees, and may include sleeping/family quarters, parking areas, garages, and storage space. Office space within ranger stations is minimal and does not comprise a majority of the space. (May also be referred to as guard stations, information centers, or kiosks.)

(m) Recruiting space for the armed forces (lease terms, including all options, limited to 5 years);

(n) Schools directly related to the special purpose function(s) of an agency;

(o) Specialized storage/depot facilities, such as cold storage; self-storage units; and lumber, oil, gasoline, shipbuilding materials, and pesticide materials/equipment storage (general purpose warehouse type storage facilities not included);

(p) Space for short-term use as provided in § 101–17.203 (lease terms limited to 180 days with extensions granted on a case-by-case basis).

§ 101–18.104–3 Agency special purpose space delegations.

Subject to the limitations cited in § 101–18.104–1, the agencies listed below are authorized to acquire the types of space associated with that agency. Except where otherwise noted, agency special purpose space may be leased for terms, including all options, of up to 20 years. Such space may be located either inside or outside urban

centers. The agencies and types of space subject to special purpose space delegations are as follows:

(a) Department of Agriculture:

(1) Cotton classing laboratories (lease terms, including all options, limited to 5 years);

(2) Land (if unimproved, may be leased only on a fiscal year basis);

(3) Miscellaneous storage by cubic foot or weight basis;

(4) Office space when required to be located in or adjacent to stockyards, produce markets, produce terminals, airports, and other ports (lease terms, including all options, limited to 5 years);

(5) Space for agricultural commodities stored in licensed warehouses and utilized under warehouse contracts;

(6) Space utilized in cooperation with State and local governments or their instrumentalities (extension services) where the cooperating State or local government occupies a portion of the space and pays a portion of the rent.

(b) Department of Commerce:

(1) Census Bureau—Space required in connection with conducting the decennial census (lease terms, including all options, limited to 5 years);

(2) Laboratories for testing materials, classified or ordnance devices, calibration of instruments, and atmospheric and oceanic research (lease terms, including all options, limited to 5 years);

(3) Maritime training stations;

(4) Radio stations;

(5) Land (if unimproved, may be leased only on a fiscal year basis);

(6) National Weather Service meteorological facilities.

(c) Department of Defense:

(1) Air Force—Civil Air Patrol Liaison Offices and land incidental thereto when required for use incidental to, in conjunction with, and in close proximity to airports, including aircraft and warning stations (if unimproved, land may be leased only on a fiscal year basis; for space, lease terms, including all options, limited to 5 years);

(2) Armories;

(3) Film library in the vicinity of Washington, DC;

(4) Leased building at Air Force Base, Jackson, MS;

(5) Mess halls;

(6) Ports of embarkation and debarkation;

(7) Post exchanges;

(8) Postal Concentration Center, Long Island City, NY;

(9) Recreation centers;

(10) Reserve training space;

(11) Service clubs;

(12) Testing laboratories (lease terms, including all options, limited to 5 years).

(d) Department of Energy: Facilities housing the special purpose or special location activities of the old Atomic Energy Commission.

(e) Federal Communications Commission: Monitoring station sites.

(f) Department of Health and Human Services: Laboratories (lease terms, including all options, limited to 5 years).

(g) Department of the Interior:

(1) Space in buildings and land incidental thereto used by field crews of the Bureau of Reclamation, Bureau of Land Management, and the Geological Survey in areas where no other Government agencies are quartered (if unimproved, land may be leased only on a fiscal year basis);

(2) National Parks/Monuments Visitors Centers consisting primarily of special purpose space (e.g., visitor reception, information, and rest room facilities) and not general office or administrative space.

(h) Department of Justice:

(1) U.S. marshals Office in any Alaska location (lease terms, including all options, limited to 5 years);

(2) Border Patrol Offices similar in character and utilization to policy stations, involving the handling of prisoners, firearms, and motor vehicles, regardless of location (lease terms, including all options limited to 5 years);

(3) Space used for storage and maintenance of surveillance vehicles and seized property (lease terms, including all options, limited to 5 years);

(4) Space used for review and custody of records and other evidentiary materials (lease terms, including all options, limited to 5 years);

(5) Space used for trail preparation where space is not available in Federal Buildings, Federal Courthouses, USPS facilities, or GSA-leased buildings (lease terms limited to not more than 1 year.)

(i) Office of Thrift Supervision: Space for field offices of Examining Divisions required to be located within Office of Thrift Supervision buildings or immediately adjoining or adjacent to such buildings (lease terms, including all options, limited to 5 years).

(j) Department of Transportation:

(1) Federal Aviation Administration:

(i) Land at airports (if unimproved, land may be leased only on a fiscal year basis);

(ii) Not to exceed 10,000 square feet of space at airports that is used predominantly as general purpose office space in buildings under the jurisdiction of public or private airport authorities (lease terms, including all options, limited to 5 years);

(2) U.S. Coast Guard:

(i) Space for the oceanic unit, Woods Hole, MA;

(ii) Space for port security activities.

(k) Department of the Treasury:

(1) Comptroller of the Currency—Space and land incidental thereto for the use of the Comptroller of the Currency, as well as the operation, maintenance and custody thereof (if unimproved, land may be leased only on a fiscal year basis; for space, lease term, including all options, limited to 5 years);

(2) U.S. Customs Service—Aerostat radar facilities necessary for agency mission activities;

(l) Department of Veterans Affairs:

(1) Guidance and training centers located at schools and colleges;

(2) Space used for veterans hospitals, including outpatient and medical-related clinics, such as drug, mental health, and alcohol.

§ 101–18.105 Contingent fees and related procedure.

The provisions of subpart 3.4 of Title 48 with respect to contingent fees and related procedure are hereby made applicable to all negotiated and sealed bid contracts for the acquisition of real property by lease. The representations and covenants required by that subpart shall be appropriately adapted for use in leases of real property for Government use.

§ 101–18.106 Application of socioeconomic considerations.

(a) In acquiring space by lease, agencies will avoid locations which will work a hardship on employees because (1) there is a lack of adequate low- and moderate-income nondiscriminatory housing for employees within reasonable proximity to the location, and (2) the location is not readily accessible from other areas of the community.

(b) Consideration of low- and moderate-income nondiscriminatory housing for employees and the need for development and redevelopment of areas for socioeconomic improvement will apply to the acquisition of space by lease where:

(1) 100 or more low- or moderate-income employees are expected to be employed in the space to be leased; and

(2) The proposed leasing action involves residential relocation of a majority of the existing low- and moderate-income work force, a significant increase in their transportation or parking costs, travel time that exceeds 45 minutes to the new location, or a 20 percent increase in travel time if travel time to the present facility already exceeds an average of 45 minutes; or

(3) GSA requests Department of Housing and Urban Development (HUD) review in lease actions of special importance not covered by paragraphs (b) (1) and (2) of this section.

(c) HUD, as the agency responsible for providing information concerning the availability of nondiscriminatory low- and moderate-income housing in areas where Federal facilities are to be located, shall be consulted when such information is required.

(d) Other socioeconomic considerations described in § 101-19.101 are also applicable to lease acquisitions.

Dated: February 23, 1993.

Dennis J. Fischer,

Acting Administrator of General Services.

[FR Doc. 93-17682 Filed 7-28-93; 8:45 am]

BILLING CODE 6820-23-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 350

[FHWA Docket No. MC-93-20]

RIN 2125-AC90

Motor Carrier Safety Assistance Program; Extension of Compliance Date

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Interim final rule; request for comments.

SUMMARY: The FHWA is removing the March 31, 1993, deadline regarding compatible physical qualifications for drivers of commercial motor vehicles (CMV) operated in intrastate commerce. Additionally, the FHWA is encouraging States to consider developing physical qualification waiver programs that are compatible with the FHWA's program.

DATES: Interim final rule effective July 29, 1993; comments must be received on or before August 30, 1993.

ADDRESSES: Submit written, signed comments to FHWA Docket No. MC-93-20, room 4232, Office of the Chief Counsel, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address from 8:30 a.m. to 3:30 p.m., e.t., Monday through Friday, except legal Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or envelope.

FOR FURTHER INFORMATION CONTACT: Mr. David Miller, Office of Motor Carrier Standards, (202) 366-2981, or Ms. Barbara Kenefake, Office of Motor Carrier Field Operations, (202) 366-9579, or Mr. Paul Brennan, Office of the Chief Counsel, (202) 366-0834, Federal Highway Administration, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION: Title 49, Code of Federal Regulations (CFR), part 350 was amended by a final rule published in the **Federal Register** on September 8, 1992 (57 FR 40946). The rule amended part 350 by adding, among other things, Appendix C—Tolerance Guidelines for Adopting Compatible State Rules and Regulations. Paragraph 3(i) of appendix C allows States to qualify any driver who cannot meet the Federal physical qualification requirements for drivers or compatible State requirements to operate a CMV wholly in intrastate commerce. Since March 31, 1993, the States can no longer qualify such drivers, but may waive those drivers already qualified under previously less stringent State rules.

The March 31, 1993, cut-off date exempting intrastate drivers from the physical qualification requirements and grandfathering those drivers already qualified under State standards is being replaced with a date three years from today. Further, the FHWA is encouraging the States to consider establishing their own waiver programs that are compatible with the FHWA's program. The States will be able to continue to exempt intrastate drivers from the physical qualification requirements for an additional three years.

Programs that embrace more stringent conditions will be acceptable (*e.g.*, the State of California does not allow a driver with a vision waiver to drive hazardous material laden or passenger carrying vehicles). The States will have to adopt the Federal requirements or adopt compatible requirements that are the result of FHWA's ongoing rulemaking actions with respect to physical qualification waiver programs. This will include the findings made as a result of the waiver programs and docket comments to each of the Federal rulemaking actions, such as vision, insulin-using diabetes, hearing and epilepsy. States will not, however, be required to medically qualify intrastate drivers that were exempted or grandfathered before July 29, 1996 if the State otherwise meets the requirements of paragraph 3(i) of appendix C to part 350.

The FHWA considers the physical qualification requirements set forth in part 391 of the FMCSRs to be the minimum standards that contribute significantly to commercial motor vehicle safety. The FHWA continues to encourage the States to adopt its minimum standards as their own and use the exemption option judiciously to respond to legitimate hardships that will not adversely affect highway safety.

The FHWA is presently engaged in a research effort that may eventually require States to assure that, as part of the Commercial Driver's License (CDL) Program, drivers meet Federal physical qualification requirements. Several States are now pilot-testing a variety of prototype programs under which CMV drivers must show that they have been medically examined and meet existing physical qualification requirements in order to receive and retain a CDL. Some of these prototype programs include specific procedures for assessing the physical condition and functional abilities of drivers who do not meet all physical qualification requirements. If intrastate waivers are granted to such drivers, it is hoped that the State will impose appropriate conditions on the waiver and track the driver's driving record and accident involvement. The FHWA expects to use the findings from its research efforts as a basis for a rulemaking to address specific physical qualification requirements.

Rulemaking Analyses and Notices

Regulatory Impact

This document permits States to continue allowing certain drivers of CMVs engaged in intrastate commerce to drive such vehicles after March 31, 1993. These drivers will be allowed to continue to drive CMVs for at least the next three years.

The FHWA for good cause finds that prior notice and opportunity for comment on this action would be contrary to the public interest under section 553(b)(3)(B) of the Administrative Procedure Act for the following reason. Because the deadline by which State regulations must be compatible with Federal medical standards has passed, States can no longer qualify new drivers adversely affected by upgraded State standards to operate wholly in intrastate commerce. Concurrently, the FHWA is reexamining the Federal driver qualification standards. The FHWA therefore finds that, without this rulemaking, States must deny employment opportunities to otherwise qualified individuals, to comply with Federal driver qualification standards, at a time when

the FHWA is reassessing the effectiveness of those standards. Additionally, prior notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information at this time.

This regulatory amendment is made effective upon publication. The FHWA believes this interim final rule may be made effective upon publication because it relieves a regulatory restriction. By postponing the deadline for requiring compatible physical qualification rules for CMV drivers, the FHWA relieves the States, for a period of three years, of the requirement of instituting federally-compatible rules as a prerequisite to receiving Federal MCSAP funds. Without this action, the States are unable to allow additional drivers, who do not meet all the Federal physical qualification requirements, to operate CMVs in intrastate commerce. Therefore, the FHWA finds that good cause exists under section 553(d)(1) of the Administrative Procedure Act to dispense with the 30 day delay of the effective date.

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

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the DOT. It is anticipated that the economic impact of this rulemaking will be minimal. This rule merely removes the March 31, 1993, deadline and delays the date when States must have compatible programs and regulations.

Regulatory Flexibility Act

In compliance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the FHWA has evaluated the effects of this rulemaking on small entities. This rule relieves the various States from enforcing FHWA-compatible physical qualification requirements on drivers who are engaged in wholly intrastate commerce. Small motor carriers will be able to continue their operations without change. The FHWA, therefore, 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. Although this rule relates to the requirements that States must meet to be eligible for Federal funding, federalism implications, though unavoidable, have been kept to a minimum. This rule does implement express preemption provisions contained in the Motor Carrier Safety Act (MCSA) of 1984. The preemptive authority therein furthers the goal of national uniformity of commercial motor vehicle safety regulations and their enforcement, as intended by Congress. This intention was evidenced in the Surface Transportation Assistance Act of 1982, creating the Motor Carrier Safety Assistance Program (MCSAP); the review of State commercial motor vehicle safety laws and regulations and determinations of compatibility required by the MCSA of 1984; and the intrastate compatibility provision in section 4002 of the Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991. The FHWA believes that the requirements contained in this document are consistent with the principles and criteria in E.O. 12612 for the implementation of express statutory provisions.

Executive Order 12372 (Intergovernmental Review)

Catalog of Federal Domestic Assistance Program Number 20.217, Motor Carrier Safety. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.

Paperwork Reduction Act

There are no information collection requirements in this interim final rule for purposes of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501–3520.

National Environmental Policy Act

The FHWA 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.

Regulatory Identification Number

A regulatory 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 contained in the heading of this document can be used to cross reference this action with the Unified Agenda.

List of Subjects in 49 CFR Part 350

Grant programs—transportation, Highway safety, Highways and roads, Motor carriers, Motor vehicle safety.

Issued on: July 22, 1993

Rodney E. Slater,

Administrator.

In consideration of the foregoing, the FHWA is amending title 49, Code of Federal Regulations, subtitle B, chapter III, part 350 as follows:

PART 350—[AMENDED]

1. The authority citation for part 350 continues to read as follows:

Authority: 49 U.S.C. app. 2301–2304, 2505–2507; 49 U.S.C. 3102; Sec. 15(d), Pub. L. 101–500, 104 Stat. 1213, 1219; Secs. 4002 and 4009, Pub. L. 102–240, 105 Stat. 2140; and 49 CFR 1.48.

2. Paragraph 3(i) of appendix C to part 350 is revised to read as follows:

Appendix C to Part 350—Tolerance Guidelines for Adopting Compatible State Rules and Regulations

* * * * *

3. * * *

(i) The States may qualify any driver engaged wholly in intrastate commerce who is adversely affected by current State medical standards, upgraded to be consistent with part 391, even if the States adopted those medical standards in the past. Drivers identified through July 29, 1996, as not meeting the upgraded State standards may also be qualified. Such a driver may remain qualified after July 29, 1996, as long as an examining physician determines during the biennial medical examination that existing medical or physical conditions that would otherwise render the driver not qualified under Federal standards have not significantly worsened or another non-qualifying medical or physical condition has not developed.

It should be noted that the FHWA still considers the physical qualification requirements in part 391 to be the minimum requirements that contribute significantly to commercial motor vehicle operational safety. The FHWA continues to encourage States to adopt these minimum standards as their own and to use this grandfathering option judiciously to respond to legitimate hardships. This policy should in no way be interpreted as discrediting the medical standards adopted in part 391.

This guideline will not preclude a State's adoption of or continuation of a waiver program which can be demonstrated to be based on sound medical judgment combined with appropriate performance standards causing no adverse affect on safety.

[FR Doc. 93–18063 Filed 7–28–93; 8:45 am]

BILLING CODE 4910–22–P

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1321

[Ex Parte No. MC-208]

Nonoperating Motor Carriers—Collection of Undercharges

AGENCY: Interstate Commerce Commission.

ACTION: Vacation of final rule.

SUMMARY: The Commission is vacating its final rules promulgated in this proceeding because the regulations have been held unauthorized by the United States Court of Appeals for the Third Circuit, and the Commission chose not to seek further review.

EFFECTIVE DATE: The final rules are vacated on July 29, 1993.

FOR FURTHER INFORMATION CONTACT: Beryl Gordon (202) 927-5610, [TDD for hearing impaired: (202) 927-5721].

SUPPLEMENTARY INFORMATION: The regulations adopted in this proceeding have been held to be beyond the Commission's authority by the court, in *Vedder J. White et al.* v. *United States,* 989 F.2d 643 (3d Cir. 1993), and the Commission chose not to seek further review. Accordingly, the Commission is vacating these rules. The final rules were published on September 8, 1992 at 57 FR 40857. An announcement delaying their effective date was published on September 23, 1992 at 57 FR 43925.

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to Dynamic Concepts Inc., room 2229, Interstate Commerce Commission Building, Washington, DC 20423 or call (202) 289-4357/4359.

List of Subjects in 49 CFR Part 1321

Motor carriers, Undercharges.

Decided: July 14, 1993.

By the Commission, Chairman McDonald, Vice Chairman Simmons, Commissioners Phillips, Philbin, and Walden.

Sidney L. Strickland, Jr.,
Secretary.

PART 1321—[REMOVED]

Accordingly, for the reasons set forth in the Preamble, under the authority of 49 U.S.C. 10322(g)(1) the Commission amends title 49, chapter X, of the Code of Federal Regulations, by removing part 1321.

[FR Doc. 93-18150 Filed 7-28-93; 8:45 am]
BILLING CODE 7035-01-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 672

[Docket No. 921107-3068; I.D. 072393A]

Groundfish of the Gulf of Alaska

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

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of the following species or target species categories in the Gulf of Alaska (GOA): (1) in the Western Regulatory Area, Pacific ocean perch (POP), shortraker/rougheye (SRRE), rockfish, and 'other rockfish;' and, (2) in the Central Regulatory Area, SRRE rockfish. Therefore, MNFS is requiring that incidental catches of these species or target species categories in these areas be treated in the same manner as prohibited species and returned to the sea with a minimum of injury. This action is necessary because the total allowable catches (TAC) of these species or target species categories in these areas have been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 24, 1993, through 12 midnight, A.l.t., December 31, 1993.

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

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

In accordance with § 672.20(c)(1)(ii)(B), the TACs for these species or target species categories were established by the final 1993 interim specifications (58 FR 16787, March 31, 1993) as follows: (1) In the Western Regulatory Area, SRRE rockfish—90 metric tons (mt), and 'other rockfish'—214 mt; and, (2) in the Central Regulatory Area, SRRE rockfish—1,161 mt. The TAC for POP was established by the final 1993 initial specifications for POP (58 FR 3778, June 21, 1993) as 341 mt.

The Director of the Alaska Region, NMFS, has determined in accordance with § 672.20(c)(3), that the TACs for the following species or target species categories have been reached; (1) In the Western Regulatory Area, POP, SRRE rockfish, and 'other rockfish;' and, (2) in the Central Regulatory Area, SRRE rockfish. Therefore NMFS is requiring that further catches of POP, SRRE rockfish, and 'other rockfish' in the Western Regulatory Area, and SRRE rockfish in the Central Regulatory Area be treated as prohibited species in accordance with § 672.20(e) effective from 12 noon, A.l.t., July 24, 1993, through 12 midnight, A.l.t., December 31, 1993.

Classification

This action is taken under 50 CFR 672.20, and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: July 23, 1993.

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

[FR Doc. 93-18037 Filed 7-23-93; 4:11 p.m.]
BILLING CODE 3510-22-M

50 CFR Part 672

[Docket No. 921107-3068; I.D. 072393B]

Groundfish of the Gulf of Alaska

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

ACTION: Prohibition of retention.

SUMMARY: NMFS is prohibiting retention of sablefish by persons using trawl gear in the West Yakutat district, Statistical Area 64, in the Gulf of Alaska (GOA), and is requiring that incidental catches of sablefish be treated in the same manner as prohibited species and returned to the sea with a minimum of injury. This action is necessary because the share of the sablefish total allowable catch (TAC) assigned to trawl gear in that area has been reached.

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 24, 1993, through 12 midnight, A.l.t., December 31, 1993.

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

SUPPLEMENTARY INFORMATION: The groundfish fishery in the GOA exclusive economic zone is managed by the Secretary of Commerce according to the

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

In accordance with § 672.24(c)(1), the share of the sablefish TAC assigned to trawl gear in the West Yakutat district is 192 metric tons.

The Director of the Alaska Region, NMFS, has determined, in accordance with § 672.24(c)(3)(ii), that the share of the sablefish TAC assigned to trawl gear in the West Yakutat district has been reached. Therefore, NMFS is requiring that further catches of sablefish by trawl gear in that area be treated as prohibited species in accordance with § 672.20(e) effective from 12 noon, A.l.t., July 24, 1993, through 12 midnight, A.l.t., December 31, 1993.

Classification

This action is taken under 50 CFR 672.24, and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: July 23, 1993.

Richard H. Schaefer,

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

[FR Doc. 93-18036 Filed 7-23-93; 4:11 pm]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration (NOAA)

50 CFR Part 672

[Docket No. 921107-3068; I.D. 072693A]

Groundfish of the Gulf of Alaska

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

ACTION: Closure.

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

EFFECTIVE DATE: 12 noon, Alaska local time (A.l.t.), July 26, 1993, through 12 midnight, A.l.t., December 31, 1993.

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

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

In accordance with § 672.20(c)(1)(ii)(B), the northern rockfish TAC for the Western Regulatory Area was established by the final 1993 interim specifications (58 FR 16787, March 31, 1993) as 1,000 metric tons (mt).

The Director of the Alaska Region, NMFS (Regional Director), established, in accordance with § 672.20(c)(2)(ii), a directed fishing allowance for northern rockfish of 900 mt, with consideration that 100 mt will be taken as incidental catch in directed fishing for other species in this area. The Regional Director has determined that this directed fishing allowance has been reached. Consequently, NMFS is prohibited directed fishing for northern rockfish in the Western Regulatory Area effective from 12 noon, A.l.t., July 26, 1993, until 12 midnight, A.l.t., December 31, 1993.

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

Classification

This action is taken under 50 CFR 672.20, and is in compliance with E.O. 12291.

List of Subjects in 50 CFR Part 672

Fisheries, Reporting and recordkeeping requirements.

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

Dated: July 26, 1993.

David S. Crestin,

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

[FR Doc. 93-18115 Filed 7-26-93; 3:14 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 58, No. 144
Thursday, July 29, 1993

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

SMALL BUSINESS ADMINISTRATION

13 CFR Part 121

Small Business Size Standards: Increase Size Standard of Small Business Concerns Eligible for Assistance by Small Business Investment Companies

AGENCY: Small Business Administration.

ACTION: Proposed rule.

SUMMARY: The Small Business Administration (SBA) proposes to revise the primary size standard that establishes eligibility criteria for small business concerns applying for financial and/or management assistance from small business investment companies under the Small Business Investment Company (SBIC) Program. This proposal would update the two-test standard (herein called the "SBIC Standard" or "Standard") The present Standard specifies that an applicant concern is eligible for assistance when the concern, together with its affiliates, does not have net worth in excess of $6 million, and does not have average after-tax net income for the preceding two (2) years in excess of $2 million. This proposed rule would revise both financial measures by increasing the net worth test to $18 million and the net income test to $6 million. An applicant concern electing to meet the SBIC Standard would continue to be required to meet both tests. Alternatively, an applicant concern will continue to have the option of qualifying under the size standard that is specified for its industry (See § 121.802 (a) (2) (ii)).

The proposed rule will apply only to applicant concerns of the SBIC Program and will not apply to applicants for assistance under the Business Loan or the Development for assistance under the Business Loan or the Development Company Programs which will retain, unchanged, the present standard of $6 million net worth and $2 million net income.

DATES: Comments must be submitted on or before August 30, 1993.

ADDRESSES: Send comments to: Wayne S. Foren, Associate Administrator for Investment, Small Business Administration, 409 3rd Street, SW., suite 6300, Washington, DC 20416.

FOR FURTHER INFORMATION CONTACT: Maureen Glebes, Special Assistant to the Associate Administrator for Investment, (202) 205–6510.

SUPPLEMENTARY INFORMATION: The Small Business Investment Act of 1958, as amended, (herein called the Act) authorizes the Small Business Administration (SBA) to license SBICs which are privately owned and managed investment corporations or partnerships that provide risk capital and management assistance to small businesses located in the United States. These licensees provide equity and long-term debt financing to the small business concerns for their sound financing and for their growth, modernization, or expansion.

SBA, by regulation, establishes eligibility criteria for small business concerns applying for SBIC assistance. The size eligibility criteria are set forth in part 121 of SBA Regulations and they provide a ceiling or maximum size that a business can be and still qualify for SBIC assistance. The other eligibility criteria are set forth in part 107 of SBA Regulations.

The first SBIC standard was developed and added to SBA's regulations in 1958. Following creation of the program for Specialized SBICs (SSBICs, formerly called Minority Enterprise SBICs or MESBICs, and authorized officially by amendments to the Act in 1972), SBA provided an alternative size-standard option for applicants seeking SBIC assistance which is the industry size standards used as eligibility criteria by other SBA programs.

As a result, concerns applying for assistance may qualify under the SBIC Standard or under the specific, single-test standard covering the industry in which the applicant concern is primarily engaged (See § 121.802(a)(2)).

Because SBICs have an expressed need for a single size standard which is consistent, simple and easy to apply, the SBIC Standard has remained, since its adoption, the primary standard used by applicants for assistance under the SBIC Program ("Program") is herein used to refer to the combined Regular SBICs and Specialized SBICs). This need exists because a substantial number of SBIC financings are made to small businesses engaged in pioneering or new ventures, or in commercializing technologies, which do not fit into traditionally defined industries and, so, do not fall under a specific industry size standard.

Since there are three types of SBICs that serve different segments of the small business population, the proposed change will not result in crowding out. Each type of SBIC will continue to serve its targeted small business segment, as follows:

- Regular SBICs provide a combination of financing (equity and/or subordinated debt financing) to small businesses in a broad range of industries. Generally, these are traditional SBICs that serve medium and smaller concerns.
- Specialized SBICs provide a combination of financing (equity and/or debt) to small businesses that are owned by persons who are socially or economically disadvantaged.
- Venture Capital SBICs provide equity oriented financing to growth-oriented small business concerns and they tend to be larger SBICs and assist concerns that are medium and larger small concerns.

The inflationary adjustment to the Standard will benefit all types of SBICs. The remaining increase in the Standard is primarily intended to allow Venture Capital SBICs with higher levels of private capital to provide both primary and secondary rounds of financing to development-stage and growth-oriented small concerns.

It should be noted that safeguards exist in the Program to prevent the proposed change in the Standard from having the effect of "crowding out" small businesses that are in the smaller and medium size range from assistance under the SBIC Program. The primary controls are: (1) The SBIC's operating plan which is approved by SBA, (2) the constraints on an SBIC that result from its level of private capital, (3) Regulatory provisions such as the overline limit which is based on private capital and (4) the Program funding authority (Leverage) is established by appropriations for each of the three types of SBICs. A final control factor is SBA's monitoring of a licensee's portfolio.

Change Proposed in the SBIC Standard

SBA proposes to increase the two-tests in the SBIC Standard. The net worth test would be increased from $6 million to $18 million and the after-tax net income test would be increased from $2 million to $6 million.

Although the SBIC Standard now includes only the two tests for net worth and net income, it had previously included a third test for gross assets. By amendment in 1979, SBA eliminated the gross assets test. However, in September 1990, SBA had proposed reinstatement of the assets test at $20 million. The proposal applied only to SBIC change of ownership financings and SBA wanted to prevent SBICs from participating in highly leveraged transactions where the concern would be other than small. While SBIC regulations do not preclude change of ownership transactions, SBA found it necessary to have the ability to monitor and control these transactions to prevent the violation of Program integrity. Following Federal Register publication and an evaluation of the public comments received in response, SBA withdrew this proposal, in July 1991, for further analysis.

SBA's current proposal for a change in the SBIC Standard is the result of an extensive review and restructuring of the SBIC program over the past year. The proposal focuses on an update of the net worth and net income components of the Standard to facilitate the program changes underway including the legislative changes recently enacted, and to adjust for inflation. SBA is no longer proposing to reinstate an assets test to address the leveraged buyout issue as these transactions are considered to be an eligibility issue for SBIC financing rather than a size issue. Consequently, SBA is proposing, through a separate proposed rule, to amend SBIC regulations (§ 107.711) applicable to change of ownership transactions in order to address this issue.

Purpose of the Proposed SBIC Standard Changes

The Program revitalization efforts currently underway are designed to enhance the SBIC Program to be a more effective tool in providing small business concerns access to risk capital in a way that will result in job creation, economic growth, and other national objectives being achieved. The proposed SBIC Standard is a vital part of the structural changes that have been initiated to strengthen and improve the Program. It is estimated that about half of the proposed increase in the Standard is attributable to the need for financing growth-oriented small businesses as envisioned by title IV of Public Law 102–366, while the other half is an inflationary adjustment. The proposed change will accomplish the following specific purposes:

Alignment with Legislative Changes

Increasing the SBIC Standard will support the legislative changes provided in title IV of Public Law 102–366. Title IV permits SBICs to have higher levels of combined capital (leverage up to $90 million which will require $45 million in private capital) and encourages Venture Capital SBICs to provide equity oriented financing to growth-oriented small business concerns. It also provides a new security for Venture Capital SBICs to use in obtaining leverage (SBA guarantee of these securities which are funded in the public markets). These changes are designed to increase the flow of private capital into the SBIC Program and, together with leverage, increase risk capital available to small business concerns.

The optimum size of all three types of SBICs as measured by their private capital will significantly increase as a result of Public Law 102–366. An intent of the statute in authorizing this new capital structure is to foster investments in growth-oriented small businesses by SBICs. As such, the current Standard is too low since an SBIC is allowed to invest up to 20 percent of its private capital in any one small business concern. Thus, to make the types of financings clearly contemplated by the statute, the size of eligible small business concerns must increase.

Adjustment for Inflation

When established in 1979, the levels of $6 million for net worth and $2 million for net income, were considered appropriate. However, inflation and changes in the financial characteristics of small business concerns over time, have eroded these levels so that the Standard no longer accomplishes the Program goals. Simply adjusting for inflation boosts the SBIC standard by 84 percent, which is the increase in the Gross Domestic Product (GDP) Implicit Price Deflator. This inflation adjustment, which follows the methodology used by SBA since 1975 to adjust its receipts-based industry size standards, reflects the change in the Deflator since the last revision of the SBIC Standard in 1979 to the present. Based on this measure, it is estimated that to bring the standard up to current dollar levels would require an inflation adjustment of $8 million to the net worth test and almost $3 million to the net income test.

The erosion due to inflation has, in effect, prevented the SBIC Program from assisting the segment of small business it was established to serve. Also, the "institutional gap" that the SBIC Program was created to fill has widened. First identified by the Board of Governors of the Federal Reserve System, this "institutional gap," which is the difference between the amount of equity and long-term loan funds required by small business concerns and the amount available to them through private financing, was the basis for establishing the SBIC program in 1958. Follow-up studies over the years have documented that this "gap" continues to exist and there is an on-going need for risk capital by non-traditional, growth-oriented small businesses.

This change will, in effect, restore small business eligibility to many firms that lost this status solely because of inflation since 1979.

In conclusion, SBA has determined that given the two factors reviewed, i.e., and adjustment for inflation and the intent of the statutes, a Standard of $6 million in net income and a net worth of $18 million is reasonable.

Compliance With Regulatory Flexibility Act, Executive Orders 12291, 12612 and 12778, and the Paperwork Reduction Act

General

Although this proposed rule, if promulgated in final form, is expected to have a significant economic impact on a substantial number of small entities for purposes of the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), it would not constitute a major rule for the purpose of Executive Order 12291, since its annual economic effect is less than $100 million. An initial regulatory flexibility analysis of this proposal is as follows.

(1) Description of Entities to Which the Rule Applies

SBA estimates that 99.7% of firms could be eligible for SBIC financing if this proposed rule is adopted in final form (estimate based on Internal Revenue Service Statistics of Income for active corporations). By comparison, when the current standard was adopted in 1979, approximately 99.6% of all firms were eligible for SBIC assistance. In absolute terms, under the proposed standard, approximately 7,000 additional firms would gain eligibility as small businesses. Many of these concerns probably had small business status under the 1979 standard, but

since then have lost eligibility because of general price increases due to inflation.

However, it should be noted that the Standard sets the ceiling on how the target population is defined and on the entire population potentially eligible for SBIC assistance. In practice, the level of private capital invested in an individual SBIC and the SBIC's investment plan actually set the limits on each small business financing.

Actual Program experience shows the enormous gap between the total population eligible for SBIC financing and the number that actually participate in the Program. The total number of business concerns that fit under the current SBIC Standard and, therefore, are potentially eligible for SBIC assistance, is approximately 3.6 million small concerns. By contrast, the number of financings annually from both Regular SBICs and SSBICs averages 2,000 per year, based on Fiscal 1991 and 1992 data. Overall, from 1960 to 1991, almost 70,000 different small business concerns received financing under the SBIC Program.

Moreover, a review of the initial capitalization of SBICs indicates that based on the levels of private capital there are three types of SBICs each serving a limited segment of potentially eligible concerns for SBIC financing: The Regular SBICs with minimum private capital of $2.5 million and having a balanced portfolio with a primary emphasis on providing debt financing to small business; the SSBICs with minimum private capital of $1.5 million and specializing in financing small businesses that are owned by persons who are socially or economically disadvantaged; and venture capital SBICs which tend to have higher levels of private capital in order to provide equity oriented financings to growth oriented small business concerns.

Since current Program changes are designed to expand the private capital of all types of SBICs, the proposed Standard will allow SBICs with higher levels of private capital to provide larger amounts of financings to small business concerns. However, the optimum size venture capital SBIC is expected to be $10 to $20 million in private capital. There will be SBICs with private capital of less than $10 million and some SBICs will have as much as $50 million in private capital. At the lower levels (e.g., from $1 million to $5 million), SBIC will typically invest from $200,000 to $1 million in one small business since each SBIC is able to invest up to 20% of its private capital in any one small business concern.

Moreover, the SBIC Standard is a program Standard applicable only to small business concerns that apply for financing from an SBIC. As such, the proposed change affects only potential clients of SBICs and does not alter the definition of a small business for the wide variety of business development, financial assistance and procurement assistance programs offered by SBA.

The proposed Standard does not impose a regulatory burden because it does not regulate or control business behavior.

(2) Description of Reasons Why This Action Is Being Taken and Objectives of Rule

SBA has provided above in the Supplementary Information a description of the reasons why this action is being taken and a statement of the reasons for and objectives of this proposed rule.

(3) Legal Basis for the Proposed Rule

The legal basis for this rule are sections 3(a) and 5(b) of the Small Business Act, 15 U.S.C. 632(a), 634(b)(6), 637(a) and 644(c).

(4) Federal Rules

There are no Federal rules which duplicate, overlap or conflict with this proposed rule. SBA has statutorily been given exclusive jurisdiction in establishing size standards for small business concerns.

(5) Significant Alternatives to Proposed Rule

This rule sets forth changes from the current size standard in order to establish the most appropriate definition of small business concerns eligible for assistance under the SBIC Program. There are no significant alternatives to defining a small business concern other than developing another alternative size standard. As discussed in the Supplementary Information above, the SBIC Program already provides two options for determining the eligibility of applicant concerns, and this proposal applies to only one of those options. A review of the SBIC portfolio indicated that almost all applicant concerns were eligible under the single size standard covering the industry in which the applicant concern was primarily engaged even though these firms chose to qualify under the SBIC Standard instead of the industry-based standards.

SBA certifies that this rule will not have federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order 12612. SBA also certifies that this proposed rule, if promulgated as final, will not add any new reporting or recordkeeping requirements under the Paperwork Reduction Act of 1980, 44 U.S.C., chapter 35. For the purposes of Executive Order 12778, SBA certifies that this rule is drafted, to the extent practicable, in accordance with the standards set forth in section 2 of that order.

List of Subjects in 13 CFR Part 121

Financial assistance—small business concerns, Small Business Investment Companies, Small Business Investment Company Program.

Accordingly, part 121 of 13 CFR is amended as follows:

PART 121—SMALL BUSINESS SIZE REGULATIONS

1. The authority citation for part 121 continues to read as follows:

Authority: 15 U.S.C. 632(a), 634(b) (6), 637(a) and 644(c).

2. Section 121.802(a)(2) is amended by removing the words "the Small Business Investment Company, and."

3. Section 121.802 is amended by redesignating paragraph (a)(3) as paragraph (a)(4) and by adding a new paragraph (a)(3) to read as follows:

§ 121.802 Establishment of the size standard.

(a) * * *

(3) SBIC Standard. For financial and/or management/technical assistance under the Small Business Investment Company Program, an applicant's concern must meet one of the following standards:

(i) Together with its affiliates, it does not have net worth in excess of $18 million, and does not have average net income after Federal income taxes (excluding any carry-over losses) for the preceding 2 completed fiscal years in excess of $6 million; or

(ii) Together with its affiliates, it meets the size standard for the industry in which it is primarily engaged and, excluding its affiliates, meets the size standard for the industry in which it is primarily engaged. These size standards are set forth in § 121.601.

* * * * *

Dated June 3, 1993.

Erskine B. Bowles,

Administrator.

[FR Doc. 93-17985 Filed 7-28-93; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 141, 375 and 385

[Docket No. RM93-20-000]

Electronic Filing of FERC Form No. 1 and Delegation to Chief Accountant; Proposed Rulemaking

July 23, 1993.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission proposes to amend its regulations to provide for the electronic filing of FERC Form No. 1. Commencing with the report for reporting year 1993, due on or before April 30, 1994, filing would be required in the form of a computer diskette in addition to the currently required number of paper copies. No changes are being proposed to the FERC Form No. 1 itself. The Commission also intends to conduct a test of the software and related elements of the electronic filing mechanism prior to formal implementation.

Additionally, the Commission proposes to delegate to the Chief Accountant authority to act on requests for waiver of the Form 1 and the Form 1-F filing requirements.

DATES: Written comments must be received by the Commission by August 30, 1993.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT:

Richard Mattingly (Legal Information) Electric Rates and Corporate Regulation, Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, (202) 208-2070.

James G. Baird (Technical Information), Office of Chief Accountant, Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC 20426, (202) 219-2613.

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

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

I. Introduction

The Federal Energy Regulatory Commission (Commission) proposes to amend 18 CFR parts 141 and 385 to provide for the electronic filing of FERC Form No. 1, "Annual Report of Major electric utilities, licensees and others" (Form 1). In the future, in addition to paper copies, Form 1 filings would be made by means of a computer diskette incorporating software programming now under development by the Commission, Electronic reporting of the Form 1 would be required commencing with reporting year 1993; the Form 1 for reporting year 1993 is due on or before April 30, 1994. No changes are being proposed in Form 1 itself.

Additionally, the Commission proposes to amend 18 CFR part 375 to provide for delegating to the Chief Accountant or his designee the authority to act on requests for waiver of the Form 1 and the FERC Form No. 1-F filing requirements.

II. Reporting Burden

The Commission anticipates that any increase in reporting burden for collection of information resulting from this proposed rule will be minimal. Initially, there may be some increase in the reporting burden from requiring the filing of a Form 1 in an electronic format. However, for the last few years, most electronic utilities have already prepared their Form 1 paper copies from computer-based systems. This proposed rule would thus result largely in a standardization of preparing and filing the forms electronically.

The automation of Form 1 will yield significant benefits to the Commission, the respondents, and to the electric utility industry as a whole. These benefits include more timely analysis and publication of data, increased data analysis capability, reduced cost of data entry and retrieval, simplification of form design, and an eventual overall reduction in filing burden.

Send comments regarding this burden estimate or any other aspect of the Commission's collection of information, including suggestions for reducing this burden, to the Federal Energy Regulatory Commission, 941 North Capitol Street, NE., Washington, DC 20426 [Attention: Michael Miller, Information Policy and Standards Branch, (202) 208-1415], and to the Office of Information and Regulatory Affairs of the Office of Management and Budget [Attention: Desk Officer for the Federal Energy Regulatory Commission].

III. Background

The Commission, in the exercise of its authority under the Federal Power Act, collects data pertaining to the electric utility industry in the United States.[1] One of the principal forms used for the collection of this information is Form 1, which is submitted annually, on a calendar-year basis, by some 198 electric utilities and licensees.

Form 1 consists of cover pages, four pages of general information and instructions, and 113 pages of schedules incorporating financial statements and operational information of the respondent companies. The Form 1 also requires that certain financial information be certified, by an independent accountant,[2] as conforming to the Commission's Uniform System of Accounts.[3]

Form 1 has heretofore been submitted in a paper or hardcopy format. Currently, Form 1 respondents must file an original and 6 copies. In recent years, the Commission and its staff have been approached by individual electric utilities and state commission staffs inquiring whether the Commission either had or planned to develop an automated data filing system for Form 1. These parties suggested that such a procedure could yield significant benefits in terms of process simplification and savings of time and expense. The Commission has given careful consideration to this matter and believes it is appropriate now to implement an electronic filing procedure for Form 1. The Commission believes the automation of Form 1 will yield significant benefits to the Commission, the respondents, and to

[1] 16 U.S.C. 825, 825c.

[2] 18 CFR 41.11.

[3] 18 CFR part 101. The Commission does not, however, under the changes proposed herein, propose to change the requirements for filing the independent accountant's report required by 18 CFR 41.11.

the electric utility industry as a whole. These benefits include more timely analysis and publication of data, increased data analysis capability, reduced cost of data entry and retrieval, simplification of form design, and overall reduction of filing burden.

IV. Summary of Proposal

The Commission proposes to develop a personal computer (PC) based software package for Form 1 reporting.[4] The software package will be made available to Form 1 respondents without charge. The software will be available on standard computer diskettes with instructions and documentation, and will be sent to each Form 1 respondent sufficiently in advance to allow respondents to meet the April 30 filing deadline. This package will display the Form 1, schedule by schedule, on a respondent's PC. The required data may then be manually key-entered on a respondent's PC. The program will also permit a respondent to "import" the required data from its PC or other, mainframe computer directly into the software package, thus avoiding the manual data-entry process. When the data entry is completed, the diskette will be submitted to the Commission, along with the required paper copies.[5]

The Commission also proposes to make the waiver procedures incorporated in 18 CFR 385.2011(e) available to Form 1 respondents who do not have and are unable to acquire the computer capability necessary to comply with the proposed electronic filing requirements.

Finally, the Commission proposes to delegate to the Chief Accountant authority to act on requests for waiver of the Form 1 and FERC Form No. 1-F filing requirements (18 CFR 141.1 and 141.2), and to incorporate this additional delegation in 18 CFR 375.303.

V. Procedure for Implementation

The Commission has already initiated the process of procuring the necessary software package for automating Form 1 reporting. Upon receipt of the software package, the Commission's staff will test the software package, including data input, data output and print capability.

Also, the Commission will conduct a field test of the software package with volunteer Form 1 respondents. The volunteer respondents will be provided with the program and related documentation and instructions. It is anticipated that during the field test the volunteer respondents will be in contact with the Commission staff. The results of the testing process will be evaluated and, if necessary, the software package will be modified. The Commission expects the program to be complete and to have diskettes ready for distribution to each Form 1 respondent sufficiently in advance to allow respondents to meet the April 30, 1994 filing deadline.

VI. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act[6] requires rulemakings to contain either a description and analysis of the effect that a rule will have on small entities or to certify that the rule will not have a significant economic effect on a substantial number of small entities. Because most respondents do not fall within the definition of "small entity,"[7] the Commission certifies that this rule will not have a significant economic impact on a substantial number of small entities.

VII. Information Collection

The regulations of the Office of Management and Budget (OMB)[8] require that OMB approve certain information and recordkeeping requirements imposed by an agency. The information collection requirements in this proposed rule are contained in FERC Form No. 1, "Annual Report of Major electric utilities, licensees and others" (OMB approval No. 1902-0021). Since this proposed rule does not propose new information requirements and will have a minimal effect on current information collections, there is no need to obtain OMB approval.

The Commission uses the data collected in these annual reports to carry out its regulatory responsibilities including establishing rates in rate proceedings, in formal investigations, and financial audits and in its continuous review of the financial condition of regulated companies. Electric utilities and licensees are required to file this form annually.

The automation of Form 1 will yield significant benefits to the Commission, the respondents, and to the electric utility industry as a whole. These benefits include more timely analysis and publication of data, increased data analysis capability, reduced cost of data entry and retrieval, simplification of form design, and an eventual overall reduction in filing burden.

VIII. Environmental Statement

Commission regulations require that an environmental assessment or an environmental impact statement be prepared for any Commission action that may have a significant adverse effect on the human environment.[9] No environmental consideration is necessary for the promulgation of a rule that is clarifying, corrective, or procedural or that does not substantially change the effect of legislation or regulations being amended.[10] The proposed rule does not substantially change the effect of the underlying legislation or change the Form 1 itself. Accordingly, no environmental consideration is necessary.

IX. Public Comment Procedures

The Commission invites all interested persons to submit written comments on this proposal. An original and 14 copies of such comments should be filed with the Commission by August 30, 1993. Comments should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, and should refer to Docket No. RM93-20-000.

All written submissions will be placed in the Commission's public file and will be available for public inspection at the Commission's Public Reference Section, room 3408, 941 North Capitol Street, NE., Washington, DC 20426, during regular business hours.

List of Subjects

18 CFR Part 141

Electric power; Reporting and record keeping requirements.

18 CFR Part 375

Authority delegations (Government agencies); Seals and insignia; Sunshine Act.

18 CFR Part 385

Administrative practice and procedure; Electric power; Penalties; Pipelines; Reporting and record keeping requirements.

In consideration of the foregoing, the Commission proposes to amend parts 141, 375 and 385 in chapter I, title 18, Code of Federal Regulations, as set forth below.

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[4] An IBM compatible, DOS-based system.

[5] The software package will enable the paper copies to be printed directly from the diskette.

[6] 5 U.S.C. 601-612.

[7] See 5 U.S.C. 601(3), citing to section 3 of the Small Business Act, 15 U.S.C. 632, which defines a "small-business concern" as a business which is independently owned and operated and which is not dominant in its field of operation.

[8] 5 CFR 1320.13.

[9] Regulations Implementing National Environmental Policy Act, 52 FR 47897 (Dec. 17, 1987); FERC Stats. and Regs. ¶ 30.783 (1987).

[10] 18 CFR 380.4(a)(2)(ii).

By direction of the Commission.

Lois D. Cashell,

Secretary.

PART 141—STATEMENTS AND REPORTS (SCHEDULES)

1. The authority citation for part 141 is revised to read as follows:

Authority: 15 U.S.C. 79; 16 U.S.C. 791a–828c, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7352.

2. In § 141.1, the heading of paragraph (b) is revised and paragraph (b)(2) is revised to read as follows:

§ 141.1 FERC Form No. 1, annual report of major electric utilities, licensees and others.

* * * * *

(b) *Filing requirements.*

(1) * * *

(2) *When to file and what to file.* This report form shall be filed on or before April 30 of each year for the previous calendar year. This report form must be filed as prescribed in § 385.2011 of this chapter and as indicated in the general instructions set out in this report form, and must be properly completed and verified.

PART 375—THE COMMISSION

3. The authority citation for part 375 is revised to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791–825r, 791a note, 2601–2645; 42 U.S.C. 7101–7532.

4. Section 375.303 is amended by adding paragraph (j) to read as follows:

§ 375.303 Delegations to the chief accountant.

* * * * *

(j) Deny or grant, in whole or part, requests for waiver of the requirements for statements or reports under § 141.1 of this chapter (FERC Form No. 1, Annual Report of Major electric utilities, licensees and others, and § 141.2 of this chapter (FERC Form No. 1–F, Annual report for Nonmajor public utilities and licenses), and of the filing of FERC Form No. 1 on electronic media (§ 385.2011 of this chapter, Procedures for filing on electronic media, paragraphs (a)(8), (c), (d), and (e)).

PART 385—RULES OF PRACTICE AND PROCEDURE

5. The authority citation for part 385 continues to read as follows:

Authority: 5 U.S.C. 551–557; 15 U.S.C. 717–717w, 3301–3432; 16 U.S.C. 791a–825r, 2601–2645; 31 U.S.C. 9701; 42 U.S.C. 7101–7532; 49 U.S.C. 1–27.

6. Section 385.2011 is amended by adding paragraph (a)(8) and by revising paragraphs (c)(3), (e)(1), (e)(2) and (e)(4) to read as follows:

§ 385.2011 Procedures for filing on electronic media.

(a) * * *

(8) FERC Form No. 1, Annual report of Major electric utilities, licensees and others.

* * * * *

(c) * * *

(3) The electronic media must be accompanied by the prescribed number of paper copies.

* * * * *

(e) *Waiver*—(1) *Filing of petition.* If a natural gas company, electric utility or licensee does not have and is unable to acquire the computer capability to file the information required to be filed on electronic media, the company may request waiver from the requirement of this part, by filing an original and two copies of a petition. The natural gas company, electric utility or licensee may renew the waiver if the company can continue to show that it does not have and is unable to acquire the computer capability for electronic filing.

(2) *Standard for waiver.* The petition for waiver must show that the natural gas company, electric utility or licensee does not have the computer capability to file the information required under this section on electronic media and that acquisition of the capability would cause the company severe economic hardship. This waiver may be granted for up to one year.

* * * * *

(4) *Decision on petition.* The Commission or its designee will review a petition for waiver and notify the applicant of its grant or denial. Once the petition is decided, the natural gas company, electric utility or licensee will have 30 days from the date of notification of the decision to submit any information, in the manner specified by the Commission in the decision on the waiver petition, that was required to be filed while the petition was pending.

[FR Doc. 93–18090 Filed 7–28–93; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 944

Utah Permanent Regulatory Program

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

ACTION: Proposed rule; reopening and extension of public comment period on proposed amendment.

SUMMARY: Utah previously proposed an amendment to the Utah permanent regulatory program (the Utah program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The proposed amendment consisted of changes to the Utah program regulatory definitions of "affected area," "road," and "public road." Utah submitted the proposed amendment with the intent of amending the Utah program, as required by OSM regulations and an agreement between OSM and Utah that addresses, among other things, the regulation of coal mine access and haul roads in Utah. Subsequent to the submission of the proposed amendment and the close of two comment periods on the proposed amendment, OSM notified Utah that a part of the September 4, 1992, agreement was not valid. In response to a request to comment on the effect of the invalid part of the September 4, 1992, agreement on the amendment, OSM is reopening the comment period.

This document sets forth the times and locations that the Utah program, proposed amendment to that program, and the September 4, 1992, agreement are available for public inspection. It also sets forth the reopened comment period during which interested persons may submit written comments on the proposed amendment.

DATES: Written comments must be received by 4 p.m., m.s.t., August 13, 1993.

ADDRESSES: Written comments should be mailed or hand delivered to Robert H. Hagen at the address listed below.

Copies of the Utah program, the proposed amendment, and all written comments received in response to this notice will be available for public review at the addresses listed below during normal business hours, Monday through Friday, excluding holidays. Each requester may receive one free copy of the proposed amendment by contacting OSM's Albuquerque Field Office.

Robert H. Hagen, Director, Albuquerque Field Office, Office of Surface Mining Reclamation and Enforcement, 505 Marquette, NW., suite 1200, Albuquerque, New Mexico 87102, Telephone: (505) 766–1486.

Utah Division of Oil, Gas and Mining, 355 West North Temple, 3 Triad Center, suite 350, Salt Lake City, Utah 84180–1203, Telephone: (801) 538–5340.

FOR FURTHER INFORMATION CONTACT:

Robert H. Hagen, Telephone: (505) 766–1486.

SUPPLEMENTARY INFORMATION:

I. Background on the Utah Program
II. Proposed Amendment
III. Discussion of Request for Reopening and Extension of Public Comment Period for Proposed Amendment
IV. Public Comment Procedures
V. Procedural Determinations

I. Background on the Utah Program

On January 21, 1981, the Secretary of the Interior conditionally approved the Utah program. General background information on the Utah program, including the Secretary's findings, the disposition of comments, and the conditions of approval of the Utah program can be found in the January 21, 1981 **Federal Register** (46 FR 5899). Subsequent actions concerning Utah's program and program amendments can be found at 30 CFR 944.15, 944.16, and 944.30.

II. Proposed Amendment

By letter dated September 17, 1992, Utah, pursuant to SMCRA, submitted to OSM a proposed amendment to the Utah program (administrative record No. UT–782). Utah submitted the proposed amendment in response to the required program amendments at 30 CFR 944.16(n) and (o) and a September 4, 1992, agreement between OSM and the Utah Division of Oil, Gas and Mining (administrative record No. UT–778). The proposed amendment consisted of revisions to the Utah program regulatory definitions of "affected area," "road," and "public road" at Utah Administrative Rule (Admin. R.) 645–100–200.

OSM published a notice in the November 16, 1992, **Federal Register** (57 FR 54032) announcing receipt of the proposed amendment and inviting public comment on its adequacy (administrative record No. UT–800). The public comment period closed on December 16, 1992.

During its review of the proposed amendment, OSM identified concerns regarding the definitions of "affected area," "road," and "public road" at Utah Admin. R. R645–100–200. OSM notified Utah of the concerns by letter dated January 21, 1993 (administrative record No. UT–817).

By letter dated February 16, 1993, Utah submitted to OSM additional material, including a revision to the proposed amendment (administrative record No. UT–824). However, OSM identified certain concerns with this revision and notified Utah of these concerns by telephone on March 4, 1993 (administrative record No. UT–825).

Utah responded in a letter dated March 24, 1993, by submitting additional explanatory information and revisions to the proposed amendment (administrative record No. UT–827).

OSM published a notice in the April 8, 1993, **Federal Register** (58 FR 18187) announcing receipt of the additional explanatory information and revisions to the proposed amendment and reopened and extended the public comment on its adequacy (administrative record No. UT–830). The extended public comment period closed on April 23, 1993.

By letter to Utah dated May 19, 1993 (administrative record No. UT–842), OSM found that provision II.1 of the September 4, 1992, agreement was not valid. In addition, OSM qualified the applicability of provision II.2 of the same agreement.

By letter dated June 22, 1993 (administrative record No. UT–847), Utah responded to OSM's May 19, 1993, letter and stated its interpretations of and intentions with respect to the September 4, 1992, agreement.

By letter dated July 1, 1993 (administrative record No. UT–845), the Joint National Coal Association/American Mining Congress Committee on Surface Mining Regulations requested that OSM reopen the comment period for Utah's proposed amendment to allow additional public comment on the effect of OSM's May 19, 1993, letter on the September 4, 1992, agreement and the proposed amendment.

III. Discussion of Request for Reopening and Extension of Comment Period for Proposed Amendment

A. The September 4, 1992, Agreement Between OSM and Utah

On September 4, 1992, OSM and Utah entered into the following agreement:

The State of Utah, Division of Oil, Gas and Mining (Division) and the United States Department of the Interior, Office of Surface Mining Reclamation and Enforcement (OSM), in consideration of the mutual promises contained herein, agree as follows—

I. The Division agrees to:

1. File a motion to dismiss, with prejudice, the Federal District Court case of *State of Utah* v. *Lujan*, No. 92–C–063–G (D. Utah, filed January 17, 1992); and

2. In recognition of the direction of the Director of OSM as set forth in OSM's final rule published on November 22, 1991, 56 FR 58846 (the final rule):

a. Confirm the withdrawal, effective December 5, 1991, of the Policy Statement entitled "Division of Oil, Gas and Mining Policy for the Implementation of Site Specific Determinations of the Public Status of Roads under R614–100–200";

b. Submit a program amendment of the Division's definition of the term "Road" to read the same as the corresponding federal definition at 30 CFR 701.5;

c. Submit a program amendment of the Division's definition of the term "Public Road", to read the same as the corresponding federal definition at 30 CFR 761.5 and, in addition, provide that the definition applies only in the context of Utah Admin. R645–103–100, *et seq.*, Areas unsuitable for coal Mining and Reclamation Operations; and

d. Submit a program amendment of the Division's definition of "Affected Area" to read the same as the federal definition at 30 CFR 701.5.

II. OSM and the Division agree that:

1. If a road in Utah has not previously been determined to be part of an existing surface coal mining operation, the road will not be required to be included within a permit, based on current federal statute and regulations and the current Utah statute and rules; and

2. With respect to any application for a permit to conduct surface coal mining and reclamation operations under the Utah Coal Regulatory Program, including any application pending at the time of this agreement, the state will apply the Utah statute and rules existing on the date of permit approval.

B. The May 19, 1993, Letter From OSM to Utah on the September 4, 1992, Agreement

On May 19, 1993, the Acting Director of OSM sent a letter to Utah invalidating provision II.1 of the September 4, 1992, agreement and qualifying the applicability of provision II.2 of the same agreement. The entire text of the May 19, 1993, letter follows.

On September 4, 1992, the previous Directors of the Office of Surface Mining Reclamation and Enforcement (OSM) and the Utah Division of Oil, Gas and Mining (DOGM) entered into an agreement concerning the regulation of coal mine access and haul roads in the State of Utah. Because this agreement continued to be a source of controversy for OSM, I instructed OSM and the Office of the Solicitor to review the validity of the agreement.

For the reasons discussed in the enclosure, I find that provision II.1 of the agreement, the intent of which was to exempt certain mine roads existing on September 4, 1992, from regulation under the Surface Mining Control and Reclamation Act of 1977 (SMCRA) and the approved Utah State regulatory program, is contrary to law and thus is not binding on OSM or DOGM. For this reason, this term of the agreement must not be applied by OSM or DOGM to any permitting or enforcement decisions in the State.

With respect to provision II.2 of the agreement, which states that DOGM "will apply the Utah statute and rules existing on the date of permit approval" to any permit applications pending on September 4, 1992, and to any future permit applications, I find that it is valid as long as:

• The phrase "Utah statutes and rules" is interpreted to mean the approved State program,

• Any application of the Utah statute and rules to a permitting decision is consistent with the Department of the Interior's actions in approving or not approving such statutes and rules (see e.g., 56 FR 58846, November 22, 1991), and

• The provision is not interpreted to prevent DOGM or OSM from taking action subsequent to permit approval, where appropriate under the approved program (e.g., requiring a permit revision to reflect changes in applicable law).

In response to provisions I.2.b through d of the agreement, DOGM submitted a proposed amendment to OSM on September 17, 1992, for the definitions of "road," "public road," and "affected area" (State Program Amendment Tracking System No. UT–017–FOR). The standards for review of these definitions remain the Federal statutory and regulatory provisions including the definitions of "surface coal mining operations" at section 701(28) of SMCRA and 30 CFR 700.5; the definitions of "road" and "affected area" at 30 CFR 701.5; and the definition of "public road" at 30 CFR 761.5. OSM's decision on these proposed definitions will be forthcoming shortly.

The entire text of the enclosure to the letter follows.

Analysis of the September 4, 1992, the Office of Surface Mining Reclamation and Enforcement and the Division of Oil, Gas and Mining Settlement Agreement Concerning the Regulation of Roads

Background

In a final rule published on November 22, 1991, the Office of Surface Mining Reclamation and Enforcement (OSM) disapproved in part a Utah State program amendment concerning the regulation of mine roads (56 FR 58846). OSM disapproved the proposed amendment to the extent it would have exempted from regulation public roads used as mine roads, regardless of their mining-related use.

In January 1992, the Division of Oil, Gas and Mining (DOGM) brought an action in the U.S. District Court for the District of Utah, pursuant to section 526 of the Surface Mining Control and Reclamation Act (SMCRA), for judicial review of the final rule (*Utah* v. *Lujan*, No. 92–C–063–G (D. Utah)). On September 4, 1992, DOGM and OSM resolved *Utah* v. *Lujan* by entering into the agreement in question. Under the agreement, DOGM withdrew *Utah* v. *Lujan* in return for OSM's agreeing to a blanket exemption of certain Utah mine roads from regulation under SMCRA and the approved Utah State program.

Pursuant to the agreement, DOGM filed a motion to dismiss *Utah* v. *Lujan*. DOGM did not, however, submit the agreement itself to the district court for review. On September 24, 1992, the court granted DOGM's motion and dismissed the case with prejudice. The court order dismissing the case was silent with respect to the agreement and did not in any way approve or adopt its terms.

Discussion

Since the agreement was not reviewed, approved, or adopted by the court in *Utah* v. *Lujan*, it is nothing more than a contract between OSM and DOGM. Thus, contract law governs the validity of the agreement.

A Federal agency cannot contract with a body that it regulates in a manner contrary to its statutory authority or in a manner which does not give full effect to the intent of the Congress (*Board of Directors and Officers, Forbes Federal Credit Union* versus *National Credit Union Admin.*, 477 F.2d 777, 784 (10th Cir. 1973), *cert. denied* 414 U.S. 924 (1973)). Contracts entered in violation of statutory or regulatory law are unenforceable if enforcement of the contract would "offend the essential purpose of the enactment" (*United States* versus *Mississippi Valley Co.*, 364 U.S. 520, 563 (1961). See also *Quinn* versus *Gulf & Western Corp.*, 644 F.2d 89, 93–94 (2d Cir. 1981); *D.M. Yates*, 74 IBLA 159, 161 (1983). See generally E. Farnsworth, Contracts §§ 5.5–5.6 (2d ed. 1982); 15 S. Williston, Contracts § 1763 (3d ed. 1972)).

In other words, OSM cannot modify its statutory responsibilities simply by entering into a contract. Thus, if any provisions of the September 4, 1992, agreement are contrary to law, such that its enforcement would offend an essential purpose of SMCRA, that provision is unenforceable. Paragraph II.1 is such a provision. It reads as follows:

If a road in Utah has not previously been determined to be part of an existing surface coal mining operation, the road will not be required to be included within a permit, based on current federal statute and regulations and the current Utah statute and rules.

Under this provision, DOGM and OSM agreed to a blanket exemption from regulation under SMCRA and the approved Utah State program of all unpermitted mine roads existing on September 4, 1992.

SMCRA jurisdiction over mine roads derives from the statutory definition of the term "surface coal mining operations" at section 701(28). SMCRA defines this term, in pertinent part, to mean:

(A) Activities conducted on the surface of lands in connection with a surface coal mine * * *; and

(B) The areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include * * * *all lands affected by the construction of new roads to gain access to the site of those activities and for haulage* * * *

(emphasis added). The Federal regulatory definition of "surface coal mining operations" at 30 CFR 700.5 and the approved Utah State program definition of that term at U.C.A. 40–10–1(18) are virtually identical to the SMCRA definition. (Any difference between these definitions has no effect on the issues discussed in this analysis).

Under these definitions, OSM and DOGM are required to regulate certain mine roads based, in part, on the extent and effect of mining-related use of the road (See 56 FR at 58847–49 (1991); 55 FR 13773, 13775 (1990); 53 FR 54190, 54192 (1988)). Nothing in SMCRA or the approved Utah State program provides for a blanket exemption of mine roads from regulation; on the contrary, case-by-case determinations of regulatory jurisdiction must be made.

By granting a blanket exemption to existing, unpermitted mine roads without any consideration given to the amount of their mining-related use, paragraph II.1 exempts roads which, under SMCRA and the approved Utah State program, OSM and DOGM are required to regulate. Thus, paragraph II.1 is contrary to SMCRA and the approved Utah State program.

Moreover, the enforcement of paragraph II.1 offends an essential purpose of these laws (See *Mississippi Valley*, 364 U.S. at 563). One of SMCRA's essential purposes is "to protect the environment and ensure the reclamation of mined areas" (*Daniel Brothers Coal Co.*, 2 IBSMA 45, 49 (1980); see also section 102(a) of SMCRA). Also, as U.C.A. 40–10–2(3) indicates, one of the purposes of the approved Utah State program is to "[a]ssure that surface coal mining operations are conducted so as to protect the environment." Given the significant environmental harm that can result from unregulated mine access and haul roads, these statutory purposes cannot be fully met by the agreement to grant an unauthorized regulatory exemption.

Conclusion

For the reasons given above, paragraph II.1 of the September 4, 1992, agreement is contrary to SMCRA and the approved Utah State program, and because its enforcement would offend an essential purpose of these laws, is legally unenforceable.

IV. Public Comment Procedures

OSM is reopening the public comment period to allow the public the opportunity to comment on the effect of the invalid part of the September 4, 1992, agreement on Utah's proposed amendment. In accordance with the provisions of 30 CFR 732.17(h), OSM is seeking comments on whether Utah's proposed amendment, as affected by the invalidated part of the agreement, satisfies the applicable program approval criteria of 30 CFR 732.15. If the amendment is deemed adequate, it will become part of the Utah program.

Written comments should be specific, pertain only to the effect of the invalid part of the September 4, 1992, agreement on Utah's proposed amendment, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under "DATES" or at locations other than the Albuquerque Field Office will not necessarily be considered in the final rulemaking or included in the administrative record.

V. Procedural Determinations

1. Executive Order 12291

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 (Reduction of Regulatory Burden) for actions related to approval or conditional approval of State regulatory programs, actions, and program amendments. Therefore, preparation of a regulatory impact analysis is not necessary and OMB regulatory review is not required.

2. Executive Order 12778

The Department of the Interior has conducted the reviews required by section 2 of Executive Order 12778 (Civil Justice Reform) and has determined that this rule meets the applicable standards of subsections (a) and (b) of that section. However, these standards are not applicable to the actual language of State regulatory programs and program amendments since each such program is drafted and promulgated by a specific State, not by OSM. Under sections 503 and 505 of SMCRA (30 U.S.C. 1253 and 12550) and the Federal regulations at 30 CFR 730.11, 732.15, and 732.17(h)(10), decisions on proposed State regulatory programs and program amendments submitted by the States must be based solely on a determination of whether the submittal is consistent with SMCRA and its implementing Federal regulations and whether the other requirements of 30 CFR parts 730, 731, and 732 have been met.

3. National Environmental Policy Act

No environmental impact statement is required for this rule since section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that agency decisions on proposed State regulatory program provisions do not constitute major Federal actions within the meaning of section 102(2)(C) of the National Environmental Policy Act (42 U.S.C. 4332(2)(C)).

4. Paperwork Reduction Act

This rule does not contain information collection requirements that require approval by OMB under the Paperwork Reduction Act (44 U.S.C. 3507 *et seq.*).

5. Regulatory Flexibility Act

The Department of the Interior has determined that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The State submittal which is the subject of this rule is based upon counterpart Federal regulations for which an economic analysis was prepared and certification made that such regulations would not have a significant economic effect upon a substantial number of small entities. Accordingly, this rule will ensure that existing requirements previously promulgated by OSM will be implemented by the State. In making the determination as to whether this rule would have a significant economic impact, the Department relied upon the data and assumptions for the counterpart Federal regulations.

List of Subjects in 30 CFR Part 944

Intergovernmental relations, Surface mining, Underground mining.

Dated: July 19, 1993.

Raymond L. Lowrie,

Assistant Director, Western Support Center.

[FR Doc. 93-17843 Filed 7-28-93; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF DEFENSE

Department of the Army

32 CFR Part 552

Prohibited Personnel Practices on the Installation of Fort Jackson, South Carolina

AGENCY: Department of the Army, DoD.

ACTION: Proposed rule.

SUMMARY: This action establishes 32 CFR part 552, subpart L, Personnel—Prohibited Practices and authenticates Fort Jackson Regulation 600-3. This subpart establishes prohibited practices on the installation of Fort Jackson, South Carolina. These prohibited practices apply to all persons assigned to, attached to, or present on the installation of Fort Jackson, South Carolina. Prohibited practices listed in this part are not all inclusive.

DATES: Written comments must be submitted on or before August 27, 1993.

ADDRESSES: Commander, U.S. Army Training Center and Fort Jackson, Office of the Staff Judge Advocate, Fort Jackson, SC 29207-5000.

FOR FURTHER INFORMATION CONTACT: CPT Thomas M. Gagne, Trial Counsel, telephone: (803) 751-6848.

SUPPLEMENTARY INFORMATION: This part does not list all activities or practices prohibited on the installation of Fort Jackson, South Carolina. Various other Army and Fort Jackson regulations specifically prohibit other activities or practices. See Appendix A to this part.

Executive Order 12291

This proposed rule is not affected by Executive Order 12291.

Regulatory Flexibility Act

The Regulatory Flexibility Act has no bearing on this proposed rule.

Paperwork Reduction Act

This proposed rule does not contain reporting or recordkeeping requirements subject to the Paperwork Reduction Act.

List of Subjects in 32 CFR Part 552 Subpart L

Military personnel, Government employees.

Accordingly, it is proposed to add subpart L to 32 CFR part 552, to read as follows:

Subpart L—Prohibited Personnel Practices on the Installation of Fort Jackson, South Carolina

Sec.
552.139 Purpose.
552.140 Scope.
552.141 Prohibited practices.
552.142 Dissemination.

Appendix A to Subpart L—Partial List of Other Publications Applicable on Fort Jackson Which List Prohibited Practices

Authority: 10 U.S.C. Ch. 47, 21 U.S.C. 801, et seq.

Subpart L—Prohibited Personnel Practices on the Installation of Fort Jackson, South Carolina

§ 552.139 Purpose.

This part is punitive in nature and applies to all persons assigned to, attached to, or present on the installation of Fort Jackson, South Carolina. A violation of, attempted violation of, or solicitation or conspiracy to violate any provision of this part provides the basis for criminal prosecution under the Uniform Code of Military Justice, applicable Federal Law, other regulations, and/or adverse administrative action. Civilian visitors may be barred from the installation of Fort Jackson and prosecuted under appropriate Federal laws. The enumeration of prohibited activities in this part is not intended to preclude prosecution under other provisions of law or regulation.

§ 552.140 Scope.

This part does not list all activities or practices prohibited on the installation of Fort Jackson, South Carolina. Various other Army and Fort Jackson publications specifically prohibit other activities or practices. See Appendix A to this subpart.

§ 552.141 Prohibited practices.

The following activities are prohibited:

(a) The possession, delivery, sale, transfer, or introduction into the installation of Fort Jackson of any device, instrument or paraphernalia designed or reasonably intended for use in introducing into the human body a controlled substance, as defined in the Controlled Substances Act, 21 U.S.C. 801, et seq., is prohibited.

(b) Unless an exception is approved by the Chief of Staff or a Major Subordinate Commander for a special occasion, consumption of alcoholic beverages, or the possession of an open container thereof, is prohibited under the circumstances listed in this section. For the purpose of this part, an "alcoholic beverage" is any liquid beverage containing any amount of ethyl alcohol, including wines, malt beverages and distilled spirits.

(1) By military personnel in uniform during duty hours (0730–1630).

(2) By military personnel during their assigned duty hours when different than those in paragraph (b)(1) of this section.

(3) By civilian employees during their assigned duty hours. Lunch time is not considered duty time for civilian employees.

(4) By civilian or military personnel in places of duty.

(5) By any person in a public place, except: in the Twin Lakes and Weston Lake Recreational Areas, in the immediate vicinity of Oyster Point (Officers' Club), at installation club facilities governed by Section II of AR 215–2, and at Army/Air Force Exchange Service (AAFES) eating establishments which serve alcoholic beverages for on-premises consumption.

(6) By any person in any Fort Jackson parking lot or parking area, to include the Burger King parking lot and all parking lots of AAFES facilities and installation club facilities.

(c) The presence of any person in a training area or of any permanent party soldier or civilian employee in a trainee/receptee billeting area while impaired by alcoholic beverages or illegal drugs is prohibited. For the purpose of this part, "Impaired by alcoholic beverages" for military personnel is defined as having a blood alcohol level of .05 percent (.05 is equivalent to 55 milligrams of alcohol per 100 milliliters of blood) or more.

(d) Privately Owned Firearms and Ammunition. For the purpose of this part, a "firearm" means any device which is designed to or readily may be converted to expel a projectile by the action of an explosive. Air/pellet guns, BB guns and bows are subject to all of the provisions of this paragraph except paragraph (d)(1) of this section.

(1) It is prohibited for persons residing on the installation to fail to register privately owned firearms with their unit commander.

(2) Storage of privately owned firearms in the barracks is prohibited. For the purposes of this part, "barracks" does not include BOQs or SBEQs.

(3) It is prohibited to store privately owned firearms in BOQs, SBEQs, or family quarters unless the firearm is unloaded, ammunition is stored separately from the firearm in a locked container, and one of the following methods for firearms storage is employed: by using a trigger locking device, by storing the firearm in a locked container, by removing the firing pin from the firearm and storing the firing pin in a locked container, or by disassembling the firearm and storing the disassembled parts in separate places. For the purposes of this part a "locked container" and a "locking device" mean locked containers and locking devices the keys to which are stored in a place not accessible to persons under 18 years of age.

(4) It is prohibited to carry on one's person any privately owned firearm in a public place on the installation of Fort Jackson unless participating in an authorized sporting activity or hunting in accordance with applicable regulations.

(5) In addition to the requirements of paragraph (d)(4) of this section, a person under 18 years of age is prohibited from carrying on his or her person a firearm outside the presence of a responsible adult.

(6) Carrying a concealed firearm on one's person, except by military, state and Federal law enforcement authorities in the performance of their duties, is prohibited.

(7) It is prohibited to transport in a vehicle any privately owned firearm except in a manner prescribed by the laws of South Carolina.

(8) It is prohibited to carry on one's person or transport in a vehicle any privately owned firearm within the Weston Lakes and Twin Lakes Recreation areas.

(e) Weapons Other Than Privately Owned Firearms. The possession of the following privately owned weapons or devices is prohibited:

(1) Any knife having a switchblade or automatic blade.

(2) Brass knuckles or similar devices.

(3) Blackjacks, saps, nunchaku and similar devices. As exceptions, nunchukes may be possessed for bona fide educational instruction or competition in a recognized martial arts program and may be carried and transported directly to and from educational and competitive martial arts events.

(4) When carried on one's person in an unconcealed manner, knives with blades in excess of three inches in length except while engaged in authorized hunting, fishing, camping or other outdoor recreational activities, or when required by duty purposes.

(5) When carried on one's person in a concealed manner, knives with blades in excess of three inches, razors and ice picks.

(f) The charging of a usurious interest rate, defined as a rate exceeding thirty-six (36) percent per annum or three (3) percent per month, for the loan of money or for the extension of credit, is prohibited.

(g) Sexual intercourse or any indecent, lewd or lascivious act in any office, barracks, training area, duty location, parking lot, public recreation area or public place is prohibited.

(h) Relationships between service members of different rank or sex which involve or reasonably give the appearance of partiality, preferential treatment, the improper use of rank or position for any personal gain, or which can otherwise be reasonably expected to undermine discipline, authority or morale, are prohibited.

(i) Being present in any "off-limits" or "limited access" areas, except as authorized in Fort Jackson Regulation 190–3, is prohibited.

(j) Use of a metal detector for other than official purposes is prohibited.

(k) When directed to do so by the Military Police, failure to relinquish possession or control to the Military Police of abandoned property found on the installation is prohibited.

(l) Scavenging in or removal of waste items or recyclable materials from dumpsters, garbage cans, outdoor trash receptacles, recycling collection points, or landfill areas is prohibited, except for official purposes. This part does not prohibit persons from collecting and disposing of scattered litter, including aluminum cans, from roadsides, parking lots and recreation areas.

(m) It is prohibited for military personnel to engage in outside employment of any nature, including ownership or operation of a private business, without the prior written approval of their commander. Soldiers reassigned or reattached from one Fort Jackson unit to another Fort Jackson unit must obtain approval for continued employment from the gaining commander within 30 days of reassignment.

(n) Except as authorized by the Installation Commander, Chief of Staff or a Major Subordinate Commander, the use of radios, stereos, tape players, compact disk players or any other similar electronic sound generating or amplification source, including equipment installed or located in motor vehicles, in a manner that sound can be heard more than 125 feet from the source, is prohibited. This paragraph does not apply to law enforcement or emergency vehicles, or safety warning devices.

(o) Loitering in any public place on Fort Jackson, to include all parking lots, is prohibited. Loitering is defined as remaining idle in essentially one location, spending time idly, loafing, or walking around without a purpose in a public place in such a manner as to create a disturbance or annoyance to the comfort of any person, create a danger of a breach of the peace, obstruct or interfere with any person lawfully in any public place, or obstruct or hinder the free passage of vehicles or pedestrians. Any person loitering as defined above in any public place may be ordered by a law enforcement officer to leave that place or the Fort Jackson military reservation.

§ 552.142 Dissemination.

(a) Unit commanders and supervisors shall ensure that newly assigned or attached military and civilian personnel are informed of the prohibitions contained in this regulation. Soldiers-in-training will be informed of the provisions of this regulation at the beginning of each training cycle.

(b) All permanent party personnel and civilian employees will be reminded annually of their duty to comply with this part.

Appendix A to Subpart L—Partial List of Other Publications Applicable on Fort Jackson Which List Prohibited Practices

1. Distribution of Written Materials on the Installation—Fort Jackson Supplement 1 to AR 210–10.
2. Demonstrations, Pickets, Sit-ins, etc.—Fort Jackson Supplement 1 to AR 210–10.
3. Standards of Ethical Conduct for Employees of the Executive Branch, 5 Code of Federal Regulations, Part 2635.
4. Improper Associations—Fort Jackson Regulation 600–5.
5. Mistreatment of Soldiers-in-Training—Fort Jackson Regulation 350–1.
6. Participation in Military Labor Unions—Army Regulation 600–20.
7. Traffic Violations—Fort Jackson Regulation 190–5.

These publications are available for inspection at the Office of the Staff Judge Advocate, Fort Jackson, SC 29207–5000.

Kenneth L. Denton,
Army Federal Register Liaison Officer.

[FR Doc. 93–17391 Filed 7–28–93; 8:45 am]
BILLING CODE 3710-08-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 642

[Docket No. 930791–3191; I.D. 070693A]

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

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

ACTION: Proposed rule.

SUMMARY: NMFS issues a preliminary notice of changes in the management regime for the Atlantic migratory group of Spanish mackerel, in accordance with the framework procedure for adjusting management measures of the Fishery Management Plan for the Coastal Migratory Pelagic Resources (FMP). Specifically, this rule proposes for Atlantic group Spanish mackerel increases in the total allowable catch (TAC) and allocations and a reduction in the percentage of catch that triggers reduced commercial trip limits in the southern zone. The intended effect of this rule is to protect Spanish mackerel from overfishing and continue stock rebuilding programs while still allowing catches by important recreational and commercial fisheries dependent on Spanish mackerel.

DATES: Written comments must be received on or before August 13, 1993.

ADDRESSES: Comments may be mailed to Mark F. Godcharles, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Requests for copies of the draft regulatory impact review/initial regulatory flexibility analysis/environmental assessment supporting this action should be sent to the Gulf of Mexico Fishery Management Council, 5401 W. Kennedy Boulevard, suite 331, Tampa, FL 33609–2486.

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

SUPPLEMENTARY INFORMATION: The mackerel fisheries are regulated under the FMP, which was prepared jointly by the Gulf of Mexico and South Atlantic Fishery Management Councils (Councils), and its implementing regulations at 50 CFR part 642.

In accordance with framework procedure of the FMP, the Councils appointed a stock assessment panel (panel) to assess on an annual basis the condition of each stock of king and Spanish mackerel in the management unit, to report its findings, and to make recommendations to the Councils. Based on the panel's 1993 report and recommendations, advice from the Mackerel Advisory Panels and the Scientific and Statistical Committees, and public input, the Councils recommended to the Director, Southeast Region, NMFS (Regional Director), changes to the TAC and allocations for the Atlantic migratory group of Spanish mackerel, a change in the commercial trip limits for Atlantic group Spanish mackerel in the southern zone, and a restatement of the current bag and possession limits for Atlantic group Spanish mackerel. The recommended changes are within the scope of the management measures that may be adjusted, as specified at 50 CFR 642.29. For the 1993/94 fishing year, the Councils recommended no changes for the other mackerel groups or for cobia.

Specifically, the Councils recommended that, effective with the fishing year that began April 1, 1993, the annual TAC for the Atlantic migratory group of Spanish mackerel be increased from 7.00 to 9.00 million pounds (m. lbs.) 3.18 to 4.08 million kilograms (m. kg)). This recommended TAC is within the range of the acceptable biological catch chosen by the Councils. Under the provisions of the FMP, the recreational and commercial fisheries are allocated a fixed percentage of the TAC. Under the established percentages, the proposed TAC would be allocated for the fishing year that commences April 1, 1993, as follows:

Species	M. lbs.	M. kg
Atlantic Spanish Mackerel—TAC	9.00	4.08
Recreational allocation (50%)	4.50	2.04
Commercial allocation (50%)	4.50	2.04

The commercial sector of the Atlantic group Spanish mackerel fishery is managed under trip limits. In the southern zone, that is, south of a line extending directly east from the Georgia/Florida boundary, the specific trip limits vary depending on the percentage of catch of the adjusted

allocation. The adjusted allocation is the commercial allocation for Atlantic migratory group Spanish mackerel reduced by an amount calculated to allow continued harvests of Atlantic group Spanish mackerel at the rate of 500 pounds (227 kg) per vessel per day for the remainder of the fishing year after the adjusted allocation is reached. Concomitant with the increased commercial allocation, the Councils recommended that the adjusted allocation be increased from 3.25 to 4.25 m. lbs. (1.47 to 1.93 m. kg) and that the initial change in the trip limits occur when 75 percent of the adjusted allocation is taken rather than when 80 percent is taken, as is currently in effect. The trip limits would be expected to be compatible with similar limits applicable to Florida's waters and would allocate fairly the available resource among users, both of which were significant factors in the establishment of the trip limits.

The current Federal bag limit for Atlantic group Spanish mackerel in the northern area, that is, north of a line extending directly east from the Georgia/Florida boundary, is ten per person. The current Federal bag limit in the southern area is as prescribed for Florida's waters in Rule 46-23.005 of the Florida Administrative Code, or as that rule is subsequently amended, but not to exceed ten per person. Rule 46-23.005 currently sets the bag limit at ten per person. The Councils have concluded that the provision for further revision of the Federal bag limit in the southern area based on Rule 46-23.005 of the Florida Administrative Code is unnecessary and have recommended that the provision be deleted. The recommended change simplifies and clarifies the regulations by establishing a uniform bag limit of ten per person in both the northern and southern areas.

The Regional Director initially concurs that the Councils' recommendations are necessary to protect the Spanish mackerel stocks and prevent overfishing and that they are consistent with the goals and objectives of the FMP. Accordingly, the Councils' recommended changes are published for comment.

Classification

The Assistant Administrator for Fisheries, NOAA, determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291 because the total impact is well under the threshold level of $100 million used as a guideline for a "major rule."

The Councils prepared a regulatory impact review (RIR) on this action, the conclusions of which are summarized as follows. The increased allocations of Atlantic group Spanish mackerel are expected to generate additional benefits in ex-vessel revenues and consumer surplus. The changes to the commercial trip limits for Spanish mackerel in the southern zone, specifically, increase in the adjusted allocation and a reduction in the percentage of catch that triggers reduced commercial trip limits, are expected to continue the trend, initiated in Amendment 6 to the FMP, toward reallocating catch from large scale to small scale vessels. Data are not available to quantitatively evaluate the cost/benefit tradeoffs associated with this reallocation. Qualitatively, it is likely that such reallocation reduces consumer and producer benefits. However, there may be compensating social benefits. Copies of the RIR are available (see **ADDRESSES**).

The Councils prepared an initial regulatory flexibility analysis (IRFA) as part of the RIR, which concludes that this proposed rule, if adopted, will have significant effects on small entities. The increase in the commercial allocation is expected to substantially increase gross revenues to the commercial sector of the fishery for Atlantic group Spanish mackerel. Copies of the IRFA are available (see **ADDRESSES**).

List of Subjects in 50 CFR Part 642

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: July 23, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

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

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

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

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

2. In § 642.24, paragraph (a)(1)(iv) is revised to read as follows:

§ 642.24 Bag and possession limits.

(a) * * *

(1) * * *

(iv) *Spanish mackerel Atlantic migratory group*—ten per person.

* * * * *

§ 642.25 [Amended]

3. In § 642.25, in paragraph (b)(2), the numbers "3.50" and "1.59" are revised to read "4.50" and "2.04", respectively.

4. In § 642.27, paragraphs (a)(2)(ii) introductory text, (a)(2)(iii), introductory text, (a)(2)(iii), and (b) are revised to read as follows: § 642.27 *Commercial trip limits for Atlantic group Spanish mackerel.*

(a) * * *

(2) * * *

(ii) From December 1 until 75 percent of the adjusted allocation is taken, in amounts as follows:

* * * * *

(iii) After 75 percent of the adjusted allocation is taken until 100 percent of the adjusted allocation is taken, in amounts not exceeding 1,000 pounds (454 kg).

* * * * *

(b) For the purpose of paragraph (a)(2) of this section, the adjusted allocation of Atlantic migratory group Spanish mackerel 4.25 million pounds (1.93 million kg). The adjusted allocation is the commercial allocation for Atlantic migratory group Spanish mackerel reduced by an amount calculated to allow continued harvests of Atlantic group Spanish mackerel at the rate of 500 pounds (227 kg) per vessel per day for the remainder of the fishing year after the adjusted allocation is reached. The Assistant Administrator, by filing a notice with the Office of the Federal Register, will announce when 75 percent and 100 percent of the adjusted allocation is reached or is projected to be reached.

* * * * *

[FR Doc. 93-18116 Filed 7-28-93; 8:45 am]

BILLING CODE 3510-22-M

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50 CFR Part 659

[Docket No. 930792-3192; ID 070693B]

RIN 0648-AD86

Shrimp Fishery Off the Southern Atlantic States

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

ACTION: Proposed rule.

SUMMARY: NMFS issues this proposed rule to implement the Fishery Management Plan for the Shrimp Fishery of the Southern Atlantic Region (FMP). The FMP proposes that, when North Carolina, South Carolina, Georgia, or Florida closes the fishery for brown, pink, and white shrimp in its Atlantic coastal waters following severe cold weather that results in an 80-percent or greater reduction in the population of white shrimp, NMFS may concurrently close the fishery for brown, pink, and white shrimp in the exclusive economic zone (EEZ) adjacent to the closed state waters. The intended effect of the FMP and this rule is to protect the white

shrimp resource when unusually cold weather conditions are likely to cause severe depletion of spawning stocks.

DATES: Written comments must be received on or before September 9, 1993.

ADDRESSES: Comments on the proposed rule should be sent to the Southeast Regional Office, NMFS, 9450 Koger Boulevard, St. Petersburg, FL 33702.

Requests for copies of the FMP and supporting documents should be sent to the South Atlantic Fishery Management Council, Southpark Building, suite 306, 1 Southpark Circle, Charleston, SC 29407–4699.

FOR FURTHER INFORMATION CONTACT: Peter J. Eldridge, 813–893–3161.

SUPPLEMENTARY INFORMATION: The FMP was prepared by the South Atlantic Fishery Management Council (Council) under the authority of the Magnuson Fishery Conservation and Management Act (Magnuson Act).

Background

The white shrimp fishery is the most important commercial fishery in both Georgia and South Carolina. White shrimp has comprised approximately 80 percent of Georgia's commercial shrimp landings since 1972 and slightly over 50 percent of South Carolina's annual commercial landings since 1976. The fishery for brown shrimp is of lesser importance, while pink shrimp, the least important of the three species, comprises less than 5 percent of the total shrimp catch.

Low temperatures have decimated the white shrimp resource in 8 of the past 29 winters. The reduced production in the following fall fisheries resulted in reduced employment and revenues. In 5 of those 8 years, white shrimp landings in the fall fishery off South Carolina were substantially less than 1.5 million pounds (0.68 million kg). Landings generally range from 2 to 5 million pounds (0.91 to 2.27 million kg). White shrimp landings in Georgia, generally ranging from 5 to 7 million pounds (2.27 to 3.18 million kg), were less than 4 million pounds (1.81 million kg) for those same years. These landings data directly reflect the impacts of winter kills.

Extremely cold weather in December 1989 in Georgia and South Carolina resulted in high mortalities of white shrimp. In February 1990, the Georgia Department of Natural Resources and the South Carolina Wildlife and Marine Resources Department requested a concurrent closure of EEZ waters adjacent to closed State waters. NMFS implemented an emergency rule in April 1990 to prohibit the harvest of brown, pink, and white shrimp from the EEZ off South Carolina and Georgia. White shrimp landings in 1990 for the combined South Atlantic states were almost identical to the average of annual landings from 1957–1991, thus supporting the use of concurrent closures of the EEZ during the spring spawning season following freeze years.

Proposed Actions

Under the FMP, when a state finds that severe winter cold weather results in an 80-percent or greater reduction in the population of white shrimp in its waters, based on standardized assessment sampling, and closes or expects to close all or a portion of its waters to the harvest of brown shrimp, pink shrimp, and white shrimp, such state may request that the Council recommend to the Director, Southeast Region, NMFS (Regional Director), concurrent closure of the EEZ adjacent to the closed state waters. Upon receiving such a request, the Council would convene a review panel to evaluate the data supporting the request. The panel would be composed of one person from the staff of the Council, one scientist from the Southeast Fisheries Science Center, NMFS, one member of the Council's Scientific and Statistical Committee, and a state shrimp biologist from each of the States of Florida, Georgia, North Carolina, and South Carolina. The panel would report its findings and make a recommendation to the Council for its approval or disapproval. The panel's review and the Council's approval or disapproval would be based on the accuracy of, and the methodology underlying, the state's conclusions regarding the amount of the reduction in the population of overwintering white shrimp.

If the Council recommends a closure, the Regional Director will forward the recommendation to the Assistant Administrator for Fisheries, NOAA (Assistant Administrator). Upon a determination that the recommended closure conforms to the FMP, the Magnuson Act, and other applicable law, the Assistant Administrator would effect closure by filing a notice of closure at the Office of the Federal Register.

Termination of a closure in the EEZ would occur simultaneously with opening of the adjacent state waters, but may occur earlier. An earlier termination of the EEZ closure usually would be based on the state's request after it determines, through monitoring programs, that conditions warrant termination. If termination of the closure in the EEZ is earlier than termination of the closure in state waters, the Assistant Administrator would terminate a closure in the EEZ by filing a notice to that effect with the Office of the Federal Register.

It is not expected that North Carolina would have occasion to employ a shrimp closure State-wide in its waters, but unusual circumstances might necessitate closure of the waters off the southern part of the State. The population of white shrimp off Florida is limited primarily to the northern three or four counties. Although neither North Carolina nor Florida has closed State waters to shrimping on an emergency basis, either State could request concurrent closure of the adjacent EEZ if the criteria were met. Based on past practice, Georgia and South Carolina would be expected to effect State-wide closures.

During a closure, it would be prohibited for a person to trawl for brown shrimp, pink shrimp, or white shrimp in the closed portion of the EEZ or to possess aboard a fishing vessel brown shrimp, pink shrimp, or white shrimp in or from the closed area. However, such shrimp could be possessed aboard a fishing vessel in the closed area if the vessel was in transit and all trawl nets with a mesh size less than 4 inches (10.2 cm) were stowed below decks. This exception would allow the possession of brown shrimp, pink shrimp, and white shrimp aboard a fishing vessel returning to a port within the closed area after having legally harvested such shrimp outside the closed area.

Because white shrimp is a normal incidental catch in the fisheries for other *Penaeus* species; namely, pink shrimp and brown shrimp, a ban on trawling for all three *Penaeus* species would be necessary to protect the white shrimp resource to the maximum extent possible. In addition, differentiation among the three *Panaeus* species might cause confusion in enforcement of the ban if it were confined to white shrimp. However, there is no incidental catch of white shrimp in the trawl fisheries for rock shrimp or royal red shrimp, nor is there a likelihood of confusion in differentiating between the *Penaeus* species and rock or royal red shrimp. Accordingly, it is not intended that the ban on trawling extend to rock or royal red shrimp. Similarly, it is not intended that the trawl fishery for whiting be adversely affected.

To allow the fisheries for rock shrimp, royal red shrimp, and whiting to continue during a closure without jeopardizing enforcement of the ban on trawling for *Penaeus* shrimp species, a buffer zone would be established in that part of the closed area that is within 25

nautical miles of the baseline from which the territorial sea is measured. A vessel that trawls in that buffer zone could not use or have aboard a trawl net with a mesh size less that 4 inches (10.2 cm) stretched mesh. Both rock and royal red shrimp are commercially abundant in depths found generally outside the buffer zone. The principal exception is the area off Cape Canaveral, Florida; however, closure of state waters to trawling for *Penaeus* shrimp species would not be expected that far south. Conversely, off the southern Atlantic states, few, if any, *Penaeus* shrimp species are taken in depths found outside the buffer zone. Thus, the trawl fisheries for rock and royal red shrimp, which use trawl nets with mesh less than 4 inches (10.2 cm), would not be expected to be affected by the buffer zone off closed state waters. Persons in the fishery for whiting, which could occur in a buffer zone, would be required to use and possess on board only trawl nets with a mesh size of 4 inches (10.2 cm) or larger. Allowing trawling with nets of such mesh size would not endanger the white shrimp population and would be consistent with the regulations applicable to the waters of Georgia and South Carolina. Any *Penaeus* shrimp species taken incidental to the fishery for whiting could not be retained.

Additional background and rationale for the measures in this proposed rule are contained in the FMP, the availability of which was announced in the **Federal Register** on June 30, 1993 (58 FR 34982).

Classification

Section 304(a)(1)(D)(ii) of the Magnuson Act requires the Secretary of Commerce (Secretary) to publish regulations proposed by a Council within 15 days of receipt of an FMP and proposed regulations. At this time, the Secretary has not determined that the FMP, which this proposed rule would implement, is consistent with the national standards, other provisions of the Magnuson Act, and other applicable law. The Secretary, in making that determination, will take into account the data, views, and comments received during the comment period.

This proposed rule is exempt from the procedures of E.O. 12291 under section 8(a)(2) of that order. It is being reported to the Director, Office of Management and Budget, with an explanation of why it is not possible to follow the procedures of that order.

The Assistant Administrator has initially determined that this proposed rule is not a "major rule" requiring the preparation of a regulatory impact analysis under E.O. 12291. This proposed rule, if adopted, is not 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 a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Council prepared a Regulatory Impact Review (RIR) as part of the FMP, which concludes that this rule, if adopted, would have the effects summarized as follows. Closures of the EEZ following freeze years should result in substantially increased fall white shrimp landings and net revenues, which should enhance stabilized aggregate employment in the shrimp industry. In addition, concurrent closures of EEZ waters would increase compliance with state closures following freeze years and reduce state and Federal law enforcement costs. Additional analysis and discussion are contained in the RIR, a copy of which is available (see **ADDRESSES**).

The Council prepared an initial regulatory flexibility analysis (IRFA) as part of the FMP (Section 19.0). NMFS has analyzed the data in the RIR and IRFA and concludes that this proposed rule, if adopted, would have significant effects on small entities. Since all entities affected by this rule are small entities, there will be no disparate impacts on small entities. Under all possible scenarios, a concurrent closure of the EEZ adjacent to a state's closed waters following a severe winter freeze would cause minor losses to fishermen during the spring closure followed by significant gains during the following fall fishery—a net significant benefit. The specific amount of net benefits would vary, but even under a worst-case scenario, the net benefits would be significant. A copy of the IRFA is available (see **ADDRESSES**).

The Council prepared a draft environmental impact statement for the FMP; a notice of availability was published on April 9, 1993 (58 FR 18394). A final Environmental Impact Statement was prepared by the Council for this FMP and will be filed for public review with the Environmental Protection Agency on or before August 30, 1993, to begin a 30-day public review period.

The Council determined that this rule will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management programs of Florida, North Carolina, and South Carolina. Georgia does not have an approved coastal zone management program. These determinations have been submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act.

A consultation conducted in accordance with section 7 of the Endangered Species Act (ESA) on this FMP concluded that shrimp trawling in the southeastern United States is in compliance with the 1992 Revised Sea Turtle Conservation Regulations, and fishing under the FMP is not likely to jeopardize the continued existence of threatened or endangered species under NMFS jurisdiction.

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

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

List of Subjects in 50 CFR Part 659

Fisheries, Fishing.

Dated: July 23, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR is proposed to be amended by adding a new part 659 to read as follows:

PART 659—SHRIMP FISHERY OFF THE SOUTHERN ATLANTIC STATES

Subpart A—General Provisions

Sec.
659.1 Purpose and scope.
659.2 Definitions.
659.3 Relation to other laws.
659.4 Prohibitions.
659.5 Facilitation of enforcement.
659.6 Penalties.

Subpart B—Management Measures

659.20 Closures.
659.21 Specifically authorized activities.

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

Subpart A—General Provisions

§ 659.1 Purpose and scope.

(a) The purpose of this part is to implement the Fishery Management Plan for the Shrimp Fishery of the South Atlantic Region (FMP) prepared by the South Atlantic Fishery Management Council under the Magnuson Act.

(b) This part governs conservation and management of brown shrimp, pink shrimp, and white shrimp in the EEZ off the southern Atlantic states.

§ 659.2 Definitions.

In addition to the definitions in the Magnuson Act and in § 620.2 of this chapter, the terms used in this part have the following meanings:

Brown shrimp means the species *Penaeus aztecus.*

Off a southern Atlantic state means—

(1) *For North Carolina,* the waters from a line extending directly east from the Virginia/North Carolina boundary (36°33'00.8"N. lat.) to a line extending in a direction of 135°34'55" from true north from the North Carolina/South Carolina boundary, as marked by the border station on Bird Island at 33°51'07.9"N. lat., 78°32'32.6"W. long.;

(2) *For South Carolina,* the waters from a line extending in a direction of 135°34'55" from true north from the North Carolina/South Carolina boundary, as marked by the border station on Bird Island at 33°51'07.9"N. lat., 78°32'32.6"W. long. to a line extending in a direction of 104° from true north from the seaward terminus of the South Carolina/Georgia boundary;

(3) *For Georgia,* the waters from a line extending in a direction of 104° from true north from the seaward terminus of the South Carolina/Georgia boundary to a line extending directly east from the seaward terminus of the Georgia/Florida boundary (30°42'45.6"N. lat.); and

(4) *For Florida,* the waters from a line extending directly east from the seaward terminus of the Georgia/Florida boundary (30°42'45.6"N. lat.) to the eastern boundary of the Gulf of Mexico, which is a line from the outer limit of the EEZ north along 83°00'W. long. to 24°35'N. lat. (near Dry Tortugas), thence east to Marquesas Key, then through the Florida Keys to the mainland.

Pink shrimp means the special *Penaeus duorarum.*

Southern Atlantic state means North Carolina, South Carolina, Georgia, or Florida.

White shrimp means the species *Penaeus setiferus.*

§ 659.3 Relation to other laws.

The relation of this part to other laws is set forth in § 620.3 of this chapter.

§ 659.4 Prohibitions.

In addition to the general prohibitions specified in § 620.7 of this chapter, it is unlawful for any person to do any of the following:

(a) Trawl for white shrimp, pink shrimp, or brown shrimp in a closed area or possess such shrimp in or from a closed area, as specified in § 659.20(b)(1)(i), except possession authorized under § 659.20(b)(2).

(b) Aboard a vessel trawling in that part of the closed area that is within 25 nautical miles of the baseline from which the territorial sea is measured, use or have aboard a trawl net with a mesh size less than 4 inches (10.2 cm), as specified in § 659.20(b)(1)(ii).

(c) Interfere with, obstruct, delay, or prevent by any means an investigation, search, seizure, or disposition of seized property in connection with enforcement of the Magnuson Act.

(d) Make any false statement, oral or written, to an authorized officer concerning the taking, catching, harvesting, landing, purchase, sale, possession, or transfer of brown shrimp, pink shrimp, or white shrimp.

§ 659.5 Facilitation of enforcement.

See § 620.8 of this chapter.

§ 659.6 Penalties.

See § 620.9 of this chapter.

Subpart B—Management Measures

§ S695.20 Closures.

(a) *Procedure.* When a southern Atlantic state finds that severe winter cold weather results in an 80-percent or greater reduction in the population of overwintering white shrimp in its waters as determined by standardized assessment sampling, and closes or expects to close all or a portion of its waters to the harvest of brown, pink, and white shrimp, such state may request that the South Atlantic Fishery Management Council (Council) recommend to the Director, Southeast Region, NMFS (Regional Director), concurrent closure of the EEZ adjacent to the closed state waters. Pursuant to the procedures and criteria established in the FMP, including review by the Council of the state's procedures for standardized assessment sampling and the state's conclusions regarding the amount of the reduction in the population of overwintering white shrimp, the Assistant Administrator upon receipt from the Regional Director of a closure recommendation from the Council, and upon a determination that such closure conforms to the Magnuson Act and other applicable law, will effect concurrent closure of the adjacent EEZ by filing a notice of closure with the Office of the Federal Register. Closure of the adjacent EEZ will be effective until the ending date of the closure in state waters but may be ended earlier based on the state's request. In the latter case, the Assistant Administrator will terminate a closure of the EEZ by filing a notice to that effect with the Office of the Federal Register.

(b) *Restrictions during a closure.* (1) During a closure, as specified in paragraph (a) of this section—

(i) No person may trawl for brown shrimp, pink shrimp, or white shrimp in the closed portion of the EEZ off a southern Atlantic state (closed area); and no person may possess aboard a fishing vessel brown shrimp, pink shrimp, or white shrimp in or from the closed area, except as authorized in paragraph (b)(2) of this section.

(ii) No person aboard a vessel trawling in that part of the closed area that is within 25 nautical miles of the baseline from which the territorial sea is measured may use or have aboard a trawl net with a mesh size less than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut.

(2) Brown shrimp, pink shrimp, or white shrimp may be possessed aboard a fishing vessel in a closed area provided the vessel is in transit and all trawl nets with a mesh size less than 4 inches (10.2 cm), as measured between the centers of opposite knots when pulled taut, are stowed below deck while transiting the closed area. For the purpose of this paragraph (b)(2), a vessel is in transit when it is on a direct and continuous course through the closed area.

§ 659.21 Specifically authorized activities.

The Secretary may authorize, for the acquisition of information and data, activities otherwise prohibited by these regulations.

[FR Doc. 93-18114 Filed 7-26-93; 3:24 pm]
BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration

50 CFR Parts 672 and 675

[Docket No. 930652-3152; I.D. 060893A]

Groundfish of the Gulf of Alaska; Groundfish Fishery of the Bering Sea and Aleutian Islands Area

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

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes changes to the regulations that implement the limit on the amount of pollock roe that may be retained onboard a vessel during a fishing trip in the Alaska groundfish fisheries. These changes are necessary to curtail current fishing practices that undermine the intent of the limit, which is to prevent the wasteful use of the pollock resource by the stripping of roe (eggs) from female pollock and discarding female and male pollock carcasses without further processing,

commonly known as pollock roe stripping. The intended effect of this action is to promote the purposes and policies of the Magnuson Fishery Conservation and Management Act (Magnuson Act) and the goals and objectives of the Fishery Management Plan (FMP) for Groundfish of the Gulf of Alaska (GOA) and the FMP for the Groundfish Fishery of the Bering Sea and Aleutian Islands management area (BSAI) with respect to groundfish management off Alaska.

DATES: Comments must be received at the following address no later than 4:30 p.m., Alaska local time, August 30, 1993.

ADDRESSES: Comments may be sent to Ronald J. Berg, Chief, Fisheries Management Division, Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802 (Attn: Lori Gravel), or be delivered to 9109 Mendenhall Mall Road, Federal Building Annex, Suite 6, Juneau, Alaska. Copies of the environmental assessment/regulatory impact review/final regulatory flexibility analysis (EA/RIR/FRFA) prepared for Amendments 14 and 19 may be obtained from the North Pacific Fishery Management Council, P.O. Box 103136, Anchorage, AK 99510 (telephone 907-271-2809).

FOR FURTHER INFORMATION CONTACT: Susan J. Salveson, Fisheries Management Division, Alaska Region, NMFS, 907-586-7228.

SUPPLEMENTARY INFORMATION

Background

Fishing for groundfish by U.S. vessels in the exclusive economic zone of the GOA and BSAI is managed by the Secretary of Commerce (Secretary) according to the FMP for Groundfish of the GOA and the FMP for the Groundfish Fishery of the BSAI. The FMPs were prepared by the North Pacific Fishery Management Council (Council) under the Magnuson Act and are implemented by regulations governing the U.S. groundfish fisheries at 50 CFR parts 672 and 675. General regulations that also pertain to U.S. fisheries appear at 50 CFR part 620.

At times, amendments to regulations are necessary for conservation and management of the groundfish fisheries. This action proposes several changes to regulations at 50 CFR 672.20(i) and 675.20(j) that limit the proportion of pollock roe that may be retained onboard a vessel during a fishing trip. These regulations were issued in 1991 under the authority of Amendment 14 to the FMP for the Groundfish Fishery of the BSAI and Amendment 19 to the FMP for Groundfish of the GOA (56 FR 492, January 7, 1991). During the Secretarial review of these amendments, the Magnuson Act was amended to prohibit stripping pollock of its roe and discarding the flesh of the pollock (16 U.S.C. 1857(1)(N)).

The regulations at §§ 672.20(i) and 675.20(j) are intended to implement, to the maximum extent practicable, the prohibition on roe stripping to reduce wastage of the pollock resource, prevent possible adverse effects on the marine ecosystem and reproductive potential of pollock, and provide for an equitable distribution of the pollock resource among its users. A description of, and justification for, these measures were discussed in the preamble to the final rule published on January 7, 1991. Additional information is available in the EA/RIR/FRFA prepared for Amendments 14 and 19 (see ADDRESSES).

Since the regulations became effective, NMFS has become aware of fishing practices by operators of processor vessels that serve to undermine their intent. Although such activity has been limited to a small number of vessels, the potential exists for more vessel operators to engage in these practices in the future. NMFS is proposing three changes to §§ 672.20(i) and 675.20(j) to curtail these practices and prevent an increase in the occurrence of fishing practices that undermine the intent of the regulations. A description of these changes and the reasons for them follow:

1. Change the definition of "fishing trip" for purposes of calculating the proportion of BSAI pollock roe retained.

NMFS proposes to change the definition of fishing trip as it relates to § 675.20(i) to:

(1) Reduce the incentive for vessel operators to retain pollock roe amounts in excess of levels that reflect actual roe recovery rates; and

(2) Facilitate the enforcement of the limit on the proportion of pollock roe relative to other pollock product that may be retained onboard a vessel. The definition would be changed to make the end of a weekly reporting period (defined at § 675.2) the end of a fishing trip, unless all pollock product has been previously transferred or offloaded, or the vessel leaves the subarea or district where the fishing activity commenced, which, in either case, would end the fishing trip. This would reduce the potential duration of fishing trips and minimize the incentive to vessel operators to strip pollock of its roe at the end of a fishing trip to maximize the amount of roe retained relative to primary pollock product onboard the vessel and prevent a vessel operator from retaining only roe product onboard the vessel and offloading non-roe product. This definition change is intended to prohibit fishing practices that potentially undermine the intent of the regulations and complicate the enforcement of the limit on the amount of pollock roe relative to primary pollock product that may be transferred off the vessel.

Changes to the definition of "fishing trip" for purposes of implementing the limit in the GOA are not proposed for the following reasons. First, unlike the BSAI definition, the GOA definition of fishing trip already specifies the end of a weekly reporting period as the end of a fishing trip. Second, the practice of at-sea transfer of pollock product among processor vessels and associated incentives to retain GOA pollock roe in amounts beyond actual pollock roe recovery rates are not anticipated to occur in the GOA. This is because sufficient amounts of pollock are not available during the roe season to support a significant roe fishery, and processors identified as part of the offshore component at § 672.2 are prohibited from participating in the directed fishery for GOA pollock (§ 672.20(a)(2)(v)).

2. Require only pollock product processed for long-term storage (frozen, canned, or meal product) to be used as the primary pollock product to calculate the proportion of pollock roe retained and prohibit the at-sea discard of any primary pollock product used to calculate the proportion.

NMFS proposes this measure in response to fishing practices that involve the retention of whole, unprocessed pollock as primary product for purposes of calculating the proportion of pollock roe retained. Transfer of this primary product to other processor vessels from which it is subsequently discarded at-sea essentially constitutes roe stripping operations contrary to the intent of the regulations implementing Amendments 14 and 19 to the FMPs. This practice also frustrates the ability of enforcement agents to audit the proportion of pollock roe onboard a vessel when the primary product used to calculate the proportion is no longer onboard the vessel. Processing of pollock for long-term storage is necessary if a vessel operator intends to retain primary pollock product onboard the vessel, and such retention is consistent with the intent of regulations limiting pollock roe stripping. The physical presence of pollock product processed for long-term storage onboard a vessel also would facilitate enforcement of the limit on the proportion of pollock roe relative to

primary pollock product that may be retained onboard the vessel.

3. Define the term "pollock roe" and prohibit any primary pollock product containing roe from being used to calculate the round-weight equivalent of pollock for purposes of determining the proportion of pollock roe retained.

This measure is proposed to prohibit roe-bearing product from being used to calculate the proportion of pollock roe retained (e.g., using headed and gutted pollock with roe for calculating retainable amounts of roe). Existing regulations do not limit the amount of roe-bearing product other than pollock roe that may be retained onboard a vessel as primary product because these product types are produced onboard the vessel without employing the practice or pollock roe stripping. However, if vessels retain only roe-bearing pollock product and pollock roe, roe stripping operations would have to occur, contrary to regulatory intent. To counter this practice, roe-bearing primary product must be prohibited from being used to calculate retainable amounts of pollock roe.

The Council considered the changes discussed above at its April 21–24, 1993, meeting and recommended that they be submitted to NMFS for review and approval. NMFS preliminarily concurs with the proposed changes. Implementation of the changes would support the intent of the Magnuson Act prohibition and regulations limiting pollock roe stripping and prevent further wasteful use of the pollock resource.

NMFS is considering publishing a proposed rule to further revise the regulations at §§ 672.20(i) and 675.20(j). In pertinent part, that proposed rule would reduce the allowable amount of pollock roe onboard a vessel at any time during a fishing trip from 10 percent to 5 percent of the total round-weight equivalent of pollock as calculated from the primary pollock product onboard the vessel during the fishing trip.

Classification

The Assistant Administrator for Fisheries, NOAA (Assistant Administrator), has initially determined that this rule is necessary for the conservation and management of the groundfish fishery off Alaska and is consistent with the Magnuson Act and other applicable laws.

This proposed regulatory amendment falls within the scope of alternatives addressed in the EA prepared for Amendments 14 and 19 to the FMPs. Therefore, this action is categorically excluded from the requirement to prepare an EA under section 6.02.c.3(f) of NOAA Administrative Order 216–6. A copy of the EA prepared for these amendments is available from the Council (see **ADDRESSES**).

The Assistant Administrator determined that this proposed rule is not a "major rule" requiring a regulatory impact analysis under E.O. 12291. The regulatory impact review (RIR) prepared for Amendments 14 and 19 analyzed the economic impacts that would result from the implementation of regulations that limit pollock roe stripping. This proposed rule would not result in any economic impacts that were not already analyzed in the RIR prepared for Amendments 19 and 24. Therefore, if adopted, this proposed rule is not 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 a significant adverse effect on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic effect on a substantial number of small entities because the few processor vessels that have participated in fishing practices that this action would prohibit experience annual receipts in excess of $2 million and are not considered small entities for purposes of the Regulatory Flexibility Act (RFA). Catcher vessels typically are considered small entities under the RFA. Fishing practices that undermine the intent of regulations limiting pollock roe stripping have not been identified within the catcher vessel fleet. Small entities will not be affected by the proposed rule, if approved. As a result, a regulatory flexibility analysis was not prepared.

The proposed rule does not involve a collection-of-information requirement subject to the Paperwork Reduction Act.

NMFS has determined that this rule, if adopted, will be implemented in a manner that is consistent to the maximum extent practicable with the approved coastal management program of the State of Alaska. This determination has been submitted for review by the responsible State agency under section 307 of the Coastal Zone Management Act.

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

The Director of the Alaska Region, NMFS (Regional Director), determined that the fishing activities that would be conducted under this proposed rule would not affect any endangered or threatened species listed under the Endangered Species Act (ESA) in any manner not already considered in: (1) the formal consultations conducted on the BSAI and GOA groundfish fisheries (both dated April 19, 1991), the 1992 BSAI total allowable catch (TAC) specifications (January 21, 1992), and Amendment 18 to the BSAI FMP (March 4, 1992); and (2) the informal consultations conducted regarding the impacts of the 1992 GOA TAC specifications (December 23, 1991), the 1993 BSAI and GOA TAC specifications on Steller sea lions (January 20, 1993 and January 22, 1993, respectively), and the impacts of the 1993 BSAI and GOA groundfish fisheries on listed species of salmon (April 21, 1993) and listed species of seabirds (U.S. Fish and Wildlife Service, February 1, 1993 and clarified on February 12, 1993). Therefore, NMFS has determined that no further consultation, pursuant to section 7 of the ESA, is required for adoption of the proposed action.

The Regional Director determined that the fishing activities that would be conducted under this proposed rule would have no adverse impacts on marine mammals.

List of Subjects in 50 CFR Parts 672 and 675

Fisheries, Reporting and recordkeeping requirements.

Dated: July 23, 1993.

Samuel W. McKeen,

Program Management Officer, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR parts 672 and 675 are proposed to be amended as follows:

PART 672—GROUNDFISH OF THE GULF OF ALASKA

1. The authority citation for 50 CFR part 672 continues to read as follows:

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

2. In § 672.20, paragraph (i) is amended by redesignating paragraphs (i)(1) through (i)(5) as paragraphs (i)(2) through (i)(6), respectively; redesignating the introductory text of paragraph (i) as paragraph (i)(1); revising redesignated paragraphs (i)(1) and (i)(2); and adding new paragraph (i)(7) to read as follows:

§ 672.20 General limitations.

* * * * *

(i) *Allowable retention of pollock roe.* (1) For purposes of this paragraph (i), pollock roe means product comprised of pollock eggs, either loose or in sacs or skeins. Pollock roe retained onboard a vessel at any time during a fishing trip must not exceed 10 percent of the total round-weight equivalent of pollock, as calculated from the primary pollock product onboard the vessel during the same fishing trip as defined in this paragraph (i). Determinations of allowable retention of pollock roe will be based on amounts of pollock harvested, received, or processed during a single fishing trip. Pollock or pollock products from previous fishing trips that are retained onboard a vessel must not be used to determine the allowable retention of pollock roe for that vessel.

(2) For purposes of this paragraph (i), only one primary pollock product per fish, other than roe, may be used to calculate the round-weight equivalent. A primary pollock product that contains roe (such as headed and gutted pollock with roe) must not be used to calculate the round-weight equivalent of pollock. The primary pollock product must be distinguished from ancillary pollock products in the daily cumulative production logbook required under § 672.5. Ancillary products are those such as meal, heads, internal organs, pectoral girdles, or any other product that may be made from the same fish as the primary product.

* * * * *

(7) Any primary pollock product used to calculate retainable amounts of pollock roe under paragraph (i)(6) of this section must be frozen, canned, or reduced to meal onboard the vessel retaining the pollock roe. Any pollock product that has been frozen, canned, or reduced to meal must not be discarded at sea.

PART 675—GROUNDFISH OF THE BERING SEA AND ALEUTIAN ISLANDS AREA

3. The authority citation for 50 CFR part 675 continues to read as follows:

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

4. In § 675.20, paragraph (j) is amended by redesignating paragraphs (j)(1) through (j)(5) as paragraphs (j)(2) through (j)(6), respectively; redesignating the introductory text of paragraph (j) as paragraph (j)(1); revising redesignated paragraphs (j)(1), (j)(2), and (j)(5); and adding new paragraph (j)(7) to read as follows:

§ 675.20 General limitations.

* * * * *

(j) *Allowable retention of pollock roe.* (1) For purposes of this paragraph (j), pollock roe means product comprised of pollock eggs, either loose or in sacs or skeins. Pollock roe retained onboard a vessel at any time during a fishing trip must not exceed 10 percent of the total round-weight equivalent of pollock, as calculated from the primary pollock product onboard the vessel during the same fishing trip as defined in this paragraph (j). Determinations of allowable retention of pollock roe will be based on amounts of pollock harvested, received, or processed during a single fishing trip. Pollock or pollock products from previous fishing trips that are retained onboard a vessel must not be used to determine the allowable retention of pollock roe for that vessel.

(2) For purposes of this paragraph (j), only one primary pollock product per fish, other than roe, may be used to calculate the round-weight equivalent. A primary pollock product that contains roe (such as headed and gutted pollock with roe) must not be used to calculate the round-weight equivalent of pollock. The primary pollock product must be distinguished from ancillary pollock products in the daily cumulative production logbook required under § 675.5. Ancillary products are those such as meal, heads, internal organs, pectoral girdles, or any other product that may be made from the same fish as the primary product.

* * * * *

(5) *Fishing trip.* For purposes of this paragraph (j), an operator of a vessel is engaged in a fishing trip from the time the harvesting, receiving, or processing of pollock is begun or resumed until:

(i) the transfer or offloading of all pollock product;

(ii) the vessel leaves the subarea or district where fishing activity commenced; or

(iii) the end of a weekly reporting period, whichever comes first.

* * * * *

(7) Any primary pollock product used to calculate retainable amounts of pollock roe under paragraph (j)(6) of this section must be frozen, canned, or reduced to meal by the vessel retaining the pollock roe prior to any transfer of the product to another vessel. Any pollock product that has been frozen, canned, or reduced to meal must not be discarded at sea.

[FR Doc. 93-18023 Filed 7-28-93;8:45 am]
BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 58, No. 144
Thursday, July 29, 1993

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Castle Mountains Range Analysis, Lewis and Clark National Forest, Meagher County, MT

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an Environmental Impact Statement.

SUMMARY: The Forest Service will prepare an Environmental Impact Statement (EIS) to analyze and disclose the environmental impacts of implementing range and vegetative management practices in the Castle Mountains. The range management practices include consolidation and boundary adjustments reducing the present 17 allotments to 12 allotments; implementing rest rotation grazing management systems on eight allotments; installing 34 stock tanks; constructing about 15 miles of fence; installing about 16 miles of water pipeline (6.5 miles pumped and 9.5 miles gravity feed); and installing 7 pumping units and 3 storage ponds. In addition, 6.5 miles of fence would be removed.

Prescribed fire will be used to reduce conifer/sagebrush encroachment and improve forage production on approximately 3,000 acres of the Castle Mountains.

The proposed range and vegetative management practices are designed to move the vegetative conditions in the Castle Mountains towards the desired plant communities. Desired plant communities are diverse plant communities in a healthy and productive state benefiting all resources on the allotment. The desired plant communities reflect the Forest's desired future condition of the vegetation.

DATES: Comments concerning the scope of the analysis should be received in writing by September 8, 1993 in order to receive timely consideration in the preparation of the Draft Environmental Impact Statement (DEIS).

ADDRESSES: Send written comments to William Fortune, District Ranger, Musselshell Ranger District, P.O. Box 1906, Harlowton, MT 59036.

FOR FURTHER INFORMATION CONTACT: Wayne Butts, Castle Mountain Range Analysis Interdisciplinary Team Leader, Musselshell Ranger District, (406) 632-4391.

SUPPLEMENTARY INFORMATION: The Castle Mountains project area is located approximately 5 miles east of White Sulphur Springs and 5 miles west of Martinsdale, Montana, in Meagher County. The project area is approximately 86,000 acres and includes about 70,056 acres of National Forest System land and approximately 15,902 acres of private land. The project area includes headwaters drainages for the North and South Forks of the Musselshell and Smith Rivers. Elevations range from about 5,080 feet at Pasture Gulch drainage (east boundary) to 8,566 feet at Elk Peak. The project area includes a mosaic of timberlands, grass parks, riparian drainage bottoms, limestone ridges, and granite outcrops.

Range and vegetative management practices are addressed together because the timing and geographic locations represent a similar action under 40 CFR 1508.25(a)(3). The scope of the proposed action is site-specific with range and vegetative management practices identified on an allotment basis. Appropriate mitigation measures are designed to respond to the identified issues and anticipated effects.

This EIS will tier to the Lewis and Clark National Forest Land and Resource Management Plan of June, 1986, which provides goals and objectives. Forest-wide management standards and management area prescriptions are identified in the Plan to provide overall guidance and management practices in achieving these goals and objectives. The proposed actions of range and vegetative management are designed to help move from the existing condition of the Castle Mountains to the desired plant communities. Desired plant communities are generally in a later successional stage and have higher resource values. The primary purpose and need for the proposed action is: (1) Allotment management plans (AMPs) on most of the grazing allotments need updating, revision, and/or initial development. Some allotments do not have an AMP, and some AMPs do not match the requirements outlined in the current grazing permit; (2) livestock are disproportionately using some riparian and upland areas; (3) the shortage of water in the Castle Mountains has limited the development of livestock watering facilities. This situation contributes to the disproportionate livestock use in the riparian areas and some uplands areas; (4) seventy years of fire suppression has resulted in the late serial successional stages for sagebrush and conifer vegetative types, which produce less forage for both wildlife and livestock; (5) of the 53 miles of streams surveyed in the Castle Mountain, the hydrologic function of 33% of these streams was inventoried in poor condition; of the 18 miles of sensitive fish habitat, 60% was inventoried in poor condition; and (6) Management Area allocations in the Forest Plan are a combination of Management Areas C, E, G, H, J, and L. These Management Area allocations are not consistent with other lands on the National Forest with similar characteristics.

Two public open houses will be held during the scoping period: On Wednesday, August 25, from 7 p.m. to 9 p.m. at the Musselshell Ranger District Office in Harlowton, MT and on Thursday, August 26, from 7 p.m. to 9 p.m. at the Kings Hill Ranger District Office in White Sulphur Springs, MT. A letter indicating the proposed action, maps of the project area/proposed action, and notification of the open houses will be sent to interested publics. Additional public meetings will be held when the DEIS is released for public comment, January 1994. The public is invited to visit with Forest Service officials at any time during the EIS preparation prior to the issuance of the Record of Decision.

The Forest Service is seeking information and comments from Federal, State, and local agencies and individuals and organizations who may be interested in or affected by the proposed actions. The agency invites written comments and suggestions on the issues and management opportunities in the area being analyzed. This information will be used in preparing the DEIS. This process includes:

1. Identification of potential issues related to the proposed action.
2. Identification of issues to be analyzed in depth.
3. Elimination of insignificant issues or those which have been covered by a relevant previous environmental analysis.
4. Identification of alternatives to the proposed action.
5. Identification of potential environmental effects of the alternatives.
6. Determination of potential cooperating agencies and task assignments.

The analysis will consider a range of alternatives. One of these will be the "No-Action" alternative, which is the current management direction documented for most allotments in an individual Allotment Management Plan. All range and vegetative management practices would be deferred under the no-action alternative. Other alternatives will examine various levels and locations of range management and vegetative treatments to return the Castle Mountains to a more ecologically productive state and desired future condition.

The analysis will disclose the environmental effects of alternative ways of implementing management direction outlined in the Forest Plan and in addressing the identified issues. The Forest Service will analyze and document the direct, indirect, and cumulative environmental effects of the alternatives. In addition, the EIS will disclose site-specific mitigation measures and the effectiveness of each proposed mitigation measure.

Preliminary scoping has been done for this project by the interdisciplinary team from the Lewis and Clark National Forest and seven major issues have been identified.

Range Management (Issue 1)

(a) What grazing management practices and range improvements should be implemented to move vegetation towards the desired plant communities?

(b) How can vegetation on upland range sites be moved toward the desired plant communities?

(c) How can vegetation on the riparian range sites be moved toward the desired plant communities?

(d) What measures are needed to reduce the potential spread of noxious weeds on rangelands?

(e) How would livestock management be affected by combining livestock herds?

(f) What management practices should be implemented to prevent livestock grazing in the municipal watershed?

Watershed Management (Issue 2)

(a) How does the proposed action affect water quality?

(b) What management actions should be taken to restore the hydrologic function of deteriorated stream channels?

Sensitive Species (Issue 3)

(a) How would the proposed action affect sensitive species (plant & animal) in the project area?

Wildlife Management (Issue 4)

(a) How would the proposed grazing systems affect elk distribution and forage utilization?

(b) What are the effects of the proposed action on fish and their habitats?

(c) How would the proposed action affect Management Indicator Species?

Land Uses (Issue 5)

(a) How would the unauthorized grazing along the National Forest boundary be reconciled?

Fire (Issue 6)

(a) What are the effects of fire management practices on available forage for wildlife and livestock?

(b) How would fire management practices affect the landscape?

(c) How can fire management be implemented to maintain ecosystems in a productive and healthy state?

Social and Economic (Issue 7)

(a) How would the proposed action affect the local economies and ranching culture of the Castle Mountains?

(b) How would changes in livestock numbers or classes affect the permittees' operation or financial situation?

(c) What are the effects of the proposed actions on permittees and government expenditures and income?

The DEIS will be filed with the Environmental Protection Agency (EPA) and a notice of availability of the DEIS published in the **Federal Register**. It is estimated that the DEIS will be available for public review in January 1994.

The comment period on the DEIS will be for 45 days from the date of publication in the **Federal Register**.

The Forest Service believes it is important to give reviewers notice at this early stage of several court rulings related to public participation in the environmental review process. First, reviewers of DEISs must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the DEIS stage but that are not raised until after completion of the final environmental impact statement (FEIS) may be waived or dismissed by the courts. *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when they can be meaningfully considered and responded to in the FEIS.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the DEIS should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the DEIS. Comments may also address the adequacy of the DEIS or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

After a 45-day public comment period, the comments received will be analyzed and considered by the Forest Service in preparing the FEIS. The FEIS is scheduled to be completed by June, 1994. The Forest Service will respond in the FEIS to the comments received on the DEIS. John D. Gorman, Forest Supervisor for the Lewis and Clark National Forest, the responsible official for this EIS, will make a decision regarding this proposal after considering the comments, responses, and environmental consequences discussed in the FEIS as well as applicable laws, regulations, and policies. The decision and reasons for the decision will be documented in a Record of Decision.

The Forest Supervisor's address is: 1101 15th St. N., Box 869, Great Falls, MT 59403.

Dated: July 19, 1993.

John D. Gorman,

Forest Supervisor, Lewis and Clark National Forest.

[FR Doc. 93-18046 Filed 7-28-93; 8:45 am]

BILLING CODE 3410-11-M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 40-87]

Foreign-Trade Zone 66—Wilmington, North Carolina; Withdrawal of Application for Subzone Status for Carolmet, Inc.

Notice is hereby given of the withdrawal of the application submitted by the Department of Commerce of the State of North Carolina, grantee of FTZ 66, requesting special-purpose subzone status for the germanium lens blank manufacturing operation of Carolmet, Inc., located in Scotland County, North Carolina. The application was filed on December 1, 1987 (52 FR 47438, 12/14/87).

The withdrawal is requested by the applicant because of changed circumstances, and the case has been closed without prejudice.

Dated: July 21, 1993.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 93-18134 Filed 7-28-93; 8:45 am]

BILLING CODE 3510-DS-P

[Docket 32-93]

Foreign-Trade Zone 38—Spartanburg County, SC; Application for Subzone, BMW Manufacturing Corporation Plant, (autos) Spartanburg County, South Carolina

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Carolina State Ports Authority, grantee of FTZ 38, requesting special-purpose subzone status for the automobile manufacturing plant of the BMW Manufacturing Corporation (BMWMC) (subsidiary of BMW AG, Germany), located in Spartanburg County, South Carolina. 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 July 19, 1993.

The proposed subzone would be located at the new BMW plant at Interstate Highway 85 and South Carolina Highway 101, adjacent to the Greenville-Spartanburg Airport in Spartanburg County, South Carolina, some seven miles west of Spartanburg. The facility (200 acres, 1.7 million sq. ft.), currently under construction, will directly employ some 1,900 workers to produce up to 219,000 compact automobiles (various models) annually, displacing models that are currently imported from Germany. The application indicates that foreign-sourced parts and materials may represent up to 50 percent of the finished autos' material value. Foreign subcomponents and parts to be admitted to the proposed subzone include: Engines and transmissions (and parts thereof), mirrors, steel mill products, items of plastic/rubber, wiring harnesses, fasteners, steel springs, bearings, lamps, and instruments (duty rate range: 3.1-10.0%). The finished autos would be sold in the U.S. and exported.

Zone procedures would exempt BMWMC from Customs duty payments on the foreign items used in export production. On domestic sales, the company would be able to choose the duty rate that applies to finished autos (2.5%) for the foreign material inputs noted above. The application indicates that the savings from zone procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been appointed examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is September 27, 1993. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to October 12, 1993).

A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations:

Office of the Port Director, U.S. Customs Service, 150-A West Phillips Road, Greer, SC 29650.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, room 3716, 14th Street & Constitutional Avenue, NW., Washington, DC 20230.

Dated: July 22, 1993.

Dennis Puccinelli,

Acting Executive Secretary.

[FR Doc. 93-18135 Filed 7-28-93; 8:45 am]

BILLING CODE 3510-DS-P

International Trade Administration

[A-421-805]

Initiation of Antidumping Duty Investigation: Aramid Fiber Formed of Poly Para-Phenylene Terephthalamide From the Netherlands

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 29, 1993.

FOR FURTHER INFORMATION CONTACT: Lori Way or Jeffery B. Denning, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 482-0656 and 482-4194, respectively.

INITIATION OF INVESTIGATION:

The Petition

On July 2, 1993, we received a petition filed in proper form by E.I. Du Pont de Nemours & Company (petitioner). Petitioner filed supplements to the petition on July 19, 20, and 21, 1993, pursuant to 19 CFR 353.12(e). In accordance with 19 CFR 353.12, petitioner alleges that aramid fiber formed of poly para-phenylene terephthalamide (PPD-T aramid) from the Netherlands is being, or is likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports are materially injuring, or threaten material injury to, a U.S. industry.

Petitioner states that it has standing to file the petition because it is an interested party as defined under section 771(9)(C) of the Act, and because the petition is being filed on behalf of the U.S. industry producing the product subject to this investigation. If any interested party, as described under paragraphs (C), (D), (E), or (F) of section 771(9) of the Act, wishes to register support for, or opposition to, this petition, such party should file a written notification with the Assistant Secretary for Import Administration.

Under the Department's regulations, any producer or reseller seeking exclusion from a potential antidumping duty order must submit its request for exclusion within 30 days of the date of the publication of this notice. The procedures and requirements regarding the filing of such requests are contained in 19 CFR 353.14.

Scope of Investigation

The merchandise covered by this investigation is all forms of poly para-phenylene terephthalamide aramid fiber (PPD–T aramid) from the Netherlands. This includes PPD–T aramid fiber in the form of filament yarn, staple, pulp (wet or dry), non-wovens, chopped fiber and floc. PPD–T aramid is classifiable under subheadings 5402.10.3020, 5402.10.3040, 5402.32.3000, 5503.10.0000 and 5601.30.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS numbers are provided for convenience and customs purposes, our written description of the scope of this investigation is dispositive.

United States Price and Foreign Market Value

Petitioner originally supplied U.S. and foreign price quotes on six different PPD–T aramid products. The foreign prices were obtained from six European countries, including the Netherlands. Petitioner provided non-Netherlands prices because, petitioner claims, the home market is not viable and because not all of these six products are sold in the Netherlands or any other single European country. Further, based upon its claim that all home market prices are below the cost of production (COP), petitioner relied only upon constructed value for its estimate of foreign market value (FMV) for the six PPD–T aramid products. Pursuant to a request from the Department, petitioner provided a price-to-price comparison for the one product for which it has provided a Dutch price, 2160 denier PPD–T aramid yarn. Because we have rejected petitioner's allegation of sales below the COP (see **Sales Below the Cost of Production,** below), the margin upon which we are initiating this investigation is based on a price-to-price comparison of 2160 denier PPD–T aramid yarn.

Petitioner based United States Price (USP) on exporter's sales price (ESP), in accordance with section 772(c) of the Act. Petitioner based USP for sales of 2160 denier PPD–T aramid yarn on a call report of U.S. prices offered to U.S. consumers of this product. Petitioner made deductions for U.S. selling expenses, foreign inland freight, ocean freight, U.S. duty charges, and credit expenses. We rejected the number of credit days petitioner used in calculating credit expenses, using instead the terms reported in the call report. We also rejected petitioner's deduction for U.S. inland freight because petitioner provided insufficient evidence demonstrating that foreign producers incur this cost.

For FMV, we have utilized petitioner's reported price for sale in the Netherlands of 2160 denier PPD–T aramid yarn. Petitioner based this price on a call report of prices offered to Dutch consumers of this product. Petitioner made deductions for indirect selling expenses, foreign inland freight, and credit expenses. Petitioner converted this price to U.S. dollars using the average of the exchange rates in effect during the period of investigation. We rejected that conversion, and instead used the exchange rate in effect during the first quarter for which the U.S. offer for sale of 2160 denier yarn was effective.

The price-to-price dumping margin alleged by petitioner and adjusted by the Department for 2160 denier PPD–T aramid yarn is 43.43 percent.

Home Market/Third Country Sales Below the Cost of Production

Petitioner alleges that respondent is selling the subject merchandise in the home market/third country below its COP. We have requested additional clarification, recalculation, and documentation necessary to initiate a cost investigation. Consequently, for purposes of this initiation, the Department has rejected petitioner's allegation that home market/third country sales are below COP. In accordance with 19 CFR 353.31(c)(i), petitioner will have until 45 days prior to the scheduled date of the Department's preliminary determination in this investigation to perfect and renew this allegation.

Initiation of Investigation

Pursuant to section 732(c) of the Act, the Department must determine, within 20 days after a petition is filed, whether a petition sets forth allegations necessary for the initiation of an antidumping duty investigation, and whether the petition contains information reasonably available to petitioners supporting the allegation.

We have examined the petition on PPD–T aramid from the Netherlands and have found that it meets the requirements of section 732(b) of the Act. Therefore, we are initiating an antidumping duty investigation to determine whether imports of PPD–T aramid from the Netherlands are being, or are likely to be, sold in the United States at less than fair value.

ITC Notification

Section 732(d) of the Act requires us to notify the International Trade Commission (ITC) of this action and we have done so.

Preliminary Determination by the International Trade Commission

The ITC will determine by August 16, 1993, whether there is a reasonable indication that imports of PPD–T aramid from the Netherlands are materially injuring, or threaten material injury to, a U.S. industry. Pursuant to section 733(a) of the Act, a negative ITC determination will result in the investigation being terminated; otherwise, the investigation will proceed according to statutory and regulatory time limits.

This notice is published pursuant to section 732(c)(2) of the Act and 19 CFR 353.13(b).

Dated: July 22, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93–18137 Filed 7–28–93; 8:45 am]

BILLING CODE 3510–DS–P

[A–570–804]

Sparklers From the People's Republic of China: Adverse Decision and Amendment to Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order in Accordance With Decision Upon Remand

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

EFFECTIVE DATE: July 29, 1993.

FOR FURTHER INFORMATION CONTACT: Michael Ready, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2613.

SUMMARY: On May 7, 1993, the Court of International Trade (CIT) affirmed the results of remand in this case. As a result, the Department of Commerce (the Department) is publishing this notice of adverse decision, and is ordering suspension of liquidation and collection of cash deposits as specified. The CIT's decision was not appealed. Thus, the Department will further instruct the U.S. Customs Service as to liquidation of entries in accordance with the results of this remand.

BACKGROUND: On May 6, 1991, the Department published its final determination that sparklers from the People's Republic of China were being sold at less than fair value. See, Final Determination of Sales at Less Than Fair Value: Sparklers From the People's

Republic of China, 56 FR 20588 (Dept. Comm. 1991).

On June 18, 1991, the Department published an antidumping duty order on Sparklers From the People's Republic of China, 56 FR 27946 (Dept. Comm. 1991). Elkton Sparkler Company, a domestic manufacturer, filed an action contesting the results of the final less-than-fair-value (LTFV) determination. Shortly thereafter, the CIT granted a joint motion for remand by plaintiff and defendant to have the Department conduct verifications of the questionnaire responses submitted by Guangxi Native Produce Import and Export Corporation, Beihai Fireworks and Firecrackers Branch (Guangxi), and Jiangxi Native Produce Import and Export Corporation, Guangzhou Fireworks Company (Jiangxi). Jiangxi did not permit verification of its questionnaire response. However, the Department did conduct a verification of Guangxi's questionnaire response.

The Department determined at verification that Guangxi did not properly report its factors of production for caddies (small cardboard boxes in which sparklers are packed). The Department declined to use factors of production information on caddies proffered by Guangxi at verification; instead, the Department resorted to the use of the best information available, in accordance with section 776(b) of the Tariff Act of 1930, as amended (the Act).

On June 15, 1992, the Department issued, but did not publish, the results of the remand. The remand results are available in the Import Administration's Central Records Unit located in room B-099 of the Main Commerce Building. The remand determination was challenged at the CIT by Guangxi. On May 7, 1993, the CIT dismissed the action, holding that the Department had acted reasonably and in accordance with law. See, Slip Op. 93-69. The CIT's decision was not appealed.

Notice of Adverse Decision

In accordance with *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990), the Department is publishing this notice of determination adverse to its original determination, and will adjust the cash deposit rates for Guangxi, Jiangxi, and "all others". In addition, in the remand results, we determined that critical circumstances exist with respect to imports of sparklers from the People's Republic of China (PRC) exported by Jiangxi and all other companies (except Guangxi and Hunan Provincial Firecrackers & Fireworks Import & Export (Holding) Corporation (Hunan)). Therefore, in accordance with 19 CFR 353.16(d) and section 735(c)(4)(C) of the Act, with respect to Jiangxi and all other companies (except Guangxi and Hunan), we hereby order the suspension of liquidation on all entries of subject merchandise entered or withdrawn from warehouse on or after 90 days before December 17, 1990, the date of the Department's preliminary determination.

Continuation of Suspension of Liquidation

In accordance with 19 CFR 353.15(a)(3)(i), we are directing the United States Customs Service to continue to suspend liquidation of all entries of sparklers from the PRC, as defined in the "Scope of Investigation" section of this notice, exported by Guangxi that are entered, or withdrawn from warehouse, for consumption on or after December 17, 1990, the date of publication of the preliminary determination in the **Federal Register**. For Jiangxi and all other exporters of sparklers from the PRC, we are directing the United States Customs Service to suspend liquidation of all entries, entered or withdrawn from warehouse on or after 90 days before December 17, 1990. The Customs Service shall require a cash deposit equal to the estimated amounts by which the foreign market value of subject merchandise from the PRC exceeds the U.S. price, as shown below. We will further instruct the Customs Service as to the liquidation of entries in accordance with the results of this remand.

Manufacturer/producer/exporter	Margin percentage
Guangxi Native Produce Import & Export Corporation, Beihai Fireworks and Firecrackers Branch ..	41.75
Jiangxi Native Produce Import & Export Corporation, Guangzhou Fireworks Company	93.54
All others	93.54

This suspension of liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (ITC) of our critical circumstances determination.

Dated: July 20, 1993.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. 93-18136 Filed 7-28-93; 8:45 am]

BILLING CODE 3510-DS-P

National Telecommunications and Information Administration

Spectrum, Planning and Policy Advisory Committee; Meeting

AGENCY: National Telecommunications and Information Administration, DOC.

ACTION: Notice of meeting, Spectrum Planning and Policy Advisory Committee (SPAC).

SUMMARY: In accordance with the provisions of the Federal Advisory Committee Act, 5 U.S.C. Appendix, notice is hereby given that the Spectrum Planning and Policy Advisory Committee (SPAC) will meet on September 27, 1993 from 9 a.m. to 4:30 p.m. in room 1605 at the United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC. Public entrance to the building is on 14th Street between Pennsylvania Avenue and Constitution Avenue.

The Committee was established on July 19, 1965 as the Frequency Management Advisory Council (FMAC). The name was changed in April, 1991, and in July, 1993, to reflect the increased scope of its mission. The objective of the Committee is to advise the Secretary of Commerce on radio frequency spectrum planning matters and means by which the effectiveness of Federal Government frequency management may be enhanced. The Committee consists of nineteen members, fifteen from the private sector, and four from the Federal Government, whose knowledge of telecommunications is balance in the functional areas of manufacturing, analysis and planning, operations, research, academia and international negotiations.

The principal agenda items for the meeting will be:

(1) Discussion of the New Charter;
(2) Report of Progress in CITEL Conferences;
(3) Report on the NTIA Approach to Reallocate 200 MHz of Spectrum;
(4) Discussion of OSM Vision and Configuration Steering Group;
(5) Report on the NTIA Strategic Spectrum Planning.

The meeting will be open to public observations. A period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each per member of the public. More extensive questions or comments should be submitted in writing before September 15, 1993. Other public statements regarding Committee affairs may be submitted at any time before or after the meeting. Approximately 20

seats will be available for the public on a first-come, first-served basis.

Copies of the minutes will be available upon request 30 days after the meeting.

FOR FURTHER INFORMATION CONTACT: Inquires may be addressed to the Executive Secretary, SPAC, Mr. Richard A. Lancaster, National Telecommunications and Information Administration, room 4090, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone 202–482–4487.

Dated: July 23, 1993.

Richard A. Lancaster,

Executive Secretary, Spectrum Planning and Policy Advisory Committee, National Telecommunications and Information Administration.

[FR Doc. 93–18054 Filed 7–28–93; 8:45 am]

BILLING CODE 3510–60–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 the Philippines

July 23, 1993.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: July 30, 1993.

FOR FURTHER INFORMATION CONTACT: Jennifer Aldrich, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. 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) 927–6713. For information on embargoes and quota re-openings, call (202) 482–3715.

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 certain categories are being adjusted for special shift.

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 57 FR 54976, published on November 23, 1992). Also see 57 FR 53473, published on November 10, 1992.

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.

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 23, 1993

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 4, 1992, 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 appparel, produced or manufactured in the Philippines and exported during the twelve-month period which began on January 1, 1993 and extends through December 31, 1993.

Effective on July 30, 1993, you are directed to amend further the directive dated November 4, 1992 to adjust the limits for the following categories, as provided under the terms of the current bilateral agreement between the Governments of the United States and the Philippines:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
338/339	1,825,635 dozen.
340/640	987,720 dozen of which not more than 543,245 dozen shall be in Categories 340–Y/640–Y [2].
341/641	645,778 dozen.
638/639	1,559,095 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1992.

[2] Category 340–Y: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060; Category 640–Y: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060.

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,

Rita D. Hayes,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 93–18133 Filed 7–28–93; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Advanced Planning Grants for Communities Economically Dependent on DoD Spending

AGENCY: Office of Economic Adjustment (OEA), DoD.

ACTION: Notice of funding availability for advanced planning grants for communities economically dependent on DoD spending.

SUMMARY: Over the next several years, DoD will significantly reduce the number of military and civilian personnel. In addition, defense industry employment will also experience substantial reductions. The effects will be felt in communities throughout the nation. The Defense Conversion Commission in its report "Adjusting To The Drawdown," points out that, "Although it is not possible to predict the effects that the planned drawdown will have on specific communities, it is possible to identify which communities, in general, might be particularly vulnerable to economic dislocation if defense spending were to be reduced abruptly. * * * Most communities are not highly vulnerable to reductions in defense spending. However, those communities that are dependent on defense spending are, by definition, potentially more vulnerable to defense reductions."

To help minimize the potential economic impacts resulting from reductions in DoD spending, the OEA has statutory authority to award Advanced Planning Grants (only) in Fiscal Year (FY) 1994 to help develop community adjustment and diversification strategies in response to possible defense related job losses. Advanced Planning Grants may be made available to States and local governments that can demonstrate an economic dependence on military, DoD civilian, and defense industry employment. Advanced Planning Grants are authorized under section 4301 of the Defense Conversion, Reinvestment, and Transition, Assistance Act of 1992, (Division D of the National Defense Authorization Act for Fiscal Year 1993) which states:

"Advanced Adjustment Planning—During fy 1993, the Secretary of Defense may make grants and other assistance available under 2391(b) of title 10 U.S.C., to assist a State or local government in planning community adjustment and economic diversification even though the State or local government currently fails to meet the criteria for assistance under such section if the Secretary determines that a substantial portion of the

economic activity or population of the geographic area to be subject to the adjustment or diversification planning is dependent on Department of Defense expenditures."

DATES: Applications for grants will be accepted commencing August 1, 1993. The closing date for receipt of applications is September 15, 1993. Selections will be made by September 30, 1993.

ADDRESSES: Applications should be mailed to Mr. Paul J. Dempsey, Director, Office of Economic Adjustment, ODUSD (ES), 400 Army Navy Drive, suite 200, Arlington, VA 22202–2284.

ELIGIBLE APPLICANTS: States, local governments, sub-state jurisdictions, and regional organizations, or States on behalf of local governments are eligible applicants if they can demonstrate economic dependence on DoD employment (military, DoD civilian, and defense industry employees). States applying on behalf of local governments should include evidence of support from elected officials of the local government.

Communities affected by the proposed closure or realignment of DoD installations pursuant to the Base Closure and Realignment Act of 1993 may apply to OEA for grant under OEA's Community Planning Assistance Grant Program.

Private non-profit organizations are not eligible for Advanced Planning Grants.

ELIGIBILITY ACTIVITIES: Advanced Planning Grants may be used for salaries and benefits of personnel to administer the planning to develop community adjustment and economic diversification strategies, and/or to procure the services of an expert or consulting firm to develop community adjustment and economic diversification strategies. Federal grant funds may not be used to cover the costs of salaries and benefits of existing personnel.

FUNDING AVAILABILITY: The Federal share of the grant may be up to $100,000. A non-Federal cash match of at least 40 percent of the project is required. Only one Advanced Planning Grant will be awarded to a State, local government, sub-state jurisdiction, or a State on behalf of a local government. A total of $2,000,000 is available.

SELECTION CRITERIA: An evaluation of information submitted on each of the following factors will be the basis for selecting the winning proposals:

1. Need Criteria

(a) The level of economic dependence on military, DoD civilian, and defense industry employment.

(b) The probability of reductions in defense employment in the local area and potential impacts.

(c) The average net non-DoD job growth/loss between 1987 and 1992.

2. Proposed Strategy/Activities

(a) An appropriate and clear project design that will lead to the near-term generation of non-DoD jobs.

(b) Innovative quality of the proposed approach to stimulating economic adjustment or economic diversification.

(c) The relationship of the proposed activities to other planning efforts to undertake and promote adjustment and/or diversified non-DoD economic activity.

(d) The ability to stimulate private and public investment for economic and community development purposes.

(e) The capacity of the organization and qualifications of the staff to undertake the planning.

3. Budget

(a) A reasonable, itemized budget for the proposed planning.

(b) The level of non-Federal cash match above the mandatory 40 percent.

PROPOSAL SUBMISSION PROCEDURES: An original and four copies of the proposal shall be submitted. The proposal shall consist of:

1. Statement of Need.

2. Technical Proposal—which should generally follow the format outlined here:

(a) Proposed Project: Provide a comprehensive description of the proposed advanced planning—no more than ten pages, how the work will be accomplished, by whom, its responsiveness to the problems resulting from potential reductions in DoD employment, and the accomplishments to be achieved. If accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments.

(b) Coordination and Linkages: Describe the ways which the project will be integrated with other local, State, Federal, and private sector resources and programs.

(c) Administration Plan: Explain how the work will be administered. List each organization, key individuals, or firms that will work on the project along with a short description of their experience, and the nature of their effort or contribution and associated costs. Provide a schedule of milestones and deliverables.

3. The financial proposal. It should contain:

(a) Standard Form (SF) 424, "Application for Federal Assistance."

(b) SF424A, "Budget." The budget shall include a separate page, with a detailed budget showing cost breakdowns with OEA and non-OEA costs presented in separate columns.

FOR FURTHER INFORMATION CONTACT: Ms. Merle Thomas, Office of Economic Adjustment. Telephone (703) 614–8529.

Dated: July 23, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–18028 Filed 7–28–93; 8:45 am]

BILLING CODE 5000–04–M

Planning Grants To Respond to Economic Impacts From Loss of Jobs

AGENCY: Office of Economic Adjustment (OEA), DoD.

ACTION: Notice of funding availability for planning grants to States to respond to actual or potential economic impacts from the loss of military, DoD civilian, or defense industry-related jobs.

SUMMARY: The reductions in the DoD budget could have significant adverse economic effects on some States and local governments. The National Governors' Association's publication, A Governor's Guide to Economic Conversion, notes that, "In some States defense-related spending accounts for a large portion of total State spending. In others, a significant percentage of their workforce is employed in defense-related occupations. Still others will experience the loss of both civilian and military jobs due to base closing and military reductions. Even States with a lower share of defense employment may feel significant impacts due to regional and community dependence on military bases and defense procurement contracts."

OEA will award grants to States to help States and local governments minimize the adverse effects of military base closures, realignments and reductions in defense industry employment. The objective of the program is to: (a) Enhance States' capacities to assist defense-impacted communities, businesses, and workers; (b) help States to better support local adjustment and diversification initiatives, and (c) stimulate cooperation between and among State-wide and local adjustment and diversification efforts.

OEA grants to States are authorized under section 4301 of the Defense Conversion, Reinvestment, and

Transition, Assistance Act of 1992, (Division D of the National Defense Authorization Act for Fiscal Year 1993).

DATES: Applications for grants will be accepted commencing August 1, 1993. The closing date for receipt of applications is September 15, 1993. Selections will be made by September 30, 1993.

ADDRESSES: Applications should be mailed to Mr. Paul J. Dempsey, Director, Office of Economic Adjustment, 400 Army Navy Drive, suite 200, Arlington, VA 22202–2284.

ELIGIBLE APPLICANTS: States or State agencies affected or potentially affected by base closures, realignments, or reductions in defense spending may apply. A State's submission must be signed by the Governor.

ELIGIBLE ACTIVITIES: Funds may be used to hire additional personnel and/or to retain the services of an expert or consulting firm to:

1. Develop a State-wide adjustment or diversification strategy responding to base closures, realignments, or reductions in defense spending and/or;
2. Build staff capacity to assist or coordinate assistance to defense-impacted communities, firms, and/or workers and/or;
3. Provide support in the design and development of industrial modernization and diversification services to small and medium-sized defense-related businesses and/or;
4. Support State and local defense adjustment and diversification initiatives.

Federal grant funds may not be used to cover the costs of:

1. Salaries and benefits of existing staff.
2. Planning that duplicates existing or on-going planning.
3. State indirect charges.

The grant period may not exceed 18 months.

FUNDING AVAILABILITY: The Federal share of the grant may be up to $200,000. A non-Federal cash match of at least 25 percent of the project is required. A State may receive only one grant. A total of $2,500,000 is available.

SELECTION CRITERIA: An evaluation of information submitted on each of the following factors will be the basis for selecting the winning proposals:

1. Need Criteria

(a) The actual and potential impacts of the base closures and realignments or reductions in defense industry employment.

(b) The net annual non-DoD job growth/loss between 1987 and 1992.

2. Existing State Adjustment Efforts

(a) Financial and technical support to local adjustment and diversification initiatives.

(b) Involvement of State Legislatures and local governments in state-wide adjustment and diversification strategy development.

3. Proposed Strategy/Activities

(a) The presentation of an appropriate and clear project design that responds to the state's defense adjustment needs.

(b) Innovative quality of the proposed approach to stimulating economic adjustment or diversification.

(c) The relationship of the proposed activities to local efforts to assist defense-impacted and defense-dependent communities, businesses, and workers.

(d) The state's capacity and qualifications of the staff to undertake the project.

4. Budget

(a) A reasonable, itemized budget for the proposed planning.

(b) The level of non-Federal cash match above the mandatory 25 percent.

PROPOSAL SUBMISSION PROCEDURES: An original and four copies of the proposal shall be submitted. The proposal shall consist of:

1. Statement of Need.
2. Technical Proposal—which should generally follow the format outlined here:

(a) Proposed Project: Provide a comprehensive description of the proposed advanced planning—no more than ten pages, how the work will be accomplished, by whom, its responsiveness to the problems resulting from potential reductions in DoD employment, and the accomplishments to be achieved. If accomplishments cannot be quantified, list the activities in chronological order to show the schedule of accomplishments.

(b) Coordination and Linkages: Describe the ways which the project will be integrated with other local, State, Federal, and private sector resources and programs.

(c) Administration Plan: Explain how the work will be administered. List each organization, key individuals, or firms that will work on the project along with a short description of their experience, and the nature of their effort or contribution and associated costs. Provide a schedule of milestones and deliverables.

3. The financial proposal. It should contain:

(a) Standard Form (SF) 424, "Application for Federal Assistance."

(b) SF424A, "Budget." The budget shall include a separate page, with a detailed budget showing cost breakdowns with OEA and non-OEA costs presented in separate columns.

FOR FURTHER INFORMATION CONTACT: Ms. Merle Thomas, Office of Economic Adjustment. Telephone (703) 614–8529.

Dated: July 23, 1993.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 93–18027 Filed 7–28–93; 8:45 am]

BILLING CODE 5000–04–M

Department of the Army

Inclusion of DOD Non-Appropriated Fund (NAF) Employees in the DOD Personal Property Shipping and Storage Program

AGENCY: Military Traffic Management Command (MTMC), DOD.

ACTION: Notice.

SUMMARY: MTMC provided a comment period for the above action in a **Federal Register** notice published in Volume 58, Number 36, February 25, 1993, page 11401. This notice advised that the domestic personal property rate solicitation would include provisions for NAF employees. Comments have been reviewed. The rate solicitation will be changed as follows: Page 1, general Requirements and conditions, paragraph 8, Certification, 1st sentence, "Provisions of this Domestic Personal Property Rate Solicitation, hereafter referred to as "Rate Solicitation," apply in conjunction with the individual Rate Records/Tenders filed by carriers for the entire DOD, including civilian appropriated and non-appropriated fund employees, and United States Coast Guard sponsored household goods shipments".

FOR FURTHER INFORMATION CONTACT: Ms. Janet Neimer, Military Traffic Management Command, 5611 Columbia Pike, Falls Church, VA 22041–5050; Tel: (703) 756–1190.

Kenneth L. Denton,

Army Federal Register Liaison Officer.

[FR Doc. 93–18049 Filed 7–28–93; 8:45 am]

BILLING CODE 3710–08–M

Defense Information Systems Agency

Membership of the Defense Information Systems Agency Senior Executive Service Performance Review Board

AGENCY: Defense Information Systems Agency.

ACTION: Notice of membership of the Defense Information Systems Agency Senior Executive Service Performance Review Board.

SUMMARY: This notice announces the appointment of members of the Senior Executive Service Performance Review Board of the Defense Information Systems Agency. The publication of Performance Review Board membership is required by 5 U.S.C. 4314(c)(4).

The Performance Review Board provides fair and impartial review of Senior Executive Service performance appraisals and makes recommendations regarding performance and performance awards to the Director, Defense Information Systems Agency.

EFFECTIVE DATE: August 1, 1993.

FOR FURTHER INFORMATION CONTACT: Ms. Pamela J. Horvath, SES Program Manager, Civilian Personnel Division (BC), Center for Agency Services (BA), Defense Information Systems Agency, Washington, DC 20305–2000, (703) 692–2792.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 4314(c)(4), the following are names and titles of the executives who have been appointed to serve as members of the Senior Executive Service Performance Review Board. The members will serve a one-year renewable term, effective August 1, 1993.

James A. Rhoads,

Civilian Personnel Officer, DISA.

Michael F. Slawson, Director, Center for Agency Services.
George J. Hoffman, Comptroller.
Donovan K. Leyden, Chief of Staff.
Thomas R. Epperson, Acting Director, Joint Data Systems Support Center.
David T. Signori, Jr., Associate Director.
Warren P. Hawrylko, Acting Director, Joint Interoperability Engineering Organization.
Dennis W. Groh, Deputy Director, Acquisition Management.
Clyde Jeffcoat, Director, Defense Information Technology Services Organization.
Sarah Jane League, Chief, Information Officer.
BGEN Bruce J. Bohn, Director, Defense Network Systems Organization.
Steven P. Schanzer, Deputy Director for Acquisition.
BGEN John M. Watkins, Jr., Deputy Director for Operations, Customer Relations and Service.

[FR Doc. 93–18039 Filed 7–28–93; 8:45 am]
BILLING CODE 3610–05–M

DEPARTMENT OF EDUCATION

Requests for Comments on Improving the Regulatory Process

AGENCY: Department of Education.

ACTION: Request for comments on improving the regulatory process.

SUMMARY: The Department of Education is exploring ways to improve the process for promulgating competitive discretionary grant regulations, including regulatory priorities, so that discretionary grants may be issued in a more timely manner. Comments are solicited from applicants for discretionary grants, grantees, and other interested parties about their participation in the regulatory process and the effect of that process on the award of discretionary grants. This request for comments in the result of the Department's efforts to improve services to the grant community.

DATES: Comments are requested by September 13, 1993, so they may be considered in the Department's analysis.

ADDRESSES: Comments in response to this notice should be addressed to Sylvia Wright, Chair of the Discretionary Grants Regulations Team, room 2059 FB 6, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–6246.

FOR FURTHER INFORMATION CONTACT: Sylvia Wright, at the above address or call her at (202) 401–0360. Individuals who sue a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern Time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Department of Education chartered a Quality Improvement Team to make recommendations about ways the Department might improve the process for promulgating discretionary grant regulations, including regulatory priorities, so that awards made after the development of the regulations could be made in a more timely manner. The efforts of this Team are consistent with the objectives of the Task force to Reinvent Government that is headed by the Vice President. The Team is examining the Department's current process for promulgating regulations and priorities and its effect on when recipients of discretionary grants receive their awards. The Team is now gathering data about the effect of the current regulatory process on the needs of applicants and grantees. The following questions are designed to elicit useful data from applicants, grantees, and other interested parties.

The Department will consider all timely comments received and does not request commenters to identify themselves. The data requested in this notice regarding the individual or type of organization commenting and its experience with the ED regulatory process are needed for analysis of the general effect of that process on individuals and entities.

General

1. Please indicate the kind of organization you represent or your individual perspective, e.g. Local educational agency, State educational agency, Institution of higher education, Individual teacher, Individual student, Private nonprofit agency, Other (please specify).
2. Please describe your experience over the past three years in applying for and receiving competitive grants.
3. How do you find out about the Department's grant competitions and regulations—by reading the **Federal Register**? By some other means?
4. Is there some process other than publication in the **Federal Register** that the Department could use to notify you of grant competitions and regulations? What would that process be?

Grant Applications and Awards

A number of statutory and administrative factors affect the timing of the Department's grant competitions and awards, including whether the grant must be timed to coincide with the school year. Answers to the following questions will help to identify where the timing of those activities may not serve the needs of grant applicant and grantees.

5. How much time do you need to prepare a grant application—would you need more or less time, depending upon the type of grant (Training, Research, Demonstration, Service, Capacity Building) for which you applied?
6. What would be the best time of year for the Department to solicit grant applications? Why? Would the type of grant award for which you apply make any difference in the time of year that the Department should solicit applications?
7. When is the latest date that you can star the project(s) for which you applied? Why? When is the latest date that you need to be notified of that (those) grant award(s)? Why? Would the type of grant award for which you apply make any difference?

Development of Program Regulations

The Department conducts all of its grant competitions through regulations that identify, among other things, the various criteria that will be used to evaluate grant applications. some programs adopt the general criteria in part 75 of the Education Department General Administrative Regulations

(EDGAR), while other programs have their own specific regulations that modify those EDGAR criteria. Whenever a program needs new regulations to administer a grant competition, the Department publishes them in the **Federal Register** only after giving the public an opportunity to comment upon proposed regulations. Generally, the Department cannot proceed with a grant competition until completing the process of developing regulations.

Answers to the following questions will help to identify the usefulness of the regulatory process to grant applicants and grantees.

8. In general, do the Department's regulations provide you wish enough information about the program to help you prepare your project applications? If not, why not?

9. If you have commented during the past three years on a proposed regulation that would govern a competitive grant program, how important have you found the public comment period? Extremely important? Somewhat important? Not important? Why?

10. Would you be willing to give up an opportunity to comment on proposed regulations in order to ensure earlier grant awards? If so, under what circumstances?

Development of Absolute Funding Priorities

Grant competitions under many of the Department's programs are open to any applicant whose project is consistent with the program's objectives. However, in some cases, the Department chooses to target program funds in specific program areas, and does not consider applications that do not address those areas. Where it does so, the Department establishes the narrower scope of projects that it will fund through "absolute funding priorities." These absolute priorities are announced as final in the **Federal Register** before the grant competition can begin, and after the Department reviews any public comment that it receives in response to a published notice of proposed absolute priorities.

If you applied for a grant in the past three years that was subject to an absolute funding priority, please answer the following questions. Your answers will help the Department to identify how its use of absolute funding priorities should be improved.

11. Did the absolute priority notice adequately explain those activities that the Department would fund? If not, why not?

12. Do you believe that the absolute priorities that the Department established for the program are consistent with important needs of your community or State? Please explain.

13. If you have commented during the past three years on a proposed priority that would govern a competitive grant program, how important have you found the public comment period? Extremely important? Somewhat important? Not important? Why?

14. Would you be willing to give up an opportunity to comment on proposed absolute priorities in order to ensure earlier grant awards? If so, under what circumstances?

Dated: July 22, 1993.

Madeleine M. Kunin,

Deputy Secretary.

[FR Doc. 93–18058 Filed 7–28–93; 8:45 am]

BILLING CODE 4000–01–M

National Assessment Governing Board; Meeting

AGENCY: National Assessment Governing Board.

ACTION: Amendment to notice of a partially closed meeting.

SUMMARY: This amends the notice of a partially closed meeting of the National Assessment Governing Board published in vol. 58, no. 136, Page 38559.

DATE: July 21, 1993.

TIME: August 6, 1993, Executive Committee, 7 a.m.–8:30 a.m. (open); 8:30 a.m.–8:45 a.m. (closed).

LOCATION: Ritz-Carlton Hotel, 1700 Tysons Boulevard, Mclean, Virginia.

FOR FURTHER INFORMATION CONTACT: Mary Ann Wilmer, Operations Officer, National Assessment Governing Board, suite 825, 800 North Capitol Street NW., Washington, DC 20002–4233.

SUPPLEMENTARY INFORMATION: On August 6, the Executive Committee of the National Assessment Governing Board will meet in partially closed session from 7 a.m. to 8:45 a.m. The meeting will be closed to the public from 8:30 a.m. to 8:45 a.m. to permit the committee to discuss the qualifications of current Board members to serve as Chairman of NAGB. Based on these discussions, the Board will recommend a Chairman to the Secretary. This session will disclose information of a personal nature where disclosures would constitute a clearly unwarranted invasion of personal privacy, and as such, is protected by exemption (6) of section 552b(c) of Title 5 U.S.C.

The period 7 a.m. to 8:30 a.m., the meeting will be open to the public.

A summary of the activities of the closed session and related matters, which are informative to the public and consistent with the policy of section 5 U.S.C. 552b, will be available to the public within 14 days of the meeting. Records are kept of all Board proceedings and are available for public inspection at the U.S. Department of Education, National Assessment Governing Board, suite 825, 800 North Capitol Street NW., Washington, DC, from 8:30 a.m. to 5 p.m.

Dated: July 26, 1993.

Roy Truby,

Executive Director.

[FR Doc. 93–18066 Filed 7–28–93; 8:45 am]

BILLING CODE 4000–01–M

Non-Competing Continuation Grant Award Process; Meeting

AGENCY: Department of Education.

ACTION: Notice of public meeting on non-competing continuation grant award process.

SUMMARY: The Department of Education will conduct a meeting (hearing) to solicit customer feedback on the current process for making non-competing continuation awards in discretionary grant programs.

DATES: The one-day meeting will be held from 8:30 a.m. to 12 noon on August 18, 1993. If you are unable to attend, the Department will accept written comments until August 27, 1993.

ADDRESSES: The meeting will be held at the GSA Regional Office Building Auditorium located at 7th and D Streets SW., Washington, DC (entrance on the D Street side). Written comments should be sent to Carol Chelemer, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue SW., Washington, DC 20202–6439.

FOR FURTHER INFORMATION CONTACT: Carol Chelemer, Office of Elementary and Secondary Education, U.S. Department of Education. Telephone: (202) 401–1258. Individuals who use a Telecommunications Device for the Deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: The Department uses non-competing continuation grant awards to continue funding after the first year of a project for the remaining years of a multi-year project that was initially selected on a competitive basis. During the meeting participants are invited to present testimony on all aspects of the non-competing continuation award process, including but not limited to—

- Paperwork requirements for the grantee;
- Timing of the request for a continuation application;
- Content of the continuation application;
- Timing of the notification of a continuation award;
- Length of the process;
- Interactions with Department staff regarding the process; and
- Alternative structures for accomplishing the same ends.

Representing the Department will be the seven members of the Quality Improvement Team for Non-Competing Continuations.

Although the meeting is open, you are encouraged to pre-register if you plan to present testimony. To pre-register please contact Tammy Connelly, Office of Elementary and Secondary Education, U.S. Department of Education. Telephone: (202) 401-0616. It would be helpful to submit your testimony in writing at the meeting.

Dated: July 22, 1993.

Madeleine M. Kunin,

Deputy Secretary.

[FR Doc. 93-18057 Filed 7-28-93; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Notice of Intent To Prepare an Environmental Impact Statement and Conduct a Public Scoping Meeting for the Proposed York County, Pennsylvania, Cogeneration Facility

AGENCY: Department of Energy (DOE).

ACTION: Notice.

SUMMARY: Notice is hereby given that DOE intends to prepare an Environmental Impact Statement (EIS) to assess the environmental effects of the construction and operation of a proposed coal-fired cogeneration facility in North Codorus Township, York County, Pennsylvania, and to conduct a public scoping meeting. DOE will prepare such an EIS pursuant to the National Environmental Policy Act (NEPA) of 1969, as amended, to evaluate the environmental impacts of the construction and operation of a project proposed by York County Energy Partners, L.P. (YCEP). The proposed project involves the construction and operation of a new coal-fired 250-megawatt electric (MWe) (2,400 tons/day) single-train circulating fluidized bed (CFB) boiler, and a pollution control system consisting of selective non-catalytic reduction (SNCR) for reducing emissions of oxides of nitrogen and a baghouse for reducing emissions of particulate matter. This facility would be constructed adjacent to the P.H. Glatfelter Company paper mill, which would be the purchaser of the steam produced by the proposed project. The generated electricity would be sold to the Metropolitan Edison Company (Met-Ed).

Preparation of the EIS will be in accordance with NEPA, the Council on Environmental Quality (CEQ) NEPA regulations (40 CFR parts 1500-1508), and the DOE regulations for compliance with NEPA (10 CFR part 1021). The purpose of this Notice is to invite public participation in the process that DOE will follow to comply with NEPA, and to solicit public comments on the proposed scope and content of the EIS.

INVITATION TO COMMENT AND DATES: To ensure that the full range of issues related to this proposal is addressed, DOE invites comments on the proposed scope and content of the EIS from all interested parties. Written comments or suggestions to assist DOE in identifying significant environmental issues and the appropriate scope of the EIS will be considered in preparing the draft EIS and should be postmarked by September 24, 1993. Written comments postmarked after that date will be considered to the degree practicable.

DOE will also hold a public scoping meeting in which agencies, organizations, and the general public are invited to present oral comments or suggestions with regard to the range of actions, alternatives, and impacts to be considered in the EIS. The location, date, and time of the scoping meeting are provided in the section of this Notice entitled **SCOPING MEETING.** Written and oral comments will be given equal weight and will be considered in determining the scope of the draft EIS. When the draft EIS is completed, its availability will be announced in the **Federal Register**, and public comments will again be solicited. Comments on the draft EIS will be considered in preparing the final EIS. Requests for copies of the draft and/or final EIS, or questions concerning the project, should be sent to Dr. Suellen A. Van Ooteghem at the address noted below.

ADDRESSES: Written comments or suggestions on the scope of the EIS, requests to speak at the scoping meeting, or questions concerning the project, should be directed to: Dr. Suellen A. Van Ooteghem, Environmental Project Manager, U.S. Department of Energy, Morgantown Energy Technology Center (METC), P.O. Box 880, Morgantown, West Virginia 26507-0880, Telephone: (304) 284-5443.

Envelopes should be labeled "Scoping for the York EIS."

FOR FURTHER INFORMATION: For general information on the EIS process, please contact: Ms. Carol M. Borgstrom, Director, Office of NEPA Oversight (EH-25), U.S. Department of Energy, 1000 Independence Avenue, S.W., Washington, DC 20585, Tel. (202) 586-4600 or (800) 472-2756.

SUPPLEMENTARY INFORMATION:

Background and Need for the Proposed Action

Under terms of Public Law No. 99-190, Congress provided approximately $400 million to DOE to support the construction and operation of demonstration facilities selected for cost-shared financial assistance as part of DOE's Clean Coal Technology (CCT) Demonstration Program. The CCT projects cover a broad spectrum of technologies having the following in common: (1) All are intended to increase the use of coal in an environmentally acceptable manner, and (2) all are ready to be proven at the demonstration scale.

On February 17, 1986, DOE issued Program Opportunity Notice (PON) Number DE-PSO1-86FE60966 for Round I of the CCT program, soliciting proposals to conduct cost-shared projects meeting the above criteria. In response to the solicitation, 51 proposals were received. From these proposals, nine projects were selected by DOE for negotiation in July 1986, and a list of alternate candidates was established from which replacement selections could be made should any of the original nine not proceed. In November 1990, the Arvah B. Hopkins Circulating Fluidized Bed Repowering Project, proposed by the City of Tallahassee, Florida, was selected from the alternate list. As originally envisioned, this project would have repowered one of the City of Tallahassee's municipally-owned natural gas boilers with advanced circulating fluidized bed combustion "clean coal technology." DOE determined that an EIS would need to be prepared for the project, and published a **Federal Register** Notice of Intent to Prepare an EIS on October 15, 1990 (55 FR 41747). A public scoping meeting was held in the City of Tallahassee on October 30, 1990, and public comments were received. However, in the fall of 1991, the City chose to not move forward with the project based upon economic conditions specific to the proposed repowering.

Accordingly, preparation of the EIS was cancelled, and other potential hosts for the project were considered. The City of Tallahassee indicated its willingness to cooperate with the effort to relocate the project.

Subsequently, DOE agreed to reassign the project to YCEP, a subsidiary of Air Products and Chemicals, Inc., of Allentown, Pennsylvania. The new sponsors had proposed to relocate the project from Tallahassee, Florida, to an industrial site adjacent to the J.E. Baker Company quarry and brick manufacturing operation in York County, Pennsylvania, where it was proposed to operate as a cogeneration facility. Steam produced by the project would have been purchased by the J.E. Baker Company. All other major aspects of the project would have remained unchanged from the original project. In support of this proposed project, a **Federal Register** Notice of Intent to Prepare an EIS was published on August 11, 1992 (57 FR 35790), a scoping meeting was held by DOE on August 26, 1992, in York, Pennsylvania, and public comments were received.

However, during the summer of 1992, YCEP sought opportunities for air emissions reductions from existing companies in the proposed project vicinity as a means of acquiring an enhanced level of air emissions offsets. Discussions with the P.H. Glatfelter Company (PGC) indicated that the desired level of air emissions reductions could be achieved by the relocation of the project to PGC's Spring Grove paper mill facility, if the proposed YCEP project could provide sufficient steam to largely displace the utilization of an existing Glatfelter coal-fired boiler. (The old boiler would be relegated to standby operation for periods when sufficient steam from the proposed YCEP project might not be available.) Additionally, it was determined that the co-location of the YCEP project with the Spring Grove paper mill would enable YCEP to treat and recycle wastewater from the mill for removal of waste heat from the YCEP plant, thereby greatly reducing the usage of fresh water by the facility.

Accordingly, on February 1, 1993, YCEP and Glatfelter issued a joint statement that they were evaluating the feasibility of relocating the proposed YCEP project to the Spring Grove site. DOE was requested to consider this proposed site change shortly thereafter, and issued its approval on June 23, 1993. DOE has also determined that an EIS would need to be prepared for this proposed project.

The Industrial Participant for the proposed relocated project is YCEP, a subsidiary of Air Products and Chemicals, Inc., of Allentown, Pennsylvania. Other than the location and the treatment and recyclying of wastewater, all other major aspects of the project, including the technology, the technology supplier (Foster-Wheeler Energy Corporation), the 250 megawatt plant size, and the Federal contribution of nearly $75 million would remain unchanged from the original project. However, proposed steam production would increase from 1,725,000 pounds per hour (lb/hr) to 2,100,000 lb/hr, and coal consumption would change from 2,000 tons/day to 2,400 tons/day.

YCEP has requested financial assistance from DOE for the design, construction, and operation of the 250-MWe CFB boiler facility. This project would use bituminous coal from eastern United States mines and have as the project objective the utility-scale demonstration of CFB technology. The proposed project would be a "grass roots" independent power plant in North Codorus Township, York County, southeastern Pennsylvania. The proposed 36-acre site is adjacent to the P.H. Glatfelter Company paper mill. The paper mill would be the purchaser of the steam that would be generated by this project. The proposed site, currently being used for recreational and agricultural purposes, had long been intended for future industrial development by the P.H. Glatfelter Company. As noted in the section of this Notice entitled Identification of Environmental Issues, DOE will evaluate cumulative impacts in the EIS for all important issues in the vicinity of the site. Cost, environmental, and technical data from the project would be developed for use by the utility industry in evaluating this technology as a commercially viable power generation alternative. After the anticipated 24-month demonstration period of operation is concluded, YCEP plans to continue project operation on a commercial basis.

Proposed Action

The proposed Federal action is for DOE to provide cost-shared financial assistance to YCEP for the design, construction, and operation of a 250-MWe CFB boiler facility, known as the York County Energy Partners cogeneration facility, to be located adjacent to the P.H. Glatfelter Company paper mill in York County, Pennsylvania. The objective of the proposed project would be to demonstrate utility-scale CFB cogeneration technology, while incorporating a pollution control system for reducing emissions of oxides of nitrogen and a baghouse for reducing emissions of particulate matter.

The total cost of the proposed project is projected to be approximately $380 million, with DOE's share being less than 20 percent, or nearly $75 million. The project would last approximately 105 months, including design, construction, and demonstration. If the outcome of the NEPA review process is favorable, construction currently is projected to start in January, 1995. Operation of the project during the anticipated 24-month demonstration period would provide the information and experience needed to successfully demonstrate CFB technology as a viable alternative to conventional coal-fired power plant technologies. Once DOE's involvement is completed, YCEP plans to continue operating the project on a commercial basis.

The proposed York County Energy Partners cogeneration facility would be located on a 36-acre site in North Codorus Township currently owned by the P.H. Glatfelter Company; however, YCEP would purchase the site prior to construction. The site is bounded to the south by State Route 116, on the east by Kessler Pond, on the west by the existing P.H. Glatfelter Company's processing area for incoming logwood (referred to as the roundwood facility), and on the north by Codorus Creek. The proposed site is vacant and currently used for recreational and agricultural purposes. Topography of the proposed site is generally flat. Landscaping and berming would be incorporated into the facility design to provide an attractive view of the completed facility. A preliminary land development plan has been filed by YCEP with the North Codorus Township Board of Supervisors and is currently under review.

The proposed facility would include the following major subsystems and key components:

- Turbine Bay,
- Switch Yard,
- Water Treatment Building,
- Boiler Room, Sump, and Utility Pump Building,
- Live Coal Storage Area and Coal Unloading Building,
- Raw Water and Condensate Tanks,
- Limestone and Ash Storage Silos,
- Cooling Tower,
- Baghouse, and
- Stack for air emissions.

The proposed project would require the construction of an electric interconnection system and a new 115,000 volt interconnection power line to a Met-Ed owned substation located several miles from the site. Several alternative interconnection arrangements and power line routes are

currently being evaluated by YCEP and the Metropolitan Edison Company.

Alternatives

Section 102(2)(C) of NEPA requires that agencies discuss the reasonable alternatives to the proposed action in an impact statement. The term "reasonable alternatives" is not self-defining, but rather must be determined by the underlying legislation. The goals of the proposed Federal action establish the limits of its reasonable alternatives. Congress established a very specific goal for Round I of the CCT Program, i.e., to make available to the U.S. energy marketplace a number of advanced, more efficient, economically feasible, and environmentally acceptable, coal technologies.

Congress also directed DOE to pursue the goals of the legislation by means of partial funding (cost-sharing) of projects owned and controlled by non-Federal government sponsors. This statutory requirement places DOE in a much more limited role than if the Federal government were the owner and operator of the project. In the latter situation, DOE would be responsible for a comprehensive review of reasonable alternatives for siting the project. However, in dealing with an applicant, the scope of alternatives is necessarily more restricted, because the agency must focus on alternative ways to accomplish its purpose which reflect both the application before it and the functions it plays in the decisional process. It is appropriate in such cases for DOE to give substantial weight to the applicant's needs in establishing a project's reasonable alternatives.

A Final Programmatic Environmental Impact Statement (PEIS) for the CCT Program was issued by DOE in November 1989 (DOE/EIS–0146). Two alternatives were evaluated in the PEIS: (1) The "no action" alternative, which assumed that the CCT Program was not continued and that conventional coal-fired technologies with flue gas desulfurization and oxides of nitrogen controls to meet New Source Performance Standards would continue to be used; and (2) the proposed action, which assumed that CCT projects were selected and funded, and that successfully demonstrated technologies would undergo widespread commercialization by the year 2010.

Based on the foregoing principles and the analysis developed in the PEIS, the only reasonable alternative to the proposed action of providing cost-shared funding support for the YCEP project is the no-action alternative. In the no-action case, the project would not contribute to the objective of the CCT program, which is to make available to the U.S. energy marketplace a number of advanced, more efficient, economically feasible, and environmentally acceptable coal technologies. The facility probably would not be constructed and operated; therefore, neither potential environmental impacts related to facility construction and operation, nor potential environmental benefits resulting from commercialization of the technology, would occur.

DOE acknowledges its obligation to examine reasonable alternatives which are beyond its immediate authority to implement, but which could also meet the objectives of the CCT Program. DOE is requesting public comment on reasonable alternatives to the proposed YCEP cogeneration facility CFB Demonstration Project.

Identification of Environmental Issues

The following issues associated with the construction and operation of the proposed project will be considered in detail by DOE during its evaluation. This list is neither intended to be all inclusive, nor is it a predetermination of potential impacts. Additions to or deletions from this list may occur as a result of the scoping process.

(1) Air Quality: The effects of air emissions within the region surrounding the site.

(2) Water Resources and Water Quality: The qualitative and quantitative effects on water resources and other water users in the region.

(3) Wetlands: Wetlands potentially impacted by facility construction and operation.

(4) Socioeconomics: Potential bearing on communities that might be affected by the project, as well as consumer costs associated with this project.

(5) Land Use: The potential consequences to land, utilities, transportation routes, and traffic patterns resulting from the project as well as issues related to prime farmlands.

(6) Solid Waste: The environmental effects of generation, treatment, transport, storage, and disposal of solid wastes.

(7) Biological Resources: Potential disturbance or destruction of species, including the potential effects on biodiversity and threatened or endangered species of flora and fauna. However, neither threatened nor endangered species have been identified thus far to be associated with the proposed project area. DOE will consult with the U.S. Fish and Wildlife Service of the U.S. Department of the Interior regarding potentially threatened or endangered species.

(8) Cultural Resources: Potential effects on historical, archaeological, scientific, or culturally important sites.

(9) Cumulative Impacts: NEPA requires that the EIS evaluate the impact on the environment that results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions, regardless of what agency (Federal or non-Federal) or person undertakes such other actions. Cumulative impacts can result from individually minor but collectively significant actions taking place over a period of time. Cumulative impacts will be evaluated within the EIS for all important issues in the vicinity of the site.

(10) Pollution Prevention and Waste Minimization.

Issues that are significant will be addressed in detail; issues that are not considered significant will be discussed in less detail, or as appropriate to clarify and distinguish impacts among alternatives.

NEPA and the Scoping Process

DOE will comply with the NEPA process as outlined in the Council on Environmental Quality's Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act (40 CFR parts 1500–1508) and DOE regulations for compliance with NEPA (10 CFR part 1021).

Scoping, which is an integral part of the NEPA process, is a procedure that solicits public input to the EIS process to ensure that: (1) Issues are identified early and properly studied; (2) issues of little significance do not consume time and effort; (3) the draft EIS is thorough and balanced; and (4) delays occasioned by an inadequate draft EIS are avoided (40 CFR 1501.7). DOE NEPA regulations require that the scoping process commence as soon as practicable after a decision has been reached to prepare an EIS in order to provide an early and open process for determining the scope of issues to be addressed and to identify the significant issues related to a proposed action. The scope of issues to be addressed in a Draft EIS will be determined, in part, from written comments submitted by mail and comments presented orally or in writing at a public scoping meeting (see below). The results of the scoping process will be incorporated into a document called an Implementation Plan (IP), which provides guidance for the preparation of the EIS.

The above preliminary identification of reasonable alternatives and environmental issues is not meant to be

exhaustive or final. DOE identified the reasonable alternatives and potential environmental issues shown above based on its experience with similar concerns that have been raised for other comparable DOE projects. DOE considers the scoping process to be open and dynamic in the sense that alternatives other than those given above may warrant examination, and new matters may be identified for potential evaluation. The scoping process will involve all interested agencies (Federal, State, County, and local), groups, and individual members of the public. Interested parties are invited to participate in the scoping process by providing comments on both the alternatives and the issues to be addressed in the EIS. DOE will consider all comments in preparing the IP, which will specify the reasonable alternatives, identify the significant environmental issues to be analyzed in depth, and eliminate from detailed study those alternatives and environmental issues that are not significant or pertinent. When complete, the IP will be available for public review at the locations identified below.

The Draft EIS will be released to the public for review and comment. Comments will be invited both by mail and at a public hearing, the procedures for which will be similar to the public scoping meeting discussed in this Notice. After all oral and written comments have been considered, DOE will publish a Final EIS and issue a Record of Decision (ROD) that will inform the public whether DOE intends either (1) to proceed with the proposed Federal action, (2) to proceed with an alternative to the proposed Federal action, or (3) to adopt the "no-action" alternative described earlier in this Notice. No Federal funds are authorized for construction, operation, or dismantlement of the proposed project unless and until the NEPA review process has culminated in a favorable outcome to proceed with the proposed project or an alternative to the proposed project, as documented in the ROD.

Scoping Meeting

A public scoping meeting will be held at the location, on the date, and at the time indicated below. This scoping meeting will be informal, with a presiding officer designated by DOE who will establish procedures governing the conduct of the meeting. The meeting will not be conducted as an evidentiary hearing, and those who choose to make statements may not be cross-examined by other speakers. To ensure that everyone who wishes to speak has a chance to do so, five minutes will be allotted to each speaker. Depending on the number of persons requesting to be heard, DOE may allow longer times for representatives of organizations. Persons wishing to speak on behalf of an organization should identify that organization in their request to speak. Persons who have not submitted a request to speak in advance may register to speak at the scoping meeting. They will be called on to present their comments as time permits. Oral and written comments will be given equal weight by DOE. Written comments may also be submitted after the scoping meeting, but should be postmarked by September 24, 1993, and forwarded to Dr. Suellen A. Van Ooteghem, Environmental Project Manager, Morgantown Energy Technology Center, as provided in the **ADDRESSES** section of this Notice. Written comments postmarked after that date will be considered to the degree practicable.

The meeting is scheduled as follows:

Date: Thursday, August 19, 1993.

Time: 7 p.m. (Registration opens at 6 p.m.)

Place: North Codorus Township Fire Company Auditorium, RD 1, Box No. 1034A, Fire Hall Road, North Codorus Township, PA 17362, (717) 225–4812.

Complete transcripts of the public scoping meeting will be retained by DOE and made available for inspection during business hours, Monday through Friday, at the Department of Energy Freedom of Information Reading Room, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, and at the Department of Energy, Morgantown Energy Technology Center, 3610 Collins Ferry Road, Morgantown, West Virginia 26505. Additional copies of the public scoping meeting transcript will also be made available during normal business hours at the following locations:

1. Glatfelter Memorial Library, 101 Glenview Road, Spring Grove, Pennsylvania 17362, (717) 225–3220.
2. York County Library, 118 Pleasant Acres Road, York, Pennsylvania 17401, (717) 757–9685.
3. York County Court House, 28 E. Market Street, York, Pennsylvania 17401, (717) 771–9675.

In addition, copies of the public scoping meeting transcript will be made available for purchase. Those interested parties who do not wish to submit comments or suggestions at this time, but who would like to receive a copy of the Draft EIS when it is prepared, should notify Dr. Suellen A. Van Ooteghem, Environmental Project Manager, Morgantown Energy Technology Center, at the address given in the **ADDRESSES** section of this Notice.

Signed in Washington, DC, this 26th day of July 1993, for the United States Department of Energy.

Peter N. Brush,

Acting Assistant Secretary, Environment, Safety and Health.

[FR Doc. 93–18120 Filed 7–28–93; 8:45 am]

BILLING CODE 6450–01–P

Energy Information Administration

Agency Information Collections Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, DOE.

ACTION: Notice of request submitted for review by the Office of Management and Budget.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act (Pub. L. No. 96–511, 44 U.S.C. 3501 *et seq.*). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3504(h) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) The sponsor of the collection; (2) Collection number(s); (3) Current OMB docket number (if applicable); (4) Collection title; (5) Type of request, e.g., new, revision, extension, or reinstatement; (6) Frequency of collection; (7) Response obligation, i.e., mandatory, voluntary, or required to obtain or retain benefit; (8) Affected public; (9) An estimate of the number of respondents per report period; (10) An estimate of the number of responses per respondent annually; (11) An estimate of the average hours per response; (12) The estimated total annual respondent burden; and (13) A brief abstract describing the proposed collection and the respondents.

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so, as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESSES: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW., Washington, DC 20503. (Comments should also be addressed to the Office of Statistical Standards at the address below.)

FOR FURTHER INFORMATION AND COPIES OF RELEVANT MATERIALS CONTACT: Jay Casselberry, Office of Statistical Standards, (EI-73), Forrestal Building, U.S. Department of Energy, Washington, DC 20585. Mr. Casselberry may be telephoned at (202) 254-5348.

SUPPLEMENTARY INFORMATION: The energy information collection submitted to OMB for review was:

1. Economic Regulatory Administration
2. ERA-766R
3. 1903-0073
4. Recordkeeping Requirements of DOE's Allocation and Price Rules
5. Extension
6. Recordkeeping
7. Mandatory
8. Businesses or other for-profit
9. 551 recordkeepers
10. Not applicable
11. 4 hours per recordkeeper
12. 2,204 recordkeeping hours
13. ERA-766R requires firms in all segments of the oil industry to maintain only those records essential to the orderly and timely completion of the oil pricing enforcement program. Firms not having such records would be exempt from the recordkeeping requirements of 10 CFR 210.1.

Statutory Authority: Section 2(a) of the Paperwork Reduction Act of 1980, (Pub. L. No. 96-511), which amended chapter 35 of Title 44 United States Code (See 44 U.S.C. 3506(a) and (c) (1)).

Issued in Washington, DC, July 22, 1993.

Yvonne M. Bishop,

Director, Statistical Standards, Energy Information Administration.

[FR Doc. 93-18121 Filed 7-28-93; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER93-783-000, et al.]

Northern States Power Co., et al.; Electric Rate, Small Power Production, and Interlocking Directorate Filings

Take notice that the following filings have been made with the Commission:

1. Northern States Power Co.

[Docket No. ER93-783-000]

July 22, 1993.

Take notice that on July 12, 1993, Northern States Power Company (Northern States) tendered for filing a Power and Energy Supply Agreement between the City of Wakefield and Northern States.

Comment date: August 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

2. Montana-Dakota Utilities Co.

[Docket No. ER93-791-000]

July 22, 1993.

Take notice that Montana-Dakota Utilities Co. ("Montana-Dakota"), on July 15, 1993, tendered for filing: (1) a Special Services Agreement ("Agreement") dated December 8, 1965 between Montana-Dakota and United Power Association ("UPA"); (2) Supplement No. 1 to the Agreement, dated December 23, 1983; and (3) Notice of Montana-Dakota, pursuant to 18 CFR U35.15, that the Agreement is terminated as of April 30, 1992.

As described in the filing Montana-Dakota requests waiver of the notice requirements so that the Agreement, Supplement, and Notice are deemed effective on January 1, 1966, November 1, 1983, and April 30, 1992, respectively. Alternatively, Montana-Dakota seeks waiver of any refunds.

Copies of the filing were served upon UPA and the North Dakota Public Service Commission.

Comment date: August 6, 1993, in accordance with Standard Paragraph E at the end of this notice.

3. Midwest Power Systems, Inc.

[Docket No. ER93-784-000]

July 22, 1993.

Take notice that on July 13, 1993, Midwest Power Systems Inc. (MPSI) tendered for filing a request for rate schedule redesignation. Subsequent to the merger of Iowa Power Inc. (IP) and Iowa Public Service Company (IPS), approved by the Commission in Docket No. EC92-5-000, all rate schedules were redesignated under MPSI.

In Docket No. ER92-288-000, accepted by the Commission on August 17, 1992, MPSI submitted for filing a General Facilities Agreement with Central Iowa Power Cooperative (CIPCO) which consolidated existing interconnection, transmission service, and facilities agreements with CIPCO. The Commission designated the General Facilities Agreement as Iowa Power (IP) Rate Schedule No. 82 (redesignated as MPSI Rate Schedule No. 30 in Docket No. ER92-784-000).

In the process of designating Rate Schedule No. 82, the following rate schedules were superseded to account for the consolidation of the various CIPCO agreements:

1. IP FPC No. 27
2. IP FPC No. 31
3. IP FERC No. 48
4. IP FERC No. 51

Upon further review, we determined that Item No. 4 above (IP FERC No. 51) should have been IP FERC No. *59* (redesignated MPSI Rate Schedule No. 17 in Docket No. ER92-794-000).

MPSI is requesting the designation of an MPSI Rate Schedule to accommodate the Cedar Falls Agreement (IP Rate Schedule No. 51) that was unintentionally canceled in Docket No. ER92-288-000.

Notice of the filing has been served upon the Iowa Utilities Board and Cedar Falls Utilities.

Comment date: August 5, 1993, in accordance with Standard Paragraph E at the end of this notice.

4. Public Service Electric and Gas Co.

[Docket No ER93-799-000]

July 22, 1993.

Take notice that on July 19, 1993, Public Service Electric and Gas Company (PS), tendered for filing Agreement between Philadelphia Electric Company and Public Service Electric and Gas Company dated January 12, 1932, as amended October 21, 1982.

PS states that the reason for the filing is to cover the facilities and payments to PS for supplying electrical power on PE's behalf to the National Rail Passenger Corporation (AMTRAK) at PS's Metuchen Switching Station.

PS requests that the filing be permitted to become effective as of the date of the agreement, January 12, 1932, and therefore requests waiver of the Commission's notice requirements.

PS states that a copy of this filing has been sent to PE and to the New Jersey Board of Regulatory Commissioners.

Comment data: August 5, 1993, in accordance with Standard Paragraph E end of this notice.

5. New England Power Co.

[Docket No ER93-801-000]

July 22, 1993.

Take notice that on July 19, 1993, New England Power Company (NEP), tendered for filing an executed copy of its Service Agreement No. 1 under NEP's FERC Electric Tariff No. 6. According to NEP, the Commission had previously made the Service Agreement effective as of April 1, 1993 in Docket No. ER93-348-000.

Comment date: August 6, 1993, in accordance with Standard Paragraph E at the end of this notice.

6. Florida Power & Light Co.

[Docket No ER93-546-000]

July 22, 1993.

Take notice that on July 21, 1993, Florida Power & Light Company (FPL) filed supplemental information regarding its filing in this docket.

Comment date: August 6, 1993, in accordance with Standard Paragraph E at the end of this notice.

7. Boston Edison Co.

[Docket No ER93-787-000]

July 22, 1993.

Take notice that on July 13, 1993, Boston Edison Company (BECo) tendered for filing a Service Agreement and Appendix A for Consolidated Edison Company of New York for the sale and/or exchange or power from time to time pursuant to BECo's Electric Tariff, Original Volume No. 6. BECo requests that this Service Agreement and Appendix A become effective on July 15, 1993.

Comment date: August 6, 1993, in accordance with Standard Paragraph E at the end of this notice.

8. Arizona Public Service Co.

[Docket No ER93-798-000]

July 23, 1993.

Take notice that on July 19, 1993, Arizona Public Service Company (APS) tendered for filing supplemental information in response to a Staff request for additional information related to APS original filing in this docket.

Copies of this filing have been served upon YCA and the Arizona Corporation Commission.

Comment date: August 9, 1993, in accordance with Standard Paragraph E at the end of this notice.

9. Central Power and Light Co.

[Docket No. ER93-796-000]

July 23, 1993.

Take notice that on July 16, 1993, Central Power and Light Company (CPL) tendered for filing an Agreement for Transmission Wheeling Service dated June 15, 1993 between CPL and Cap Rock Electric Cooperative, Inc. acting for and on behalf of its Hunt-Collin Division. Under the Agreement, CPL will provide Hunt-Collin with transmission wheeling service for firm capacity and associated energy that Hunt-Collin will purchase from the Lower Colorado River Authority. CPL requests that the Agreement be accepted to become effective as of July 17, 1993.

Copies of the filing have been served on Cap Rock and the Public utility Commission of Texas.

Comment date: August 9, 1993, in accordance with Standard Paragraph E at the end of this notice.

10. New England Power Co.

[Docket No. ER93-802-000]

July 23, 1993.

Take notice that New England Power Company (NEP), on July 19, 1993, tendered for filing supplements to its service agreement with Connecticut Municipal Electric Energy Cooperative under NEP's FERC Electric Tariff, Original Volume No. 3.

Comment date: August 9, 1993, in accordance with Standard Paragraph E end of this notice.

11. Minnesota Power & Light Co.

[Docket No. ER93-797-000]

July 23, 1993.

Take notice that on July 19, 1993, Minnesota Power & Light Company (Minnesota Power) tendered for filing an amendment to its Negotiated Capacity Option Agreement with Wisconsin Power & Light Company (WP&L). Minnesota Power requests an effective date of July 23, 1993.

Copies of the filing have been served upon WP&L, the Minnesota Public Utilities Commission and the Public Service Commission of Wisconsin.

Comment date: August 9, 1993, in accordance with Standard Paragraph E at the end of this notice.

12. West Texas Utilities Co.

[Docket No. ER93-795-000]

July 23, 1993.

Take notice that on July 16, 1993, West Texas Utilities Company (WTU) tendered for filing an Agreement for Transmission Wheeling Service dated June 15, 1993 between WTU and Cap Rock Electric Cooperative, Inc. acting for and on behalf of its Hunt-Collin Division. Under the Agreement, WTU will provide Hunt-Collin with transmission wheeling service for firm capacity and associated energy that Hunt-Collin will purchase from the Lower Colorado River Authority. WTU requests that the Agreement be accepted to become effective as of July 17, 1993.

Copies of the filing have been served on Cap Rock and the Public Utility Commission of Texas.

Comment date: August 9, 1993, in accordance with Standard Paragraph E at the end of this notice.

13. The Connecticut Light and Power Co.

[Docket No. ER93-793-000]

July 23, 1993.

Take notice that on July 16, 1993, The Connecticut Light and Power Company (CL&P), an operating subsidiary of Northeast Utilities Service Company, tendered for filing, pursuant to section 205 of the Federal Power Act and § 35.13 of the Commission's Regulations, proposed changes to the nuclear decommissioning cost estimate contained in the Life-of-Unit Contract between CL&P and Connecticut Municipal Electric Energy Cooperative (CMEEC) for Millstone Point Unit Nos. 1 and 2. By agreement of the parties, the proposed change in decommissioning expense payments reflect the revised decommissioning cost estimates approved by the Connecticut Department of Public Utility Control (DPUC) for retail rates. CL&P requests an effective date of July 1, 1994.

CL&P states that copies of its filing have been provided to CMEEC and the Connecticut DPUC.

Comment date: August 9, 1993, in accordance with Standard Paragraph E at the end of this notice.

New York State Electric & Gas Corp.

[Docket No. ER93-800-000]

July 23, 1993.

Take notice that New York State Electric & Gas Corporation (NYSEG), on July 19, 1993, tendered for filing Supplement No. 8 to its Agreement with Consolidated Edison Company of New York, Inc. (Con Edison), designated Rate Schedule FERC No. 87. The proposed changes would increase revenues by $40,120 based on the twelve month period ending March 31, 1994.

This rate filing, Supplement No. 8, is made pursuant to section 1 (e) and (f) and 2 (e), (f) and (g) of Article III of the August 23, 1983 Facilities Agreement—Rate Schedule FERC No. 87. The annual charges for routine operation and maintenance and general expenses, as well as revenue and property taxes are revised based on data taken from NYSEG's Annual Report to the Federal Energy Regulatory Commission (FERC Form 1) for the twelve months ended December 31, 1992. In addition, Con Edison's pro rata share of the total annual carrying charges associated with the firm supply system is calculated based on the rate of Con Edison's one hour demand at Monhansic plus estimated NYSEG and Con Edison one hour peak input at Wood Street. The levelized annual carrying charges included in the calculation reflect a 11.20 percent return on equity which

was approved by the New York State Public Service Commission's Opinion 92-21 in Cases 91-E-0863, 91-E-0864, 91-G-0865, effective August 1, 1992.

NYSEG requests an effective date of April 1, 1993, and, therefore, requests waiver of the Commission's notice requirements.

Copies of the filing were served upon Consolidated Edison Company of New York and on the Public Service Commission of the State of New York.

Comment date: August 9, 1993, 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. 93-18089 Filed 7-28-93; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP93-558-000, et al.]

Panhandle Eastern Pipe Line Company, et al.; Natural Gas Certificate Filings

Take notice that the following filings have been made with the Commission:

1. Panhandle Eastern Pipe Line Co.

[Docket No. CP93-558-000]

July 22, 1993.

Take notice that on July 16, 1993, Panhandle Eastern Pipe Line Company (Panhandle), P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP93-558-000 a request under Section 7(b) of the Commission's Regulations under the Natural Gas Act for a certificate permitting and approving abandonment of a gas purchase, transportation and exchange agreement (Master Agreement) between Panhandle and Colorado Interstate Gas Company (CIG), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Panhandle states that in compliance with the Commission's Order On Show Cause Order And Dismissing Request For Rehearing issued on June 22, 1993, Panhandle is requesting that the Commission issue an order pursuant to section 7(b) of the Natural Gas Act authorizing the abandonment of the Master Agreement, effective on July 22, 1993.

Comment date: August 12, 1993, in accordance with Standard Paragraph F at the end of this notice.

2. Carnegie Natural Gas Co. and Carnegie Interstate Pipeline Co.

[Docket No. CP93-552-000]

July 22, 1993.

Take notice that on July 14, 1993, Carnegie Natural Gas Company (Carnegie) and Carnegie Interstate Pipeline Company (CIPCO), 800 Regis Avenue, Pittsburgh, Pennsylvania 15236, jointly referred to as Applicants, filed an application pursuant to Sections 7(b) and 7(c) of the Natural Gas Act and part 157 of the Commission's regulations for authorization to permit Carnegie to abandon facilities and services by transfer to CIPCO and for a certificate of public convenience and necessity authorizing the acquisition, ownership and operation by CIPCO of jurisdictional facilities and the transportation and sale for resale by CIPCO of natural gas in interstate commerce, respectively, all as more fully set forth in the application. Applicants also request that the Commission authorize certain of the facilities proposed in the application to be transferred to CIPCO to be refunctionalized from the gathering function to the transmission function.

Applicants state that, upon the effective date of the transfer, CIPCO, an affiliate of Carnegie, would become a natural gas company under the Natural Gas Act and a successor-in-interest to Carnegie's interstate pipeline business. Applicants further state that, upon the effective date of the transfer, Carnegie would become exempt from the Commission's jurisdiction by reason of Section 1(c) of the Natural Gas Act.

Applicants specifically request that the Commission: (1) authorize Carnegie to abandon, by transfer to CIPCO, all of its FERC-jurisdictional services and facilities, except for certain transmission facilities located at the northern portion of Carnegie's system (consisting of eight discrete segments of pipeline, a compressor station, and associated facilities), which Carnegie proposes to retain for use in its distribution operations; (2) issue a certificate of public convenience and necessity authorizing CIPCO to acquire, own and operate the jurisdictional facilities transferred by Carnegie and to provide jurisdictional sales and transportation services using those facilities, and for blanket authorization pursuant to the terms and conditions set forth in subparts G and J of part 284 and subpart F of part 157 of the Commission's Regulations; and (3) authorize the refunctionalization of certain facilities from gathering to transmission for the reason that the primary function of certain facilities that connect Carnegie's production area gathering systems to Carnegie's main transmission lines is transmission. Applicants state that these authorizations would permit CIPCO to own and operate the facilities previously owned and operated by Carnegie as an interstate pipeline and to perform previously authorized Carnegie to perform.

Comment date: August 12, 1993, in accordance with Standard Paragraph F at the end of this notice.

3. Williams Natural Gas Co.

[Docket No. CP93-561-000]

July 22, 1993.

Take notice that on July 16, 1993, Williams Natural Gas Company (Williams), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP93-561-000 a request pursuant to §§ 157.205, and 157.216(b) of the Commission's Regulations under the Natural Gas Act for authorization to abandon in place approximately 0.4 miles of 4-inch diameter lateral pipeline and to reclaim measuring, regulating and appurtenant facilities serving the City of Humboldt, Kansas, under its blanket certificate issued in Docket No. CP82-479-000, all as more fully set forth in the request on file with the Commission and open to public inspection.

Williams states that Humboldt's gas needs will be met through two additional existing town border settings. Williams also indicates that the reclaim cost is estimated to be $2,770 with a salvage value of $5,272.

Comment date: September 7, 1993, in accordance with Standard Paragraph G at the end of this notice.

4. Northern Natural Gas Co.

[Docket No. CP93-554-000]

July 22, 1993.

Take notice that on July 15, 1993, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124-1000, filed a

request with the Commission in Docket No. CP93-554-000 pursuant to §§ 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to construct and operate a delivery point for an interruptible natural gas transportation service for Kind and Knox, a division of Knox Gelatine, Inc. (Knox), under Northern's blanket certificate issued in Docket No. CP82-401-000 pursuant to Section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

Northern proposes to construct and operate a delivery point in Woodbury County, Iowa, in order to deliver natural gas to Knox's food processing plant. Northern would delivery 2,060 Mcf of natural gas daily and 568,000 Mcf annual on an interruptible basis to Knox under its FERC Rate Schedule TI. Northern states that Knox would pay the $170,000 estimated construction cost for the proposed delivery point. Northern also states that its existing tariff does not prohibit additional delivery points and that Northern has sufficient capacity to accommodate the changes proposed herein without detriment or disadvantage to Northern's other customers.

Comment date: September 7, 1993, in accordance with Standard Paragraph G at the end of this notice.

5. Northern Natural Gas Co.

[Docket No. CP93-571-000]

July 23, 1993.

Take notice that on July 19, 1993, Northern Natural Gas Company (Northern), P.O. Box 1188, Houston, Texas 77251-1188 filed in Docket No. CP93-571-000, a request pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to install and operate two new delivery points to accommodate natural gas deliveries to Superior Water, Light and Power Company (SWL&P) under the authorization issued in Docket No. CP82-401 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Northern states that it requests authority to install and operate the new delivery points in order to accommodate natural gas deliveries to the communities of Brule, Poplar, Lake Nebagomon, Maple, Bennett, Amnicon, Hawthorne and Highland, Wisconsin. Northern asserts that these communities do not currently have natural gas service. It is stated that SWL&P has requested installation of these delivery points due to the expansion of its distribution system into new areas.

Northern is proposing to install two new delivery points at the Brule town border station (TBS) and the Poplar TABS. It is stated that the Brule TABS will serve the community of Brule, Wisconsin. Northern states that the Poplar TABS will serve the combined communities of Poplar, Lake Nebagomon, Maple, Bennett, Amnicon, Hawthorne and Highland, Wisconsin.

It is asserted that the proposed volumes to be delivered to the proposed delivery points would be 757 Mcf on a peak day and 141,157 Mcf on an annual basis. Northern estimates that the total cost to install the proposed delivery points is $205,000.

Northern states that the proposed activity is not prohibited by its existing tariff and that it has sufficient capacity to accommodate the changes proposed herein without significant detriment or disadvantage to Northern's other customers.

Comment date: September 7, 1993, in accordance with Standard Paragraph G at the end of this notice.

6. Wallkill Transport Company, L.P.

[Docket No. CP93-548-000]

July 23, 1993.

Take notice that on July 14, 1993, Wallkill Transport Company, L.P. (Wallkill Transport), 7475 Wisconsin Avenue, Bethesda, Maryland 20814, filed an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Wallkill Transport to construct and operate approximately 23 miles of 10 and ¾ inch natural gas pipeline and appurtenant facilities from Tennessee Gas Pipeline Company's Compressor Station 325 in Libertyville, New Jersey to a new gas-fired electric generating facility to be located near Middletown, Orange County, New York, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Wallkill Transport states that the proposed facilities will be used for the sole purpose of providing up to 30,000 Mcf of natural gas per day to a new gas-fired electric generating facility of approximately 150 megawatt nominal capacity being developed under the name of Wallkill Generating Company, L.P. Wallkill Transport states that construction of the proposed facilities will cost an estimated $10,318,000 which will be financed with 80 percent non-recourse debt and 20 percent equity.

Wallkill Transport states that because it will not be charging a rate for the proposed transportation service, Wallkill Transport requests that the Commission waive those aspects of its regulations requiring the filing of a tariff, and to grant any other necessary waivers of otherwise applicable regulations. Finally, Wallkill Transport requests that since it has no other jurisdictional facilities, the Commission limits its jurisdiction over Wallkill Transport to the specified authorization requested.

Comment date: August 13, 1993, in accordance with Standard Paragraph F at the end of this notice.

7. Texas Eastern Transmission Corp.

[Docket No. CP93-572-000]

July 23, 1993.

Take notice that on July 20, 1993, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, P.O. Box 1642, Houston, Texas 77251-1642, filed in Docket No. CP93-572-000 a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to modify an existing delivery point in order to deliver natural gas to Entre Energy Corporation (Entre), an independent producer, under Texas Eastern's blanket certificate issued in Docket No. CP82-535-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Texas Eastern proposes to modify an existing delivery point in order to deliver natural gas to Entre, an independent producer, under its Rate Schedule IT-1. It is stated that the peak and average day deliveries would be 60,000 Dth, and would have no impact on peak or annual deliveries or other customers.

Comment date: September 7, 1993, in accordance with Standard Paragraph G at the end of this notice.

8. Texas Gas Transmission Corp.

[Docket No. CP93-567-000]

July 23, 1993.

Take notice that on July 19, 1993, Texas Gas Transmission Corporation (Texas Gas), P.O. Box 1160, Owensboro, Kentucky 42302, filed in Docket No. CP93-567-000, a request pursuant to § § 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a delivery point for Westlake Vinyl Corporation (Westlake) in Marshall County Kentucky, under it

blanket certificate issued in Docket No. CP82–407–000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Gas states that Westlake currently receives natural gas service for its Calvert City, Kentucky plant from Western Kentucky Gas Company (Western). Westlake has requested that Texas Gas construct a new delivery point in Marshall County, Kentucky, to enable Westlake to receive natural gas service directly from Texas Gas. The proposed new delivery point to Westlake will be known as the Westlake-Calvert City Meter station.

Comment date: September 7, 1993, in accordance with Standard Paragraph G at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person of the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 93–18088 Filed 7–28–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. JD93–13245T New Mexico–43]

United States Department of the Interior, Bureau of Land Management; NGPA Notice of Determination by Jurisdictional Agency Designating Tight Formation

July 23, 1993.

Take notice that on July 22, 1993, the United States Department of the Interior's Bureau of Land Management (BLM) submitted the above-referenced notice of determination pursuant to § 271.703(c)(3) of the Commission's regulations, that the Dakota Formation in a portion of the South Jicarilla Area Basin Dakota Pool underlying a portion of Rio Arriba County, New Mexico, qualifies as a tight formation under section 107(b) of the Natural Gas Policy Act of 1978. The area of application covers approximately 3,840 acres, all of which are Jicarilla Apache Indian Reservation Lands. The recommended area is described as follows:

Township 24 North, Range 5 West

Sections 9–10: All
Section 15–16: All
Sections 21–22: All

The notice of determination also contains BLM's findings that the referenced portion of the Dakota Formation meets the requirements of the Commission's regulations set forth in 18 CFR part 271.

The application for determination is available for inspection, except for material which is confidential under 18 CFR 275.206, at the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington DC 20426. Persons objecting to the determination may file a protest, in accordance with 18 CFR 275.203 and 275.204, within 20 days after the date this notice is issued by the Commission.

Lois D. Cashell,

Secretary.

[FR Doc. 93–18050 Filed 7–28–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–36–000]

Natural Gas Pipeline Company of America; Informal Settlement Conference

July 23, 1993.

Take notice that an informal settlement conference scheduled for Friday, July 30, 1993 has been rescheduled for Wednesday, August 25, 1993, at 10 a.m., at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact David R. Cain at (202) 208–0917 or John P. Roddy at (202) 208–1176.

Lois D. Cashell,

Secretary.

[FR Doc. 93–18051 Filed 7–28–93; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP93–5–000]

Northwest Pipeline Co.; Extension of Informal Settlement Conference

July 23, 1993.

Take notice that the informal settlement conference scheduled in this proceeding for August 11, 1993, at 10 a.m., has been extended and will be convened on August 11 and 12, 1993, at 10 a.m. at the offices of the Federal Energy Regulatory Commission, 810 First Street, NE., Washington, DC, for the purpose of exploring the possible settlement of the issues in this proceeding.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined by 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, contact Marc G. Denkinger at (202) 208–2215 or Kathleen M. Dias at (202) 208–0524.

Lois D. Cashell,

Secretary.

[FR Doc. 93–18052 Filed 7–28–93; 8:45 am]

BILLING CODE 6712–01–M

Office of Fossil Energy

[FE Docket No. 93–58–NG]

Amoco Energy Trading Corp.; Application for Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on June 9, 1993, of an application filed by Amoco Energy Trading Corporation (Amoco) requesting blanket authorization to export up to 146 Bcf of natural gas to Mexico over a period of two years. The authorization would begin on the date of first delivery after November 8, 1993, the expiration date of Amoco's existing blanket export authorization granted by DOE/FE Opinion and Order No. 354 (1 FE ¶ 70,269, December 6, 1989).

The application is filed under section 3 of the Natural Gas Act (NGA) and DOE Delegation Order Nos. 0204–111 and 0204–127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: 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, August 30, 1993.

ADDRESSES: 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:

Stanley C. Vass, Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3H–087, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585. (301) 903–2338

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: Amoco, a Delaware corporation with its principal place of business in Houston, Texas, is a natural gas reseller and marketer. It is a wholly-owned subsidiary of Amoco Production Company, which is a wholly-owned subsidiary of Amoco Company, which is wholly owned by Amoco Corporation. Amoco Corporation is an integrated company engaged in exploration, production, transportation, refining, and marketing of natural gas and other hydrocarbons.

The gas to be exported by Amoco would be produced in the southwest United States and sold in Mexico at competitive prices under short-term and spot market agreements. Amoco would use only existing pipeline facilities to transport the gas and would comply with DOE's quarterly reporting requirements.

This export application will be reviewed under section 3 of the NGA and the authority contained in DOE Delegation Order Nos. 0204–111 and 0204–127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those that may oppose this application, should comment on these matters as they relate to the requested export authority. Amoco asserts there is no current need for the domestic gas that would be exported under the proposed arrangement. Parties opposing this application 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. Anyone who wants 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 address listed above.

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 trial-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.

Amoco'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, July 23, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93–18125 Filed 7–28–93; 8:45 am]

BILLING CODE 6450–01–M

[FE Docket No. 93-64-NG]

Associated Natural Gas, Inc.; Application for Blanket Authorization To Export Natural Gas to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt of an application filed on June 29, 1993, by Associated Natural Gas, Inc. (ANGI) requesting blanket authorization to export up to 200 billion cubic feet of natural gas to Mexico over a period of two years. The authorization would begin on the date of the first delivery. ANGI states that it will use existing pipeline facilities to transport the gas and will submit quarterly reports detailing each transaction.

The application is filed under section 3 of the Natural Gas Act and DOE Delegation Orders Nos. 0204-111 and 0204-127. Protests, motions to intervene, notices of intervention, and written comments are invited.

DATES: Protests, motions to intervene of 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, August 30, 1993.

ADDRESSES: 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.

FOR FURTHER INFORMATION CONTACT:

C. Frank Duchaine, Jr., Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3H-087, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586-8233

Diane Stubbs, office of Assistant General Counsel for Fossil Energy, U.S. Department of Energy, Forrestal Building, room 6E-042, 1000 Independence Avenue, SW, Washington, DC 20585. (202) 586-6667

SUPPLEMENTARY INFORMATION: ANGI, a marketer of natural gas, is a Delaware corporation with its principal place of business in Denver, Colorado. ANGI proposes to export domestically-produced gas under short-term and spot market transactions, either on its own behalf or as the agent for others. All sales would be individually negotiated at competitive prices. ANGI asserts that there is no current need in the United States for the gas that would be exported under the proposed arrangement.

ANGI's export application will be reviewed under section 3 of the Natural Gas Act and the authority contained in DOE Delegation Order Nos. 0204-111 and 0204-127. In deciding whether the proposed export is in the public interest, domestic need for the natural gas will be considered, and any other issue determined to be appropriate, including whether the arrangement is consistent with DOE policy to promote competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties, especially those who may oppose the application, should comment on these matters as they relate to the requested export authority. Parties opposing this arrangement bear the burden of overcoming ANGI's assertion that the domestic gas exported would be surplus to domestic needs.

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. Anyone who wants to become a party to this proceeding and to have their written comments considered as the basis for the 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 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 address listed above.

It is intended that a decisional record on the application will be developed 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 trial-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 ANGI'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, on July 23, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Programs, Office of Fossil Energy.

[FR Doc. 93-18123 Filed 7-28-93; 8:45 am]

BILLING CODE 6450-01-M

[FE Docket No. 93-66-NG]

Nortech Energy Corp.; Application for Blanket Authorization To Import and Export Natural Gas From and to Mexico

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice of receipt on June 30, 1993, of an application filed by Nortech Energy Corp. (Nortech) requesting blanket authorization to import up to 40 Bcf of natural gas from Mexico and to export up to 40 Bcf of natural gas to Mexico over a two-year period beginning with the date of the first import or export delivery. Nortech states it would use existing pipeline facilities to transport the gas. Also, Nortech would advise DOE of the date of first deliveries and submit quarterly reports detailing 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.

DATES: 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, August 30, 1993.

ADDRESSES: 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:

C. Frank Duchaine, Jr., Office of Fuels Programs, Fossil Energy, U.S. Department of Energy, Forrestal Building, room 3H–087, FE–53, 1000 Independence Avenue, SW., Washington, DC 20585. (202) 586–8233

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: Nortech, a Texas corporation with its principal place of business in Houston, Texas, will import and export the gas under spot and short-term transactions, either on its own behalf or as the agent for others. The specific terms of these arrangements, including the price and volumes, would be negotiated individually. Nortech previously had blanket authority to import and export natural gas from and to Mexico which expired June 30, 1993 (1 FE ¶ 70,343, DOE/FE Opinion and Order No. 417, issued August 13, 1990).

The decision on Nortech's request for import authority will be made consistent with DOE's gas import policy guidelines, under which the competitiveness of an import arrangement in the market served is the primary consideration determining whether it is in the public interest (49 FR 6684, February 22, 1984). In reviewing Nortech's export proposal DOE considers the domestic need for the gas to be exported and any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the natural gas marketplace by allowing commercial parties to freely negotiate their own trade arrangements. Parties that may oppose this application should comment in their responses on these issues. Nortech asserts the proposed imports would be competitive and there is no current need for the domestic gas that would be exported. Parties opposing Nortech's application bear the burden of overcoming these assertions.

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 trial-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 Nortech'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, July 23, 1993.

Clifford P. Tomaszewski,

Director, Office of Natural Gas, Office of Fuels Program, Office of Fossil Energy.

[FR Doc. 93–18124 Filed 7–28–93; 8:45 am]

BILLING CODE 6450–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–4684–1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden; where appropriate, it includes the actual data collection instrument.

DATES: Comments must be submitted on or before August 30, 1993.

FOR FURTHER INFORMATION, OR TO OBTAIN A COPY OF THIS ICR, CONTACT: Sandy Farmer at EPA (202) 260–2740.

SUPPLEMENTARY INFORMATION:

Office of Prevention, Pesticides and Toxic Substances

Title: Certified/Commercial Pesticide Applicator Survey (EPA ICR No.: 1628.02). This is a new collection.

Abstract: Under the authority of Pub. L. 101–624, the EPA will conduct a survey of non-agricultural Certified/

Commercial Pesticide Applicators. The survey is designed to provide the Agency with comprehensive data of pesticide usage by non-agricultural applicators by site and pest. The respondents surveyed are asked to identify each chemical they use, by EPA registration number and by other means used to identify the product. Respondents are also asked to identify the quantity of each chemical product used over a specified 12-month period; the number of individual applications of the pesticide; the dates of application; and the quantity of each product used by site, target pest, units treated and geographic area. In addition, respondents are asked to identify the number and kinds of sites treated with the pesticide, such as lawn, residence, type of business, or golf course. Also required is information on the the rate of application.

EPA will use the data to meet the Congressional mandate which directs the Agency to publish an annual comprehensive report on pesticide use.

Burden Statement: The burden for this collection of information is estimated to average 5.45 hours per response. This estimate includes the time needed to review instructions, gather the data needed, complete the forms and review the collection of information.

Respondents: Non-agricultural Certified Pesticide Applicators and Commercial Applicators.

Estimated No. of Respondents: 4,000.

Estimated No. of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 21,805 hours.

Frequency of Collection: Annually.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460.

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: July 22, 1993.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 93-18106 Filed 7-28-93; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4684-2]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected cost and burden.

DATES: Comments must be submitted on or before August 30, 1993.

FOR FURTHER INFORMATION, OR TO OBTAIN A COPY OF THIS ICR, CONTACT: Sandy Farmer at EPA, (202) 260-2740.

SUPPLEMENTARY INFORMATION:

Office of Prevention, Pesticides and Toxic Substances

Title: Recall of Suspended and Canceled Pesticides. (EPA ICR No: 1520.03; OMB No: 2070-0110) This is a request for reinstatement of a previously approved collection.

Abstract: Under section 19 (b) of the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), EPA may request the voluntary recall of a suspended and canceled pesticide product.

Under the voluntary program, respondents are requested–not required–to submit to EPA, and keep records of, a recall plan. The plan would contain general information on the person responsible for the recall, and information on transportation and storage of the recalled pesticide product. In addition, at the completion of each recall, holders of the product would submit to the Agency a final report giving general information on the type and the amount of pesticide being held.

Although registrants are not obligated to submit a plan, once a plan is accepted, EPA has the authority to order the registrant to carry out the plan. If a registrant does not submit a plan, under section 6 of FIFRA (7 U.S.C. 136d) the Agency has the authority to proceed with rulemaking for a mandatory recall.

The Agency uses the information to monitor compliance with FIFRA, for indemnification purposes, and to plan for reimbursement of storage costs incurred as a result of the recall.

Burden Statement: The burden for this collection of information is estimated to average 68 hours per response for reporting and 3 hours per recordkeeper annually. This estimate includes the time needed to review instructions, develop a recall plan, create and gather data, and review and store the information.

Respondents: Registrants of suspended and canceled pesticides.

Estimated No. of Respondents: 20.

Estimated No. of Responses Per Respondent: 1.

Estimated Total Annual Burden on Respondents: 1,420 hours.

Frequency of Collection: On occasion.

Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden to:

Sandy Farmer, U.S. Environmental Protection Agency, Information Policy Branch (PM-223Y), 401 M Street, SW., Washington, DC 20460.

and

Matthew Mitchell, Office of Management and Budget, Office of Information and Regulatory Affairs, 725 17th Street, NW., Washington, DC 20503.

Dated: July 22, 1993.

David Schwarz,

Acting Director, Regulatory Management Division.

[FR Doc. 93-18107 Filed 7-28-93; 8:45 am]

BILLING CODE 6560-50-F

[FRL-4684-4]

North Dakota; Partial Program Adequacy Determination of State Municipal Solid Waste Permit Program

AGENCY: Environmental Protection Agency (Region VIII).

ACTION: Notice of tentative determination on Partial Program Application of North Dakota for Partial Program Adequacy Determination, Public Comment Period, and Public Hearing.

SUMMARY: Section 4005(c)(1)(B) of the Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments (HSWA) of 1984, requires States to develop and implement permit programs to ensure that municipal solid waste landfills (MSWLFs) which may receive hazardous household waste or conditionally exempt small quantity generator waste will comply with the revised Federal MSWLF Criteria (40 CFR part 258). Section 4005(c)(1)(C) of RCRA requires the Environmental Protection Agency (EPA) to determine whether States have adequate "permit" programs for MSWLFs, but does not mandate issuance of a rule for such determinations. EPA has drafted and is

in the process of proposing the State/Tribal Implementation Rule (STIR) that will allow both States and Tribes to apply for and receive approval of a partial permit program. The Agency intends to approve adequate State/Tribal MSWLF permit programs as applications are submitted. Thus, these approvals are not dependent on final promulgation of the STIR. Prior to promulgation of the STIR, adequacy determinations will be made based on the statutory authorities and requirements. In addition, States/Tribes may use the draft STIR as an aid in interpreting these requirements. The Agency believes that early approvals have an important benefit. Approved State/Tribal permit programs provide interaction between the State/Tribe and the owner/operator regarding site-specific permit conditions. Only those owners/operators located in States/Tribes with approved permit programs can use the site-specific flexibility provided by part 258 to the extent the State/Tribal permit program allows such flexibility. EPA notes that regardless of the approval status of a State/Tribe and the permit status of any facility, the Federal Criteria will apply to all permitted and unpermitted MSWLFs.

North Dakota applied for a partial determination of adequacy under section 4005 of RCRA. EPA reviewed North Dakota's application and made a tentative determination of adequacy for those portions of the State's MSWLF permit program that are adequate to assure compliance with the revised MSWLF Criteria. These portions are described later in this notice. The State plans to revise the remainder of its permit program to assure complete compliance with the revised Federal Criteria and gain full program approval. North Dakota's application for partial program adequacy determination is available for public review and comment.

Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF program, the Region has tentatively scheduled a public hearing on this determination. If a sufficient number of people express interest in participating in a hearing by writing the Region or calling the contact given below within 30 days of the date of publication of this notice, the Region will hold a hearing on the date given below in the **DATES** section. The Region will notify all persons who submit comments on this notice if it decides to hold the hearing. In addition, anyone who wishes to learn whether the hearing will be held may call the person listed in the **CONTACTS** section below.

DATES: All comments on North Dakota's application for a partial determination of adequacy must be received by the close of business on September 14, 1993. The public hearing is tentatively scheduled for 10 a.m. to 12 p.m., September 14, 1993, at the North Dakota State Department of Health Environmental Training Center, 2639 East Main Avenue, Bismarck, North Dakota 58501. Should a public hearing be held, EPA may limit oral testimony to five minutes per speaker, depending on the number of commenters. Commenters presenting oral testimony must also submit their comments in writing by close of business on September 14, 1993. The hearing may adjourn earlier than 12 noon if all of the speakers deliver their comments before that hour. North Dakota will participate in the public hearing held by EPA on this subject.

ADDRESSES: Copies of North Dakota's application for partial adequacy determination are available from 8 a.m. to 5 p.m. CST during normal working days at the following addresses for inspection and copying: North Dakota State Department of Health and Consolidated Laboratories, Attn: Martin Schock, Environmental Health Section, 1200 Missouri Avenue, Bismarck, North Dakota 58502–5520; and U.S. EPA Region VIII Library, 999 18th Street, suite 500, Denver, Colorado 80202–2466, phone 303/293–1444. All written comments should be sent to Gerald Allen (8HWM–WM), Waste Management Branch, U.S. EPA Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2466.

FOR FURTHER INFORMATION CONTACT: Gerald Allen (8HWM–WM), Waste Management Branch, U.S. EPA Region VIII, 999 18th Street, suite 500, Denver, Colorado 80202–2466, Phone 303/293–1496.

SUPPLEMENTARY INFORMATION:

A. Background

On October 9, 1991, EPA promulgated revised Criteria for MSWLFs (40 CFR part 258). Subtitle D of RCRA, as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires States to develop permitting programs to ensure that MSWLFs comply with the Federal Criteria. Subtitle D also requires that EPA determine the adequacy of State municipal solid waste landfill permit programs to ensure that facilities comply with the revised Federal Criteria. To fulfill this requirement, the Agency has drafted and is in the process of proposing the State/Tribal Implementation Rule (STIR). The rule will specify the requirements which State/Tribal programs must satisfy to be determined adequate.

EPA intends to propose in the STIR to allow partial approvals if: (1) The Regional Administrator determines that the State/Tribal permit program largely meets the requirements for ensuring compliance with part 258; (2) changes to a limited narrow part(s) of the State/Tribal permit program are needed to meet these requirements; and, (3) provisions not included in the partially approved portions of the State/Tribal permit program are a clearly identifiable and separable subset of part 258. These requirements, if promulgated, will address the potential problems posed by the dual State/Tribal and Federal programs that will come into effect in October 1993 in those States/Tribes that only have partial approvals of their MSWLF programs. On that date, Federal rules covering any portion of a State/Tribe's program that has not received EPA approval will become enforceable. Owners and operators of MSWLFs subject to such dual programs must be able to understand which requirements apply and comply with them. In addition, the pieces of the Federal program that are in effect must mesh well enough with the approved portions of the State/Tribal program to leave no significant gaps in regulatory control of MSWLF's. Partial approval would allow the Agency to approve those provisions of the State/Tribal permit program that meet the requirements and provide the State/Tribe time to make necessary changes to the remaining portions of its program. As a result, owners/operators will be able to work with the State/Tribal permitting agency to take advantage of the Criteria's flexibility for those portions of the program which have been approved.

As provided in the revised Federal Criteria, EPA's national Subtitle D standards will take effect on October 9, 1993 in any State/Tribe that lacks an approved program. Consequently, any remaining portions of the Federal Criteria which are not included in an approved State/Tribal program by that date would apply directly to the owner/operator.

EPA intends to approve portions of State/Tribal MSWLF permit programs prior to the promulgation of the STIR. EPA interprets the requirements for States or Tribes to develop "adequate" programs for permits or other forms of prior approval to impose several minimum requirements. First, each State/Tribe must have enforceable standards for new and existing MSWLFs that are technically comparable to EPA's revised MSWLF criteria. Next, the State/

Tribe must have the authority to issue a permit or other notice of prior approval to all new and existing MSWLFs in its jurisdiction. The State/Tribe also must provide for public participation in permit issuance and enforcement as required in section 7004(b) of RCRA. Finally, EPA believes that the State/Tribe must show that it has sufficient compliance monitoring and enforcement authorities to take specific action against any owner or operator that fails to comply with an approved MSWLF program.

EPA Regions will determine whether a State/Tribe has submitted an "adequate" program based on the interpretation outlined above. EPA plans to provide more specific criteria for this evaluation when it proposes the State/Tribal Implementation Rule. EPA expects States/Tribes to meet all of these requirements for all elements of a MSWLF program before it gives full approval to a MSWLF program.

EPA also is requesting States/Tribes seeking partial program approval to provide a schedule for the submittal of all remaining portions of their MSWLF permit programs. EPA notes that it intends to propose to make submission of a schedule mandatory in the STIR.

B. State of North Dakota

On June 25, 1993, North Dakota submitted an application for partial program adequacy determination. EPA has reviewed North Dakota's application and tentatively determined that the following portions of the State's Subtitle D program will ensure compliance with the Federal revised Criteria.

1. Location restrictions for airport safety (40 CFR 258.10(a), (c), and (d)), flood plains (40 CFR 258.11), wetlands (40 CFR 258.12), fault areas (40 CFR 258.13), seismic impact zones (40 CFR 258.14), and unstable areas (40 CFR 258.15).

2. Operating criteria for cover material (40 CFR 258.21), disease vector control (40 CFR 258.22), explosive gases control (40 CFR 258.23(a)), air criteria (40 CFR 258.24), access requirements (40 CFR 258.25), run-on-run-off control systems (40 CFR 258.26), surface water (40 CFR 258.27), and liquids restrictions (40 CFR 258.28).

3. Design Criteria requirement for composite liners (40 CFR 258.40(b)).

4. Ground-water monitoring for applicability and duration of monitoring (40 CFR 258.50(a) and (e)); ground-water monitoring systems including casing, number, depth, and spacing of wells (40 CFR 258.51(c) and (d)); and ground-water sampling and analysis including documentation procedures, frequency, and ground-water elevation measurements (40 CFR 258.53(a), (c), and (d)).

5. Closure and post-closure care requirements including final cover design (40 CFR 258.60(a) and (b)), final cover description (40 CFR 258.60(c)(1)), waste inventory and schedule (40 CFR 258.60(c)(3) and (4)), beginning and completion of closure (40 CFR 258.60(f) through (j), post-closure care period (40 CFR 258.61(a) and (b)), and post-closure plan and land use (40 CFR 258.61(c)(1) and (c)(3)).

6. Financial assurance requirements including applicability (40 CFR 258.70) and allowable mechanisms (40 CFR 258.74).

Not all States/Tribes will have existing permit programs through which they can ensure compliance with all provisions of the revised Federal Criteria. Were EPA to restrict a State/Tribe from submitting its application until it could ensure compliance with the entirety of 40 CFR part 258, many States/Tribes would need to postpone obtaining approval of their permit programs for a significant amount of time. This delay in determining the adequacy of the State/Tribal permit program while the State/Tribe revises its statutes or regulations could impose a substantial burden on owners and operators of landfills because the State/Tribe would be unable to exercise the flexibility available to States/Tribes with permit programs which have been approved as adequate.

To ensure compliance with all the Federal Criteria, North Dakota needs to revise to following aspects of its permit program.

1. North Dakota will revise its regulation and add a "FAA notification" requirement to comply with part 258.10(b) (airport safety).

2. North Dakota will revise its regulations to incorporate the Federal operating requirements for the exclusion of hazardous waste (40 CFR 258.20), explosive gases control including monitoring and detection/remediation (40 CFR 258.23(b) and (c)), and record keeping (40 CFR 258.29).

3. North Dakota will revise its regulations to incorporate the Federal design criteria relative to protection of ground-water (40 CFR 258.40(a), (c), and (d)).

4. North Dakota will revise its regulations to incorporate the Federal ground-water monitoring requirements, including no-migration demonstrations, scheduling, and alternative schedules (40 CFR 258.50(b) through 258.50(d)); number, depth, and location of wells, and the use of multiunit ground-water systems (40 CFR 258.51(a) and (b)); ground-water sampling analytical methods (40 CFR 258.53(b)); background and statistical procedures (40 CFR 258.53(e) through (i)); detection monitoring (40 CFR 258.54); assessment monitoring (40 CFR 258.55); assessment of corrective measures (40 CFR 258.56); selection of remedy (40 CFR 258.57); and, implementation of the corrective action program (40 CFR 258.58).

5. North Dakota will revise its regulations to incorporate the Federal closure and post-closure care requirements, specifically final cover estimate (40 CFR 258.60(c)(2)); State notifications (40 CFR 258.60 (d) and (e)); post-closure contact (40 CFR 258.61(c)(2)); and State notifications (40 CFR 258.61 (d) and (e)).

6. North Dakota will revise its regulations to incorporate financial assurance requirements for closure, post-closure, and corrective action (40 CFR 258.71 through 258.73).

North Dakota has developed and implemented a series of guidance documents that were submitted to the Region as part of its June 25, 1993, application for partial program adequacy determination. These documents are as follows:

1. Guidelines for Hydrogeological Investigations of Solid Waste Facilities;

2. Guidelines for Quality Assurance in Construction of Landfill and Surface Impoundment Liners, Caps, and Leachate Removal Systems;

3. Guidelines for Statistical Analysis of Ground-Water Monitoring Data for Solid Waste Facilities; and

4. Guidelines for Corrective Actions of Solid Waste Landfills.

If the criteria now existing in these guidance documents were instead contained in enforceable regulations issued by the North Dakota State Department of Health, then a significantly larger portion of North Dakota's program could have been approved by EPA at this time. However, because the criteria in these guidance documents cannot be made an enforceable condition of permits and permit modification issued by the State of North Dakota, regulatory changes appear necessary.

North Dakota indicates that it will be able to complete these revisions by mid-1994. To allow the State to begin exercising some of the flexibility allowed in States/Tribes with adequate permit programs, EPA is proposing to approve those remaining portions of the State/Tribe's program that are ready for action today.

EPA reviewed the State's schedule and believes it is reasonable because of the simplicity of North Dakota's rule making process. The rule making process typically takes seven to nine

months to complete. North Dakota has already begun to revise its rules and expects to have the rule changes necessary for full program approval complete by mid-1994.

Although RCRA does not require EPA to hold a public hearing on a determination to approve any State/Tribe's MSWLF program, the Region has tentatively scheduled a public hearing on this determination. If a sufficient number of people express interest in participating in a hearing by writing the Region or calling the contact within 30 days of the publication of this notice, the Region will hold a hearing on September 14, 1993, at the North Dakota State Department of Health Environmental Training Center, 2639 East Main Street, Bismarck, North Dakota 58501.

North Dakota has not asserted jurisdiction within the exterior boundaries of Indian reservations in its application for adequacy determination. Accordingly, this approval does not extend to lands within Indian reservations in North Dakota. Until EPA approves a State or Tribal MSWLF permitting program in North Dakota for any part of "Indian Country," as defined in 18 U.S.C. 1151, the requirements of 40 CFR part 258 will, after October 9, 1993, automatically apply to that area. Thereafter, the requirements of 40 CFR part 258 will apply to all owners/operators of MSWLFs located in any part of "Indian Country" that is not covered by an approved State or Tribal MSWLF permitting program.

EPA will consider all public comments on its tentative determination received during the public comment period and during any public hearing held. Issues raised by those comments may be the basis for a determination of inadequacy for North Dakota's program. EPA will make a final decision on whether or not to approve North Dakota's program by October 8, 1993, and will give notice of it in the **Federal Register**. The notice will include a summary of the reasons for the final determination and a response to all major comments.

Section 4005(a) of RCRA provides that citizens may use the citizen suit provisions of section 7002 of RCRA to enforce the Federal MSWLF Criteria in 40 CFR part 258 independent of any State/Tribal enforcement program. As EPA explained in the preamble to the final MSWLF Criteria, EPA expects that any owner or operator complying with provisions in a State/Tribal program approved by EPA should be considered to be in compliance with the Federal Criteria. See 56 FR 50978, 50995 (October 9, 1991).

Compliance With Executive Order 12291

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

Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that this tentative approval will not have a significant economic impact on a substantial number of small entities. It does not impose any new burdens on small entities. This proposed notice, therefore, does not require a regulatory flexibility analysis.

Authority: This notice is issued under the authority of section 4005 of the Solid Waste Disposal Act as amended; 42 U.S.C. 6946.

Dated: July 22, 1993.

Nola Cooke,

Acting Regional Administrator.

[FR Doc. 93-18105 Filed 7-28-93; 8:45 am]

BILLING CODE 6560-50-P

[FRL-4684-8]

Science Advisory Board, Drinking Water Committee; Open Meeting

Under the Federal Advisory Committee Act, Public Law 92-463, notice is hereby given that the Science Advisory Board's (SAB) Drinking Water Committee (DWC) will meet on August 16-17, 1993. The Committee will meet on Monday, August 16, from 8:30 a.m. to 5 p.m. and on Tuesday, August 17, from 9 a.m. to no later than 4:30 p.m. at U.S. EPA Headquarters, Waterside Mall Conference Center, room 3 North, 401 M Street, SW, Washington, DC 20460. The meeting is open to the public and seating is on a first-come basis.

At this meeting, the Committee will: (1) During a working session, review the progress of its reports concerning the Agency's research program for disinfectants and disinfection by-products, and the September 30, 1992 draft *Drinking Water Criteria Document on Inorganic Arsenic* (prepared under contract for the Office of Science and Technology, Office of Water), (2) plan its activities for the next fiscal year, (3) receive a briefing regarding the status of the Regulatory Negotiation process for the Disinfectant/Disinfection By-products rule, and (4) explore the appropriate role of the Committee with regard to the outcome of the aforementioned negotiation process.

The Committee has been provided with the latest drafts (including preambles) of the Information Collection Rule, the Enhanced Surface Water Collection Rule, and the Disinfection and Disinfection By-Products Rule as background for item 3 above. These documents are available from Thomas R. Grubbs, U.S. Environmental Protection Agency, 401 M Street SW (Mail Code WH550-D), Washington, DC 20460. Telephone: (202) 260-7270. They are not available from the Science Advisory Board. No background documents are available for items 1, 2 and 4 above.

For additional information concerning this meeting, including copies of a draft agenda, please contact Ms. Dorothy Clark, Staff Secretary, or Mr. Manuel R. Gomez, Designated Federal Official, Science Advisory Board (A-101F), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460. Telephone: (202) 260-6552; FAX: (202) 260-6118.

Members of the public who wish to make a brief oral presentation to the Committee must contact Mr. Gomez no later than Monday, in order to be included on the Agenda. Written statements of any length (at least 35 copies) may be provided to the Committee up until the meeting. The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, each individual or group making an oral presentation will be limited to a total time of ten minutes or less, at the Chair's discretion.

Dated: July 19, 1993.

Samuel Rondberg,

Acting Staff Director, Science Advisory Board.

[FR Doc. 93-18101 Filed 7-28-93; 8:45 am]

BILLING CODE 6560-50-P

[FRL 4684-6]

Wilson Concepts of Florida Site; Proposed Settlement

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed settlement.

SUMMARY: Under section 122 (g) and (h) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), as amended 42 U.S.C. 9601 *et seq.*, the Environmental Protection Agency (EPA) has agreed to settle claims for response costs at the Wilson Concepts of Florida Site, Pompano Beach, Florida with Carter and Crawley Precision Metals, Inc. EPA will consider public comments on the proposed settlement for thirty (30) days. EPA may withdraw from or modify the

proposed settlement should such comments disclose facts or considerations which indicate the proposed settlement is inappropriate, improper, or inadequate. A copy of the proposed *De Minimis* settlement is available from: Ms. Carolyn McCall, Waste Programs Branch, Waste Management Division, U.S. EPA, Region IV, 345 Courtland Street, NE., Atlanta, Georgia 30365, 404/347-5059.

Written comments must be submitted to the person above within 30 days from the date of publication.

Dated: June 7, 1993.

Richard D. Green,

Acting Director, Waste Management Division.

[FR Doc. 93-18100 Filed 7-28-93; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1956]

Petitions for Reconsideration of Actions in Rulemaking Proceedings

July 23, 1993.

Petitions for reconsideration have been filed in the Commission rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR 1.429(e). The full text of these documents are available for viewing and copying in room 239, 1919 M Street, NW., Washington, DC or may be purchased from the Commission's copy contractor ITS, Inc. (202) 857-3800. Opposition to these petitions must be filed August 13, 1993. See § 1.4(b)(1) of the Commission's rules (47 CFR 1.4 (b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations. (Homerville, Lakeland and Statenville, Georgia) (MM Docket No. 90-214, RM No. 7101 and 7226)

Number of Petitions Filed: 2.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 93-18034 Filed 7-28-93; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-996-DR]

Iowa; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Iowa, (FEMA-996-DR), dated July 9, 1993, and related determinations.

EFFECTIVE DATE: July 21, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Iowa dated July 9, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 9, 1993:

The counties of Crawford, Des Moines, Dickinson, Johnson, Polk, Pottowattamie, Shelby, Scott, Van Buren, and Wapello for Public Assistance. (Already designated for Individual Assistance).

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93-18099 Filed 7-28-93; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-993-DR]

Minnesota; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Minnesota, (FEMA-993-DR), dated June 11, 1993, and related determinations.

EFFECTIVE DATE: July 23, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Minnesota, dated June 11, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of June 11, 1993:

The counties of Becker, Lac Qui Parle, and Wabasha for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93-18098 Filed 7-28-93; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-995-DR]

Missouri; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri (FEMA-995-DR), dated July 9, 1993, and related determinations.

EFFECTIVE DATE: July 21, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Missouri dated July 9, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 9, 1993:

The counties of Adair, Caldwell, Johnson, Livingston, Macon, Pemiscot, Pettis, Putnam, Scott, and Scotland for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93-18094 Filed 7-28-93; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-998-DR]

Nebraska; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of Nebraska (FEMA-998-DR), dated July 19, 1993, and related determinations.

EFFECTIVE DATE: July 19, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 19, 1993, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of Nebraska, resulting from severe storms and flooding on June 23, 1993, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of Nebraska.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint Alex Burns of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of Nebraska to have been affected adversely by this declared major disaster:

Buffalo, Cass, Lancaster, Sarpy, Seward, and Washington Counties for Individual Assistance.

Adams, Buffalo, Hall, Kearney, Lancaster and Phelps Counties for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance.)

James Lee Witt,

Director.

[FR Doc. 93-18095 Filed 7-28-93; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-998-DR]

Nebraska; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Nebraska (FEMA-998-DR), dated July 19, 1993, and related determinations.

EFFECTIVE DATE: July 22, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Nebraska dated July 19, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 19, 1993:

The counties of Boyd, Douglas, Otoe, Saunders, and York for Individual Assistance and Public Assistance.

The counties of Hall and Phelps for Individual Assistance. (Already designated for Public Assistance.)

The counties of Butler, Clay, Colfax, Cuming, Hamilton, Fillmore, Nemaha, Pawnee, Platte, Polk, Richardson, and Stanton for Public Assistance.

The county of Seward for Public Assistance. (Already designated for Individual Assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93-18096 Filed 7-28-93; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-999-DR]

South Dakota; Major Disaster and Related Determinations

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This is a notice of the Presidential declaration of a major disaster for the State of South Dakota (FEMA-999-DR), dated July 19, 1993, and related determinations.

EFFECTIVE DATE: July 19, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: Notice is hereby given that, in a letter dated July 19, 1993, the President declared a major disaster under the authority of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 *et seq.*), as follows:

I have determined that the damage in certain areas of the State of South Dakota, resulting from severe storms, tornadoes and flooding beginning on May 6, 1993, and continuing is of sufficient severity and magnitude to warrant a major disaster declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act ("the Stafford Act"). I, therefore, declare that such a major disaster exists in the State of South Dakota.

In order to provide Federal assistance, you are hereby authorized to allocate from funds available for these purposes, such amounts as you find necessary for Federal disaster assistance and administrative expenses.

You are authorized to provide Individual Assistance and Public Assistance in the designated areas. Consistent with the requirement that Federal assistance be supplemental, any Federal funds provided under the Stafford Act for Public Assistance will be limited to 75 percent of the total eligible costs.

The time period prescribed for the implementation of section 310(a), Priority to Certain Applications for Public Facility and Public Housing Assistance, 42 U.S.C. 5153, shall be for a period not to exceed six months after the date of this declaration.

Notice is hereby given that pursuant to the authority vested in the Director of the Federal Emergency Management Agency under Executive Order 12148, I hereby appoint John D. Swanson of the Federal Emergency Management Agency to act as the Federal Coordinating Officer for this declared disaster.

I do hereby determine the following areas of the State of South Dakota to have been affected adversely by this declared major disaster:

The counties of Bon Homme, Brookings, Clay, Davison, Hanson, Hutchison, Kingsbury, Lake, Lincoln, McCook, Miner, Minnehaha, Moody, Sanborn, Turner, Union, and Yankton Counties for Individual Assistance and Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

James Lee Witt,

Director.

[FR Doc. 93-18102 Filed 7-28-93; 8:45 am]

BILLING CODE 6718-02-M

[FEMA-994-DR]

Wisconsin; Amendment to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency (FEMA).

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Wisconsin, (FEMA-994-DR), dated July 2, 1993, and related determinations.

EFFECTIVE DATE: July 22, 1993.

FOR FURTHER INFORMATION CONTACT: Pauline C. Campbell, Disaster Assistance Programs, Federal

Emergency Management Agency, Washington, DC 20472, (202) 646-3606.

SUPPLEMENTARY INFORMATION: The notice of a major disaster for the State of Wisconsin dated July 2, 1993, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of July 2, 1993.

The county of Rock for Public Assistance. (Already designated for Individual Assistance.)

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Richard W. Krimm,

Deputy Associate Director, State and Local Programs and Support.

[FR Doc. 93-18097 Filed 7-28-93; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL MARITIME COMMISSION

[Docket No. 93-15]

Waterman Steamship Corp. v. General Foundries Inc.; Filing of Complaint and Assignment

Notice is given that a complaint filed by Waterman Steamship Corporation ("Complainant") against General Foundries Inc. ("Respondents") was served July 26, 1993. Complainant alleges that Respondent, as consignee on several freight collect shipments, engaged in violations of section 10(a)(1) of the Shipping Act of 1984, 46 U.S.C. app. 1709(a)(1), by inducing Complainant to provide transportation, tendering checks to Complainant for payment of freight, and, upon receipt of the cargo, stopping payment on the checks.

This proceeding has been assigned to the Office of Administrative Law Judges. Hearing in this matter, if any is held, shall commence within the time limitations prescribed in 46 CFR 502.61, and only after consideration has been given by the parties and the Presiding Officer to the use of alternative forms of dispute resolution. The hearing shall include oral testimony and cross-examination in the discretion of the Presiding Officer only upon proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record. Pursuant to the further terms of 46 CFR 502.61, the initial decision of the Presiding Officer in this proceeding shall be issued by July 25, 1994, and the final decision of the Commission shall be issued by November 27, 1994.

Joseph C. Polking,

Secretary.

[FR Doc. 93-18068 Filed 7-28-93; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR part 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, DC 20573.

Natural Freight Ltd., 53 Park Place, Ste. 1002, New York, NY 100007, Officers: Willy Burkhardt, President; Alfons Strub, Exec. Vice President

Avair Services, Inc., 300 Middlesex Avenue, Carteret, NJ 07008, Officers: Gianfranco Germiniani, President; Franciesco Cordaro, Exec. Vice President; Derek Buckle West, Director

Freight Brokers International, Inc., 1235 North Loop West, Ste. 601, Houston, TX 77008, Officers: Allan B. Appelbaum, President; Linda G. Appelbaum, Secretary

Marubeni Transport Service Corp., 444 West Ocean Blvd., Ste. 1504, Long Beach, CA 90802, Officers: Katsutoshi Suzuki, President/CEO/Director; Yasuhisa Ebisutani, Treasurer/Secretary/General Manager; Maria Lourdes V. Angeles, Assistant Secretary; Tadashi Tonaka, Director; Minoru Agarida, Director.

Dated: July 23, 1993.

By the Federal Maritime Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 93-18029 Filed 7-28-93; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bailey Financial Corporation, 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 August 23, 1993.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Senior Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. Bailey Financial Corporation, Clinton, South Carolina; to acquire 100 percent of the voting shares of The Saluda County Bank, Saluda, South Carolina.

2. First United Corporation, Oakland, Maryland; to acquire 100 percent of the voting shares of HomeTown Bancorp, Inc., Myersville, Maryland, and thereby indirectly acquire Myersville Bank, Myersville, Maryland.

B. Federal Reserve Bank of Atlanta (Zane R. Kelley, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. White Eagle Financial Group, Inc., Boca Raton, Florida; to become a bank holding company by acquiring 90 percent of the voting shares of Admiralty Bank, Palm Beach Gardens, Florida.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. Dearborn Bancorp, Inc., Dearborn, Michigan; to become a bank holding company by acquiring 100 percent of the voting shares of Community Bank of Dearborn, Dearborn, Michigan, a *de novo* bank.

2. Farmers Savings Bank Employee Stock Ownership Plan and Trust, West Union, Iowa; to acquire 50.1 percent of the voting shares of Westmont Corporation, West Union, Iowa, and thereby indirectly acquire Farmers Savings Bank, West Union, Iowa.

D. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. Union Planters Corporation, Memphis, Tennessee; to acquire 100

percent of the voting shares of First Financial Services, Inc., Brownsville, Tennessee, and thereby indirectly acquire First State Bank, Brownsville, Tennessee.

E. Federal Reserve Bank of Kansas City (John E. Yorke, Senior Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. FirstBank Holding Company of Colorado ESOP, Lakewood, Colorado; to acquire 26.6 percent of the voting shares of FirstBank Holding Company of Colorado, Lakewood, Colorado, and thereby indirectly acquire FirstBank of West Arvada, National Association, Arvada, Colorado; FirstBank of Aurora, National Association, Aurora, Colorado; FirstBank of Avon, Avon, Colorado; FirstBank of South Boulder, National Association, Boulder, Colorado; FirstBank of Boulder, National Association, Boulder, Colorado; Breckenridge FirstBank, National Association, Breckenridge, Colorado; FirstBank of Castle Rock, National Association, Castle Rock, Colorado; FirstBank of Denver, National Association, Denver, Colorado; FirstBank of Cherry Creek, National Association, Denver, Colorado; FirstBank of Republic Plaza, N.A., Denver, Colorado; FirstBank of Erie, Erie, Colorado; FirstBank of Tech Center, National Association, Englewood, Colorado; FirstBank of Colorado, National Association, Littleton, Colorado; FirstBank of Lakewood, National Association, Lakewood, Colorado; FirstBank of Westland, National Association, Lakewood, Colorado; FirstBank of Academy Park, Lakewood, Colorado; FirstBank of Villa Italia, National Association, Lakewood, Colorado; FirstBank of Littleton, National Association, Littleton, Colorado; FirstBank at Wadsworth/Coal Mine, National Association, Littleton, Colorado; FirstBank of Arapahoe County, National Association, Littleton, Colorado; FirstBank of Longmont, National Association, Longmont, Colorado; FirstBank at Arapahoe/Yosemite, National Association, Englewood, Colorado; FirstBank of Silverthorne, National Association, Silverthorne, Colorado; FirstBank of Vail, Vail, Colorado; FirstBank at 88th/Wadsworth, N.A., Westminster, Colorado; and FirstBank of Wheatridge, National Association, Wheat Ridge, Colorado.

Board of Governors of the Federal Reserve System, July 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-18070 Filed 7-28-93; 8:45 am]

BILLING CODE 6210-01-F

Juanita B. Henry, et al.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than August 18, 1993.

A. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. Juanita B. Henry jointly with Joseph M. Henry, III, Natchitoches, Louisiana, to acquire an additional 67 percent, totalling 69 percent, of the voting shares of Exchange Bancshares, Inc., Natchitoches, Louisiana, and thereby indirectly acquire Exchange Bank and Trust, Natchitoches, Louisiana.

Board of Governors of the Federal Reserve System, July 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-18071 Filed 7-28-93; 8:45 am]

BILLING CODE 6210-01-F

Stichting Prioriteit ABN AMRO Holding; Stichting Administratiekantoor ABN AMRO Holding; and ABN AMRO Holding N.V., all of Amsterdam, The Netherlands; ABN AMRO Bank N.V., Amsterdam Zuid-Oost, The Netherlands; and ABN AMRO North America, Inc., Chicago, Illinois; Application to Engage in Nonbanking Activities

Stichting Prioriteit ABN AMRO Holding; Stichting Administratiekantoor ABN AMRO Holding; and ABN AMRO Holding N.V., all of Amsterdam, The Netherlands; ABN AMRO Bank N.V., Amsterdam Zuid-Oost, The Netherlands; and ABN AMRO North America, Inc., Chicago, Illinois (collectively, Applicants), have applied pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) (BHC Act) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)) to engage *de novo* through ABN AMRO Securities (USA) Inc., formerly known as ABN Capital Markets Corporation (Company), a broker-dealer registered with the Securities and Exchange Commission under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*), and registered with the States of New York, Florida, Connecticut, Massachusetts and Illinois, in underwriting and dealing in, to a limited extent:

(i) Debt securities, including without limitation, sovereign debt securities, corporate debt, debt securities convertible into equity securities, and securities issued by a trust or other vehicle secured by or representing interests in debt obligations; and

(ii) Equity securities, including without limitation, common stock, preferred stock, American Depositary Receipts, and other direct and indirect equity ownership interests in corporations and other entities, but not including ownership interests in open-end investment companies.

Company is a wholly owned subsidiary of ABN AMRO Capital Markets Holding, Inc., a Delaware corporation, which itself is a direct subsidiary of ABN AMRO North America, Inc., and an indirect subsidiary of the other Applicants. Applicants propose to conduct the proposed activities throughout the United States and the world from an office in New York, New York, and, to the extent permitted by Canadian law, from a representative office in Toronto, Canada.

Section 4(c)(8) of the BHC Act provides that a bank holding company may, with Board approval, engage in any activity which the Board, after due notice and opportunity for hearing, has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto. This statutory test requires that two separate tests be met for an activity to be permissible for a bank holding company. First, the Board must determine that the activity is, as a general matter, closely related to banking. Second, the Board must find in a particular case that the performance of the activity by the applicant bank holding company may reasonably be

expected to produce public benefits that outweigh possible adverse effects.

A particular activity may be found to meet the "closely related to banking" test if it is demonstrated that banks have generally provided the proposed activity; that banks generally provide services that are operationally or functionally similar to the proposed activity so as to equip them particularly well to provide the proposed activity; or that banks generally provide services that are so integrally related to the proposed activity as to require their provision in a specialized form. *National Courier Ass'n v. Board of Governors*, 516 F.2d 1229, 1237 (D.C. Cir. 1975). In addition, the Board may consider any other basis that may demonstrate that the activity has a reasonable or close relationship to banking or managing or controlling banks. Board Statement Regarding Regulation Y, 49 FR 806 (1984).

The Board previously has approved, by order, underwriting and dealing in, to a limited extent, all types of debt and equity securities. *J.P. Morgan & Co. Incorporated, et al.*, 75 Federal Reserve Bulletin 192 (1989) (1989 Section 20 Order), *as modified by* Orders dated September 21, 1989, 75 Federal Reserve Bulletin 751 (1989), and January 26, 1993, 79 Federal Reserve Bulletin 226 (1993) (collectively, Modification Orders). In addition, the Board has modified certain conditions contained in the 1989 Section 20 Order for foreign banking organizations to address certain issues raised by an organization's foreign status and to avoid extending U.S. bank supervisory standards to foreign banks. *See Canadian Imperial Bank of Commerce, et al.*, 76 Federal Reserve Bulletin 158 (1990) (Canadian Imperial Order). Applicants have stated that they will conduct the proposed underwriting and dealing activities using the same methods and procedures, and subject to the same prudential limitations, established by the Board in the 1989 Section 20 Order, as modified by the Modification Orders and the Canadian Imperial Order, including the Board's 10 percent revenue limitation on such activities. However, Applicants are requesting that Company be permitted to engage immediately in the underwriting and dealing in debt and equity securities, rather than be subject to the one-year waiting period imposed in those orders, because the Applicants have had broad experience with equity securities in the past when they were owned by non-banks. For the foregoing reasons, Applicants contend that approval of the application would not be barred by section 20 of the Glass-Steagall Act (12 U.S.C. 377), which prohibits the affiliation of a state member bank with any company principally engaged in the underwriting, public sale, or distribution of securities.[1]

In order to satisfy the proper incident to banking test, section 4(c)(8) of the BHC Act requires the Board to find that the performance of the activities by Company 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 interest, or unsound banking practices. Applicants believe that the proposed activities will benefit the public by promoting competition, lower financing costs, and more innovative financing. Applicants also believe that approval of this application will allow Company to provide a wider range of services and added convenience to its customers. Applicants believe that the proposed activities will not result in any unsound banking practices or other adverse effects.

In publishing the proposal for comment, the Board does not take a position on issues raised by the proposal. Notice of the proposal is published solely in order to seek the views of interested persons on the issues presented by the application and does not represent a determination by the Board that the proposal meets, or is likely to meet, the standards of the BHC Act.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than August 20, 1993. Any request for a hearing on this application must, as required by § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)), be accompanied by a statement of the reasons why 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.

This application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of Chicago.

Board of Governors of the Federal Reserve System, July 23, 1993.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 93-18069 Filed 7-28-93; 8:45 am]

BILLING CODE 6210-01-F

[1] In connection with this application, Applicants are also requesting relief from their commitment that they would not enter quotes for specific securities in the NASDAQ or any other dealer quotation system in connection with riskless principal transactions. *See Stichting AMRO and Amsterdam-Rotterdam Bank N.V.*, 76 Federal Reserve Bulletin 682 (1990). Applicants are requesting that they be permitted to indicate interest in purchasing and selling securities, in connection with those activities, to the extent permitted in previous Board orders. *See Dauphin Deposit Corporation*, 77 Federal Reserve Bulletin 672 (1991).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Toxic Substances and Disease Registry

[Program Announcement Number 338]

The Great Lakes Human Health Effects Research Program Notice of Availability of Funds for Fiscal Year 1993

Introduction

The Agency for Toxic Substances and Disease Registry (ATSDR) announces that grant applications will be accepted to conduct research on the impact on human health of fish consumption from the Great Lakes. ATSDR's mission includes the prevention of adverse health effects resulting from human exposure to hazardous substances in the environment. The ATSDR Great Lakes Human Health Effects Research Program will focus on populations that have been identified to have a higher risk of long-term adverse health effects from exposure to contaminants in Great Lakes fish, i.e., Native Americans, sport anglers, urban poor, and fetuses and nursing infants of mothers who consume contaminated Great Lakes fish.

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Environmental Health. (For ordering a copy of Healthy People 2000, see the section WHERE TO OBTAIN ADDITIONAL INFORMATION.)

Authority

This program is authorized in sections 104(i)(5)(A) and (15) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) [42 U.S.C. 9604(i)(5)(A) and (15)]; and

section 106, subsection 118(e) of the Great Lakes Critical Programs Act of 1990 [33 U.S.C. 1268(e)].

Eligible Applicants

Eligible applicants are the Great Lake states and political subdivisions thereof, including federally-recognized Indian tribal governments. State organizations, including state universities, state colleges, and state research institutions, must affirmatively establish that they meet their respective state's legislative definition of a state entity or political subdivision to be considered an eligible applicant. The Great Lake states include Illinois, Indiana, Michigan, Minnesota, Ohio, Pennsylvania, New York and Wisconsin, consistent with section 105 subsection 118(e) of the Great Lakes Critical Programs Act of 1990 [33 U.S.C. 1268(e)]. ATSDR encourages collaborative efforts among these potential applicants.

Availability of Funds

Approximately $140,000 is available in FY 1993 to fund one new award. It is expected that the award will be made on or about September 30, 1993. It is anticipated that the new award will be for a 12-month budget period with a proposed project period of 1 to 2 years. The continuation award within the project period will be made on the basis of satisfactory progress and the availability of funds. ATSDR anticipates that funds will be available in FY 1994 to continue approved projects. Funding estimates may vary and are subject to change.

Purpose

The purpose of this announcement is to solicit scientific proposals designed to investigate and characterize the association between the consumption of contaminated Great Lakes fish and potential long-term adverse health effects. The objectives of this program are to:

(1) Build upon and amplify the results from past and on-going research;

(2) Develop information, databases and/or research methodology that will provide long-term benefit to the Great Lakes human health research effort;

(3) Develop directions and methodology for future human health effects research;

(4) Provide health information to the subjects of the research and their medical professionals; and

(5) Increase the public awareness of the health implications of toxic pollution in the Great Lakes.

Program Requirements

ATSDR will provide financial assistance to applicants in conducting studies on potential human health effects which result from human consumption of contaminated fish from the Great Lakes region. ATSDR encourages the submission of applications that emphasize research that will extend existing studies. ATSDR is also interested in funding applicant programs that identify populations which have a higher risk of short- and long-term adverse health effects from exposure to Great Lakes contaminants in fish, i.e., Native Americans, sport anglers, urban poor, and fetuses and nursing infants of mothers who consume contaminated Great Lakes fish. The program areas of research may include, but are not limited to:

1. Characterizing exposure and determining the profiles and levels of Great Lakes contaminants in biological tissues and fluids in high risk populations;

2. Identifying sensitive and specific human reproductive/developmental endpoints and correlating them to exposure to Great Lakes contaminants;

3. Determining the short- and long-term risk(s) of adverse health effects in progeny which result from parental exposure to Great Lakes contaminants (special emphasis on reproductive/developmental, behavioral, neurological, endocrinological, and immunological endpoints);

4. Investigating the feasibility of establishing registries and/or surveillance cohorts in the Great Lakes region; and

5. Establishing a chemical mixtures database with emphasis on tissue and blood levels in order to identify new cohorts, conduct surveillance and health effects studies, and establish registries and/or surveillance cohorts.

In awarding grants pursuant to the ATSDR Great Lakes Human Health Effects Research Program, ATSDR shall consider proposed projects that will help fill information gaps and address research needs regarding the human health impact of consumption of contaminated fish from the Great Lakes. ATSDR encourages collaborative efforts among potential applicants in pursuing these research needs.

Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria:

1. Scientific and Technical Review Criteria of New Applications

A. Proposed Program—60%

The extent to which the applicant's proposal addresses:

(1) The scientific merit of the hypothesis of the proposed project, including the originality of the approach and the feasibility, adequacy, and rationale of the design;

(2) The technical merit of the methods and procedures (including quality assurance and quality control) for the proposed project, including the degree to which the project can be expected to yield results that meet the program objective as described in the PURPOSE section of this announcement;

(3) The proposed project schedule, including clearly established and obtainable project objectives for which progress toward attainment can and will be measured;

(4) The proposed mechanism to be utilized as a resource to address community concerns and opinion, and create lines of communication; and

(5) The proposed method to disseminate the study results to state, tribal governments, Indian Health Service, local public health officials, community residents, and to other concerned individuals and organizations.

B. Program Personnel—30%

The extent to which the proposal has described:

(1) the qualifications, experience, and commitment of the Principal Investigator, and his/her ability to devote adequate time and effort to provide effective leadership; and

(2) the competence of associate investigators to accomplish the proposed study, their commitment, and time devoted to the study.

C. Applicant Capability—10%

Description of the adequacy and commitment of the institutional resources to administer the program and the adequacy of the facilities as they impact on performance of the proposed study.

D. Program Budget—(Not Scored)

The extent to which the budget is reasonable, clearly justified, and consistent with intended use of grant funds.

2. Review of Continuation Applications

Continuation awards within the project period will be made on the basis of the following criteria:

a. Satisfactory progress has been made in meeting project objectives;

b. Objectives for the new budget period are realistic, specific, and measurable;

c. Proposed changes in described long-term objectives, methods of operation, need for grant support, and/or evaluation procedures will lead to achievement of project objectives;

d. Budget request is clearly justified and consistent with the intended use of grant funds; and

e. Availability of funds for the remaining project years, if any.

Executive Order 12372

The applications submitted under this announcement are not subject to the Intergovernmental Review of Federal Programs as governed by Executive Order 12372.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance number is 93.161, Health Programs for Toxic Substances and Disease Registry.

Other Requirements

A Protection of Human Subjects

If the proposed project involves research on human subjects, the applicants must comply with Department of Health and Human Services Regulations (45 CFR part 46) regarding the protection of human subjects. Assurances must be provided that the project will be subject to initial and continuing review by the appropriate institutional review committees. The potential applicant should be aware that proposed project(s) which involve a Native community should have the project reviewed by the Indian Health Service if any component thereof is involved or will support the project, as well as the local tribal government for which that part of the project is applicable. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and forms provided in the application kit.

B. Cost Recovery

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), provides for the recovery of costs incurred for health-related activities at each Superfund site from potentially responsible parties. The recipient would agree to maintain an accounting system that will keep an accurate, complete, and current accounting of all financial transactions on a site-specific basis, i.e., individual time, travel, and associated costs including indirect cost, as appropriate for the site. The recipient will retain the documents and records to support these financial transactions, for possible use in a cost recovery case, for a minimum of ten (10) years after submission of a final financial status report, unless there is a litigation, claim, negotiation, audit, or other action involving the specific site; then the records will be maintained until resolution of all issues on the specific site.

C. Third Party Agreements

Project activities which are approved for contracting pursuant to the prior approval provisions shall be formalized in a written agreement that clearly establishes the relationship between the grantee and the third party. The written agreement shall at a minimum:

(1) State or incorporate by reference all applicable requirements imposed on the contractors under the grant by the terms of the grant, including requirements concerning peer review (ATSDR selected peer reviewers), ownership of data, and the arrangement for copyright when publications, data, or other copyrightable works are developed under or in the course of work under a PHS grant supported project or activity;

(2) State that any copyrighted or copyrightable works shall be subject to a royalty-fee, nonexclusive, and irrevocable license to the Government to reproduce, publish, or otherwise use them, and to authorize others to do so for Federal Government purposes;

(3) State that whenever any work subject to this copyright policy may be developed in the course of a grant by a contractor under grant, the written agreement (contract) must require the contractor to comply with these requirements and can in no way diminish the Government's right in that work; and

(4) State the activities to be performed, the time schedule for those activities, the policies and procedures to be followed in carrying out the agreement, and the maximum amount of money for which the grantee may become liable to the third party under the agreement.

The written agreement required shall not relieve the grantee of any part of its responsibility or accountability to PHS under the grant. The agreement shall therefore retain sufficient rights and control to the grantee to enable it to fulfill this responsibility and accountability.

Application Submission And Deadline Dates

The original and two copies of the application PHS Form 5161-1 must be submitted to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Mailstop E-13, Atlanta, Georgia 30305 by August 27, 1993.

1. *Deadline:* Applications shall be considered as meeting the deadline if they are either:

a. Received on or before the deadline date or,

b. Sent on or before the deadline date and received in time for submission to the objective review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

2. *Late Applications:* Applications which do not meet the criteria in 1.a. or 1.b. above are considered late applications. Late applications will not be considered in the current competition and will be returned to the applicant.

Where To Obtain Additional Information

To receive additional written information call (404) 332-4561. You will be asked your name, address, and phone number and will need to refer to Announcement Number 338. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Maggie Slay, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Room 300, Mailstop E-13, Atlanta, Georgia 30305, or by calling (404) 842-6797. Programmatic technical assistance may be obtained from Dr. Heraline Hicks, Research Implementation Branch, or Michael Youson, Office of the Director, Division of Toxicology, Agency for Toxic Substances and Disease Registry, 1600 Clifton Road, NE., Mailstop E-29, Atlanta, Georgia 30333, or by calling (404) 639-6306 or 6300.

Please Refer To Announcement Number 338 When Requesting Information And Submitting An Application

Potential applicants may obtain a copy of Healthy People 2000 (Full Report, Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report, Stock No. 017-001-00473-1) referenced in the **Introduction** through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325, (telephone 202-783-3238).

Dated: July 23, 1993.

Walter R. Dowdle,

Deputy Administrator, Agency for Toxic Substances and Disease Registry.

[FR Doc. 93-18065 Filed 7-28-93; 8:45 am]

BILLING CODE 4160-70-D

Centers for Disease Control and Prevention

[Announcement Number 327]

State and Community-Based Programs To Prevent Bicycle Injuries; Notice of Availability of Funds for Fiscal Year 1993

Introduction

The Centers for Disease Control and Prevention (CDC), announces the availability of funds in fiscal year (FY) 1993 for new cooperative agreements for State and Community-based Injury Control Programs to Prevent Bicycle Injuries. These programs will develop, implement, and evaluate multifaceted bicycle injury prevention programs to reduce the incidence of injuries and deaths among bicyclists which are preventable by helmet usage. They will also pilot test the prototype Injury Control and Risk Factor Surveillance System (ICARIS).

The Public Health Service (PHS) is committed to achieving the health promotion and disease prevention objectives of Healthy People 2000, a PHS-led national activity to reduce morbidity and mortality and improve the quality of life. This announcement is related to the priority area of Unintentional Injuries. (For ordering a copy of Healthy People 2000, see the section WHERE TO OBTAIN ADDITIONAL INFORMATION.)

Authority

This program is authorized under sections 301, 317, and 394 of the Public Health Service Act, (42 U.S.C. 241, 247b and 280b), as amended. Program regulations are set forth in 42 CFR part 52.

Eligible Applicants

Eligible applicants are the official public health agencies of states, the District of Columbia, American Samoa, the Commonwealth of Puerto Rico, the Virgin Islands, the Federated States of Micronesia, Guam, the Northern Mariana Islands, the Republic of Marshall Islands, and the Republic of Palau. Additionally, official public health agencies of county or city governments with jurisdictional populations greater than 1,000,000 people are eligible. This includes recipients under Program Announcement 927 (State and Community-based Injury Control Programs).

Availability of Funds

Approximately $675,000 is available in FY 1993 to fund up to 3 programs. It is expected that the average award will be $225,000 ranging from $150,000 to $250,000. It is expected that the awards will begin on or about September 30, 1993 and will be made for a 12-month budget period within a project period not to exceed 3 years. Funding estimates outlined above are subject to change based on the actual availability of funds. Non-competing continuation awards within the approved project period will be made on the basis of satisfactory progress in meeting program objectives and the availability of funds.

Note: At the request of the applicant, Federal personnel may be assigned to a project area in lieu of a portion of the financial assistance.

Purpose

The purpose of these cooperative agreements is to develop, implement, and evaluate the effectiveness of multifaceted bicycle injury prevention programs in reducing morbidity, mortality, severity, disability, and costs associated with bicycle injuries which are preventable by helmet usage. This program is designed to facilitate the development, expansion, and improvement of bicycle injury control programs, and in particular, bicycle helmet usage programs within state and local health agencies. Programs within state and local health agencies are expected to establish or strengthen a lead capacity for the prevention and control of bicycle-related injuries. This capacity will enable these agencies to define and monitor the injury problem, mobilize broad collaborations for developing intervention strategies, including public education programs, and evaluate the program's effectiveness in terms of reduced morbidity and mortality, severity, disability, and cost. These programs will also be expected to pilot test the ICARIS system, pending OMB clearance.

Specifically, these awards are intended to:

A. Establish a state-wide bicycle injury prevention and control program by creating, within a health agency, a coordinator and support staff to coordinate bicycle injury control activities both within and outside the health agency;

B. Develop or improve injury surveillance activities to identify bicycle-related injuries, including data describing the magnitude of the problem and who is affected. Conduct injury risk factor surveillance using ICARIS. Head injury surveillance efforts should incorporate the core variables from the Head Injury Reporting Guidelines minimum data set. Case definitions should be consistent with the reporting guidelines;

C. Implement and evaluate multifaceted prevention activities to address and define the bicycle injury problem;

D. Provide injury control information to the public, legislators, the academic community and others based upon program findings and;

E. Promote statewide strategies (e.g., legislation) and community prevention programs (including educational, promotional and legislative strategies) to encourage the use of bicycle helmets.

Program Requirements

In conducting activities to achieve the purpose of this program, the recipient shall be responsible for the activities under A., below and CDC shall be responsible for the activities under B., below:

A. Recipient Activities

1. Provide a director/coordinator and staff who have authority and responsibility to carry out the project.

2. Define the magnitude of the bicycle-related injury problem; define the population at risk, and collect adequate injury data. These data include deaths and injuries attributable to bicycle-related head injury, use rates among various age groups in the community, and barriers to helmet use. Potential data sources include: E-coded hospital discharge data, Emergency Room data, Head and Spinal Cord Injury Registries, and random digit dial phone surveys of behavior (e.g., BRFSS).

3. Conduct state-wide injury risk factor surveillance using ICARIS using existing computer-assisted telephone interview (CATI) capabilities. Questions which have been proved valid and

feasible as determined by the ICARIS national evaluation study will be available for states to use.

4. Compare ICARIS results to Behavioral Risk Factor Survey results.

5. Establish a statewide coalition of appropriate individuals, agencies, and organizations with experience and interest in bicycle helmet usage campaigns. The coalition should provide for community input and seek to generate community support for the program. The coalition should include members internal and external to the health department (e.g. highway safety, EMS, media, private physicians, local public health leaders, community leaders, voluntary groups, acute care and rehabilitation.) Similar coalitions should be established for each intervention site.

6. Work with role highway safety officials (e.g., Governor's Highway Safety Representative, police) to promote bicycle helmet usage.

7. Demonstrate the role highway safety officials (e.g., Governor's Highway Safety Representative, police) will play in promoting bicycle helmet usage.

8. Promote and develop local and statewide legislation requiring bicycle helmet usage for all riders and passengers under 16 years of age.

9. Work with state and local community groups to develop and promote public information programs/strategies to increase the use of bicycle helmets (e.g., development of overall Plan to include selection of target groups, implementing the intervention(s): media/educational/promotional activities, and evaluation).

10. Evaluate the effectiveness of each intervention activity and the program as a whole.

B. CDC Activities

1. Provide consultation and assistance in problem assessment and target population determination; the evaluation of coverage, cost, and impact of current and potential interventions; and design of scientific protocols.

2. Collaborate in the design of all phases of the intervention demonstrations. Provide consultation on data collection instruments and procedures, and provide coordination of research, evaluation, and intervention activities between and among the sites.

3. Monitor data collection and analysis of information collected from evaluation, and provide consultation in establishing standardized data collection and reporting systems to monitor program activities and costs of interventions.

4. Assist states to develop a state-specific injury risk factor questionnaire based on ICARIS.

5. Assist states in determining adequate sample size for surveys.

6. Assist states to modify the existing national CATI system for ICARIS to a state-specific form.

7. Provide statistical and programming support to states for appropriate data analysis and interpretation.

8. Provide consultation in standardized implementation of intervention activities.

9. Provide up-to-date scientific information about injury prevention and coordinate with related activities in CDC's national injury prevention program.

10. Assist in the transfer of information and methods developed in these program to other programs through CDC's national injury prevention and control program.

Review and Evaluation Criteria

Applications will be reviewed and evaluated according to the following criteria (Maximum 100 total points):

1. *Background and Need:* (10%)

The extent to which the applicant presents data justifying need, identifies suitable target populations, and demonstrates capacity through related activities to conduct such a program.

2. *Goals and Objectives:* (10%)

The extent to which the applicant has included goals which are specific, measurable, and relevant to the purpose of the proposal. The extent to which the applicant has included objectives which are specific, time-framed, measurable and feasible. The extent to which objectives are related to goals presented and to increasing bicycle helmet usage and pilot testing ICARIS.

3. *Methods:* (30%)

The extent to which the applicant provides a detailed description of proposed activities which are likely to achieve each objective for the budget period. The extent to which the applicant provides a reasonable schedule for implementation of the activities and the extent to which coordination and supervision of staff and organizations involved in activities is apparent.

4. *Evaluation:* (30%)

The extent to which the evaluation system will document program process and measure program effectiveness and impact, bicycle helmet usage and prevention of bicycle related injuries. The extent to which a feasible plan for reporting evaluation results and using evaluation information for programmatic decisions is included. The extent to which a feasible plan for evaluating ICARIS is included.

5. *Collaboration:* (20%)

The extent to which relationships between the program and the other agencies, organizations, health department units and local health departments is clear, complete and provides for complementary or supplementary working interactions. The extent to which coalition membership and roles are clear and appropriate. The extent to which relationships with the Governor's Office of Highway Safety, Maternal and Child Health, Injury Control Research Centers (ICRCs) or local academic institutions and local communities are completely described, are activity-specific and show evidence of support.

6. *Budget and Justification:* (not weighted)

The extent to which the applicant provides a detailed budget and justification consistent with stated objectives and planned program activities. NOTE: At the request of the applicant, Federal personnel may be assigned to a project area in lieu of a portion of the financial assistance.

Executive Order 12372 Review

Applications are subject to Intergovernmental Review of Federal Programs as governed by Executive Order (E.O.) 12372. E.O. 12372 sets up a system for state and local government review of proposed Federal assistance applications. Applicants (other than federally recognized Indian tribal governments) should contact their state Single Point of Contact (SPOC) as early as possible to alert them to the prospective applications and receive any necessary instructions on the state process. For proposed projects serving more than one state, the applicant is advised to contact the SPOC of each affected state. A current list of SPOCs is included in the application kit. If SPOCs have any state process recommendations on applications submitted to CDC, they should forward them to Henry S. Cassell III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., room 300, Mailstop E-13, Atlanta, Georgia 30305, no later than 60 days after the application deadline date. The granting agency does not guarantee to "accommodate or explain" for state process recommendations it receives after that date.

Public Health System Reporting Requirements

This program is not subject to the Public Health System Reporting Requirements.

Catalog of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number (CFDA) is 93.136.

Other Requirements

Human Subjects

If the proposed project involves research on human subjects, the applicant must comply with the Department of Health and Human Services Regulations (45 CFR part 46) regarding the protection of human subjects. Assurance must be provided to demonstrate that the project will be subject to initial and continuing review by an appropriate institutional review committee. The applicant will be responsible for providing assurance in accordance with the appropriate guidelines and form provided in the application kit.

Application Submission and Deadline

The program announcement and application kit were sent to all eligible applicants in May 1993.

Where To Obtain Additional Information

To receive additional written information call (404) 332-4561. You will be asked to leave your name, address, and phone number and will need to refer to Announcement Number 327. You will receive a complete program description, information on application procedures, and application forms.

If you have questions after reviewing the contents of all the documents, business management technical assistance may be obtained from Adrienne Brown, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control and Prevention (CDC), 255 East Paces Ferry Road, NE., Mailstop E-13, Atlanta, Georgia 30305, (404) 842-6634.

Programmatic assistance may be obtained from James S. Belloni, Chief, Program Development and Implementation Branch, National Center for Injury Prevention and Control, Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, NE., Mailstop F-41, Atlanta, Georgia 30333, (404) 488-4400. (Additional information on the Injury Control and Risk Factor Surveillance System (ICARIS) and Injury Control Research Centers (ICRCs) may be obtained from the programmatic contact.)

Please refer to Announcement Number 327 when requesting information and submitting an application.

Potential applicants may obtain a copy of Healthy People 2000 (Full Report; Stock No. 017-001-00474-0) or Healthy People 2000 (Summary Report; Stock No. 017-001-00473-1) through the Superintendent of Documents, Government Printing Office, Washington, DC 20402-9325, telephone (202) 783-3238.

Dated: July 23, 1993.

Ladene H. Newton,

Acting Associate Director for Management and Operations, Centers for Disease Control and Prevention (CDC).

[FR Doc. 93-18064 Filed 7-28-93; 8:45 am]

BILLING CODE 4160-18-P

Food and Drug Administration

[Docket No. 93N-0189]

Warning Statements for Medical and Food Products Containing or Manufactured With Chlorofluorocarbons and Other Ozone-Depleting Substances; Alternative Language; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of June 29, 1993 (58 FR 34812). The document announced the availability of alternative language with respect to warning statements for human drug, biological, and device products containing or manufactured with chlorofluorocarbons (CFC's) and other ozone-depleting substances. The agency inadvertently omitted a paragraph from that document. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Philip L. Chao, Center for Drug Evaluation and Research (HFD-362), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301-295-8049.

In FR Doc. 93-15233, appearing on page 34812 in the **Federal Register** of Tuesday, June 29, 1993, the following correction is made: On page 34813, in the 3d column, after the 1st full paragraph under the quoted text, the following paragraph is added:

"FDA notes that the EPA regulations (58 FR 8136 at 8166) state that, for prescription medical products that FDA finds to be essential for public health, the warning statement may be placed in supplemental printed material intended to be read by the prescribing physician, as long as the alternative statement is placed on the product, in packaging, or supplemental printed material intended to be read by the patient at time of purchase. For prescription human medical products which contain or are manufactured with class I substances, FDA declines, at this time, to determine which products are essential for public health. The Clean Air Act mandated that the warning labels be on all products containing or manufactured with CFC's on and after May 15, 1993. Given this date, FDA believes it would be impractical to engage in case-by-case determinations of which prescription human medical products are essential to public health. Thus, until FDA can establish criteria and make individualized determinations as to whether a medical product is essential to public health, the most prudent course of action is to presume, for purposes of the warning statement, that all prescription human medical products are essential to the public health."

Dated: July 22, 1993.

Michael R. Taylor,

Deputy Commissioner for Policy.

[FR Doc. 93-18073 Filed 7-28-93; 8:45 am]

BILLING CODE 4160-01-F

[Docket No. 93F-0201]

Asahi Denka Kogyo K. K.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Asahi Denka Kogyo K. K. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of sodium 2,2-methylenebis(4,6-di-*tert*-butylphenyl) phosphate as a clarifying agent in polypropylene articles intended for contact with food to include the use at temperatures up to and including retort conditions.

DATES: Written comments on petitioner's environmental assessment by August 30, 1993.

ADDRESSES: Submit written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Helen R. Thorsheim, Center for Food

Safety and Applied Nutrition (HFS-216), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-254-9511.

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 3B4378) has been filed by Asahi Denka Kogyo K. K., c/o Japan Technical Information Center, Inc., 1002 Pennsylvania Ave. SE., Washington, DC 20003. The petition proposes that the food additive regulations in § 178.3295 *Clarifying agents for polymers* (21 CFR 178.3295) be amended to provide for the safe use of sodium 2,2'-methylenebis(4,6-di-*tert*-butylphenyl) phosphate as a clarifying agent in polypropylene articles intended for contact with food to include the use at temperatures up to and including retort conditions.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before August 30, 1993, submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, 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: July 21, 1993.

Fred R. Shank,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 93-18035 Filed 7-28-93; 8:45 am]

BILLING CODE 4160-01-F

Health Resources and Services Administration

Final Funding Priority for Grants for Nurse Anesthetist Education Programs for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces the final funding priority for fiscal year (FY) 1993 Grants for Nurse Anesthetist Education Programs under the authority of section 831(a), title VIII of the Public Health Service Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of the Health Professions Education Extension Amendments of 1992, Public Law 102-408, dated October 13, 1992.

This program was announced in the **Federal Register** at 58 FR 21177 on April 19, 1993. The announcement included a proposed funding priority. A comment period of 30 days was established to allow public comment concerning the proposed funding priority. One comment was received. This notice includes a discussion of the comment received and the final funding priority for Grants for Nurse Anesthetist Education Programs for Fiscal Year 1993, which remains as proposed. Comments on program aspects that were not specifically proposed for public comment are not addressed in this notice.

Purpose

Section 831(a) of the Public Health Service Act authorizes the Secretary to make grants to cover the costs of projects to develop and operate programs for the education of nurse anesthetists.

Eligibility

Eligible applicants for Grants for Nurse Anesthetist Education Programs are public or private nonprofit institutions, accredited by an entity or entities designated by the Secretary of Education. Grants may be awarded to develop and operate a new nurse anesthetist program. Grants may also be awarded to maintain or expand an existing program.

Other Considerations

In addition, funding factors may be applied in determining funding of approved applications. It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory Funding Preference

In making awards of grants under this section, preference will be given to any qualified applicant that—(A) has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. Preference will be given only for applications ranked above the 20th percentile of applications that have been recommended for approval by the appropriate peer review group.

Additional details about the implementation of this preference were published in the **Federal Register** at 58 FR 9570 on February 22, 1993. The burden for collection of information to request this preference is under review by the Office of Management and Budget in accordance with the Paperwork Reduction Act.

Final Funding Priority

It was proposed that a funding priority be given to programs which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating students from those minority or low-income populations identified as at-risk of poor health outcomes. The comment received objected to including low-income populations in this priority because, "The average income for registered nurses prevents applicants from qualifying for this funding priority." This language does not hinder applicants for this program since applicants can qualify for this priority by enrolling and graduating students from minority populations. However, since nurse anesthetist students are registered nurses whose income would be higher than the low-income figures, we agree that low-income populations be deleted from this priority. The final funding priority is as follows.

A funding priority will be given to programs which demonstrate either substantial progress over the last 3 years or a significant experience of 10 or more years in enrolling and graduating students from those minority populations identified as at-risk of poor health outcomes.

Information Requirements Provision

Under section 860(e)(2) of the Act, the Secretary may make an award under the Grants for Nurse Anesthetist Education Programs only if the applicant for the award submits to the Secretary information regarding the programs of the applicant. These requirements will be provided in the applications materials. The burden for collection of

this information is under review by the Office of Management and Budget in accordance with the Paperwork Reduction Act.

Additional Information

If additional programmatic information is needed, please contact: Mary S. Hill, R.N., Ph.D., Chief, Nursing Education Practice Resources Branch, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 9–35, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–6193 FAX: (301) 443-8586.

This program, Grants for Nurse Anesthetist Education Programs, is listed at 93.916 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12372, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: July 23, 1993.

William A. Robinson,

Acting Administrator.

[FR Doc. 93–18075 Filed 7–28–93; 8:45 am]

BILLING CODE 4160–15–P

Final Criteria for Fellows and Final Review Criteria for Grants for Nurse Anesthetist Faculty Fellowships for Fiscal Year 1993

The Health Resources and Services Administration (HRSA) announces the final criteria for fellows and final review criteria for fiscal year (FY) 1993 Grants for Nurse Anesthetist Faculty Fellowships under the authority of section 831(b), title VIII of the Public Health Service (PHS) Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of the Health Professions Education Extension Amendments of 1992, Pub. L. 102–408, dated October 13, 1992.

This program was announced in the **Federal Register** at 58 FR 21986 on April 26, 1993. The announcement included proposed criteria for fellows and proposed review criteria. A comment period of 30 days was established to allow public comment concerning the proposed criteria for fellows and proposed review criteria. One comment was received. This notice includes a discussion of the comment received and the final criteria for fellows and final review criteria for Grants for Nurse Anesthetist Faculty Fellowships for FY 1993. Comments on program aspects that were not specifically proposed for public comment are not addressed in this notice.

Purpose

Section 831(b) of the Public Health Service Act authorizes the Secretary to make grants to provide financial assistance to certified registered nurse anesthetists (CRNA) who are faculty members in accredited program to enable such nurse anesthetists to obtain advanced education relevant to their teaching functions.

Eligibility

Public and private nonprofit institutions which employ CRNA faculty to teach registered nurses in a full-time accredited nurse anesthetist training program may apply for a Grant for Nurse Anesthetist Faculty Fellowships.

Final Criteria for Fellows

No comments were received regarding the criteria for fellows which remain as proposed. To be eligible for traineeship support an individual must be:

1. a United States citizen, national, or permanent resident;
2. a certified registered nurse anesthetist with current licensure to practice, and with teaching responsibilities in an accredited nurse anesthetist education program;
3. enrolled or accepted for enrollment in a formal program of study which leads to a master's or doctoral degree;
4. proposed for a fellowship in the applicant institution's grant proposal; and
5. a faculty member employed by, or affiliated with, the applicant institution during the period of approved fellowship support.

Final Review Criteria

The comment received suggested that the review criterion related to faculty practicing or teaching in medically underserved communities should be eliminated because "faculty are employed by major medical centers, large universities or physician groups located in metropolitan areas and do not meet the requirements of underserved * * *" Since underserved populations exist in metropolitan areas as well as rural areas, the review criteria remain as proposed.

The review of applications will take into consideration the following criteria:

1. The plan for faculty development at the applicant school, and the relationship of the faculty fellowship request to the overall program plan.
2. The extent to which the described advanced education is relevant to the faculty member's teaching function.
3. The extent to which the faculty practices and/or teaches in medically underserved and rural communities.
4. The justification and reasonableness of the budget request.
5. Qualifications of the Program Director.

Other Considerations

In addition, funding factors may be applied in determining funding of approved applications. It is not required that applicants request consideration for a funding factor. Applications which do not request consideration for funding factors will be reviewed and given full consideration for funding.

Statutory Funding Preference

Section 860(e) of the PHS Act, as amended by the Nurse Education and Practice Improvement Amendments of 1992, title II of the Health Professions Education Extension Amendments of 1992, Public Law 102–408, enacted on October 13, 1992, provides for the following statutory preference for this program of Grants for Nurse Anesthetist Faculty Fellowships, as well as for certain other programs under titles VII and VIII of the PHS Act.

Statutory preference will be given to qualified applicants that: (1) Have a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (2) have achieved, during the 2-year period preceding the fiscal year for which such an award is sought, a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of applications that have been recommended for approval.

Additional information concerning the implementation of this preference has been published in the **Federal Register** at 58 FR 9570, dated February 22, 1993. The burden for collection of information to request this preference is under review by the Office of Management and Budget in accordance with the Paperwork Reduction Act.

Established Funding Preference

The following funding preference was established in fiscal year 1990 after public comment (55 FR 36325, dated September 5, 1990). A revised version is being extended in fiscal year 1993. The Department determined that this is a more appropriate means to achieve program goals.

A funding preference will be given first to faculty who will be completing degree requirements before or by the end of the funded budget year, second

to faculty who are full-time students, and third to faculty who are part-time students.

Additional Information

If additional programmatic information is needed, please contact: Mary S. Hill, R.N., Ph.D., Chief, Nursing Education Practice Resources Branch, Division of Nursing, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 9–36, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–6193, FAX: (301) 443–8586.

This program, Grants for Nurse Anesthetist Faculty Fellowships, is listed at 93.907 in the *Catalog of Federal Domestic Assistance*. It is not subject to the provisions of Executive Order 12373, Intergovernmental Review of Federal Programs (as implemented through 45 CFR part 100). This program is not subject to the Public Health System Reporting Requirements.

Dated: July 22, 1993.

William A. Robinson,

Acting Administrator.

[FR Doc. 93–18076 Filed 7–28–93; 8:45 am]

BILLING CODE 4160–15–P

Announcement of Proposed Methodology for Implementation of the Statutory General Funding Preference for Selected Grant Programs Under Titles VII and VIII of the Public Health Service Act for Fiscal Year 1994

SUMMARY: The Health Professions Education Extension Amendments of 1992 and the Nurse Education and Practice Improvement Amendments of 1992 (Pub. L. 102–408, dated October 13, 1992) authorize a general funding preference (sections 791(a) and 860(e)(1)) for selected grant programs in titles VII and VIII of the Public Health Service (PHS) Act. For the purpose of making grant and cooperative agreement awards, funding preference is defined as the funding of a specific category or group of approved applications ahead of other categories or groups of approved applications in a discretionary program, or favorable adjustment of the formula which determines the grant award in a formula grant program.

This statutory general preference was implemented in Fiscal Year (FY) 1993 following publication of a proposed **Federal Register** notice (57 FR 60212, dated December 18, 1992) which announced the implementation methodology for FY 1993. Following public comment, modifications were made in the proposed methodology and a final notice was published in the **Federal Register** (58 FR 9570, dated February 22, 1993). In addition, input was elicited from constituency groups affected by this preference provision. This notice will describe the proposed methodology for FY 1994 implementation of the general funding preference authorized by sections 791(a) and 860(e)(1) of the PHS Act.

EFFECTIVE DATE: The methodology for implementing the statutory general funding preference which is described in this notice is for use in FY 1994 grant cycles for the programs which are subject to this funding preference.

SUPPLEMENTARY INFORMATION: Sections 791(a) and 860(e)(1) of the PHS Act include a general funding preference for selected grant programs under titles VII and VIII. Grant programs which are subject to this funding preference are:

Departments of Family Medicine (section 747(b)),

Grants for Predoctoral Training in Family Medicine (section 747(a)),

Grants for Graduate Training in Family Medicine (section 747(a)),

Grants for Faculty Development in Family Medicine (section 747(a)),

Grants for Predoctoral Training in General Internal Medicine and/or General Pediatrics (section 748),

Grants for Residency Training in General Internal Medicine and/or General Pediatrics (section 748),

Grants for Faculty Development in General Internal Medicine and/or General Pediatrics (section 748),

Residency Training and Advanced Education in the General Practice of Dentistry (section 749),

Grants for Physician Assistant Training Program (section 750),

[1] Grants for Physician Assistant Faculty Development (section 750),

Podiatric Primary Care Residency Training (section 751),

Grants for Preventive Medicine Residency Training (section 763),

Allied Health Traineeships (section 766),

Allied Health Project Grants (section 767),

Advanced Nurse Education (section 821),

Nurse Practitioner and Nurse-Midwifery Programs (section 822)

Professional Nurse Traineeships (section 830),

Nurse Anesthetist Education Programs (section 831(a)),

Nurse Anesthetist Traineeships (section 831(a)), and

Grants for Nurse Anesthetist Faculty Fellowships (section 831(b)).

Programs which will have competitive cycles this year will be determined following approval of appropriations for FY 1994. A notice will be published to announce each competitive cycle.

[1] Program currently in development.

Statutory General Funding Preference Provision

Under sections 791(a) and 860(e)(1) of the Act, with respect to the above listed grant programs, preference will be given to any qualified applicant that—

(A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or

(B) During the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

When program applications are peer reviewed, preference will be given only for applications ranked above the 20th percentile of applications that have been recommended for approval by the appropriate peer review group. In several formula grant programs affected by this preference, the applications are not required to be submitted to a peer review group.

Statutory Definition of "Graduate"

Under sections 791(c) and 860(e)(3), "graduate" is defined as an individual who has successfully completed all training (and residency requirements) necessary for full certification in the health profession selected by the individual.

Completion of all training for certification purposes will be defined in program specific notices based on the characteristics of the program.

Methodology for Implementation

The methodology for implementing this statutory general funding preference includes (1) the definition of terms including "high rate," "significant increase in the rate," and "medically underserved community," (2) implementation specifics for new programs and small programs, (3) a system of providing access to lists of work settings which are recognized as medically underserved areas, and (4) a system of ranking applications when multiple funding preferences are used. Comments are invited only on the proposed changes in the definitions of "high rate," "significant increase in the rate," and "medically underserved communities" and in the implementation specifics for new programs and small programs. No changes have been made in the system of providing access to lists of work settings or in the system of ranking applications since the final FY 1993 notice.

To qualify for this funding preference, an applicant must meet the criteria for either part (A) or part (B) of the statutory

provision cited above and be ranked above the 20th percentile of applications that have been recommended for approval by the appropriate peer review group for all program applications that are peer reviewed. Information submitted to apply for this statutory funding preference will be subject to the normal monitoring and Federal audit processes.

Proposed Definitions of "High Rate" and "Significant Increase in the Rate"

"High rate" is defined as a minimum percent of graduates in academic year 1991–92 or academic year 1992–93, whichever is greater, who spend at least 50 percent of their worktime in clinical practice in the specified settings. The minimum percent for "high rate" for each program will be identified in the **Federal Register** announcement for that program and in the program materials. This rate will be based on the data obtained during the FY 1993 grant cycles and/or other available data. For undergraduate medical education programs academic years 1988–89 and 1989–90 will be used. Preventive medicine, public health, dental public health, and public health nurse graduates can be counted if they identify a primary work affiliation at one of the qualified work sites. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

"Significant increase in the rate" means that, between academic years 1991–92 and 1992–93, the rate of placing graduates in the specified settings has increased by a minimum percent and that not less than 15 percent of graduates from the most recent year are working in these settings. The minimum percent for "significant increase in the rate" for each program will be identified in the **Federal Register** announcement for that program and in the program materials. This rate will be based on the data obtained during the FY 1993 grant cycles and/or other available data.

Proposed Implementation Specifics for New Programs

Experience with this preference, during FY 1993, points out that new programs are generally unable to compete effectively for funding under grant programs which are subject to this preference. In FY 1993, applications for the development of new programs were permitted to provide information about the placement of graduates from the entire school in medically underserved areas. Some new programs are not part of a larger school, others were unfairly penalized by the record of the entire school, and others are not directly related to the entire school (i.e., a Physician Assistant program in a medical school). The reauthorization legislation for several of the programs which are subject to the general funding preference specifically includes support for new programs. To allow new programs to compete more equitably in FY 1994, criteria for the general funding preference have been developed which will apply only to new programs.

A new program is defined as any program which has graduated less than three classes. After a program has graduated three classes, that program will be able to provide the information necessary for the general funding preference as defined in the law and will no longer be considered a new program. A new program will qualify for the general funding preference if four or more of the following criteria are met:

1. The mission statement of the program identifies a specific purpose of preparing health professionals to serve underserved populations.
2. The curriculum includes content which will help to prepare practitioners to serve underserved populations.
3. Substantial clinical training experience is required in medically underserved communities.
4. A minimum of 20 percent of the faculty spend at least 50 percent of their time providing/supervising care in medically underserved communities.
5. The entire program or a substantial portion of the program is physically located in a medically underserved community.
6. Student assistance, which is linked to service in medically underserved communities following graduation, is available to the students in the program.
7. The program provides a placement mechanism for deploying graduates to medically underserved communities.

Meeting these criteria for the statutory general funding preference will qualify new programs to receive the statutory general funding preference.

In FY 1993, new programs could also qualify for the general funding preference by providing assurance that 20 percent of their prospective graduates had signed, prior to December 18, 1992, commitments to practice in medically underserved communities after graduation. In FY 1994, new programs can qualify for the general preference by providing assurance that a minimum percent of their prospective graduates have signed commitments to practice in medically underserved communities after graduation contingent to receiving some type of student assistance. This minimum percent will be equal to the minimum percentage for "high rate." Students who have signed such agreements are subject to the terms and conditions as identified by the student assistance program of the school.

In summary, new programs can qualify for the general funding preference by: (1) Meeting four or more of the criteria for new programs, or (2) providing assurance that a minimum percent of their prospective graduates have signed commitments to practice in medically underserved communities after graduation contingent to receiving some type of student assistance.

Proposed Implementation Specifics for Small Programs

In FY 1993, small programs were (1) defined as programs with less than 10 graduates per year and (2) required to submit data for two years to qualify for the general funding preference based on high rate. Because of the small number of graduates involved, the ability to qualify for the general funding preference could have been based on the decision of 1 or 2 graduates. For FY 1994, the program materials for grant programs whose applicants typically have less than 10 graduates per year will request data for the preceding three years which will be aggregated to determine whether or not the "high rate" has been achieved.

Statutory Definition of "Medically Underserved Community"

Section 799(6) of the PHS Act defines "medically underserved community" as an urban or rural area or population that—

(A) Is eligible for designation under section 332 as a health professional shortage area;

(B) Is eligible to be served by a migrant health center under section 329, a community health center under section 330, a grantee under section 340 (relating to homeless individuals), or a grantee under section 340A (relating to residents of public housing); or

(C) Has a shortage of personal health services, as determined under criteria issued by the Secretary under section 1861(aa)(2) of the Social Security Act (relating to rural health clinics).

In FY 1993, a graduate was deemed to be serving in a medically underserved community if he or she worked in any of the work settings identified in the **Federal Register** notice. Following public comment in FY 1993, the category of "ambulatory practice sites designated by State or local governments as serving medically underserved communities" was added to the list of acceptable work settings. In

FY 1994 this item is clarified as "ambulatory practice sites designated by State Governors as serving medically underserved communities." We recognize that States may not use identical criteria in determining these designations. Therefore, HRSA will begin working with the States to identify ways of obtaining more uniform data. It is expected that changes based on this collaboration with the States will be implemented after FY 1994.

For implementation of this general funding preference in FY 1994, it is proposed that service in a "medically underserved community" will include service in the following work settings:

Community Health Centers (section 330)
Migrant Health Centers (section 329)
Health Care for the Homeless Grantees (section 340)
Public Housing Primary Care Grantees (section 340A)
Rural Health Clinics, federally designated (section 1861(aa)(2) of the Social Security Act)
National Health Service Corps sites, freestanding (section 333)
Indian Health Service Sites (Pub. L. 93–638 for tribally operated sites and Pub. L. 94–437 for IHS operated sites)
Federally Qualified Health Centers (section 1905 (a) and (l) of the Social Security Act)
Primary Medical Care Health Professional Shortage Areas (HPSAs) (facilities and geographic) (designated under section 332) For primary care physicians and other health personnel except dentists and nurses
Dental HPSAs (facilities and geographic) (designated under section 332) For dentists only
Nurse Shortage Areas (old section 836, currently section 846) For nurses only
State or Local Health Departments (Regardless of sponsor—for example, local health departments who are funded by the State would qualify.)
Ambulatory practice sites designated by State Governors as serving medically underserved communities

It is recognized that some practices and/or facilities that provide care to medically underserved populations are not included in these work settings. Public comment in FY 1993 encouraged inclusion of additional work settings such as "at least one-third of the patients * * * are either indigent, covered by Medicaid, or covered by some other type of program associated with underserved communities * * *" or "practice consists of at least 50 percent uninsured or Medicaid patients in the previous year." These work settings, which describe the relative number of underserved patients seen in a practice and/or facility, are not included in the list of work settings for FY 1994 since they are outside the scope of the statutory definition of medically underserved community.

Access to the Lists of Medically Underserved Work Settings

A listing of Community Health Centers, Migrant Health Centers, Health Care for the Homeless Grantees, Public Housing Primary Care Grantees, Rural Health Clinics, National Health Service Corps Sites, Indian Health Service Sites, Federally Qualified Health Centers, and State Health Departments will be available through an electronic bulletin board, called the BHPr (Bureau of Health Professions) Bulletin Board. Data will be available in two formats, as a dBASE III file or as an ASCII file. The BHPr Bulletin Board can be accessed by using a personal computer with a communication package and a modem by dialing (301) 443–5913. Detailed instructions for how to proceed will appear on the screen as soon as access to the Bulletin Board is complete. Applicants who do not have the necessary equipment to access the electronic bulletin board may obtain additional information by calling the Program Official identified in the application materials for the grant programs subject to this statutory funding preference.

A list of designated Primary Medical Care Health Professional Shortage Areas (HPSAs) was published in the Federal Register on October 28, 1992 (57 FR 48854).

For additional information concerning Local Health Departments, applicants may call the National Association of County Health Officials (NACHO) at (202) 783–5550.

Ranking Applications When Multiple Funding Preferences Are Used

For grant programs that include multiple funding preferences, preference points will be assigned. An application will receive one point for qualifying for each statutory funding preference and one half point for qualifying for each administrative preference, but no applicant qualifying only for an administratively determined preference would be funded ahead of an applicant qualifying for a statutory funding preference. The total number of preference points for any grant program will equal the number of statutory preferences plus half the number of administrative preferences.

Additional Information

Interested persons are invited to comment on the proposed definitions of "high rate," "significant increase in the rate," and "medically underserved community" and the implementation specifics for new programs and small programs. The comment period is 30 days. All comments received on or before August 30, 1993, will be considered before the final implementation methodology for fiscal year 1994 is established. Written comments should be addressed to: Ms. Shirley Johnson, Director, Office of Program Development, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, room 8A–55, 5600 Fishers Lane, Rockville, Maryland 20857.

All comments received will be available for public inspection and copying in the Office of Program Development, Bureau of Health Professions, at the above address, weekdays (Federal holidays excepted) between the hours of 8:30 a.m. and 5 p.m.

Dated: July 23, 1993.

William A. Robinson,

Acting Administrator.

[FR Doc. 93–18074 Filed 7–28–93; 8:45 am]

BILLING CODE 4160–15–P

National Institutes of Health Division of Research Grants; Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Division of Research Grants Behavioral and Neurosciences Special Emphasis Panel.

The meeting will be closed in accordance with the provisions set forth in section 552b(c)(4) and 552b(c)(6), title 5, U.S.C. and section 10(d) of Public Law 92–463, for the review, discussion and evaluation of individual grant applications in the various areas and disciplines related to behavior and neuroscience. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Office of Committee Management, Division of Research Grants, Westwood Building, National Institutes of Health, Bethesda, Maryland 20892, telephone 301–594–7265, will furnish summaries of the meeting and roster of panel members.

MEETING TO REVIEW INDIVIDUAL GRANT APPLICATIONS:

Scientific Review Administrator: Dr. Jane Hu (301) 594–7269
Date of Meeting: August 2, 1993
Place of Meeting: Chevy Chase Holiday Inn, Bethesda, MD
Time of Meeting: 8:30 a.m.

This notice is being published less than 15 days prior to the meeting due

to the difficulty of coordinating the attendance of members because of conflicting schedules.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: July 22, 1993.

Susan K. Feldman,

Committee Management Officer, NIH.

[FR Doc. 93–18140 Filed 7–28–93; 8:45 am]

BILLING CODE 4140–01–M

Social Security Administration

[Social Security Acquiescence Ruling 93-3(6)]

Akers v. Secretary of Health and Human Services; Attorney's Fees Based in Part on Continued Benefits Paid to Social Security Claimants

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Principal Deputy Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 93-3(6).

EFFECTIVE DATE: July 29, 1993.

FOR FURTHER INFORMATION CONTACT: Walt Burton, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 966-5041.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling when implementing the decision of a court within the Sixth Circuit which has reversed the final decision of the Secretary and awarded benefits to the claimant. This Social Security Acquiescence Ruling will apply to all such cases on or after July 29, 1993.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security - Disability Insurance; 93.803 Social Security Retirement Insurance; 93.805 Social Security Survivors Insurance; 93.806 - Special Benefits for Disabled Coal Miners; 93.807 - Supplemental Security Income.)

Dated: January 11, 1993.

Louis D. Enoff,

Principal Deputy Commissioner of Social Security.

Editorial note: This document was received at the Office of the Federal Register July 26, 1993.

Acquiescence Ruling 93-3(6)

Akers v. *Secretary of Health and Human Services*, 966 F.2d 205 (6th Cir. 1992)—Attorney's Fees Based in Part on Continued Benefits Paid to Social Security Claimants—Title II of the Social Security Act

Issue: Whether continued benefits paid to claimants pursuant to section 2(e) of the Social Security Disability Benefits Reform Act of 1984 or section 223(g) of the Social Security Act (the Act) are "past-due benefits" within the meaning of section 206(b)(1) of the Act.

Statute/Regulation/Ruling Citation: Sections 206(b)(1) and 223(g) of the Social Security Act (42 U.S.C. 406(b)(1) and 423(g)); sections 2(d) and 2(e) of the Social Security Disability Benefits Reform Act of 1984, Pub. L. No. 98-460; 20 CFR 404.1703; 20 CFR 404.1728-1730; and section 5106 of Pub. L. No. 101-508.

Circuit: Sixth (Kentucky, Michigan, Ohio, Tennessee).

Akers v. *Secretary of Health and Human Services*, 966 F.2d 205 (6th Cir. 1992).

Applicability of Ruling: This Ruling applies to cases in which a court may allow an attorney's fee as a result of a civil action in which the court has reversed the final decision of the Secretary and awarded benefits to the claimant. It does not affect the way the Social Security Administration (SSA) adjudicates cases, but only affects how SSA calculates past-due benefits and disburses accumulated past-due benefits within the meaning of section 206(b)(1) of the Act.

Description of Case: In October 1987, SSA determined that plaintiff's medical condition had improved and that his disability benefits would therefore cease as of December 1987. Plaintiff requested reconsideration of the cessation decision and received continued[1] benefits pending his appeal. SSA upheld the cessation determination throughout the administrative process and discontinued the continuing benefits in June 1989. Plaintiff filed a complaint in the U.S. District Court for the Eastern District of Kentucky. The district court reversed SSA's decision and held that plaintiff's benefits should not have been terminated.

Subsequently, plaintiff's counsel moved the district court pursuant to section 206(b)(1) of the Act, for attorney's fees in the amount of twenty-five percent of plaintiff's "past-due benefits," including continued benefits. The Secretary maintained that continued benefits are not "accumulated because of a favorable * * * decision," (20 CFR 404.1703), and thus are not past-due benefits for purposes of calculating attorney's fees. The district court accepted the Secretary's argument and ordered SSA to pay plaintiff's counsel twenty-five percent of only those benefits accrued since plaintiff's continued benefits were discontinued.

Holding: In reversing the district court's decision, the Sixth Circuit held that "interim benefits" paid to social security claimants pursuant to the Social Security Disability Benefits Reform Act of 1984 should be included in the calculation of title II past-due benefits for the purpose of awarding attorney's fees under section 206(b) of the Act. The court rationalized its decision on several grounds. It first noted that "interim benefits are similar to a loan, since they must be repaid by unsuccessful claimants (absent waiver by the Secretary)." Accordingly, stated the court, a claimant is not "entitled" to the benefits absent a final favorable decision. Second, the court stated that the Secretary's definition of past-due benefits would

(1) Create an "unjustifiable dichotomy" between attorneys of claimants who did and did not elect "interim benefits;"

(2) Create a potential conflict between attorneys and claimants; and

[1] Although the district court and the Sixth Circuit stated that the plaintiff elected to receive "interim" benefits pursuant to section 223(g) of the Social Security Act (42 U.S.C. 423(g)), consistent with statutory language, SSA refers to section 223(g) benefits as "continued" benefits.

(3) Impose greater hardships on claimants by discouraging competent attorneys from representing them.

Additionally, the Sixth Circuit acknowledged that Congress had amended section 206(a) of the Act, through the Omnibus Budget Reconciliation Act of 1990, to exclude "interim benefits" from "past-due benefits," for purposes of calculating attorney's fees for representation before the Secretary. The court did not apply the section 206(a) definition of past-due benefits to cases under section 206(b), but could not infer any congressional intent for excluding interim benefits from calculating past-due benefits under section 206(b).

Statement as to How Akers Differs From Social Security Policy

Under section 206 of the Act, the Secretary is authorized to withhold up to 25 percent of the total of title II past-due benefits to which a claimant is entitled for possible payment of attorney's fees. Although section 206 does not expressly define past-due benefits for section 206(b) purposes, 20 CFR 404.1703 defines past-due benefits as the total amount of benefits payable under title II of the Act to all beneficiaries that has accumulated because of a favorable administrative or judicial determination or decision. When calculating past-due benefits, SSA does not consider continued benefits to be past-due benefits because:

(1) They have already been paid and are, therefore, not accumulated and payable, and

(2) They result from legislation, not from an "administrative or judicial determination or decision."

Accordingly, when computing the 25 percent withholding amount from which attorney's fees can be paid, SSA considers only those benefits which are payable to the claimant. Contrary to SSA's interpretation of the term "past-due benefits," the court of appeals held that continued benefits paid to social security claimants are included in past-due benefits for the purpose of calculating attorney's fees under section 206(b).

Although Congress has expressly excluded continued benefits from the calculation of "past-due benefits" for section 206(a) purposes, the legislative history is silent as to whether continued benefits are to be included in the amount of money available for court allowed attorney's fees (section 206(b) cases). Under the Sixth Circuit *Webb* rule, the tribunal (i.e., SSA or the court) which awards benefits sets the fee for both administrative and court services. SSA believes its policy of not including continued benefits in the "past-due benefit" calculation for section 206(b) purposes addresses the overriding concern of Congress in enacting section 223(g), i.e., to provide claimants with "continuation of payments during appeal * * * to ease the severe financial and emotional hardships that would otherwise be suffered." H.R. Rep. No. 98-618, 98th Cong., 2d Sess. 18, *reprinted in* 1984 U.S. Code Cong. & Ad. News 3038, 3055.

Explanation of How SSA Will Apply Akers Within The Circuit

This Ruling applies to title II disability cases and the title II portion of concurrent title II and title XVI disability cases in which a fee petition is filed in a court within the Sixth Circuit (Kentucky, Michigan, Ohio, Tennessee).

When a case involves: (1) A fee petition that has been filed in a federal court based on proceedings on the issue of continuing entitlement to disability insurance benefits and (2) a claimant who has received continued benefits pursuant to section 2(e) of the 1984 Disability Amendments or section 223(g) of the Act during any period considered in the court's decision, SSA will consider both accumulated benefits and continued benefits already paid to be "past-due benefits" within the meaning of section 206(b)(1) of the Act.

SSA will not withhold funds from continued benefits to pay an attorney's fee. SSA will pay the approved fee directly to the attorney from the accumulated past-due benefits held by the Secretary, subject to the maximum of 25 percent of the total past-due benefits amount (as defined by the court, i.e., past-due benefits include both accumulated benefits and continued benefits).

If the sum of accumulated past-due benefits which the Secretary certifies for direct payment and any funds held in trust or escrow by the attorney is less than the fee set by the court, SSA will advise the attorney to seek payment of the balance of the authorized fee directly from the claimant.

[FR Doc. 93-18080 Filed 7-28-93; 8:45 am]
BILLING CODE 4190-29-F

[Social Security Acquiescence Ruling 93-4(2)]

Condon and Brodner v. Bowen; Attorney's Fees Based In Part on Continued Benefits Paid to Social Security Claimants

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2) published January 11, 1990 (55 FR 1012), the Principal Deputy Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 93-4(2).

EFFECTIVE DATE: July 29, 1993.

FOR FURTHER INFORMATION CONTACT: Walt Burton, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 966-5041.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims in which judicial review of the decision of the Secretary has been sought in the Second Circuit. This Social Security Acquiescence Ruling will apply to all such judicial reviews on or after July 29, 1993.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security Survivors Insurance; 93.806—Special Benefits for Disabled Coal Miners; 93.807—Supplemental Security Income.)

Louis D. Enoff,

Principal Deputy Commissioner of Social Security.

Acquiescence Ruling 93-4(2)

Condon and Brodner v. *Bowen*, 853 F.2d 66 (2d Cir. 1988)— Attorney's Fees

Based in Part on Continued Benefits Paid to Social Security Claimants—Title II of the Social Security Act

Issue: Whether continued benefits paid to claimants pursuant to section 2(e) of the Social Security Disability Benefits Reform Act of 1984 or section 223(g) of the Social Security Act (the Act) are "past-due benefits" within the meaning of section 206(b)(1) of the Act.

Statute/Regulation/Ruling Citation: Sections 206(b)(1) and 223(g) of the Social Security Act (42 U.S.C. 406(b)(1) and 423(g)); sections 2(d) and 2(e) of the Social Security Disability Benefits Reform Act of 1984, Pub. L. No. 98–460; 20 CFR 404.1703; 20 CFR 404.1728–1730; and section 5106 of Pub. L. No. 101–508.

Circuit: Second (Connecticut, New York, Vermont).

Condon and Brodner v. *Bowen*, 853 F.2d 66 (2d Cir. 1988).

Applicability of Ruling: This Ruling applies to cases in which a court may allow an attorney's fee as a result of a civil action. It does not affect the way the Social Security Administration (SSA) adjudicates cases, but only affects how SSA calculates past-due benefits and disburses accumulated past-due benefits within the meaning of section 206(b)(1) of the Act.

Description of Case: Plaintiffs William Condon and Leatrice Brodner[1], who were found eligible for disability insurance benefits under title II of the Act since 1974 and 1972, respectively, were subsequently found no longer entitled to such benefits as of October 1982 and March 1983, respectively. After exhausting their administrative remedies, both plaintiffs sought judicial review in the United States District Court for the District of Connecticut of the decisions to terminate their benefits. While their cases were pending in the district court, the Social Security Disability Benefits Reform Act of 1984, Pub. L. No. 98–460 (1984 Disability Amendments) was enacted. Under the provisions of section 2(d) of the 1984 Disability Amendments, these cases were remanded by the court to the Secretary for further review under a medical improvement standard. Both plaintiffs elected to receive continued benefits pursuant to section 2(e) of the 1984 Disability Amendments.

Upon readjudication, the Secretary reinstated Condon's entitlement to benefits as of August 1982 and Brodner's entitlement to benefits as of June 1983. The Secretary then calculated the amounts of accumulated past-due benefits to which the plaintiffs were entitled. Prior to releasing the past-due benefits to the plaintiffs, the Secretary withheld 25 percent of the benefits pursuant to section 206 of the Act (42 U.S.C. 406) for the possible payment of attorney's fees.

The plaintiffs' attorney then filed petitions with the Social Security Administration pursuant to section 206(a) of the Act (42 U.S.C. 406(a)) seeking approval to charge and collect a fee for services performed in the administrative proceedings. The Secretary authorized a fee and certified direct payment to the attorney out of a portion of the withheld funds and released the balance of the withheld funds to the plaintiffs. Condon deposited the balance of his withheld funds in an escrow account with his attorney.

The plaintiffs' attorney subsequently filed motions in the district court pursuant to section 206(b)(1) of the Act (42 U.S.C. 406(b)(1)) seeking compensation for his services in proceedings before the court. Section 206(b)(1) permits a court, whenever it renders a judgment favorable to a claimant who was represented before the court by an attorney, to set a reasonable fee for attorney's services not in excess of 25 percent of the past-due benefits to which the claimant is entitled. The attorney's fee requests were based on his calculation of the total amount of all benefits payable or paid to the plaintiffs from the dates benefits stopped to the dates of reinstatement, including the continued benefits.

The Secretary filed briefs opposing the plaintiffs' motions for attorney's fees. The Secretary contended that continued benefits paid to claimants were not past-due benefits within the meaning of section 206(b)(1) and that the court could only award the attorney 25 percent of the accumulated past-due benefits.

A magistrate concluded that "interim benefits" (i.e., continued benefits) do constitute past-due benefits for the purpose of calculating attorney's fees, and awarded attorney fees based on both the accumulated past-due benefits and the "interim benefits."[2] The district court adopted the magistrate's opinion. The funds held in escrow by Condon's attorney were released in payment of the fee for his representation of Condon in court. Brodner paid the attorney the fee that the district court awarded in full. The Secretary appealed the district court's decision to award attorney's fees to the United States Court of Appeals for the Second Circuit. The Second Circuit affirmed the decision of the district court.

Holding: The Second Circuit held that "interim benefits" (i.e., continued benefits) paid to Social Security claimants pursuant to section 2(e) of the 1984 Disability Amendments in accordance with section 223(g) of the Act should be included in the calculation of past-due benefits for the purpose of awarding attorney's fees under section 206(b) of the Act.

Because the language of the statute did not expressly state whether or not continued benefits are included in the definition of past-due benefits, the court looked to congressional intent to reach its conclusion. The court stated that "[i]n implementing section 206(b) of the Act, Congress was seeking to 'encourage effective legal representation of claimants' by assuring attorneys that they would receive adequate pay for representing Social Security claimants while at the same time prohibiting attorneys from charging claimants 'inordinately large fees.'" 853 F.2d at 70. The court further concluded that: (1) 25 percent of the continued benefits that attorneys could receive would not constitute the type of inordinately large fees that Congress intended to prohibit under section 206(b)(1) and, (2) the Secretary's reading of the statutes would undermine "the Act's purpose of encouraging attorneys to represent Social Security claimants."

In addition, the court specifically stated that it did not intend to transform SSA into "a collection agency for the Social Security bar." It noted that claimants can enter into their own private arrangements with their attorneys, i.e., by setting up escrow accounts for possible payment of attorney's fees, as Condon did in his action. Consequently, it should not be necessary for SSA to become involved in the collection of attorney's fees.

Statement as to How Condon and Brodner Differs From Social Security Policy

Under section 206 of the Act, the Secretary is authorized to withhold up to 25 percent of the total of title II past-due benefits to which a claimant is entitled for possible payment of attorney's fees. Although at the time of the court's decision section 206 did not expressly define past-due benefits, 20

[1]These two cases were consolidated for the purpose of ruling on the motions for attorney's fees because they presented the same issue and the same attorney represented both plaintiffs.

[2]The benefits received by the plaintiff were authorized by section 2(e) of the 1984 Amendments. The characteristics of "interim" benefits under section 223(g) of the Social Security Act (42 U.S.C.423(g)) and benefits under section 2(e) of the 1984 Amendments are not distinguishable in any manner relevant to the issue of whether "interim" benefits are considered "past-due" benefits.

CFR 404.1703 defines past-due benefits as the total amount of benefits payable under title II of the Act to all beneficiaries that has accumulated because of a favorable administrative or judicial determination or decision. When calculating past-due benefits, SSA does not consider continued benefits to be past-due benefits because: (1) they have already been paid and are not accumulated and payable, and (2) they result from legislation, not from an "administrative or judicial determination or decision."

Accordingly, when computing the 25 percent withholding amount from which attorney's fees can be paid, SSA considers only those benefits which are payable to the claimant. Contrary to SSA's interpretation of the term "past-due benefits," the court of appeals held that continued benefits paid to Social Security claimants are included in past-due benefits for the purpose of calculating attorney's fees under section 206(b).

Although Congress has since expressly excluded continued benefits from the calculation of "past-due benefits" for section 206(a) purposes, the legislative history is silent as to whether continued benefits are to be included in the amount of money available for court allowed attorney's fees for court services (section 206(b) cases).[3] SSA believes its policy of not including continued benefits in the "past-due benefit" calculation for section 206(b) purposes addresses the overriding concern of Congress in enacting section 223(g), i.e., to provide claimants with "continuation of payments during appeal * * * to ease the severe financial and emotional hardships that would otherwise be suffered." H.R. Rep. No. 98–618, 98th Cong., 2d Sess. 18, *reprinted in* 1984 U.S. Code Cong. & Ad. News 3038, 3055.

Explanation of How SSA Will Apply The Decision Within The Circuit

This Ruling applies to title II disability cases and the title II portion of concurrent title II and title XVI disability cases in which a fee petition is filed involving court services performed within the Second Circuit (Connecticut, New York or Vermont).

When a case involves: (1) A fee petition that has been filed in a federal court based on proceedings on the issue of continuing entitlement to disability insurance benefits and (2) a claimant who has received continued benefits pursuant to section 2(e) of the 1984 Disability Amendments or section 223(g) of the Act during any period considered in the court's decision, SSA will consider both accumulated benefits and continued benefits already paid to be "past-due benefits" within the meaning of section 206(b)(1) of the Act.

SSA will not withhold funds from continued benefits to pay an attorney's fee. SSA will pay the approved fee directly to the attorney from the accumulated past-due benefits held by the Secretary, subject to the maximum of 25 percent of the total past-due benefits amount (as defined by the court, i.e., past-due benefits include both accumulated benefits and continued benefits).

If the sum of accumulated past-due benefits which the Secretary certifies for direct payment and any funds held in trust or escrow by the attorney is less than the fee set by the court, SSA will advise the attorney to seek payment of the balance of the authorized fee directly from the claimant.

[FR Doc. 93–18081 Filed 7–28–93; 8:45 am]
BILLING CODE 4190–29–F

[3]Section 5106 of Pub. L. No. 101–508, the Omnibus Budget Reconciliation Act of 1990 states that for the purposes of section 206(a) of the Social Security Act the term "past-due benefits" excludes continued and interim benefits payable under sections 223(g) and (h), respectively, of the Act. Congress did not expressly exclude continued benefits from "past-due benefits" for purposes of calculating attorney fees under section 206(b) of the Act.

[Social Security Acquiescence Ruling 93–5(11)]

Shoemaker v. Bowen; Attorney's Fees Based in Part on Continued Benefits Paid to Social Security Claimants

AGENCY: Social Security Administration, HHS.

ACTION: Notice of Social Security Acquiescence Ruling.

SUMMARY: In accordance with 20 CFR 422.406(b)(2) published January11, 1990 (55 FR 1012), the Principal Deputy Commissioner of Social Security gives notice of Social Security Acquiescence Ruling 93–5(11).

EFFECTIVE DATE: July 29, 1993.

FOR FURTHER INFORMATION CONTACT: Walt Burton, Litigation Staff, Social Security Administration, 6401 Security Blvd., Baltimore, MD 21235, (410) 966–5041.

SUPPLEMENTARY INFORMATION: Although not required to do so pursuant to 5 U.S.C. 552(a)(1) and (a)(2), we are publishing this Social Security Acquiescence Ruling in accordance with 20 CFR 422.406(b)(2).

A Social Security Acquiescence Ruling explains how we will apply a holding in a decision of a United States Court of Appeals that we determine conflicts with our interpretation of a provision of the Social Security Act or regulations when the Government has decided not to seek further review of that decision or is unsuccessful on further review.

We will apply the holding of the Court of Appeals decision as explained in this Social Security Acquiescence Ruling to claims in which judicial review of the decision of the Secretary has been sought in the Eleventh Circuit. This Social Security Acquiescence Ruling will apply to all such judicial reviews on or after July 29, 1993.

If this Social Security Acquiescence Ruling is later rescinded as obsolete, we will publish a notice in the **Federal Register** to that effect as provided for in 20 CFR 404.985(e). If we decide to relitigate the issue covered by this Social Security Acquiescence Ruling as provided for by 20 CFR 404.985(c), we will publish a notice in the **Federal Register** stating that we will apply our interpretation of the Act or regulations involved and explaining why we have decided to relitigate the issue.

(Catalog of Federal Domestic Assistance Programs Nos. 93.802 Social Security—Disability Insurance; 93.803 Social Security—Retirement Insurance; 93.805 Social Security Survivors Insurance; 93.806—Special Benefits for Disabled Coal Miners; 93.807—Supplemental Security Income.)

Louis D. Enoff,
Principal Deputy Commissioner of Social Security.

Acquiescence Ruling 93–5(11)

Shoemaker v. *Bowen*, 853 F.2d 858 (11th Cir. 1988)— Attorney's Fees Based in Part on Continued Benefits Paid to Social Security Claimants—Title II of the Social Security Act

Issue: Whether continued benefits paid to claimants pursuant to section 2(e) of the Social Security Disability Benefits Reform Act of 1984 or section 223(g) of the Social Security Act (Act) are "past-due benefits" within the meaning of section 206(b)(1) of the Act.

Statute/Regulation/Ruling Citation: Sections 206(b)(1) and 223(g) of the Social Security Act (42 U.S.C. 406(b)(1) and 423(g)); sections 2(d) and 2(e) of the Social Security Disability Benefits Reform Act of 1984, Pub. L. No. 98–460; 20 CFR 404.1703; 20 CFR 404.1728–1730; and section 5106 of Pub. L. No. 101–508.

Circuit: Eleventh (Alabama, Florida, Georgia).

Shoemaker v. *Bowen*, 853 F.2d 858 (11th Cir. 1988).

Applicability of Ruling: This Ruling applies to cases in which a court may allow an attorney's fee as a result of a civil action. It does not affect the way the Social Security Administration (SSA) adjudicates cases, but only affects how SSA calculates past-due benefits and disburses accumulated past-due benefits within the meaning of section 206(b)(1) of the Act.

Description of Case: In March 1979, plaintiff Mary Shoemaker applied for and subsequently was awarded disability insurance benefits under title II of the Act. In August 1982, SSA determined that plaintiff's disability had ceased and that she was no longer entitled to disability insurance benefits. After exhausting her administrative remedies, plaintiff sought judicial review in the United States District Court for the Northern District of Alabama.

The district court remanded the case to the Secretary for further review. While her case was pending on remand, plaintiff elected to receive continued benefits pursuant to section 2(e) of the 1984 Disability Amendments.[1]

The plaintiff received continued benefits from December 1984 until December 1986 when, based on a favorable decision by the Secretary, her entitlement to disability insurance benefits was reinstated. The Secretary then calculated the accumulated past-due benefits to which the plaintiff was entitled to include past-due benefits for the period from October 1982, when her payments had stopped, until December 1984, when her continued benefits began.

The plaintiff's attorney subsequently filed a petition with the district court pursuant to section 206(b)(1) of the Act, seeking compensation for his representation of the plaintiff before the court. The attorney stated that the request did not exceed 25 percent of "past-due benefits payable or paid" to the plaintiff. The attorney suggested that the funds withheld from the past-due benefits by the Secretary and the amount retained from the plaintiff's continued benefits and placed in trust by the attorney be used for payment of the fee award.

The Secretary opposed the attorney's fee request on the ground that under section 206(b)(1) attorney's fees may not exceed 25 percent of a claimant's past-due benefits. The Secretary maintained that continued benefits, because they have already been paid, are not considered past-due benefits within the meaning of section 206(b)(1). The district court rejected the Secretary's position that attorney's fees could not be granted out of the continued benefits and awarded attorney's fees based on both the accumulated past-due benefits and the continued benefits. The Secretary appealed the district court's decision to the United States Court of Appeals for the Eleventh Circuit. The court of appeals affirmed the decision of the district court.

Holding: The court held that "interim benefits" a claimant receives pursuant to section 223(g) of the Act may be considered by a district court in awarding attorney's fees under section 206(b)(1) of the Act.

Because the language of the statute did not expressly state whether or not continued benefits are included in the definition of past-due benefits,[2] the court looked to congressional intent to reach its conclusion. The court stated that "[w]hile one of the purposes of section 406 [(206(b) of the Act)] is to limit attorney's fees, Congress also intended 'to encourage effective legal representation' by ensuring that attorneys will receive a fee for their representation." 853 F.2d at 860. The court concluded that under the Secretary's interpretation (i.e., not to include continued benefits in the definition of past-due benefits), claimants who do not elect to receive continued benefits have a greater amount of money available for a reasonable attorney's fee than those who elect the continued benefits, placing claimants who elect to receive the continued benefits at a disadvantage in obtaining effective legal representation.

Statement as to How Shoemaker Differs From Social Security Policy

Under section 206 of the Act, the Secretary is authorized to withhold up to 25 percent of the total of title II past-due benefits to which a claimant is entitled for possible payment of attorney's fees. Although section 206 did not expressly define past-due benefits at the time of the court's decision, 20 CFR 404.1703 defines past-due benefits as the total amount of benefits payable under title II of the Act to all beneficiaries that has accumulated because of a favorable administrative or judicial determination or decision. When calculating past-due benefits, SSA does not consider continued benefits to be past-due benefits because:

(1) They have already been paid and are not accumulated and payable, and

(2) They result from legislation, not from an "administrative or judicial determination or decision."

Accordingly, when computing the 25 percent withholding amount from which attorney's fees can be paid, SSA considers only those benefits which are payable. Contrary to SSA's interpretation of the term "past-due benefits," under the court of appeals decision continued benefits paid to social security claimants constitute past-due benefits for the purpose of calculating attorney's fees under section 206(b)(1).

Although Congress has expressly excluded continued benefits from the calculation of "past-due benefits" for section 206(a) purposes, the legislative history is silent as to whether continued benefits are to be included in the amount of money available for attorney's fees the court may award for court services (section 206(b) cases). SSA believes its policy of not including continued benefits in the "past-due benefit" calculation for section 206(b) purposes addresses the overriding concern of Congress in enacting section 223(g), *i.e.*, to provide claimants with "continuation of payments during appeal *** to ease the severe financial and emotional hardships that would otherwise be suffered." H.R. Rep. No. 98–618, 98th Cong., 2d Sess. 18, *reprinted in* 1984 U.S. Code Cong. & Ad. News 3038, 3055.

Explanation of How SSA Will Apply The Decision Within The Circuit

This Ruling applies to title II disability cases and the title II portion of concurrent title II and title XVI disability cases in which a fee petition is filed involving court services performed within the Eleventh Circuit (Alabama, Florida or Georgia).

When a case involves: (1) A fee petition that has been filed in federal court based on proceedings on the issue of continuing entitlement to disability insurance benefits and (2) a claimant who has received continued benefits pursuant to section 2(e) of the 1984 Disability Amendments or section 223(g) of the Act during any period considered in the court's decision, SSA will consider both accumulated benefits

[1] Although the district court and the Eleventh Circuit stated that the plaintiff elected to receive "interim" benefits pursuant to 223(g) of the Social Security Act (42 U.S.C. 423(g)), the benefits the plaintiff received were authorized by 2(e) of the 1984 Amendments. The characteristics of the "interim" benefits provided by the two statutes are not distinguishable in any manner relevant to the issue of whether "interim" benefits are to be considered "past-due" benefits under 206(b)(1) of the Act (42 U.S.C. 406(b)(1)).

[2] Subsequent to this decision Congress enacted Section 5106 of Pub. L. No. 101–508, the Omnibus Budget Reconciliation Act of 1990, which states that for the purposes of section 206(a) of the Social Security Act the term "past-due" benefits excludes continued and interim benefits under sections 223(g) and (h), respectively, of the Act. Congress did not expressly exclude continued benefits from "past-due benefits" for purposes of calculating attorney fees under section 206(b) of the Act.

and continued benefits already paid to be "past-due benefits" within the meaning of section 206(b)(1) of the Act.

SSA will not withhold funds from continued benefits to pay an attorney's fee. SSA will pay the approved fee directly to the attorney from the accumulated past-due benefits held by the Secretary, subject to the maximum of 25 per cent of the total past due benefits amount (as defined by the court, i.e., past-due benefits include both accumulated benefits and continued benefits).

If the sum of accumulated past-due benefits which the Secretary certifies for direct payment and any funds held in trust or escrow by the attorney is less than the fee set by the court, SSA will advise the attorney to seek payment of the balance of the authorized fee directly from the claimant.

[FR Doc. 93-18082 Filed 7-28-93; 8:45 am]

BILLING CODE 4190-29-F

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Housing-Federal Housing Commissioner

[Docket No. N-93-3422; FR-3220-N-02]

Fiscal Year 1992 NOFA for the Hiring of Service Coordinators for Section 202 Projects; Announcement of Funding Awards

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Announcement of competition winners.

SUMMARY: In accordance with 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 funding under the NOFA for the hiring of service coordinators for section 202 projects for fiscal year 1992. The announcement contains the names and addresses of the competition winners and the amounts of the awards.

FOR FURTHER INFORMATION CONTACT: Jerold S. Nachison, Housing for Elderly and Handicapped People Division, room 6122, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Telephone (202) 708-3291. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 5, 1992 (57 FR 19338), the Department published in the **Federal Register**, a Notice of Funding Availability (NOFA) that announced the funding of regional lotteries for the hiring of service coordinators in section 202 projects for the elderly and people with disabilities.

Service Coordinators assist frail and "at risk" elderly individuals. They also serve persons with disabilities and temporarily disabled individuals living in section 202 housing. Eligible applicants are the borrowers/owners of projects funded under the section 202 program that are at sustaining occupancy at the time of application to HUD. If selected for funding, the applicant enters into a HAP Contract amendment with HUD to fund a coordinator for a period of no more than five years. The contract may be renewed based upon need and availability of funding. Applicants may also be approved to utilize residual receipts for the purpose of funding a service coordinator.

The May 5, 1992 NOFA contained information concerning: (a) The purpose of the Notice; (b) eligibility, available amounts, and technical criteria; (c) application processing, including how to apply and how selections will be made; and (d) a checklist of steps and exhibits involved in the application procedure.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, the Department is publishing, in this Notice, the names and addresses of the section 202 projects that received funding awards under the FY 1992 NOFA, and the amounts of the awards. This information is set forth in Appendix A to this Notice.

Dated: July 7, 1993.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

APPENDIX A

[FY 1992 Service Coordinator Selection List]

Field office; Applicant/project name and address	Residual receipts amount	Sec. 8 amount	Time period req.
Boston:			
JCHE V-Campus Hse, 677 Winchester St., Newton, MA 02161	33,030	116,791	5 yrs.
Golda Meir, 160 Stanton Avenue, Newton, MA 02166	66,935	118,084	5 yrs.
Covenant House I, 30 Washington St., Brighton, MA 02146	0	197,491	5 yrs.
Hartford:			
Roncalli Apartments, 430 Grant Street, Bridgeport, CT 06610	0	133,932	5 yrs.
Tower East, 18 Tower Lane, New Haven, CT 06519	0	224,111	5 yrs.
DeLorenzo Towers, 284 N. Main Street, Bristol, CT 06010	0	135,000	5 yrs.
Manchester:			
Stella Maris House,* 148 Broadway, Rockland, ME 04841	0	72,000	5 yrs.
Chateau Cushnec,* 36 Townsend Street, Augusta, ME 04330	0	90,000	5 yrs.
Brook Hollow,* Route 302, Naples, ME 04055	0	148,349	5 yrs.
Kallock Terrace,* Therrin Ave., Saco, ME 04072	Included in above		
Prescott Heights,* Route 4, N. Berwick, ME 03906	Included in above		
Ridgewood,* 99 School St., Gorham, ME 04038	Included in above		
Woods Edge,* Saco St., Alfred, ME 04002	Included in above		
Applewood,* Buxton Rd., Waterboro, ME 04087	Included in above		
Northern Lights Housing,* 25 Success St., Berlin, NH 03570	0	87,000	5 yrs.
Groveton Housing,* 2 Spring St., Groveton, NH 03582	0	14,000	5 yrs.
Gilman Housing,* Cedar St., Gilman, VT 05904	0	14,000	5 yrs.
Elderly Homes,* 9 First Avenue, Madawaska, ME 04756	0	63,000	5 yrs.
LaMaison Acadienne,* 14 French Street, Madawaska, ME 04756	0	93,000	5 yrs.

APPENDIX A—Continued

[FY 1992 Service Coordinator Selection List]

Field office; Applicant/project name and address	Residual receipts amount	Sec. 8 amount	Time period req.
Senior Congress Park, 67 Maple Avenue, Claremont, NH 03743	0	120,000	5 yrs.
Subtotal Region I	99,965	1,626,758	
New York:			
Wells Manor, Inc., Northers Dutchess Hospital, 10 spring Brook Avenue, Rhineback, NY 125752.	0	112,500	5 yrs.
Northeastern Conference House, 131-10 Guy R. Brewer Blvd., Jamaica, NY 11434.	0	165,000	5 yrs.
Rockland Home for the Aged, 200 Lafayette Avenue, Suffern, NY 10901	0	146,800	5 yrs.
Sister Lucian HDFC, 191 Joralemon Street, Brooklyn, NY 11201	0	173,835	5 yrs.
Bishop Mugavero Apts, 191 Joralemon Street, Brooklyn, NY 11201	0	88,167	5 yrs.
Monsignor O'Brien Apartments, 191 Joralemon Street, Brooklyn, NY 11201	0	176,335	5 yrs.
Monsignor Mullaney Apartments, 191 Joralemon Street, Brooklyn, NY 11201.	Included in above		
Buffalo:			
Senior Cit. Hsg. Develop. Corp., of Steuben County, 105 Geneva St., Bath, NY 14810.	0	225,000	5 yrs.
Newark:			
NCSC/UAW Senior Housing Co., 16 Commerce Drive, Cranford, NJ 07106	0	93,108	5 yrs.
Bridgewater Community Service, 491 Shasta Drive, Bridgewater, NJ 08807	0	89,063	5 yrs.
Montclair Senior Housing, 340 Orange Road, Montclair, NJ 07042	0	96,000	5 yrs.
Daughters of Miriam Center for the Aged, 155 Hazel Street, Clifton, NJ 07015.	0	146,945	5 yrs.
Daughters of Miriam Center for the Aged, 155 Hazel Street, Clifton, NJ 07015.	0	146,945	5 yrs.
Subtotal Region II	0	1,659,698	
Philadelphia:			
Philadelphia Presbystery Homes, Inc., 2000 S. 58th Street, Philadelphia, PA 19143.	0	98,359	5 yrs.
Schwenckfeld Manor East,* 1290 Allentown Road, Lansdale, PA 19446	0	53,945	5 yrs.
Schwenckfeld Manor South,* 1290 Allentown Road, Lansdale, PA 19446	0	17,965	5 yrs.
One West Penn Apartments, One West Penn Street, Carlisle, PA 17013	0	115,490	5 yrs.
Center Park House, 10102 Jameson Avenue, Philadelphia, PA 19116	0	110,736	5 yrs.
Scottish Rite House, 1525 Fitzwater Street, Philadelphia, PA 19146	8,836	102,537	5 yrs.
Phoebe Apartments, 1901 Linden Street, Allentown, PA 18104	0	179,875	5 yrs.
Baltimore:			
Concord Apartments, Inc., 2500 W. Belvedere Avenue, Baltimore, Maryland 21215.	0	161,203	4 yrs.
Richmond:			
Lafayette House Elderly Housing Inc., 214 South Sycamore, Petersburg, VA 23803.	0	116,043	5 yrs.
Pittsburgh:			
Riverview Towers, Phase I Inc., 52 Garetta Street, Pittsburgh, PA 15217	0	126,581	5 yrs.
Bellmead Congregate Apts., 5 South Main Street, Washington, PA 15301	0	142,009	5 yrs.
Sweetbriar Place,* 211 Sweetbriar Street, Pittsburgh, PA 15211	0	73,370	5 yrs.
Shady Park Place,* 415 Lobinger Avenue, Braddock, PA 15104	0	53,130	5 yrs.
Park Manor Apartments,* 188 Alameda Road, Butler, PA 16001	0	71,442	5 yrs.
Commons of Saxonburg,* 160 Pittsburgh Street, Saxonburg, PA 16056	0	38,468	5 yrs.
Steelworkers Tower, 2639 Perrysville Ave., Pittsburgh, PA 15214	0	120,000	5 yrs.
Ellsworth Parkview,* 19 Main Street, Ellsworth, PA 15331	0	41,985	5 yrs.
Houston Heritage House,* 140 W. Pike Street, Houston, PA 15342	0	54,172	5 yrs.
Bridge Street Commons,* 600 Bridge Street, Waynesburg, PA 15370	0	41,985	5 yrs.
Subtotal Region III	8,836	1,719,295	
Atlanta:			
Campbell-Stone Apartments, 2911 Pharr Road, Atlanta, GA 30305	0	241,387	5 yrs.
Campbell-Stone Apartments, 2911 Pharr Road, Atlanta, GA 30305	0	228,296	5 yrs.
St. Paul Apartments, 1330 Forsyth St., Macon, GA 31201	0	199,995	5 yrs.
Birmingham:			
SEASHA,* Sojourner Apartments, Highway 80 West, Tuskeegee, AL 36088	0	213,000	5 yrs.
SEASHA,* E. D. Nixon Apartments, 2005 Georgia St., Tuskeegee, AL 36088.	0	included in above	
Caribbean:			
Torre Jesus Sanchez Erazo Housing for the Elderly, Carretera 174, KM.0 HM.07, Bayamon, PR 00959.	0	150,000	5 yrs.
Columbia:			
John's Island Rural Hsg., P.O. Box 689, John's Island, SC 29455	0	130,500	5 yrs.

APPENDIX A—Continued

[FY 1992 Service Coordinator Selection List]

Field office; Applicant/project name and address	Residual receipts amount	Sec. 8 amount	Time period req.
Jacksonville:			
North Dade Senior Citizens Hsg. Development Corp., Robert Sharp Towers I, 103 NW 202 Terrace, N. Miami Beach, FL 33169.	0	148,606	5 yrs.
Miami Beach Senior Citizens HDC, Inc., Council Towers, 1040 Collins Ave., Miami Beach, FL 33139.	29,566	183,349	5 yrs.
Urban League Hsg. Corp. of Greater Miami, Inc., Covenant Palms, 8400 NW 25th Ave., Miami, FL 33147.	0	174,690	5 yrs.
Jefferson Center, 930 N. Tamiami Trail, Sarasota, FL 33577	0	94,600	5 yrs.
Presbyterian Retirement Communities, Gateway Terrace Apts., 1943 Karen Drive, Ft. Lauderdale, FL 33304.	3,246	126,907	5 yrs.
Louisville:			
The Puritan Apartments, 1244 S. 4th Street, Louisville, KY 40203	0	200,618	5 yrs.
Subtotal Region IV	32,872	2,091,948	
Chicago:			
Senate Apartments, 5801 N. Pulaski, Chicago, IL 60646	0	212,895	5 yrs.
The Oaks, 114 S. Humphrey, Oak Park, IL 60302	0	121,071	5 yrs.
Woodlawn I,* 6100 S. Cottage, Chicago, IL 60637	0	243,978	5 yrs.
Woodlawn II,* 6100 S. Cottage, Chicago, IL 60637	Included in above		
Bethany I,* 3811 W. Washington, Chicago, IL 60624	0	243,978	5 yrs.
Bethany II,* 3811 W. Washington, Chicago, IL 60624	Included in above		
Cincinnati:			
Cantebury Court, 450 N. Elm Street, West Carrollton, OH 45449	0	69,385	5 yrs.
Deerfield Commons, 5629 Deerfield Circle, Mason, OH 45040	0	86,666	5 yrs.
Springboro Commons, Pioneer Drive, Springboro, OH 45066	0	42,687	5 yrs.
Minneapolis/St. Paul:			
Guardian Angels Homes, 350 Evans Avenue, Elk River, MN 55330	0	135,741	5 yrs.
Cleveland:			
United Labor Agency, 1800 Euclid Avenue, Cleveland, OH 44115	131,156	0	5 yrs.
Portage Trail Village, 45 Cathedral Lane, Cuyahoga Falls, OH 44223	26,000	192,333	5 yrs.
Federation Towers, 2250 Community College, Cleveland, OH 44106	0	162,295	5 yrs.
Westerly I,* 14300 Detroit Avenue, Lakewood, OH 44107	0	226,939	5 yrs.
Westerly II,* 14300 Detroit Avenue, Lakewood, OH 44107	Included in above		
Mayfield Manor, 3844 11th St., SW., Canton, OH 44710	0	160,433	5 yrs.
George Mance Commons, 2050 Warren, Toledo, OH 43606	0	40,114	3 yrs.
Charles Crest, 1200 Schreier Road, Rossford, OH 43460	21,278	23,280	3 yrs.
Indianapolis:			
LHDC Housing for Elderly,* RR No. 3, Old RD 64, English, IN 47118	6,800	43,969	5 yrs.
LHDC Housing for Elderly,* RR No. 1, Milltown, IN 47115	7,191	43,571	5 yrs.
LHDC Housing for Elderly,* RR No. 1, Marengo, IN 47140	15,601	35,168	5 yrs.
Chicago Trail Village, Chicago Trail, New Carlisle, IN 46552	0	57,896	5 yrs.
Subtotal Region V	208,026	2,142,399	
New Orleans:			
Village de Memoire II,* 1001 N. Reed Street, Ville Platte, LA 70586	0	52,500	5 yrs.
Savoy Heights,* 909 Cherry Street, Mamou, LA 70554	0	81,000	5 yrs.
Village de Memoire I, 1001 N. Reed Street, Ville Platte, LA	0	118,500	5 yrs.
Little Rock:			
Gorman Towers, 5800 Grand Avenue, Fort Smith, AR 72904	0	150,000	5 yrs.
Jacksonville Towers, 200 S. Hospital Boulevard, Jacksonville, AR 72076	0	150,000	5 yrs.
San Antonio:			
Sacred Heart Villa,* 120 S. Trinity, San Antonio, TX 78207	0	66,000	5 yrs.
Villa Alegre,* 6902 Marbach, San Antonio, TX 78227	0	66,000	5 yrs.
Tulsa:			
Pythian Manor West, 1700 Riverside Drive, Tulsa, OK 74119	0	150,000	5* yrs.
Subtotal Region VI	0	834,000	
Kansas City:			
John Calvin Manor, 310 N. Murray Rd., Lee's Summit, MO 64603	0	78,000	5 yrs.
Cerebral Palsy Research Foundation, 2021 N. Old Manor Rd., Wichita, KS 67208.	0	60,000	2 yrs.
St. Louis:			
Metropolitan Village, 3114 Franklin, St. Louis, MO 63103	0	199,019	5 yrs.
Subtotal Region VII	0	337,019	
Denver:			
Eagles Manor, 9th & 15th Avenue SO, Great Falls, MT 59405	52,356	104,440	5 yrs.

APPENDIX A—Continued

[FY 1992 Service Coordinator Selection List]

Field office; Applicant/project name and address	Residual receipts amount	Sec. 8 amount	Time period req.
Prairie Tower, Inc., Prairie Tower, 725 North 25th, Billings, MT 59101	0	99,465	5 yrs.
Kappa Housing, Inc., Kappa Tower, 2160 Downing, Denver, CO 80205	0	77,071	5 yrs.
Bishop Richard Allan Center, Inc., Allan Gardens, 13100 Richard Allen Ct., Denver, CO 80207.	0	86,909	5 yrs.
Northern Utah Labor Council Housing Corp., Union Gardens, 375 2nd Ave., Ogden, UT 84404.	0	73,500	5 yrs.
Episcopal Management Corp., St. Mark's Terrace, 50 North 500 West, Brigham City, UT 84401.	9,300	37,200	5 yrs.
Calvary Towers Housing, Inc., Calvary Tower, 511 East 700 South, Salt Lake City, UT 84102.	0	45,000	5 yrs.
St. Mark's Tower, 650 SO. 300 East, Salt Lake City, UT 84111	88,200	58,800	5 yrs.
Subtotal Region VIII	149,856	582,385	
San Francisco:			
Strawberry Creek Lodge, 1320 Addison, Berkely, CA 94702	0	188,989	5 yrs.
Westlake Christian, 251 28th Street, Oakland, CA 94611	0	188,989	5 yrs.
Sister Thea Bowman, 6400 San Pablo Ave., Oakland, CA 94608	0	56,599	5 yrs.
Burbank Orchards, 777 Bogeda Ave., Sebastopol, CA 95472	0	56,599	5 yrs.
Garfield Park Village, 71 Bay St., Santa Cruz, CA 95060	0	103,594	5 yrs.
Las Vegas:			
NAACP–NEV Hsg. Dev. Corp., 800 N. Eastern, Las Vegas, NV 89101	0	190,572	5 yrs.
Phoenix;			
Paradise Valley BRC, 11640 N. 27th St., Phoenix, AZ 85028	0	77,050	5 yrs.
Christian Care Manor I, 11830 N 19th Ave., Phoenix, AZ 85029	0	123,231	5 yrs.
Christian Care Manor II, 11802 N. 19th Ave., Phoenix, AZ 85029	Included in above		
Silvercrest Residences of Phoenix, 613 N. 4th Ave., Phoenix, AZ 85003	0	148,039	5 yrs.
San Diego:			
St. Pauls Manor, 2365 2nd Ave., San Diego, CA 92103	0	161,185	5 yrs.
Los Angeles:			
Stovall Development Corp.,* Fairmont Terrace I, 4000 E. Fairmont, Los Angeles, CA 90063.	0	90,900	3 yrs.
Stovall Development Corp.,* Fairmont Terrace II, 822 N. Hazard, Los Angeles, CA 90063.	Included in above		
Stovall Housing Corp.,* Leonard Stovall Terrace, 4075 S. Figueroa, Los Angeles, CA 90037.	Included in above		
Oldtimers Housing Development Corp. of Fontana, 16707 Marygold Ave., Fontana, CA 92335.	0	225,000	5 yrs.
Oldtimers Housing Development Corp. of Chino, 12855 Oaks Ave. SW., Chino, CA 91710.	0	126,000	5 yrs.
Sycamore Terrace Corp., Royal Vista Terrace, 1111 N. Brand Blvd., No. 300, Glendale, CA 91202.	0	95,261	5 yrs.
Subtotal region IX	0	1,832,008	
Seattle:			
Garden Terrace,* 500 N. Emerson Avenue, Wenatchee, WA 98801	0	94,200	5 yrs.
Garden Terrace West,* 500 N. Emerson Avenue, Wenatchee, WA 98801	Included in above		
Sunset House, 2519 First Avenue, Seattle, WA 98121	0	123,000	4 yrs.
Portland:			
Ross Knotts Retirement Center, 2874 Creekside Circle, Medford, OR 97504.	0	60,454	5 yrs.
Donald E. Lewis Retirement Center,* 500 YMCA Way, Ashland, OR 97520	0	47,499	5 yrs.
Subtotal Region X	0	325,153	
National Total	499,555	13,150,663	

*Multiple Project Application

[FR Doc. 93-18060 Filed 7-28-93; 8:45 am]
BILLING CODE 4210-27-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ-020-01-4210-05]

Conveyance of Mineral Interests Applications

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of minerals segregation.

Notice is hereby given that pursuant to section 209 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1719(b), the following applications have been filed for the conveyance of certain Federally-owned mineral interests within each accompanying land description:

Gila and Salt River Meridian, Arizona

AZA-11970

T. 5 N., R. 2 E.,
Sec. 13.
T. 5 N., R. 3 E.,
Sec. 27.

AZA-17364

T. 4 N., R. 3 E.,
Secs. 3 and 10.
T. 5 N., R. 3 E.,
Secs. 33 and 34.

AZA-19175

T. 7 N., R. 5 W.,
Secs. 9, 17, 18 and 20.

AZA-20613

T. 7 N., R. 1 W.,
Sec. 6.
T. 7 N., R. 2 W.,
Sec. 1.

AZA-21222

T. 10 N., R. 5 W.,
Secs. 3, 9 and 15.
T. 11 N., R. 5 W.,
Secs. 23, 26, 27, 33, 34 and 35.
T. 9 N., R. 6 W.,
Secs. 12, 13, 14 and 24.

AZA-22531

T. 1 N., R. 7 E.,
Sec. 3.

AZA-22628

T. 7 N., R. 4 W.,
Sec. 17.

AZA-22865

T. 7 N., R. 2 W.,
Sec. 1.

AZA-23386

T. 9 N., R. 2 E.,
Sec. 13.
T. 9 N., R. 3 E.,
Secs. 29 and 30.

AZA-23506

T. 9 N., R. 4 W.,
Sec. 8.
T. 9 N., R. 5 W.,
Secs. 1, 11, 15 and 22.
T. 10 N., R. 5 W.,
Secs. 21 and 28.
T. 9 N., R. 6 W.,
Secs. 12, 13 and 14.

AZA-23553

T. 6 N., R. 3 E.,
Sec. 13.
T. 6 N., R. 4 E.,
Sec. 18.

AZA-23806

T. 14 N., R. 1 W.,
Sec. 21.

AZA-23807

T. 11 N., R. 24 E.,
Secs. 8, 10, 12, 14 and 22.

AZA-24035

T. 6 N., R. 1 W.,
Secs. 22 and 23.

AZA-24036

T. 6 N., R. 1 W.,
Sec. 23.

AZA-24106

T. 10 N., T. 5 W.,
Sec. 10.

AZA-24411

T. 10 N., R. 3 W.,
Secs. 5 to 8, incl., 17 and 18.
T. 11 N., R. 3 W.,
Secs. 6, 7, 18, 21, 22, 23 and 26 to 31, incl.
T. 12 N., R. 3 W.,
Secs. 5, 6, 8, 17, 18, 20 and 29.
T. 10 N., R. 4 W.,
Sec. 13.
T. 11 N., R. 4 W.,
Secs. 1, 2 and 24.
T. 12 N., R. 4 W.,
Secs. 11, 13, 14, 15, 21, 22, 23, 25 and 26.

AZA-25358

T. 8 N., R. 1 W.,
Secs. 7 and 30.
T. 8 N., R. 2 W.,
Secs. 12, 13 and 24.

The mineral interests may be conveyed in whole or in part.

The purpose of the conveyances is to allow consolidation of surface and subsurface ownership where there are no known mineral values, or in those instances where the reservation of mineral interests to the United States interferes with or precludes appropriate non-mineral development of the lands and such development would be a more beneficial use.

Additional information concerning the applications may be obtained from Vivian Reid, Phoenix District Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027.

Upon publication of this notice in the **Federal Register**, the mineral interests owned by the United States in the lands under application shall be segregated to the extent that they will not be open to appropriation under the mining and mineral leasing laws. The segregative effect of the applications shall terminate upon issuance of a patent or other document of conveyance of such mineral interests, upon final rejection of the application, or two years from the date of publication of this notice, whichever comes first.

Dated: July 21, 1993.

G. L. Cheniae,
District Manager.

[FR Doc. 93-18084 Filed 7-28-93; 8:45 am]
BILLING CODE 4310-32-M

[CA-010-02-4212-13; CACA-31356]

Realty Action; Proposed Land Exchange in Merced, Monterey, Fresno, and San Benito Counties, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action; exchange of public and private lands in Merced, Monterey, Fresno, and San Benito Counties, California (CACA-31356).

SUMMARY: The following described public lands are being considered for exchange to CAL-BLMX, Inc., under section 206 of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1716). The exchange is for the surface estate only and does not affect ownership of the mineral estate.

Note: Not all the land identified below will be included in the exchange. Some parcels may be deleted to eliminate possible conflicts that could arise during processing. Additional lands previously identified for exchange to CAL-BLMX, Inc. and published in the **Federal Register** on March 30, 1990; December 24, 1991; and April 24, 1992, may also be included in the exchange. The final selection of properties will be made to achieve comparable values between the offered and selected lands.

SELECTED PUBLIC LANDS: The following parcels are identified for exchange of only the surface estate:

Mount Diablo Meridian, California

T. 11S., R. 7E.,
Sec. 21; Lot 4
Sec. 28; Lot 3
T. 12S., R. 7E.,
Sec. 1; W½SW¼
Sec. 11; N½NE¼, SW¼NE¼
Sec. 12; NW¼NW¼
Sec. 14; SE¼SW¼, SW¼SE¼
Sec. 23; E½NE¼, NW¼NE¼, NE¼NW¼, NW¼SE¼
Sec. 24; SW¼NE¼, NW¼, SE¼SW¼, SW¼SE¼
T. 12S., R. 8E.,
Sec. 6; Lot 6
Sec. 7; Lot 1 &
T. 12S., R. 9E.,
Sec. 28; S½NW¼
Sec. 32; NE¼SW¼, N½SE¼

Sec. 33; N½NE¼, E½NW¼, NW¼SW¼, SE¼SW¼
T. 13S., R. 9E.,
Sec. 11; Lot 1, NW¼NE¼, NE¼NW¼
Sec. 12; Lot 4
Sec. 30; SE¼NW¼, E½SW¼, Lot 4
Sec. 35; E½NW¼, NW¼NW¼
T. 14S., R. 9E.,
Sec. 32; SE¼SW¼
Sec. 34; SW¼NW¼
Sec. 35; NW¼NW¼
T. 14S., R. 10E.,
Sec. 5; N½SW¼
T. 15S., R. 5E.,
Sec. 14; Lot 9
Sec. 32; Lot 3, SE¼SE¼
T. 15S., R. 7E.,
Sec. 32; Lots 6, 9, 10, & 11
Sec. 33; Lots 3, 4, 8 & 11, SW¼NE¼
T. 15S., R. 9E.,
Sec. 1; Lot 4, S½ NE¼, SE¼ NW¼, NE¼ SE¼ E½ NW¼ SE¼, NE¼ SW¼ SE¼, N½ SE¼ SE¼
Sec. 2; Lots 1 & 8
Sec. 4; Lot 7
Sec. 5; Lot 12
Sec. 6; Lot 9
T. 16S., R. 5E.,
Sec. 5; NW¼ NE¼
T. 16S., R. 6E.,
Sec. 12; NW¼ NE¼, SE¼ SW¼
T. 16S., R. 7E.,
Sec. 4; Lots 2, 3, 5, 6, 7, 10. 11
Sec. 5; Lot 2
T. 16S., R. 10E.,
Sec. 8; E½ SW¼, SE¼
Sec. 9; SW¼
Sec. 10; W½ NW¼, SE¼ NW¼, SW¼
T. 17S., R. 5E.,
Sec. 29; SW¼ NE¼, SW¼ SE¼
T. 17S., R. 12E.,
Sec. 21; Lot 5
T. 18S., R. 10E.,
Sec. 13; Lots 11, 14, 15, 16, & 19
T. 18S., R. 11E.,
Sec. 25; Lot 3
Sec. 26; Lot 8, E½ SE¼ SE¼, SW¼ SE¼ SE¼, SE¼ SW¼ SE¼
T. 19S., R. 13E.,
Sec. 13; W½ SE¼
Sec. 24; NE¼, NE¼ SE¼
T. 19S., R. 14E.,
Sec. 18; S½ Lot 6, E½
Sec. 19; Lot 13
Sec. 22; W½ W½
Sec. 24; NW¼ NW¼, S½ NW¼, SW¼, SW¼ SE¼
Sec. 28; N½ N½
Sec. 30; Lots 13 & 14, NE¼
Sec. 31; Lot 14
Sec. 34; NW¼ NW¼
T. 19S., R. 15E.,
Sec. 18; Lots 1, 2, 3, & 4
T. 20S., R. 12E.,
Sec. 24; SE¼ NE¼, NE¼ SE¼
Sec. 35; E½ NW¼
T. 20S., R. 13E.,
Sec. 19; Lots 1, 2, 3, & 4, SW¼ SE¼
Sec. 20; S½ SW¼
Sec. 29; N½ NW¼, SW¼ NW¼, NW¼ SW¼
T. 20S., R. 14E.,
Sec. 19; SE¼ NW¼
Sec. 29; SE¼ SW¼
Sec. 32; E½ NW¼, NW¼ NW¼
T. 21S., R. 13E.,
Sec. 27; W½ NW¼
Sec. 28; E½ NE¼, N½ SE¼
T. 22S., R. 8E.,
Sec. 24; SW¼, W½SE¼
Sec. 27; SW¼NE¼, NW¼SE¼
T. 22S., R. 9E.,
Sec. 15; Lot 4
Sec. 22; NE¼SW¼, SW¼SW¼
T. 22S., R. 14E.,
Sec. 2; SW¼NE¼, S½NW¼, SW¼
Sec. 7; NE¼SW¼
Sec. 11; NE¼NE¼, NE¼SW¼, NW¼SE¼
Sec. 12; S½NE¼, SE¼NW¼, NE¼SW¼, SE¼
Sec. 17; SW¼NE¼
T. 22S., R. 15E.,
Sec. 7; Lots 3, 4, E½W½, SW¼NE¼, W½SE¼, SE¼SE¼
Sec. 18; NE¼NE¼
T. 22S., R. 16E.,
Sec. 30; Lots 1, 2, 3, 4, 5, 6, S½ Lot 10, SE¼NE¼
Sec. 32; SW¼NW¼
T. 23S., R. 9E.,
Sec. 11; NW¼NW¼, W½SW¼, E½SE¼
Sec. 13; NW¼NW¼
Sec. 14; NE¼NE¼, NW¼NW¼
Sec. 17; NW¼SW¼
Sec. 21; NE¼, N½SE¼
T. 23S., R. 16E.,
Sec. 6; Lots 1, 2, 3, 4, 5, 6, 10, 11, 13, 14, S½NE¼, N½SE¼
Sec. 18; Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, E½
T. 24S., R. 8E.,
Sec. 11; SW¼SW¼
Sec. 12; SW¼SW¼
T. 24S., R. 9E.,
Sec. 31; SE¼NE¼
T. 24S., R. 10E.,
Sec. 18; NE¼NE¼
T. 24S., R. 16E.,
Sec. 20; NE¼NE¼
Sec. 26; SW¼SW¼
Total 11,224.35 Acres more or less.

In exchange for these lands, the Federal Government will acquire the surface estate of non-Federal lands in Fresno and San Benito Counties from CAL–BLMX, Inc. described as follows:

Mount Diablo Meridian, California

T. 15S., R. 11E.,
Sec. 13; S½S½
Sec. 14; S½S½
Sec. 22; SE¼NE¼, S½SW¼, SE¼
Sec. 23; N½
Sec. 24; N½N½
Sec. 25; W½, SE¼
Sec. 26; SE¼
Sec. 36; NE¼NE¼, SW¼NE¼, SE¼SE¼
T. 15S., R. 12E.,
Sec. 16; Lot 1, 2, 3, 4, 5, 6, 7, 8, S½
Sec. 18; S½SE¼, SE¼SW¼, Lot 4
Sec. 19; Lot 1, 2, 3, 4, 7, 8, 9, 10, 15, 16
Sec. 20; N½NW¼, NW¼NE¼, SW¼NW¼
Sec. 27; SW¼SW¼
Sec. 28; SE¼NE¼, E½SE¼
Sec. 29; E½W½, W½E½
Sec. 31; Lot 8, 9, 15 & 16
Sec. 32; SW¼NW¼, E½NW¼, N½SW¼, SW¼SW¼
T. 16S., R. 11E.,
Sec. 16; All
T. 16S., R. 12E.,
Sec. 1; SW¼
Sec. 6; Lot 2, 4, 5, & 6, SW¼NE¼, NW¼SE¼
Sec. 23; SW¼NW¼, N½SW¼, SE¼SW¼, SW¼SE¼, E½SE¼
Sec. 24; SW¼SW¼
Sec. 25; All
Sec. 27; SE¼NE¼, E½SW¼
Sec. 35; N½, E½SW¼, SE¼
Sec. 36; All
T. 16S., R. 13E.,
Sec. 33; All
T. 17S., R. 13E.,
Sec. 23; E½SE¼
T. 17S., R. 14E.,
Sec. 19; All
T. 18S., R. 12E.,
Sec. 1; Lots 1, 6, 7, 8, & 9, SW¼NE¼, S½NW¼,N½SW¼, NW¼SE¼
Sec. 2; Lot 2, S½NE¼, N½SE¼
T. 18S., R. 13E.,
Sec. 9; All
Sec. 11; All
Sec. 13; All
Sec. 16; S½SE¼, NE¼SW¼
Sec. 22; SW¼NE¼, N½SE¼, SE¼NW¼
T. 18S., R. 14E.,
Sec. 30; SE¼
Sec. 32; SE¼NW¼
T. 20S., R. 14E.,
Sec. 30; Lots 9 & 10; S½ of Lot 12
Total: 12,001.81 acres more or less.

SUPPLEMENTARY INFORMATION: The primary purpose of this exchange is (1) to acquire habitat for several threatened or endangered species including the San Joaquin woollythreads (*Lembertia congdonii*), San Benito evening primrose (*Camissonia benitensis*), giant kangaroo rat (*Dipodomys ignens*), blunt-nosed leopard lizard (*Gambelia silus*), and San Joaquin kit fox (*Vulpus macrotis mitica*), (2) to acquire habitat for several rare species that could become threatened or endangered including the San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), the southwestern pond turtle (*Clemmys marmorata pallida*), the foothill yellow-legged frog (*Rana boylei*), and the San Benito fritillary (*Fritillaria viridea*), (3) to enhance regional biodiversity objectives by acquiring a cross-section of Diablo Range ecosystems ranging from Jeffrey/Coulter/Digger pine forests to alkali desert shrub communities, (4) to acquire eight miles of riparian habitat, and (5) to enhance public recreation opportunities by acquiring key parcels that improve public access to existing public lands.

Federal lands identified for disposal are generally small isolated parcels without public access and with low public resource values. The exchange is consistent with the Bureau's land use plans for the lands involved. The public interest will be well served by making the exchange.

Lands to be transferred from the United States will be subject to the

following reservations, terms, and conditions:

(1) A reservation to the United States for a right-of-way for ditches and canals constructed under the authority of the Act of August 20, 1890 (43 U.S.C. 945).

(2) Authorized pipelines, power lines, roads, highways, telephone lines, minerals leases, and any other authorized land uses will be identified as prior existing rights.

(3) All necessary clearances for archaeology, rare plants and animals shall be completed prior to conveyance of title.

(4) Grazing operations that will have their allotments affected by this exchange are entitled to a 2-year adjustment period. However, a lessee may waive this 2-year notice.

This notice, as provided in 43 CFR 2201.1(b), shall segregate the public lands that are being considered for this exchange. By publication of this notice, those vacant, unappropriated and unreserved public lands described above are segregated from settlement, location and entry under the public land laws, including the mining laws, but not the mineral leasing laws. The segregative effect shall terminate upon issuance of patent, or upon publication in the **Federal Reigster** of a termination of the segregation, or two (2) years from the date of this notice, whichever occurs first. This action is necessary while eliminating conflicting encumbrances on the public lands during exchange processing.

Detailed information concerning the exchange, including the environmental assessment, is available at the Hollister Resource Area Office, 20 Hamilton Court, Hollister, CA 95023.

For a period of 45 days from publication of this notice in the **Federal Register**, interested parties may submit comments to the Area Manager, Hollister Resource Area at the above address. Comments should specify the specific parcel affected by the comment. Any adverse comments will be evaluated by the District Manager, who may vacate or modify this realty action and issue a final determination. In the absence of any action by the District Manager, this action will become the final determination.

FOR FURTHER INFORMATION CONTACT: Steve Addington, Hollister Resource Area Office, (408) 637–8183 or at the address above.

Robert E. Beehler,

Hollister Area Manager.

[FR Doc. 93–18086 Filed 7–28–93; 8:45 am]

BILLING CODE 4310–40–M

[ID–060–01–3110–10–D001; IDI–29531]

Realty Action; Exchange of Public Lands; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, exchange of public lands in Idaho County, Idaho.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Boise Meridian, Idaho

T. 30 N., R. 4 E.,
Sec. 19, lots 4, 9, and 10.
T. 30 N., R. 3 E.,
Sec. 24, lot 1.
Sec. 35, SW¼SW¼.
T. 29 N., R. 3 E.,
Sec. 2, lots 3 to 7, inclusive.
T. 29 N., R. 1 W.,
Sec. 14, N½NW¼.
T. 27 N., R. 1 E.,
Sec. 17, SE¼SW¼.
T. 26 N., R. 2 E.,
Sec. 5, NW¼SE¼,
Sec. 17, NW¼SE¼,
Sec. 18, NE¼NE¼,
Sec. 19, NE¼NW¼,
Sec. 30, NE¼NW¼, NE¼SE¼.

Comprising approximately 750.28 acres in Idaho County, Idaho.

In exchange for these lands, the United States will acquire the following described lands from Keymor Land and Timber Company:

Boise Meridian, Idaho

T. 29 N., R. 1 E.,
Sec. 14, 15, 22, and 23, Copper Queen Lode—Mineral Survey 2591.
Sec. 23, Rosetta Lode—Mineral Survey 2592; Riverview Lode—Mineral Survey 2593.
T. 21 N., R. 1 E.,
Sec. 1, lots 2 & 3, SW¼NE¼, SE¼NW¼, E½SW¼, W½SE¼, SE¼SE¼;
Sec. 12, N½N½, S½NW¼, NE¼SW¼.

Comprising approximately 672.70 acres in Idaho County, Idaho.

DATES: The publication of this notice in the **Federal Register** will segregate the public lands described above to the extent that they will not be subject to appropriation under the public land laws, including the mining laws. Any subsequently tendered application, allowance of which is discretionary, shall not be accepted, shall not be considered as filed, and shall be returned to the applicant. The segregative effect shall terminate as provided by 43 CFR 2201.1(b).

ADDRESSES: Detailed information concerning the exchange is available for review at the Cottonwood Resource Area Office, Rte. 3, Box 181, Cottonwood, Idaho, 83522, or by contacting Ron Grant at (208) 962–3245.

SUPPLEMENTARY INFORMATION: The purpose of this exchange is to improve the resource management programs of the Bureau of Land Management through consolidation of ownership and to benefit the public interest by obtaining important resource values. The public lands to be exchanged are, for the most part, isolated parcels without public access. The private lands to be exchanged have recreation, wildlife, fisheries, and forestry values that merit acquisition into public ownership. The exchange is consistent with the Bureau's land use plans and the public interest will be well served by the exchange. Final determination on disposal will await completion of an environmental analysis and compilation of further information. The value of the lands to be exchanged will be approximately equal. The federal acreage will be reduced and/or the proponent will make cash payment to equalize values upon completion of final appraisals of the lands. Lands to be transferred from the United States will be subject to the following reservations:

1. A reservation of the United States of a right-of-way for ditches and canals constructed by authority of the United States under the Act of August 30, 1890 (43 U.S.C. 945).

2. Valid existing rights, including any right-of-way, easement, permit, or lease of record.

Lands to be acquired by the United States will be subject to valid existing rights of record.

COMMENTS: For a period of 45 days from the date of publication of this notice, interested parties may submit comments to the District Manager, Coeur d'Alene District Office, Bureau of Land Management, 1808 North Third Street, Coeur d'Alene, Idaho 83814. Objections will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: July 20, 1993.

Fritz U. Rennebaum,

District Manager.

[FR Doc. 93–18083 Filed 7–28–93; 8:45 am]

BILLING CODE 4310–GG–M

[NV–030–03–4210–03; NVN 33494]

Realty Action; Lease of Public Land in Lyon County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Initiation of a 45 day public comment period on the proposed lease of public land for airport purposes.

SUMMARY: Pursuant to the authority in the Act of May 24, 1928, as amended (49 U.S.C. appendix, 211–213), a 45 day public comment period is initiated on the following land proposed to be leased for airport purposes to Rosaschi Dusters, Inc.:

Mt. Diablo Meridian, Nevada

T. 11 N., R. 24 E.

Sec. 6, Lot 1, SE¼NE¼.

Containing 81.06 acres.

SUPPLEMENTARY INFORMATION: The public land is located three miles north of Smith in Lyon County, Nevada. The land is adjacent to lands currently under lease for airport purposes and will allow construction of a new runway. The land is not needed for Federal purposes. Lease of the land is consistent with current BLM land use planning and would be in the public interest.

This notice segregates the above described land from operation of the public land laws, including the general mining laws. The segregative effect will end upon issuance of the lease or one year from the date of this publication, whichever occurs first.

DATES: For a period of 45 days from September 13, 1993, interested parties may submit comments.

ADDRESSES: Written comments should be sent to: Walker Resource Area Manager, Bureau of Land Management, 1535 Hot Springs Road, suite 300, Carson City, NV 89706–0638. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the decision to approve this realty action will become the final determination of the Department of the Interior 60 days from the date of publication of this notice in the **Federal Register.**

FOR FURTHER INFORMATION CONTACT: Charles J. Kihm, Walker Area Realty Specialist, Bureau of Land Management, 1535 Hot Springs Road, suite 300, Carson City, NV 89706–0638; (702) 885–6000.

Dated: July 19, 1993.

John Matthiessen,

Walker Resource Area Manager.

[FR Doc. 93–18078 Filed 7–28–93; 8:45 am]

BILLING CODE 4310–HC

[OR 49638; OR–080–03–4212–05; GP3–325]

Realty Action; Proposed Direct Sale; Oregon

July 20, 1993.

The following described public lands have been examined and determined to be suitable for transfer out of Federal ownership by modified competitive sale under the authority of sections 203 and 209 of the Federal Land Policy and Management Act of 1976, as amended (90 Stat. 2750; 43 U.S.C. 1713 and 90 Stat. 2757; 43 U.S.C. 1719), at not less than the appraised fair market value:

Willamette Meridian, Oregon,

T. 9S., R. 5W.,

Sec. 32, Lots 1 and 2.

The above-described parcels contain 2.90 acres in Polk County.

The parcels will not be offered for sale until at least 60 days after publication of this notice in the **Federal Register.** The fair market value of the parcels have not yet been determined. Anyone interested in knowing the values may request this information from the address shown below.

The above-described lands are hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above-cited statute, for 270 days or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

The parcels are difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency. No significant resource values will be affected by this transfer. Because of the parcels' remoteness from other public lands and small size, their best use is to merge them with the surrounding ownership. The sale is consistent with the Westside Management Framework Plan and the public interest will be served by offering these parcels for sale.

The parcels are being offered only to Starker Forests, Inc. Use of the direct sale procedures authorized under 43 CFR 2711.3–3, will avoid an inappropriate land ownership pattern.

The terms, conditions, and reservations applicable to the sale are as follows:

1. Starker Forests, Inc., will be required to submit a deposit of either cash, bank draft, money order, or any combination thereof for not less than 20 percent of the appraised value. The remainder of the full appraised price must be submitted prior to the expiration of 180 days from the date of the sale. Failure to submit the remainder of the full appraised price shall result in the cancellation of the sale and the forfeiture of the deposit.

2. The mineral interests being offered for conveyance have no known mineral value. A bid will also constitute an application for conveyance of the mineral estate, in accordance with section 209 of the Federal Land Policy and Management Act. Starker Forests, Inc., must include with its bid a nonrefundable $50.00 filing fee for the conveyance of the mineral estate.

3. The patent will be subject to:

a. Rights-of-way for ditches or canals will be reserved to the United States under 43 U.S.C. 945.

b. All valid existing rights and reservations of record.

Detailed information concerning the sale is available for review at the Salem District Office, 1717 Fabry Road SE., Salem, Oregon 97306.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the Yamhill Area Manager, Salem District Office, at the above address. Any adverse comments will be reviewed by the Salem District Manager, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Jeffrey F. Kovach,

Acting Yamhill Area Manager.

[FR Doc. 93–18085 Filed 7–28–93; 8:45 am]

BILLING CODE 4310–30–M

[ES–960–4950–4513; ES–046169, Group 191, Florida]

Filing of Plat of the Dependent Resurvey and Subdivision of Section 10 and Metes-and-Bounds Survey in Sections 10 and 15

The plat of the dependent resurvey of a portion of the subdivisional lines, and the survey of the subdivision of section 10, and the metes-and-bounds survey of certain parcels in sections 10 and 15, Township 47 South, Range 29 East, Tallahassee Meridian, Florida, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on September 9, 1993.

The survey was made upon request submitted by the Bureau of Indian Affairs.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., September 9, 1993.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $2.75 per copy.

Dated: July 15, 1993.

Harry Hamilton,

Acting State Director.

[FR Doc. 93-18047 Filed 7-28-93; 8:45 am]

BILLING CODE 4310-GJ-M

[ES-962-4950-4377; ES-046171, Group 147, Wisconsin]

Filing of Plat of Dependent Resurvey and Subdivision of Section 4

The plat of the dependent resurvey of a portion of the north boundary (Fourth Standard Parallel North), a portion of the subdivisional lines and the subdivision of section 4 in Township 40 North, Range 5 East, Fourth Principal Meridian, Wisconsin, will be officially filed in Eastern States, Springfield, Virginia at 7:30 a.m., on September 9, 1993.

The survey was made upon request submitted by the Bureau of Indian Affairs.

All inquiries or protests concerning the technical aspects of the survey must be sent to the Chief Cadastral Surveyor, Eastern States, Bureau of Land Management, 7450 Boston Boulevard, Springfield, Virginia 22153, prior to 7:30 a.m., September 9, 1993.

Copies of the plat will be made available upon request and prepayment of the reproduction fee of $1.75 per copy.

Dated: July 15, 1993.

Larry Hamilton,

Acting State Director.

[FR Doc. 93-18048 Filed 7-28-93; 8:45 am]

BILLING CODE 4310-GJ-M

Fish and Wildlife Service

Availability of a Draft Revised Recovery Plan for the Plymouth Redbelly Turtle for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft Revised Recovery Plan for the Plymouth Redbelly Turtle (*Pseudemys rubriventris*). This population is found in Plymouth County, Massachusetts. Based on a taxonomic review, the Service is treating the Plymouth redbelly turtle as a disjunct population of the more southerly *P. rubriventris*, which ranges from New Jersey to North Carolina, rather than as a subspecies, thereby eliminating use of the trinomial *P. r. bangsii*. The Service solicits review and comment from the public on this draft Plan.

DATES: Comments on the draft Recovery Plan must be received September 13, 1993 to receive consideration by the Service.

ADDRESSES: Persons wishing to review the draft Recovery Plan can obtain a copy from the U.S. Fish and Wildlife Service, New England Field Office, 22 Bridge Street, Concord, New Hampshire 03301, telephone 603/225-1411.

FOR FURTHER INFORMATION CONTACT: Michael Amaral (see **ADDRESSES**).

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare Recovery Plans for most of the listed species native to the United States. Recovery Plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 et seq.) requires the development of Recovery Plans for listed species unless such a Plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during Recovery Plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised Recovery Plan. The Service and other Federal agencies will also take these comments into account in the course of implementing Recovery Plans.

The document submitted for review is the draft Plymouth Redbelly Turtle Revised Recovery Plan. The redbelly turtle has a relatively continuous distribution from central New Jersey to eastern North Carolina, and a disjunct population in southeastern Massachusetts. Based on recent findings, the Plymouth redbelly turtle appears insufficiently different from southern redbelly turtles to warrant subspecific status, and is now considered by the Service to be a distinct population segment warranting continued protection under the current Service vertebrate population policy.

While the redbelly turtle does not appear to be threatened or endangered in the southern portion of its range, the Plymouth population is limited by its small size and highly restricted range: the population is currently numbered at 300-400 turtles, and its range is confined to 17 ponds in a small section of Plymouth County, Massachusetts. Continuing threats to this population include low survival of hatchlings and young turtles due to predation; loss of nesting and basking sites due to development, recreation, and forest canopy closure; loss of aquatic vegetation as a food resource due to herbicide use and other manipulations; use of insecticides and other chemicals in proximity to the turtle's pond habitat; collection, harassment, and incidental mortality; and loss of genetic variability through inbreeding and genetic drift.

The Plymouth redbelly turtle was listed as endangered in April 1980. The document under review is the second revision of the recovery plan, which was first approved in 1981 and revised in 1985. The primary objective of the draft Recovery Plan is to stabilize the long-term status and ensure the viability of the species in the wild, thereby enabling the Plymouth redbelly turtle's reclassification and eventual removal from the Federal list of endangered and threatened wildlife and plants. Conditions that must be met to reclassify the Plymouth redbelly turtle include successful maintenance of at least 15 self-sustaining subpopulations with a total of 600 breeding-age individuals, and adequate habitat protection to ensure the long-range survival of these populations. Delisting will be considered when at least 20 self-sustaining subpopulations totaling 1,000 or more breeding-age individuals are established in the wild, with commensurate habitat protection to ensure their long-range survival. Due to the delayed sexual maturity of this large turtle, recovery will be gradual, even under optimum conditions. The estimated date for reclassification is the year 2000; delisting may be achieved by the year 2015 if recovery proceeds on schedule.

Several actions will be undertaken to achieve recovery objectives. Continuing and proposed recovery activities include: monitoring of population status and trends; searches for additional populations and further delineation of the population's historical range; continued research into limiting factors,

natural history, and threats to the population; management to maintain or improve habitat; continued efforts to supplement subpopulations and establish new subpopulations; continued enforcement of laws and regulations protecting the turtle and its habitat; and educational programs.

The draft Recovery Plan is being submitted for agency review. After consideration of comments received during the review period, the Plan will be submitted for final approval.

Public Comments Solicited

The Service solicits written comments on the Recovery Plan described. All comments received by the date specified above will be considered prior to approval of the Plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: July 20, 1993.

Ronald E. Lambertson,

Regional Director.

[FR Doc. 93-18079 Filed 7-28-93; 8:45 am]

BILLING CODE 4310-55-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS No. 1621-93; AG Order No. 1767-93]

RIN 1115-AC30

Extension of Designation of Bosnia-Hercegovina Under Temporary Protected Status Program

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice.

SUMMARY: This notice extends, until August 10, 1994, the Attorney General's designation of Bosnia-Hercegovina under the Temporary Protected Status program provided for in section 244A of the Immigration and Nationality Act (Act). Accordingly, eligible aliens who are nationals of Bosnia-Hercegovina, or who have no nationality and who last habitually resided in Bosnia-Hercegovina, may re-register for Temporary Protected Status and extension of employment authorization. This re-registration is limited to persons already registered or still eligible to register for the initial period of Temporary Protected Status, which ends on August 10, 1993.

EFFECTIVE DATES: This designation is effective on August 11, 1993, and will remain in effect until August 10, 1994. Re-registration procedures become effective on July 29, 1993, and will remain in effect until August 30, 1993.

FOR FURTHER INFORMATION CONTACT: Ronald Chirlin, Senior Immigration Examiner, Immigration and Naturalization Service, room 7123, 425 I Street, NW., Washington, DC 20536, telephone (202) 514-5014.

SUPPLEMENTARY INFORMATION: Under section 244A of the Act, as amended by section 302(a) of Public Law 101-649 and section 304(b) of Public Law 102-232 (8 U.S.C. 1254a), the Attorney General is authorized to grant Temporary Protected Status in the United States to eligible aliens who are nationals of a foreign state designated by the Attorney General, or who have no nationality and who last habitually resided in that state. The Attorney General so designates a state, or a part thereof, upon finding that the state is experiencing ongoing armed civil strife, environmental disaster, or certain other extraordinary and temporary conditions that prevent nationals or residents of the country from returning in safety.

Effective on August 10, 1992, the Attorney General designated Bosnia-Hercegovina for Temporary Protected Status for a period of 12 months, 57 FR 35604. This notice extends the designation of Bosnia-Hercegovina under the Temporary Protected Status program for an additional 12 months, in accordance with sections 244A(b)(3) (A) and (C) of the Act. This notice also describes the procedures with which eligible aliens who are nationals of Bosnia-Hercegovina, or who have no nationality and who last habitually resided in Bosnia-Hercegovina, must comply in applying for Temporary Protected Status or continuation of that status.

Notice of Extension of Designation of Bosnia-Hercegovina Under Temporary Protected Status Program

By the authority vested in me as Attorney General under section 244A of the Immigration and Nationality Act, as amended, and pursuant to sections 244A(b)(3) (A) and (C) of the Act, I have determined that, as a result of the continued armed conflict in that nation, there still exist extraordinary and temporary conditions in Bosnia-Hercegovina that prevent aliens who are nationals of Bosnia-Hercegovina, and aliens have no nationality who last habitually resided in Bosnia-Hercegovina, from returning to Bosnia-Hercegovina in safety. I have further determined that permitting nationals of Bosnia-Hercegovina, and aliens having no nationality who last habitually resided in Bosnia-Hercegovina, to remain temporarily in the United States is not contrary to the national interest of the United States. Accordingly, it is ordered as follows:

(1) The designation of Bosnia-Hercegovina under section 244A(b) of the Act is extended for an additional 12-month period from August 11, 1993, to August 10, 1994.

(2) I estimate that there are approximately 300 nationals of Bosnia-Hercegovina, and aliens having no nationality who last habitually resided in Bosnia-Hercegovina, who have been granted Temporary Protected Status and who are eligible for re-registration.

(3) A national of Bosnia-Hercegovina, or an alien having no nationality who last habitually resided in Bosnia-Hercegovina, who received a grant of Temporary Protected Status during the initial period of designation from August 10, 1992, to August 10, 1993, must comply with re-registration requirements contained in 8 CFR 240.17, which are described in pertinent part in paragraphs (4) and (5) of this notice.

(4) A national of Bosnia-Hercegovina, or an alien having no nationality who last habitually resided in Bosnia-Hercegovina, who previously has been granted Temporary Protected Status, must re-register by filing a new Application for Temporary Protected Status, Form I-821, together with an Application for Employment Authorization, Form I-765, within the 30-day period beginning on July 29, 1993, and ending on August 30, 1993, in order to be eligible for Temporary Protected Status during the period from August 11, 1993, until August 10, 1994. Late re-registration applications will be allowed for "good cause" pursuant to 8 CFR 240.17(c).

(5) There is no filing fee for the Form I-821 filed as part of the re-registration application. The fee prescribed in 8 CFR 103.7(b)(1) will be charged for the Form I-765, filed by an alien requesting employment authorization pursuant to the provisions of paragraph (4) of this notice. An alien who does not request employment authorization must file Form I-821 together with Form I-765 for information purposes, but in such cases both Form I-821 and Forms I-765 will be without fee.

(6) Eligible applicants may still file their initial Temporary Protected Status registration applications until August 10, 1993. These applications may be filed as combined applications for the initial registration and for the re-registration, if filed from July 29, 1993, until August 10, 1993, inclusive. Combined registration applications must include one Form I-821 and two

Forms I-765: one for the initial period and one for the extension.

The Form I-821 of the combined application has a $50 filing fee for the initial registration; there is no fee for the re-registration alone. If no employment authorization is requested, both Forms I-765 will be filed without fee. If employment authorization is requested only from August 11, 1993 onward, only one I-765 filing fee is required. If employment authorization is requested both until and after August 10, 1993, filing fees are required for both Forms I-765.

(7) Pursuant to section 244A(b)(3)(A) of the Act, the Attorney General will review, at least 60 days before August 10, 1994, the designation of Bosnia-Hercegovina under the Temporary Protected Status program to determine whether the conditions for designation continue to exist. Notice of that determination, including the basis for the determination, will be published in the **Federal Register**.

(8) Information concerning initial registration and re-registration for the Temporary Protected Status program for nationals of Bosnia-Hercegovina, and aliens having no nationality who last habitually resided in Bosnia-Hercegovina, will be available at local Immigration and Naturalization Service offices upon publication of this notice.

Dated: July 20, 1993.

Janet Reno,

Attorney General.

[FR Doc. 93-18043 Filed 7-28-93; 8:45 am]

BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Office of the Secretary

Commission on the Future of Worker-Management Relations; Reopening of Comment Period

In the **Federal Register** notice of Wednesday, June 30, 1993, (58 FR 35048) Volume 58, Number 124, the Commission sought comments from representatives of management, labor and other interested parties on whether the Commission should hold a hearing on issues related to the Railway Labor Act in the railroad or airline industries and their applicability to the following three questions contained in the Commission's charter:

(1) What (if any) new methods of institutions should be encouraged, or required, to enhance workplace productivity through labor-management cooperation and employee participation?

(2) What (if any) changes should be made in the present legal framework and practices of collective bargaining to enhance cooperative behavior, improve productivity and reduce conflict and delay?

(3) What (if anything) should be done to increase the extent to which workplace problems are directly resolved by the parties, themselves, rather than recourse to state and federal courts and government regulatory bodies?

The Commission requested that any submission contain a brief statement regarding the questions listed above in the event a party believes a hearing is appropriate. Comments were to be submitted by July 26, 1993 and were to be addressed to Mrs. June M. Robinson, Designated Federal Official, Commission on the Future of Worker-Management Relations, U.S. Department of Labor, room C-2318, 200 Constitution Avenue, NW., Washington, DC 20210.

REOPENING OF COMMENT PERIOD: Because of interest in this subject, and requests for additional time to file comments, the Commission is reopening the comment period. Therefore, the period of request for comments is reopened through September 15, 1993.

FOR FURTHER INFORMATION CONTACT: Mrs. June M. Robinson, Designated Federal Official, Commission on the Future of Worker-Management Relations, U.S. Department of Labor, room C-2318, Washington, DC, telephone (202) 219-9148.

Signed at Washington, DC, this 23rd day of July, 1993.

June M. Robinson,

Designated Federal Official, Commission on the Future of Worker-Management Relations.

[FR Doc. 93-18092 Filed 7-28-93; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Networking and Communications Research and Infrastructure; Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92-463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Networking and Communications Research.

Date and Time: August 18-19, 1993; 8:30 a.m. to 5 p.m.

Place: Room 416, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Mr. David Staudt, NSFNET Connections Program, National Science Foundation, room 416, Washington, DC 20550 (202 357-9717).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the SBIR Program.

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 exempt under 5 U.S.C. 552b.(c) (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 93-18093 Filed 7-28-93; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-328]

Tennessee Valley Authority (Sequoyah Nuclear Plant, Unit 2); Exemption

I.

The Tennessee Valley Authority (TVA) is the holder of Facility Operating License No. DPR-79, which authorizes operation of the Sequoyah Nuclear Plant, Unit 2 (the facility, Unit 2). The facility consists of a pressurized water reactor located on TVA's Sequoyah site in Hamilton County, Tennessee. The license provides, among other things, that the facility is subject to all rules, regulations, and orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

II.

Section III.A.6(b) of appendix J to 10 CFR part 50 requires that if two consecutive Type A tests fail to meet the applicable acceptance criteria, a Type A test shall be conducted at each refueling outage. This increased testing frequency would continue until two consecutive Type A tests meet the acceptance criteria, after which time the normal retest frequency of three Type A tests at approximately equal intervals within each 10-year service period would resume. The approximately equal intervals are defined in Surveillance Requirement 4.6.1.2.a of the Sequoyah Technical Specifications (TSs) as 40#10 months. Type A tests are tests of the primary reactor containment to measure the expected overall integrated leakage rate of the containment for the loss-of-coolant accident conditions.

The action would exempt the licensee from the provisions in section III.A.6(b)

of Appendix J with respect to the requirement to accelerate the Type A frequency if there have been two consecutive failures of Appendix J containment Type A tests. If two consecutive Type A tests fail to meet the acceptance criteria of 0.75 La, a Type A test must be performed at each refueling outage until two consecutive Type A tests meet the acceptance criteria. Thereafter, the test frequency in Section III.D of Appendix J, which requires performing three Type A tests at approximately equal intervals during each 10-year service period, may resume. The exemption would relax the acceleration of the Type A test frequency and the requirement to perform a Type A test during the Unit 2 Cycle 6 refueling outage scheduled for fall of 1993. If this exemption is granted, the next scheduled Type A test would be performed during the Cycle 7 refueling outage currently scheduled for April 1995.

The applicable acceptance criteria per 10 CFR part 50, appendix J, section III.A.5.(b)(2) is 0.75 times the allowable leakage (La), which results in a limit of 0.#1875 percent-per-day. At Unit 2, the licensee conducted Type A testing during the pre-operational testing in 1981, and refueling outages in November 1984 (Cycle 2), March 1989 (Cycle 3), and April 1992 (Cycle 5). The cause of the Cycle 2 and Cycle 3 Type A leak tests exceeding the acceptance criteria of 0.75 La was packing leakage from two outboard root valves on two containment pressure sensing lines. Repairs were performed and, after due consideration, the staff granted an exemption from performing a test during Cycle 4 by letter dated August 27, 1990.

As a result of the Type A test performed during the Cycle 5 refueling outage, the measured leakage rate was again found to exceed the acceptance criteria of 0.75 La. This failure resulted when the leakage from the local leak rate test of valve 2–FCV–61–191 (which is attached to glycol Penetration X–47A) was added into the result of the Type A test that was performed during the outage. The leakage was caused by a small nut that was found under the valve stem nut on the outboard valve, which prevented the valve from going fully closed. (The nut was from unrelated work in the vicinity of the valve). Following removal of the loose nut, lubrication of the valve stem, and cycling of the valve several times, the local leak test was re-performed. No measured leakage was found. It could not be determined which action, removal of the foreign material that prevented full valve closure or sticking of the valve stem (or both), corrected the problem. Corrective measures that have been adopted to prevent recurrence of the problem include a monthly inspection of the glycol valves for foreign material and monthly lubrication of the valve stems.

The history of the results of Type A tests conducted at Unit 2 is summarized as follows:

Type A tests performed	As-found leak rate (percent per day)	0.75 La limit (percent per day)	1.0 La limit (percent per day)	Status
Preop Test	0.14	0.1875	0.25	Pass.
Cycle 2 (1984)	0.22	0.1875	0.25	Fail.
Cycle 3 (1989)	0.22	0.1875	0.25	Fail.
Cycle 5 (1992)	0.42	0.1875	0.25	Fail.

The staff has reviewed the licensee's submittal and agrees with the licensee that the root cause of the previous Type A test failures was excessive leakage from a single component in the pressurization boundary, and that a general containment leakage problem does not exist. Once the component was repaired, the retest confirmed the adequacy of the repair. In addition, corrective actions have been implemented to prevent future test failures, and the corrective actions taken on the two previous Type A test failures have been effective since they are unrelated to the leakage through Penetration X–47A. The staff agrees with the licensee that failures of this type are random and that the leakage that caused the 1992 test failure can best be addressed through the alternative corrective actions rather than increasing the frequency of performing a Type A test.

Therefore, the staff concludes that performing future Type A testing on an accelerated schedule would serve no technical purpose and the requested exemption has no significant impact on containment integrity. Pursuant to 10 CFR 50.12(a)(2)(ii), the staff agrees that application of the regulation is not necessary to achieve the underlying purpose of the rule and that the requested exemption should be granted.

III.

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12(a), this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are presently justifying the exemption; namely, that the application of the regulation in the particular circumstances for Unit 2 in the Cycle 6 refueling outage would not serve, and is not necessary, to achieve the underlying purpose of the rule. The application of the regulation is not necessary to assure the integrity of the containment in the event of a postulated design basis loss-of-coolant accident.

Accordingly, the Commission hereby grants an exemption from section III.A.6(b) of appendix J to 10 CFR part 50 for Sequoyah Unit 2.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the environment (55 FR 21602).

For further details with respect to this action, see the request for exemption dated January 7, 1993, which is available for public inspection at the Commission's Public Document Room, Gelman Building, 2120 L Street, NW., Washington, DC, and at the Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

This exemption is effective upon issuance.

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

For the Nuclear Regulatory Commission.

Steven A. Varga,

Director, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 93–18087 Filed 7–28–93; 8:45 am]

BILLING CODE 7590–01–M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of SF 177 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (title 44, U.S. Code, chapter 35), this notice announces a proposed unchanged extension to a form which collects information from the public. Standard Form 177, Statement of Physical Ability for Light Duty Work, is used to collect information from applicants for positions in the competitive service about their physical capacity to perform the duties of sedentary and moderately active jobs. The SF 177 is used by agencies in lieu of requesting or requiring medical examinations to determine qualifications for these positions. There are 678 individuals who respond annually for a total burden of 113 hours. For copies of this proposal, call C. Ronald Trueworthy on (703) 908–8550.

DATE: Comments on this proposal should be received on or before August 30, 1993.

ADDRESSES: Send or delivery comments to:

C. Ronald Trueworthy, Agency Clearance Officer, U.S. Office of Personnel Management, CHP 500, 1900 E Street, NW., Washington, DC 20415, and

Joseph Lackey, OPM Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, room 3002, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Raleigh Neville, (202) 606–0960.

U.S. Office of Personnel Management.

Patricia W. Lattimore,

Acting Deputy Director.

[FR Doc. 93–17981 Filed 7–28–93; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–32651; File No. SR–PSE–93–08]

Self-Regulatory Organizations; Proposed Rule Change by the Pacific Stock Exchange, Inc. Relating to Amendment to Its Rule Governing Competing Specialists

July 16, 1993.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on May 10, 1993, the Pacific Stock Exchange, Inc. ("PSE" or "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 Change

The PSE proposes to amend its Rule 5.35(b) to modify the functions and responsibilities of competing specialists. The text of the proposed rule change is available at the Office of the Secretary, PSE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization 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 self-regulatory organization 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 Exchange is proposing to amend its Rule 5.35(b) to expand the responsibilities of competing specialists.[1] This rule change is intended to provide the Exchange with the ability to enhance its markets in securities traded on a competing specialist basis and otherwise to allow the Exchange increased flexibility in developing new policies and procedures to improve specialists' performance in trading certain designated securities.

Exchange rules currently provide that a competing specialist is a member who is registered with the Exchange for the purpose of making transactions as a dealer-specialist on the floor of the Exchange in securities traded on a competing specialist basis.[2] Appointments of competing specialists are made by the Equity Floor Trading Committee ("EFTC") based on a consideration of the applicant's ability to perform the duties of a competing specialist and the applicant's financial resources.[3]

The responsibilities of competing specialists include the following: (a) Making transactions that constitute a course of dealings reasonably calculated to contribute to the maintenance of a fair and orderly market; (b) engaging, to a reasonable degree under the circumstances, in dealings for such specialist's own account when there exists, or it is reasonably anticipated that there will exist, a lack of price continuity, a temporary disparity between the supply of and the demand for a particular security, or a temporary distortion of the price relationships between the Exchange and other markets; (c) responding to a request for a quotation made at any time by Exchange personnel for the purpose of dissemination over a quote reporting system; and (d) maintaining bid-ask spreads that are less than the stated maximum bid-ask spreads established by the Exchange with respect to certain designated securities.[4]

The PSE's current rules provide for the appointment of competing specialists in conjunction with the appointment of a book broker, whom the EFTC selects to operate the book of limit orders and to execute odd lot orders and SCOREX-routed orders in securities traded on a competing specialist basis.[5] Book brokers are generally prohibited from engaging in principal transactions.[6] In certain circumstances, a book broker is obligated to call on the designated competing specialist(s) to make bids and/or offers or to narrow spreads in existing bids and offers or to take other appropriate action as mandated by Exchange rules.[7] The book broker must take action whenever a floor broker so requests or whenever in the book broker's opinion the interests of a fair, orderly and competitive market are served by such action.[8]

[1] Securities traded on a competing specialist basis are traded in accordance with the provisions of PSE Rules 5.27 through 5.38. See PSE Rule 5.35(a); see also PSE Rules 5.35(b), (f)–(h) definition and responsibilities of competing specialists; 5.35(i) (other Exchange rules specifically applicable to competing specialists).

[2] See PSE Rule 5.35(b).

[3] Id.

[4] See, e.g., PSE Rule 5.35(f), Commentary .01(a), which provide that a competing specialist, in trading BankAmerica Corporation Common Stock, must bid and/or offer so as to create differences of no more than ½ of $1.

[5] See PSE Rule 5.35(c) and 5.35(d). At the present time, there are no competing specialists or book brokers registered with the Exchange.

[6] See PSE Rule 5.35(e).

[7] See PSE Rule 5.35(f).

[8] Id.

The Exchange is now proposing to expand the role of competing specialists by permitting the Board of Governors to authorize the Floor Trading Committee to appoint a competing specialist who shall accept limit orders for placement in the book and execute odd lot orders and SCOREX-routed orders in securities traded on the Exchange on a competing specialist basis. Competing specialists would thus be appointed to supplement the market provided by the registered specialist in certain securities to be designated by the Exchange. In instances where the Board of Governors waives the applicable provisions of Rules 5.35(b), (c) and (e) and the Floor Trading Committee appoints a competing specialist, there would be no need for a book broker. The Exchange believes that implementation of this proposal will provide significant liquidity, continuity and depth to the market, and narrower bid-ask spreads in securities traded on a competing specialist basis.

The proposed rule change is consistent with section 6(b) of the Act, in general, and furthers the objectives of section 6(b)(5), in particular, in that it is designed to promote just and equitable principles of trade and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and published its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approved such rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at 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 PSE. All submissions should refer to File No. SR-PSE-93-08 and should be submitted by August 19, 1993.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary,

[FR Doc. 93-18053 Filed 7-28-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19592; 811-2696]

Cash Reserve Management, Inc.; Application for Deregistration

July 23, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: Cash Reserve Management, Inc.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N-8F was filed on January 14, 1992, and amended on May 27, 1992.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on August 17, 1993, and should be accompanied by proof of service on the applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 5th Street NW., Washington DC 20549. Applicant, Two World Trade Center, New York, NY 10048.

FOR FURTHER INFORMATION CONTACT: Barry A. Mendelson, Senior Attorney, at (202) 504-2284, or C. David Messman, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company organized as a Maryland corporation on October 8, 1976. On October 21, 1976, applicant registered under the Act and filed a registration statement on Form S-5 under the Securities Act of 1933. The registration statement became effective on December 30, 1976 and applicant's initial public offering commenced immediately thereafter.

2. On August 5, 1988, applicant's board of directors approved an Agreement and Plan of Reorganization ("Plan") providing for the transfer of applicant's assets to Shearson Lehman Daily Dividend Inc. ("Successor Fund") in exchange for shares of the Successor Fund and the assumption by the Successor Fund of certain stated liabilities of applicant. The Successor Fund's board of directors approved the Plan on July 20, 1988. On or about September 19, 1988, proxy materials relating to the Plan were mailed to applicant's shareholders, who approved the Plan at a special meeting held on December 2, 1988.

3. On December 2, 1988, pursuant to the Plan, each shareholder of applicant became a shareholder of the Successor Fund, receiving shares of that fund having an aggregate net asset value equal to the aggregate net asset value of his/her investment in applicant. The net asset value of applicant as of December 2, 1988 was $2,774,874,784.

4. The expenses incident to the reorganization, consisting of accounting, printing, administrative, and legal expenses, totaled $1,341,236.99. These expenses were borne by applicant ($580,034.44), the Successor Fund ($59,046.46), and Shearson Lehman Brothers Inc., applicant's investment adviser ($702,156.09). Applicant is aware that such expenses, in the aggregate, are in excess of those incurred in most other reorganizations. Applicant represents that the primary reason for the elevated level of expenses was the number of accounts involved in the reorganization, i.e., 415,023 accounts. The amount expended, per account, in the reorganization was $3.23. Applicant submits that, on a per account basis, the expenses incurred were not in excess of those reasonably incurred in other reorganizations.

5. Articles of Transfer were filed on December 2, 1988 and Articles of Dissolution will be filed on behalf of applicant with the Maryland State Department of Assessments and Taxation to effect the dissolution of applicant as a Maryland corporation.

6. As of the date of the amended application, applicant had no shareholders, assets, or liabilities. Applicant is not a party to any litigation or administrative proceeding. Applicant is not presently engaged in, nor does it propose to engage in, any business activities other than those necessary for the winding up of its affairs.

For the Commission, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-18117 Filed 7-28-93; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-19591; File No. 812-8260]

College Retirement Equities Fund, et al.

July 23, 1993.

AGENCY: Securities and Exchange Commission ("SEC" or the "Commission").

ACTION: Notice of application for exemptions and approval under the Investment Company Act of 1940 (the "1940 Act").

APPLICANTS: College Retirement Equities Fund ("CREF") and TIAA-CREF Individual & Institutional Services, Inc. ("TC Services", together with CREF, the "Applicants").

RELEVANT 1940 ACT SECTIONS: Order requested under section 6(c) of the 1940 Act granting exemptions from sections 12(b), 26(a)(2) and 27(c)(2) of the 1940 Act and Rule 12b-1 thereunder, and, pursuant to section 17(d) of the 1940 Act and Rule 17d-1 thereunder, approving certain joint arrangements.

SUMMARY OF APPLICATION: Applicants seek an order pursuant to section 6(c) of the 1940 Act exempting the arrangement for financing the distribution of CREF's variable annuity certificates (the "Certificates") from the provisions of sections 12(b), 26(a)(2) and 27(c)(2) of the 1940 Act and Rule 12b-1 thereunder, and for an order pursuant to section 17(d) of the 1940 Act and Rule 17d-1 thereunder granting approval with respect to the same distribution arrangement. Applicants seek this relief to make permanent certain exemptive relief previously granted by the Commission on a temporary basis. If the relief is granted. Applicants would comply with all applicable provisions of Rule 12b-1 except those relating to shareholder approval.

FILING DATE: The application was filed on January 26, 1993, and an amended and restated application was filed on July 8, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing on this application by writing to the Secretary of the SEC and serving Applicants with a copy of the request, personally or by mail. Hearing requests must be received by the Commission by 5:30 p.m. on August 17, 1993 and should be accompanied by proof of service on Applicants in the form of an affidavit or, for lawyers, by certificate of service. Hearing requests should state the nature of the interest, the reason for the request and the issues contested. Persons may request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants: Peter C. Clapman, Esq., TIAA-CREF, 730 Third Avenue, New York, New York 10017.

FOR FURTHER INFORMATION CONTACT: Barbara J. Whisler, Attorney, or Michael V. Wible, Special Counsel, both at (202) 272-2060, Office of Insurance Products, Division of Investment Management.

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from the Public Reference Branch of the SEC.

Applicant's Representations

1. CREF, a nonprofit membership corporation subject to the Not-For-Profit Corporation Law of New York, was established by a special act of the New York State Legislature in 1952 to provide retirement benefits suited to the needs of employees of tax-exempt and publicly supported colleges, universities and other educational and research institutions. CREF is also subject to regulation by the Superintendent of Insurance of New York State. CREF is registered as an open-end diversified management investment company under the 1940 Act and the Certificates are registered under the Securities Act of 1933. The Certificates are funded by CREF's five investment portfolios: The Stock Account; the Money Market Account; the Bond Market Account; the Social Choice Account; and the Global Equities Account (collectively, the "Accounts").

2. The Teachers Insurance and Annuity Association of America ("TIAA"), CREF's companion organization, was established in 1918 as a nonprofit corporation under New York insurance law. TIAA and CREF are legally distinct entities; however, officers and other employees of TIAA generally are also officers and employees, respectively, of CREF. Additionally, the seven individuals comprising the Board of Overseers of CREF also comprise the members of TIAA's Board of Overseers.

3. TC Services, a member of the National Association of Securities Dealers and a wholly-controlled subsidiary of TIAA formed on September 4, 1990, is a not-for-profit entity currently exempt from federal and state taxation. TC Services provides all services relating to the distribution of the Certificates and the administration of CREF. TIAA-CREF Investment Management Inc. ("TC Management"), formed on September 4, 1990 as a not-for-profit entity exempt from federal and state taxation, is also a wholly-controlled subsidiary of TIAA. TC Management is registered under the Investment Advisers Act of 1940 and serves as investment advisor to the CREF Accounts. Thus, all services for CREF are performed by personnel of TC Services or by personnel of TC Management.

4. Concurrently with the filing of registration statements under the 1993 Act and the 1940 Act, CREF filed an application on September 26, 1985, for exemptive relief under the 1940 Act. On August 22, 1989, the Commission issued an order (the "1989 Order") granting certain relief, including temporary relief under sections 12(b), 26(a)(2) and 27(c)(2) of the 1940 Act and Rule 12b-1 thereunder and under section 17(d) of the 1940 Act and Rule 17d-1 thereunder to permit a daily deduction from the

Accounts to cover expenses related to the distribution of the Certificates. The temporary relief, granted for a period of four years, expires on August 22, 1993.

5. The application states that the distribution expense arrangement which was the subject of the relief has not changed materially since the 1989 Order. Applicants state that the sole difference is that the manner in which services are provided to CREF has been restructured. Prior to January 1, 1992, these services were provided at cost by salaried personnel of CREF pursuant to an expense reimbursement agreement with TIAA. On December 19, 1990, the Commission issued an order pursuant to section 17(d) of the 1940 Act and Rule 17d–1 thereunder approving a restructuring of CREF pursuant to which TC Services and TC Management (the "Subsidiaries") would provide all services necessary for CREF's operations. Most of the officers and employees of the Subsidiaries were officers and employees of CREF prior to CREF's restructuring. Thus, Applicants note that after the reorganization, as before, no services for CREF are provided directly by an unrelated or for-profit entity. Applicants further state that the change does not impact the issues addressed in the application.

6. Distribution, administrative and investment advisory services are provided to CREF at cost by personnel of the Subsidiaries. Each year a committee of three CREF trustees (who are not interested persons of CREF) establishes proposed levels of distribution, investment advisory and administrative deductions based upon the expenses anticipated to be incurred by CREF for those services during the coming year. For accounting purposes the levels of deductions are converted into percentages which, when applied as deductions against the Accounts, are expected to produce an amount equal to the anticipated level of expenses. These rates are then approved by CREF's Board of Trustees, including a majority of those Trustees who are not interested persons of CREF. Pursuant to the terms of the respective agreements between CREF and the Subsidiaries, each of the three entities receives amounts daily from CREF corresponding to the daily deductions made from the Accounts established in the manner described above. A soon as is practicable after the end of each quarter (usually within 30 days), the amounts necessary to correct any differences between the deductions made from the Accounts and the expenses actually incurred will be determined. These amounts are then deducted or credited, as appropriate, between CREF and each of the Subsidiaries in equal daily installments over the remaining days in the quarter. Accordingly, the amounts deducted each year as a percentage of the net assets of each Account may be higher or lower than the actual expenses incurred depending upon expense experience. However, regardless of the annual rates that CREF's Trustees establish for the respective deductions, the actual amounts paid for distribution, administrative and investment advisory services will reflect, and will not exceed, actual expenses incurred.

7. Applicants state that because the arrangement for services among CREF and the Subsidiaries involves nonprofit entities, there is no source of funds to "subsidize" or temporarily "cover" expenses for the services provided by the Subsidiaries until the amount of incurred expenses is determined. Applicants argue that it would be administratively impossible to deduct the actual amount of expenses from the assets of the Accounts on a "real-time" basis when the expenses are incurred because the portion of expenses attributable to CREF are determined following the end of each quarter. Given these factors, CREF has adopted the above-described distribution expense arrangement to finance actual expenses that will be incurred during the year.

8. Currently, the deduction for distribution expenses is made at the annual rate of 0.03%. The deductions made pursuant to CREF's distribution expense deduction represent the total of sales related deductions assessed against Certificate owners; there are no front-end loads or back-end loads (contingent or otherwise). Additionally, CREF does not assess a mortality and expense risk charge or any other charges or deductions which could be used to finance sales-related expenses.

Applicants' Legal Analysis and Conditions

1. Because a daily deduction will be made from the assets of the Accounts for expenses incurred in connection with the distribution of the Certificates, CREF may be deemed to be acting as a distributor of its own securities within the meaning of Rule 12b–1, and the deduction for distribution expenses may be deemed to involve a payment proscribed by sections 26(a)(2)(C) and 27(c)(2) which restrict deductions from periodic payment plan certificates. Further, because CREF's distribution arrangement involves all the Accounts, the arrangement could be deemed a joint transaction involving a registered investment company and an affiliate, a transaction which is generally prohibited by Section 17(d) absent an order of the Commission pursuant to section 17(d) and Rule 17d–1. Accordingly, Applicants request an order pursuant to section 6(c) of the 1940 Act exempting CREF's arrangements for financing the distribution of the Certificates from the provisions of sections 12(b), 26(a)(2) and 27(c)(2) of the 1940 Act and Rule 12b–1 thereunder. Applicants also seek an order pursuant to section 17(d) and Rule 17d–1 thereunder for the necessary approval for the same distribution arrangement.

2. Section 12(b) of the 1940 Act makes it unlawful for a registered open-end investment company to act as a distributor of securities of which it is the issuer, except through an underwriter. This section is designed to protect funds from excessive sales and promotional expenses. Rule 12b–1, however, allows an investment company to bear expenses related to the distribution of its shares provided that, among other things, the plan of distribution is approved by both the fund's board of directors, including its disinterested directors, and by a vote of a majority of the fund's outstanding voting securities. Rule 12b–1 is designed to ensure that the disinterested directors are not dominated or unduly influenced by management and that the disinterested directors are fully informed and exercise reasonable business judgment.

3. The prohibition found in section 12(b) against a fund serving as distributor of its own securities is based on the fact that investment advisers are paid fees based upon a percentage of a fund's assets, causing the growth of the fund through the sale of additional shares to be in the adviser's interest. This leads to a conflict of interest on the part of the adviser with respect to recommendations to the fund's board of directors regarding the use of fund assets to promote distribution.

4. Applicants argue that section 12(b) and Rule 12b–1 were not designed to cover situations where, as in CREF's case, no profit is made in connection with providing investment advisory or distribution services to an investment company. CREF represents, however, that it intends to fulfill all of the applicable requirements of Rule 12b–1 with the exception of those related to approval by a majority of the outstanding voting securities. Applicants assert that failure to obtain shareholder approval will not adversely affect Certificate owners because the conflict of interest concerns underlying section 12(b) and Rule 12b–1 do not apply to CREF's distribution financing arrangement. First, Applicants state that

the advisory fee paid by CREF to TC Management is based upon actual expenses and not a percentage of CREF's assets. Although the fee is collected based on a percentage of assets, it is thereafter adjusted to reflect actual expenses. Second, Applicants assert that TC Management does not make recommendations to CREF's Board of Trustees regarding the use of the assets of the Accounts to pay distribution expenses. Finally, as a not-for-profit entity that provides its services on an at cost basis, TC Management does not stand to gain from an increase in CREF's assets. Therefore, Applicants assert, TC Management has no incentive to encourage the growth of assets at the expense of certificate owners.

5. Applicants also argue that if CREF were required to submit the distribution financing arrangement to a vote of at least a majority of its outstanding voting securities, it is uncertain whether the required quorum could be obtained.[1] Applicants also insist that because the distribution fee is so low, even a small increase in the fee would be considered a material change requiring shareholder approval. CREF asserts that frequent shareholder votes would be unreasonably burdensome. Applicants assert that nothing has occurred since the 1989 Order to suggest that the relief granted at that time was inappropriate. Because this arrangement has been in effect for a number of years, Applicants argue that Certificate owners are not now faced with a new or additional charge.

6. The application states that CREF does not believe that its current distribution expense deduction will increase significantly or approach even the low-end of the fund industry's average level of 12b–1 charges in the foreseeable future; in fact, if CREF's assets increase substantially, the deduction actually could decrease. Moreover, CREF represents that the rate of any deduction made pursuant to relief granted as requested herein will never exceed .25%.

7. Applicants assert that CREF's investment advisory and distribution arrangement, with its combination of nonprofit entities providing services on an at cost, expense reimbursement basis, differs fundamentally from the typical fund arrangement. The most significant distinction is that for CREF there is no entity or area or division of the company (*e.g.*, a for-profit adviser or insurance company general account) whose profits can be used to "subsidize" CREF's distribution expenses. Applicants argue that the lack of other sources to finance CREF's distribution expenses renders it virtually impossible for CREF to diverge from its current at cost, expense reimbursement arrangement. Moreover, Applicants argue that implementing an alternative method of financing CREF's distribution expenses will result in greater administrative difficulties and higher costs to Certificate owners without any corresponding benefits. Applicants assert not only that CREF's current investment advisory and distribution arrangement is the only feasible method of providing these services, but also that the asset-based method of financing this arrangement is the most favorable method for Certificate owners.

8. The variable annuities issued by CREF are considered to be periodic payment plans. Accordingly, CREF is subject to sections 26 and 27 of the 1940 Act. Section 27 subjects periodic payment plan certificates issued by a management company to the charge limitations found in section 26. Applicants assert that the deduction of distribution expenses from the assets of the Accounts to cover actual expenses is consistent with the Commission's positions under section 26 with respect to the deduction of administrative and insurance related risk charges. Applicants assert that this is especially true where, as in CREF's case, no profit arises from the deduction.

9. Section 17(d), in part, prohibits an affiliated person of a registered investment company, acting as principal, from effecting any transaction in which the registered company is a joint participant with the affiliated person. The Commission may grant approval for such transactions under Rule 17d–1 if the participation of the registered company is on a basis no different from that of any other participant. Because CREF's distribution financing arrangement involves all the Accounts, it could be viewed as a joint transaction prohibited by section 17(d). Applicants, however, argue that the distribution financing arrangement represents the most equitable and cost-efficient means of allocating distribution expenses among the Accounts. CREF represents that it will monitor all sales material and marketing efforts to ensure that one Account will not be preferred over the other. Applicants represent that this is consistent with CREF's marketing approach which highlights the Certificates themselves as the retirement vehicle rather than the nature of the underlying Accounts. The application states that CREF represents that it will monitor all sales material and marketing efforts to ensure that, in the vast majority of cases, and unless otherwise appropriate and consistent with CREF's purpose, one Account will not, for marketing purposes, be preferred over any other Account.

Conclusion

For the reasons and upon the facts set forth above, Applicants request exemptions from sections 12(b), 26(a)(2) and 27(c)(2) of the 1940 Act and Rule 12b–1 thereunder and assert that the exemptions are necessary and appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. Applicants further request the necessary approval pursuant to section 17(d) and Rule 17d–1 thereunder.

By the Commission.

Jonathan G. Katz,

Secretary.

[FR Doc. 93–18119 Filed 7–28–93; 8:45 am]

BILLING CODE 8010–01–M

[1] Section 2(a)(42) defines "majority of outstanding voting securities" as follows:

* * * the vote, at the annual or a special meeting of the security holders of such company duly called, (A) of 67 per centum or more of the voting securities present at such meeting, if the holders of more than 50 per centum of the outstanding voting securities of such company are present or represented by proxy; or (B) of more than 50 per centum of the outstanding voting securities of such company, whichever is the less.

CREF currently has over one million Certificate owners. In order to obtain the required 50% quorum, at least 500,000 Certificate owners would need to be contacted. CREF asserts that this would entail considerable expense.

[Investment Company Act Rel. No. 19593; 811–4300]

The Thoroughbred Group; Application

July 23, 1993.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for deregistration under the Investment Company Act of 1940 ("Act").

APPLICANT: The Thoroughbred Group.

RELEVANT ACT SECTION: Section 8(f).

SUMMARY OF APPLICATION: Applicant seeks an order declaring that it has ceased to be an investment company.

FILING DATE: The application on Form N–8F was filed on April 29, 1993 and amended on July 15, 1993.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicant with a copy of the request, personally or by mail. Hearing requests should be

received by the SEC by 5:30 p.m. on August 17, 1993, and should be accompanied by proof of service on applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request such notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street NW., Washington, DC 20549. Applicant, c/o The Winsbury Company, 1900 E. Dublin-Granville Road, Columbus, Ohio 43229.

FOR FURTHER INFORMATION CONTACT: Courtney S. Thornton, Staff Attorney, at (202) 272-5287, or C. David Messman, Branch Chief, at (202) 272-3018 (Division of Investment Management, Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch.

Applicant's Representations

1. Applicant is an open-end diversified management investment company organized as a Massachusetts business trust. On May 13, 1985, applicant filed a notification of registration under section 8(a) of the Act, and a registration statement under the Securities Act of 1933 and section 8(b) of the Act. The registration statement became effective on October 7, 1985. Applicant's initial public offering commenced on or about October 15, 1985 (with respect to the Prime Obligations Portfolio) and October 28, 1985 with respect to the U.S. Government Obligations Portfolio).

2. At a meeting held on November 9, 1992, the Board of Trustees of applicant approved an Agreement and Plan of Reorganization (the "Agreement") between applicant and NCC Funds to provide for the transfer of all of the assets and liabilities of applicant's portfolios to NCC Funds (File No. 811-4416) in exchange for shares of the corresponding NCC portfolios, the distribution of shares in the NCC portfolios to the shareholders of applicant's portfolios according to their respective interests, and the termination of applicant under state law and its deregistration under the Act. The Board of Trustees determined that the proposed transactions described in the Agreement were advisable and in the best interests of applicant's shareholders, and that the interests of applicant's shareholders would not be diluted as a result of such transactions. The Agreement was executed on January 21, 1993.

3. A combined proxy statement and prospectus was filed with the SEC as part of the NCC Funds registration statement on Form N-14 on December 21, 1992. On or about January 25, 1993, the combined proxy statement and prospectus was sent to applicant's shareholders. Definitive copies of these materials were filed with the SEC on January 26, 1993. At a special meeting held on February 27, 1993, applicant's shareholders approved the transactions contemplated by the Agreement.

4. As of January 19, 1993, applicant had 63,928,812 shares outstanding of its Prime Obligations Portfolio with a net asset value of $1 per share, 112,348,369 shares of its Government Obligations Portfolio outstanding with a net asset value of $1 per share, 956,373 shares of its Total Return Stock Fund portfolio outstanding with a net asset value of $13.67 per share, and 2,035,063 shares of its Fixed Income Fund portfolio outstanding with a net asset value of $10.51 per share.

5. On March 1, 1993, applicant transferred all of the assets of its portfolios to NCC Funds as follows: shares of applicant's Prime Obligations Portfolio were exchanged for shares of the Money Market Portfolio of NCC Funds, shares of applicant's U.S. Government Obligations Portfolio were exchanged for shares of the Government Portfolio of NCC Funds, shares of applicant's Total Return Stock Fund portfolio were exchanged for shares of the Equity Portfolio of NCC Funds, and shares of applicant's Fixed Income Fund portfolio were exchanged for shares of the Fixed Income Portfolio of NCC Funds. Thereafter, pursuant to the Agreement, applicant's portfolios made liquidating distributions of the portfolio shares of NCC Funds to their shareholders so that the shareholders received the number of shares of the corresponding NCC Funds portfolios with an aggregate net asset value equal to the aggregate net asset value of their shares of applicant's portfolios.

6. In connection with the transfer of assets from applicant's portfolios to NCC Funds, applicant incurred expenses such as legal and auditors' fees, expenses associated with the special meeting of applicant's shareholders (such as proxy solicitation, tabulation and mailing expenses) and with the winding up of applicant's affairs (such as fees related to the filing of final tax returns). These expenses totaled approximately $160,000, all of which NCC Funds will pay, or arrange to have paid, pursuant to the Agreement. NCC Funds also assumed or paid all share registration expenses in connection with the transactions contemplated by the Agreement.

7. At the time of the application, applicant had no shareholders, assets or liabilities, nor was applicant a party to any litigation or administrative proceeding.

8. Applicant is not now engaged, and does not propose to engage, in any business activities other than those necessary for the winding up of its affairs.

9. Applicant intends to file the necessary documentation with the Commonwealth of Massachusetts to terminate its existence as a Massachusetts business trust.

For the SEC, by the Division of Investment Management, under delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 93-18118 Filed 7-28-93; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice No. 1836]

United States Organization for the International Telegraph & Telephone Consultative Committee, Study Group C; Meeting

The U.S. Department of State announces that Study Group C of the U.S. Organization for the ITU Telecommunication Standardization Sector (formerly known as CCITT and now called TS) will meet on Thursday, August 19, 1993 at the Newark Airport Marriott. The meeting will begin at 9:30 a.m. and end at 4:30. The agenda for the meeting will include consideration of delayed contributions to the TS for Study Groups 4 and 15. Please submit proposed contributions to the Chairman of SG C on or before July 29, 1993 to allow time for mailing and review prior to the meeting. Contributions should be mailed to: Dennis Thovson, AT&T room 5A256, P.O. Box 752, 900 Routes 202/206, Bedminster, NJ 07921-0752. Alternatively, contributions endorsed by a U.S. standards body can be brought into the meeting for consideration and approval.

The persons presenting these contributions should bring 40 copies of each to the meeting. No contributions will be approved for submission to the TS without prior review through either SG C distribution or the endorsement by a U.S. TSC prior to the meeting.

For agenda planning purposes, please notify Madeleine Mendez on 908-234-3628 if you plan to attend the meeting

and which TS Study Groups you are interested in. Members of the general public may attend the meeting and participate in the discussions subject to available space in the room. Please call at least three days before the meeting.

Dated: July 13, 1993.

Earl S. Barbely,

Director, Telecommunications and Information Standards, Chairman, U.S. CCITT National Committee.

[FR Doc. 93-18040 Filed 7-28-93; 8:45 am]

BILLING CODE 4710-45-M

[Public Notice No. 1835]

Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Working Group on Bulk Chemicals; Meeting

The working Group on Bulk Chemicals (BCH) of the Subcommittee on Safety of Life at Sea (SOLAS) will conduct an open meeting at 1 p.m. on August 25, 1993, in room 2415, at U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593-0001. The purpose of the meeting is to provide a preview of the agenda items to be addressed at the Twenty-Third Session of BCH scheduled for September 13-17, 1993 at the IMO Headquarters in London.

Among other things, the items of particular interest are:

a. Amendments and interpretation of the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code) and the international Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code).

b. Amendments and interpretation of the provisions of Annex II of the International Convention for the Prevention of Pollution from Ships (MARPOL 73/78).

c. Amendments and interpretation of the provisions of the Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (GC Code) and the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk (IGC Code).

d. Guidelines for technical assessment for intervention under the 1973 Intervention Protocol.

e. Role of the human element in maritime casualties.

f. Air pollution from ships.

g. Existing ships' standards.

h. International Convention on Oil Pollution Preparedness, Response and Cooperation.

Members of the public may attend this meeting up to the seating capacity of the room. Interested persons may seek information by writing: Commander K.J. Eldrige, U.S. Coast Guard (G-MTH-1), 2100 Second Street SW., Washington, DC 20593-0001 or by calling (202) 267-1217.

Dated: July 15, 1993.

Geoffrey Ogden,

Chairman, Shipping Coordinating Committee.

[FR Doc. 93-18041 Filed 7-28-93; 8:45 am]

BILLING CODE 4710-07-M

Bureau of Oceans and International Environmental and Scientific Affairs

[Public Notice 1838]

Certification Pursuant to Section 609 of Public Law 101-162

SUMMARY: On July 12, 1993, the Department of State certified, pursuant to section 609 of Public Law 101-162, that Honduras has adopted a regulatory program governing the incidental taking of sea turtles in its commercial shrimp fishery comparable to that in the United States. As a result of this certification, the ban on certain shrimp exports from Honduras that has been in effect since May 1, 1993, has been lifted.

EFFECTIVE DATE: July 12, 1993.

FOR FURTHER INFORMATION CONTACT: Mr. Bill Gibbons-Fly, Office of Fisheries Affairs, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520-7818; telephone (202) 647-3940.

SUPPLEMENTARY INFORMATION: Section 609 of Public Law 101-162 prohibits imports of shrimp from certain nations unless the President certifies annually to the Congress either: (1) That the harvesting nation has adopted a program governing the incidental capture of sea turtles in its commercial shrimp fishery comparable to the program in effect in the United States; or (2) that the fishing environment in the harvesting nations does not pose a threat of the incidental taking of sea turtles. The President has delegated the authority to make this certification to the Department of State. Revised State Department guidelines for making the required certifications were published in the **Federal Register** on February 18, 1993 (58 FR 9015).

The countries subject to the provisions of Public Law 101-162 include Belize, Brazil, Colombia, Costa Rica, French Guiana (EC), Guatemala, Guyana, Honduras, Mexico, Nicaragua, Panama, Suriname, Trinidad and Tobago, and Venezuela. On April 30, 1993, the Department of State certified that 10 of the 14 affected countries have met, for the current year, the requirements of the law. The countries that received a certification at that time were Belize, Brazil, Colombia, Costa Rica, Guatemala, Guyana, Mexico, Nicaragua, Panama and Venezuela. The Department was unable to issue certifications at that time for Honduras, Trinidad and Tobago, Suriname, and French Guiana and, as a result, shrimp imports from these four countries were banned on May 1, 1993. The ban was subsequently lifted for Trinidad and Tobago on May 13, 1993.

The Government of Honduras has now provided documentary evidence sufficient to demonstrate that it has met the requirements for certification, including the use of TEDs covering at least 50 percent of the fishing effort of the commercial shrimp trawl fleet. Therefore the Department certified on July 12, 1993, that Honduras has met, for the current year, the requirements of Public Law 101-162 and notified the U.S. Customs Service that the ban on imports from Honduras is no longer in effect. Further, imports of farm raised shrimp from Honduras may be imported into the United States without an accompanying Exporter's Declaration and Government Certification (Form DSP-121) which had been required for any such shipments since May 1, 1993.

As with the other 11 countries certified thus far in 1993, the Department of State will remain in close contact with the Government of Honduras in order to ensure that the program developed meets the standards of comparability established in the Department's guidelines. Subsequent annual certifications will depend on the extent to which Honduras has made progress toward full implementation of its program.

Dated: July 16, 1993.

David A. Colson,

Deputy Assistant Secretary, Oceans and Fisheries Affairs.

[FR Doc. 93-18044 Filed 7-28-93; 8:45 am]

BILLING CODE 4710-09-M

Bureau of Politico-Military Affairs

[Public Notice 1839]

Determination Under the Arms Export Control Act

Pursuant to section 654(c) of the Foreign Assistance Act of 1961, as amended, notice is hereby given that the Under Secretary of State for International Security Affairs has made two determinations pursuant to section 73 of the Arms Export Control Act and has concluded that publication of the

determinations would be harmful to the national security of the United States.

Dated: July 5, 1993.

Robert L. Gallucci,

Assistant Secretary of State for Politico-Military Affairs.

[FR Doc. 93-18045 Filed 7-28-93; 8:45 am]

BILLING CODE 4710-25-M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Stanislaus County, CA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project adjacent to the city of Oakdale, Stanislaus County, California.

FOR FURTHER INFORMATION CONTACT: Leonard E. Brown, Chief District Operations, Federal Highway Administration, 980 Ninth Street, suite 400, Sacramento, CA 95814. Telephone (916) 551-1307.

SUPPLEMENTARY INFORMATION: The FHWA in cooperation with the California Department of Transportation (CALTRANS) will prepare an Environmental Impact Statement (EIS) on a proposal to reconstruct State Route 120 to bypass the city of Oakdale, in Stanislaus County.

The purpose of the project is to relieve the congestion on the existing highway which passes through the commercial center of Oakdale. The bypass will require a new crossing of the Stanislaus River and local circulation will be provided only at controlled access points.

Several alignment alternatives are being considered for this project. Also being considered is a "no-build" alternative; and an operational improvement to the existing highway.

The appropriate federal, state and local agencies, and private organizations and citizens who have previously expressed or are known to have interest in this proposal will be placed on a mailing list. A Planning Development Team (PDT) will be established; the team consists of federal, state and local agency staff along with Caltrans and consultant personnel. Also, a Citizen Advisory Committee (CAC) will be formed of area residents appointed by the Oakdale City Council and Stanislaus Board of Supervisors. The public hearing will be held after the EIS is available for review, and is scheduled for the summer of 1994. Public notice will be given of the time and place of the hearing.

To ensure that the full range of issues of this proposed action are addressed and any significant impacts are identified, comments and suggestions are invited from all interested parties. The view of agencies which may have knowledge about historic and archaeological resources potentially affected by the proposal or interest in the effects of the proposal on endangered species/habitat are specifically solicited. Comments or questions concerning this proposed action and the EIS should be directed to the Federal Highway Administration at the address provided above.

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

Issued on: July 20, 1993.

John R. Schultz,

Chief, District Operations—A, Sacramento, California.

[FR Doc. 93-18077 Filed 7-28-93; 8:45 am]

BILLING CODE 4910-22-M

Sunshine Act Meetings

Federal Register
Vol. 58, No. 144
Thursday, July 29, 1993

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ELECTION COMMISSION

DATE AND TIME: Tuesday, August 3, 1993 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.
Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE AND TIME: Thursday, August 5, 1993 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC. (Ninth Floor.)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Advisory Opinion 1993-11: Daniel A. Taylor on behalf of the Dukakis-Bentsen Committee.
Advisory Opinion 1993-13: T. Michael Hurley, Jr. on behalf of Wyche Fowler for Senate Campaign Committee.
Routine Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Fred Eiland, Press Officer, Telephone: (202) 219-4155.

Delores Hardy,
Administrative Assistant.

[FR Doc. 93-18197 Filed 7-27-93; 10:58 am]

BILLING CODE 6715-01-M

FOREIGN CLAIMS SETTLEMENT COMMISSION

F.C.S.C. Meeting Notice No. 11-93
Announcement in Regard to Commission Meetings and Hearings

The Foreign Claims Settlement Commission, pursuant to its regulations (45 CFR Part 504), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice in regard to the scheduling of open meetings and oral hearings for the transaction of Commission business and other matters specified, as follows:

Date and Time	*Subject Matter*
Tues., August 10, 1993 at:	Oral Hearing on objection to Proposed Decision issued on claim for prisoner of war compensation under the War Claims Act of 1948:
—10:00 a.m.	SPN-1870—Erna McKinney, et al.
—11:00 a.m.	Hearings on the record on objections to Proposed Decisions in the following claims against Iran:
	—IR-1737—Thomas J. Temple
	—IR-0269—Gwenn Honnold
	—IR-2518—Ross T. Sherman
	—IR-0153—James M. & Bonna J. McLeod
	—IR-0775—Robert J. Russell
	—IR-0194—Lou Dano
	—Consideration of Proposed Decisions on claims against Iran.

Subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

All meetings are held at the Foreign Claims Settlement Commission, 601 D Street, NW., Washington, DC. Requests for information, or advance notices of intention to observe a meeting, may be directed to: Administrative Officer, Foreign Claims Settlement Commission, 601 D Street, NW., Room 10000, Washington, DC 20579. Telephone: (202) 208-7727.

Dated at Washington, DC on July 27, 1993.

Jeanette Matthews,
Administrative Assistant.

[FR Doc. 93-18248 Filed 7-27-93; 2:26 pm]

BILLING CODE 4410-01-M

UNITED STATES INTERNATIONAL TRADE COMMISSION

[USITC SE-93-22]

TIME AND DATE: August 6, 1993 at 10:00 a.m.

PLACE: Room 101, 500 E Street S.W., Washington, DC 20436.

STATUS: Open to the public.

1. Agenda for future meeting
2. Minutes
3. Ratification List
4. Invs. Nos. 731-TA-539D and E (Final) Uranium from Tajikistan and Ukraine)—briefing and vote.
6. Outstanding action jackets
7. Any items left over from previous agenda

CONTACT PERSON FOR MORE INFORMATION: Donna R. Koehnke, Secretary, (202) 205-2000.

Issued: July 23, 1993.

Donna R. Koehnke,
Secretary.

[FR Doc. 93-18268 Filed 7-27-93; 3:33 pm]

BILLING CODE 7020-02-M

Corrections

Federal Register
Vol. 58, No. 144
Thursday, July 29, 1993

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 DEPOSIT INSURANCE CORPORATION

12 CFR Part 330

RIN 3064-AB01

Deposit Insurance Coverage

Correction

In rule document 93-12227 beginning on page 29952 in the issue of Tuesday, May 25, 1993, make the following corrections:

1. On page 29953, in the second column, in the first full paragraph, in the first line, "We not" should read "We note".
2. On the same page, in the same column, in the second full paragraph, in the third line, before "section 10" insert "to".
3. On page 29962, in the third column, in the last paragraph, in the last line, "plant" should read "plan".

§ 330.12 [Corrected]

4. On page 29964, in the first column, in § 330.12(c)(2)(i)(C), in the sixth line, after "401(d)" insert ")".
5. On the same page, in the second column, in § 330.12(e), in the second line, "employee'" should read "employees'".

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-940-4210-06; CACA-30123]

Proposed Withdrawal and Opportunity for Public Meeting; California

Correction

In notice document 93-16723 beginning on page 38137 in the issue of Thursday, July 15, 1993, make the following correction:

On page 38137, in the third column, under the heading **Mount Diablo Meridian** where it first appears, in T. 37 N., R. 11 E., in Sec. 8, "N¼NW¼," should read "N½NW¼,".

BILLING CODE 1505-01-D

federal register

Thursday
July 29, 1993

Part II

Department of Transportation

Federal Highway Administration

49 CFR Part 391
Qualification of Drivers; Waivers; Diabetes; Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

49 CFR Part 391

[FHWA Docket No. MC-87-17]

RIN 2125-AB91

Qualification of Drivers; Waivers; Diabetes

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of final disposition.

SUMMARY: The FHWA announces its decision to issue waivers to certain insulin-using diabetic drivers of commercial motor vehicles (CMVs) from the qualification requirements contained in the Federal Motor Carrier Safety Regulations (FMCSRs). The FHWA will immediately begin accepting waiver applications from individuals and will continue to accept such applications for waivers until April 30, 1994. All applications must be postmarked by April 30, 1994 and those received after that date will not be accepted. If granted, waivers will be valid for a period of three years unless revoked for failure by the driver to comply with the conditions of the waiver, or until resolution of a concurrent rulemaking action, whichever occurs first.

DATES: This document is effective on July 29, 1993.

ADDRESSES: Applications may be submitted to the Diabetes Waiver Program, 400 Seventh Street, SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: The FHWA has established a special telephone number to receive inquiries regarding this notice. The number is 1-800-832-5660. Office hours are from 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except legal Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The FHWA established its current requirement for diabetes in 1970 (35 FR 6458). This rule provides that a person is physically qualified to drive a CMV if the person "[h]as no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control." 49 CFR 391.41(b)(3). The FHWA has considered various amendments to its diabetes requirement since 1977. The most recent proposal to amend this requirement was the notice of proposed rulemaking (NPRM) published on October 5, 1990. See 55 FR 41028; see also 52 FR 45204 (November 25, 1987) (advance notice of proposed rulemaking) and 53 FR 42 (January 1, 1988) (extension of comment period). In addition, the FHWA published in the Federal Register a notice of intent to initiate a waiver program for certain insulin-using diabetic drivers. See 57 FR 48011, October 21, 1992. That notice proposed the issuance of waivers to certain insulin-using diabetic drivers of CMVs from the diabetes mellitus prohibitions contained in the FMCSRs. Please refer to these notices for a complete background discussion of the FHWA's efforts in this area.

Initiation of a waiver program will allow the FHWA to analyze and compare a group of insulin-using drivers who have documented CMV driving experience with a control group of drivers who meet the current Federal diabetes requirement, and use its findings as a reliable basis to amend, if warranted, the current diabetes requirement.

Docket Comments

With respect to the FHWA's notice of intent to issue waivers, 302 comments were received. Two hundred and seventy one comments favor the FHWA's proposal. Of those commenters, 224 believe that neither the diabetic drivers who use insulin nor the public will be at more risk if certain insulin-using diabetics are allowed to drive CMVs under the conditions set forth in the notice. They cite the scientific advances that have been made in the medical treatment of diabetes over the last 50 years as the rationale for their support.

Fourteen commenters who support the proposal believe that the requirement that waiver applicants must have been driving a CMV and using insulin during the previous 3-year period should be relaxed. Four other supporters contend that there is a shortage of endocrinologists and call for other types of physicians to be allowed to examine waiver applicants. A physician for a State Driver License Division believes that glucose monitoring should be done every two hours instead of every four hours, as proposed.

Of the 38 States that currently allow insulin-using drivers to operate CMVs, six commented that their programs are very successful. In fact, the State of Alabama stated that there have been no accidents reported involving insulin-using drivers since the inception of its program. The State of California supported the proposal but recommends prohibiting the transportation of passengers and hazardous materials by insulin-using diabetics.

The Insurance Institute for Highway Safety (IIHS) stated that medical specialists cannot identify, in advance, a large proportion of the insulin-using persons who will experience a severe hypoglycemic reaction and that many of those persons who experience severe hypoglycemia cannot recognize the warning symptoms that precede such an event.

The IIHS cited the 1991 Diabetes Control and Complications Trial (DCCT). The DCCT was a multicenter randomized clinical trial that was designed to compare the standard therapy for insulin-dependent diabetes with intensive therapy directed toward achieving blood glucose levels as close as possible to the normal nondiabetic range ("tight control"). The DCCT concluded that a person under tight control has a greater propensity for episodes of hypoglycemia than a person under less rigid control.

The IIHS also cited a study (LaPorte, et al., "Review of 49 CFR 391.41(b)(3) Regarding Diabetic Commercial Motor Vehicle Drivers," University of Pittsburgh (1991)) that questioned the accuracy of self-reported blood glucose logs kept by persons with diabetes mellitus. The IIHS suggested that the FHWA undertake a retrospective cohort study of the driving records of diabetic and nondiabetic vehicle drivers rather than the prospective study proposed. The IIHS asserts that such a retrospective study could be done without needlessly endangering the driving public.

The American Trucking Associations, Inc. (ATA), in its opposition to the waiver program, cited the 1988 study "Motor Vehicle Accidents and IDDM[1]," by Songer, et al. The ATA asserted that the Songer study shows an accident rate of 2 to 2.5 times higher than that of a noninsulin-using control group. That accident rate, coupled with the complexity of driving commercial vehicles, long driving hours, unpredictable work schedules and other variables, led the ATA to conclude that the proposed waiver program would not shed any new light on the issue of the safety of insulin-using drivers of commercial motor vehicles.

The United Parcel Service (UPS) cited a study by Waller ("Chronic Medical Conditions and Traffic Safety," 1965) which indicated an accident rate for diabetics that is almost twice the rate of nondiabetic drivers and a traffic violation rate of 1.5 times the rate of a

[1] The acronym "IDDM" means insulin-dependent diabetes mellitus.

control group. The UPS believes that the findings in this study warranted the FHWA's withdrawal from the proposed research activity.

The American Movers Conference, UPS, IIHS, Kenan Transport and the Idaho State Police all stated that insulin-using diabetics would have a harder time regulating their blood sugar level than the general public. Problems cited by the commenters include erratic and improper nutrition, fatigue, lack of exercise followed by periods of over-exertion, duty hour changes, and sleep deprivation.

The Advocates for Highway and Auto Safety (AHAS) shared the same concerns as other commenters opposing the initiation of a waiver program for certain insulin-using diabetics. These concerns include hypoglycemia, reliable self-verification, tight control of blood sugar levels, work schedules, and additional accidents resulting in injury or death. The AHAS submitted a voluminous document to the docket, and many of its comments are similar to those of other commenters. Those similar comments and other more specific comments are addressed below.

FHWA Response to Docket Comments

3-year Insulin-Using Requirement

By requiring a waiver applicant to prove that he/she has operated a CMV safely for a period of three years while controlling his/her diabetes with the use of insulin, the FHWA will ensure that those individuals receiving a waiver are safe drivers who have adjusted to their diabetes without incident. The FHWA believes this requirement is consistent with the mandate of the Motor Carrier Safety Act of 1984, (49 U.S.C. app. 2505(f)), which requires that before a waiver is granted, the Secretary of Transportation must make a finding that such waiver is consistent with the safe operation of commercial motor vehicles.

Shortage of Endocrinologists

Although they supported the waiver program, four commenters suggested that there is a shortage of endocrinologists, and therefore, the FHWA should permit other physicians to examine waiver applicants. American Medical Association (AMA) statistics indicate that as of January 1, 1992, there were 3,075 endocrinologists (board-certified and board-eligible) practicing in the United States. Although endocrinologists are one of the smallest specialty groups within the AMA, they may be found anywhere there is a teaching hospital, as well as in most large and medium sized population cities.

Because the FHWA is embarking upon a pilot research effort, it has determined that only highly qualified specialists should examine the insulin-using diabetic applicants to ascertain if they can physically qualify for the waiver program. The FHWA has, therefore, decided to permit only board-certified or board-eligible endocrinologists to perform the required examinations.

Glucose Monitoring

The American Movers Conference, UPS, IIHS, and other commenters raised concerns about glucose monitoring. The FHWA's October 21, 1992, proposal would have given a waived driver a degree of discretion in choosing the type of portable glucose monitoring device to use. It would have also allowed the driver to manually record the reading obtained from the monitoring device. The IIHS, in its comments, claimed that the accuracy of self-reported blood glucose logs kept by persons with diabetes mellitus is questionable. The IIHS further claimed that portable glucose monitoring devices are inaccurate. The IIHS supported its claim concerning the inaccuracy of such devices by quoting LaPorte's finding that "more than half of the blood glucose values are more than 20 percent off from the true values."

The FHWA has carefully reviewed the LaPorte study and finds that the study, in fact, concluded that while earlier models of the devices had a problem with user variability, manufacturers have since greatly improved the accuracy of self-monitoring of blood glucose (SMBG) devices. The LaPorte study stated, "these instruments (SMBG devices) are readily adaptable for CMV drivers and should not impose any major barriers for use."

The FHWA agrees with the commenters that accurate glucose monitoring is a valid concern. Therefore, the FHWA has determined that each waived driver will be required to use a portable SMBG device equipped with a computerized memory while participating in the waiver program. This will enable the waived driver to transfer accurate glucose values to a hand-written or typed log following blood glucose tests with a minimum of difficulty and time expended.

As an additional means of ensuring the safety of both the waived driver and the general public, the FHWA will require waived drivers to undergo an examination twice a year by an endocrinologist, and every six months each waived driver must obtain a signed statement from an endocrinologist stating that the waived driver's diabetic condition continues to be stable and under control. The endocrinologist must also review the waived driver's blood glucose logs for the preceding three month period. These requirements will reestablish the fact that the waived driver's condition remains stable and under control. Moreover, any waived driver involved in an accident while operating a commercial motor vehicle must submit his or her hand-written or typed logs of the required tests for the 24-hour period immediately prior to the accident.

One commenting physician took exception to the four-hour monitoring requirement and recommended that it be reduced to two hours. The physician's position is somewhat different from that of the American Diabetes Association (ADA) and a number of endocrinologists that originally recommended the four-hour requirement. The ADA proposal would have required a blood glucose test one hour prior to and approximately every four hours while driving.

The FHWA has determined that requiring a blood glucose test every two hours is overly burdensome to drivers and unnecessary in light of the other safety precautions required by this waiver program. It is believed that an additional margin of safety will be introduced, while placing no additional burden on the waived driver, by requiring a blood glucose test one hour prior to and approximately every four hours while on duty, which is defined in 49 CFR 395.2. Consequently, the FHWA will insist upon this monitoring schedule as a condition of participation in the waiver program.

Transportation of Passengers and Hazardous Materials

The State of California suggested prohibiting insulin-using diabetics from driving CMVs carrying passengers or hazardous materials. The State of California presented no data to support such action. The FHWA lacks independent evidence on the issue and is not aware of similar restrictions in any of the other States that allow insulin-using diabetics to operate CMVs. Because of the extraordinary cautions and conditions otherwise imposed upon diabetes waivers, the FHWA does not believe it is necessary to impose this further restriction upon participants in this waiver program. Nevertheless, any State adopting an intrastate waiver program for insulin-using drivers may preclude the participants of that waiver program from transporting passengers or hazardous materials.

Hypoglycemia unawareness

Both the IIHS and the AHAS claimed that hypoglycemia unawareness presents an insurmountable problem to highway safety and the waiver program should, therefore, be canceled. The IIHS used the findings of the DCCT to support its conclusions. The DCCT, as stated previously, is designed to compare the standard therapy for insulin-using diabetics with intensive therapy directed toward achieving blood glucose levels as close as possible to the normal nondiabetic range ("tight control").

The FHWA has reviewed the comments of the IIHS and analyzed the findings of the DCCT. Based upon that review and analysis, the FHWA has determined that the data developed by the DCCT regarding intensive therapy is not persuasive. The FHWA reached this conclusion based upon the fact that it is not mandating tight control for its waiver participants, nor will it allow hypoglycemia unaware applicants into the waiver program.

The ADA, in its second submission to the docket responding directly to statements made by the AHAS, commented that individuals with hypoglycemia unawareness should be excluded from the operation of commercial motor vehicles. The ADA claimed, however, that this condition was not enough to exclude all diabetics from participating in a waiver program. That conclusion was based, in part, upon the ability of an experienced physician and the use of SMBG devices to identify individuals experiencing hypoglycemia unawareness. Because hypoglycemia unaware individuals can be identified and excluded, the ADA believes they do not pose a major, unidentifiable risk to the general public.

The ADA also asserted that simply because SMBG testing is often used by hypoglycemia unaware individuals, that alone is not sufficient to exclude its use by other insulin-using individuals participating in the waiver program. These SMBG devices permit diabetics to know and adjust their blood glucose levels as necessary.

For purposes of this waiver program, the FHWA agrees with the comments of the IIHS, AHAS, and ADA that individuals experiencing hypoglycemia unawareness should not be included as participants. The FHWA also accepts and adopts the ADA's comments on SMBG. The use of SMBG by insulin-using diabetics who do not experience hypoglycemia unawareness will increase their cognizance of early symptoms of an imminent hypoglycemic reaction. This information will allow drivers to take steps to avert an accident, including stopping the vehicle and/or ingesting glucose. Moreover, with the advent of computerized SMBG devices equipped with memory function, blood glucose readings are considerably more accurate and verifiable. Consequently, more SMBG testing will be required of waiver program participants.

Severe Hypoglycemia

The AHAS, the IIHS, and others expressed concern about medical specialists being unable to identify, in advance, a large proportion of the insulin-using persons who will experience a severe hypoglycemic reaction.

The ADA comments acknowledged that no test exists to make a determination, in retrospect, regarding which individuals experienced severe hypoglycemic reactions. However, by requiring that each applicant be examined by an endocrinologist, the risk that such an individual will remain undetected is not likely.

Based upon the data provided, the FHWA has determined that individuals with severe hypoglycemia should be excluded from participating in the waiver program. The FHWA also believes that today's medical technology provides sufficient methods for screening individuals with severe hypoglycemia from the waiver program.

Mild Hypoglycemia

The AHAS commented on the effects of mild hypoglycemia on CMV drivers and placed great significance on the minor cognitive effects of mild hypoglycemia.

The ADA notes that mild hypoglycemia is not an immediately threatening emergency, although it must be addressed within a few minutes by ingesting glucose. Such ingestion can occur quickly and without stopping the vehicle.

The FHWA believes that the conditions and other special procedures included in its waiver program mitigate the importance of mild hypoglycemia as a potential cause of accidents. Mild hypoglycemia alone, therefore, will not prevent insulin-using diabetics from participating in the waiver program.

Medical Studies

Many commenters to the docket referred to various studies in their arguments for and against the waiver program. The ADA provided rebuttals to five of the studies relied upon by AHAS and other commenters.

The ADA asserted that the California (Waller, "Chronic Medical Conditions and Traffic Safety," 1965) and Oklahoma (Davis et al., "Oklahoma's Medically Restricted Drivers—A Study of Selected Medical Conditions," 1973) studies "lumped together" individuals with a variety of chronic conditions, including alcoholism, epilepsy and neurologic conditions. The ADA believes the results regarding diabetics were invalid because of the higher safety risks associated with the other chronic conditions included in the study. Because the FHWA's waiver program will only study the driving experience of certain insulin-using diabetics, the FHWA believes the results of the California and Oklahoma studies are insufficient to block the commencement of the waiver program.

The Prince Edward Island report (Campbell and Ellis, "Chronic Medical Conditions and Traffic Violation and Accident Experience of Diabetic Drivers," 1969) appears to indicate an increased accident risk among individuals with diabetes, however the ADA pointed out that the risk is not related to any type of drug therapy. That fact, the ADA concluded, precludes insulin-induced hypoglycemia as the cause of the risk. Other studies (Ratner and Whitehouse, "Motor Vehicles, Hypoglycemia, and Diabetic Drivers," 1989) showed accident rates involving insulin-using drivers were 35% lower than accident rates of a control group of non-diabetic drivers. Conversely, other groups of insulin-using drivers had an accident rate 78% higher than a control group of nondiabetic drivers. The ADA pointed out that such results were reached without excluding individuals with demonstrable hypoglycemia or other impairments.

The FHWA considers the results of these studies to be offset by the strenuous conditions waiver participants must meet to participate in this program and, therefore, is unconvinced by commenters' reliance on such studies' findings, which are not relevant to the scope of the waiver program. Additionally, the FHWA finds the five State driver waiver programs for diabetes (referenced in AHAS' comments) provide an additional basis for implementing this waiver program, since none of those programs demonstrated any increased risk posed by these drivers.

In its analysis of the LaPorte/University of Pittsburgh study, ("Review of 49 CFR 391.41(b)(3) Regarding Diabetic Commercial Motor Vehicle Drivers," University of Pittsburgh (1991)), the ADA relied upon that study's findings that without any regulations to control driving privileges among insulin-using individuals, only

14 additional accidents would be likely to occur. The ADA accepted the LaPorte study's conclusion that the controls placed upon participants in the proposed waiver program would reduce that number by half. The FHWA believes that restricting the issuance of waivers to only those drivers who meet the conditions set forth below will meet its statutory burden of ensuring such a waiver program is not contrary to the public interest and is consistent with the safe operation of CMVs.

The FHWA also reviewed the Songer study, "Motor Vehicle Accidents and IDDM," cited by the ATA in opposing the proposed waiver program. Contrary to the assertions of the ATA regarding the accident rate of IDDM drivers, the Songer study actually reveals that the accident rate of the IDDM population does not appear to differ significantly from the accident rate of the nondiabetic population. In the concluding paragraph of that study, the authors state, "There is little evidence regarding the motor vehicle accident risk of the driver with IDDM. Our data suggest that, overall, *drivers with IDDM do not have an increased accident risk.*" (emphasis added).

Irregular Hours/Eating Habits

Several commenters expressed concern regarding the irregular hours and eating habits that often accompany the truck driving profession. These factors, the commenters stated, may have a deleterious effect on an insulin-using diabetic's ability to safely operate a CMV.

The FHWA believes that schedules associated with CMV driving may allow better long-term planning for the prevention of hypoglycemia than are usually associated with personal driving. Also, it is expected that waived insulin-using diabetic drivers may act in a more responsible manner during their working hours since their jobs depend upon their performance. Moreover, many CMV drivers in fact work regular hours and return home each evening.

Determination

The FHWA believes that the waiver conditions are more than sufficient to satisfy the mandate that this action be consistent with the safe operation of commercial motor vehicles. Therefore, in light of FHWA's adoption of intensive safety related conditions, the FHWA has concluded that the waiver program will be consistent with the safe operation of CMVs and will not be contrary to the public interest.

Discussion

Section 206(f) of the Motor Carrier Safety Act of 1984 (49 U.S.C. app. 2505(f)) requires that, before a waiver is granted, the Secretary of Transportation must make a finding that such a waiver is not contrary to the public interest and is consistent with the safe operation of CMVs.

After a thorough review of the comments submitted in response to the notice of October 21, 1992, the FHWA has decided to proceed with the waiver program. The FHWA has established an extensive set of conditions to ensure that the waiver program is consistent with the safe operation of CMVs.

The FHWA believes the waiver program is entirely consistent with the public interest, particularly since the enactment of the Americans with Disabilities Act. The Senate report on the Americans with Disabilities Act directed the FHWA to undertake, within two years of the enactment of Title I of that legislation, a thorough review of the physical qualification regulations "in order to ascertain whether the standards conform with current knowledge about the capabilities of persons with disabilities and currently available technical aids and devices . . .." S. Rep. No. 116, 101st Cong., 1st Sess. at 27. This mandate was issued, in part, based on information which showed that individuals with disabilities experience staggering levels of unemployment and poverty. For instance, a Lou Harris poll referenced in the report found that "two-thirds of all disabled Americans between the ages of 16 and 64 are not working at all; yet, a large majority of those not working say that they want to work." *Id.* at 9. This waiver program will afford opportunities for employment for otherwise qualified individuals with disabilities while the study is in progress.

With respect to safety, the FHWA believes this waiver program is consistent with the safe operation of commercial motor vehicles and has developed an extensive set of conditions for applicants to satisfy before being accepted into the program. These conditions include at least three years experience driving a CMV while the individual has been insulin-using, a good driving record, and certification from a board-certified or board-eligible endocrinologist that the diabetic condition will not adversely impact on the applicant's ability to operate a CMV. In addition, those individuals accepted into the waiver program must meet other conditions to retain their waiver. These conditions include maintaining accurate logs of their blood glucose, submitting monthly driving activity reports to the FHWA, notifying the FHWA of any involvement in an accident, and a twice annual examination by a board-certified or board-eligible endocrinologist.

The waiver program is not a substitute for the substantive rulemaking currently under consideration, nor does it modify or lessen the existing safety standard. Because the lack of empirical data regarding the effect of diabetes mellitus on CMV safety has impeded responsible standard development in this area, the waiver program will enable the FHWA, for the first time, to collect the needed information. In conjunction with the waiver program, the FHWA will conduct a study comparing a group of experienced, insulin-using diabetic drivers with a control group of experienced drivers who meet the requirements of the FMCSRs, and provide the reliable empirical data.

Applications will be accepted until April 30, 1994, and will be processed as quickly as possible. If granted, waivers will be valid for a period of three years or until the concurrent rulemaking addressing the FHWA's diabetes requirements is completed, whichever occurs first.

The information collected during this waiver program will be retained by the FHWA's research contractor and will be held in a strictly confidential manner. The information will only be used for purposes of the waiver research program.

The FHWA recognizes that States are already incorporating the current Federal diabetes standard into their requirements for drivers operating CMVs in intrastate commerce as a condition for receipt of Motor Carrier Safety Assistance Program (MCSAP) funds and the certification required of applicants for the CDL. However, States receiving funds under the MCSAP have been allowed to grandfather intrastate drivers qualified under State medical standards as long as the driver's waived condition remains under control. Due to a rulemaking incorporating the Tolerance Guidelines into 49 CFR part 350, and the medical studies being conducted by the FHWA, the grandfather provision was extended for one year to March 31, 1993 (57 FR 40962, September 8, 1992). Published elsewhere in today's **Federal Register** is a notice extending the grandfather provision for an additional three year period.

The amended Tolerance Guidelines will allow States latitude in establishing waiver programs for intrastate drivers and building a data base which will be beneficial to the FHWA in future

rulemakings involving medical qualifications. Under the MCSAP, however, the States will continue to be required to meet the intrastate Tolerance Guidelines.

Some States have already adopted the Federal physical qualification standards. The FHWA encourages these States to establish compatible waiver programs to allow qualified individuals to participate in this study. These States may find it necessary to requalify drivers who are able to meet the conditions for waivers stated herein. However, nothing contained in this notice of final disposition requires States to adopt a Federal diabetes waiver program for drivers who operate wholly in intrastate commerce or to change or alter their current physical qualification standards or waiver programs. Nevertheless, States must give full faith and credit to any validly licensed interstate driver operating a CMV under a Federal diabetes waiver.

Application Conditions

The FHWA must ensure that the issuance of diabetes waivers will not be contrary to the public interest and is consistent with the safe operation of CMVs. To eliminate any adverse impact on the public and to ensure consistency with safe operation of CMVs, drivers who now hold a valid Federal vision waiver issued by the FHWA and have recently begun using insulin to control a diabetic condition; may not apply for a waiver from the insulin-using prohibition of the diabetes mellitus qualification requirement.

Waivers will only be granted to those insulin-using persons who, as demonstrated by appropriate documentation, satisfy all of the prerequisite conditions and are otherwise physically qualified pursuant to 49 CFR part 391. Waivers will be valid for a period of three years unless revoked for failure by the driver to comply with the conditions of the waiver, or until resolution of the concurrent diabetes rulemaking action, whichever occurs first. These prerequisite conditions are as follows:

(1) Are currently licensed to operate a CMV or were validly licensed after April 1, 1990, but could not renew their license because of their diabetic condition;

(2) Operated a CMV, with a diabetic condition controlled by the use of insulin, for the three-year period immediately preceding:

(a) The date of the application for waiver, if the applicant is currently licensed to operate a CMV; or

(b) The date (after April 1, 1990) the applicant last held a valid license to operate a CMV;

(3) Have a driving record for that three-year period that:

(a) Contains no suspensions or revocations of the applicant's driver's license for the *operation* of *any* motor vehicle (including their personal vehicle) (does not include suspensions or revocations due to nonpayment of fines);

(b) Contains no involvement in an accident (as defined in 49 CFR 390.5) for which the applicant received a citation for a moving traffic violation while operating a CMV;

(c) Contains no convictions for a disqualifying offense described in 49 CFR 383.51 or more than one serious traffic violation defined in 49 CFR 383.5 while operating a CMV; and

(d) Contains no more than two convictions for any other moving traffic violations while operating a CMV;

Special Note: Any waiver applicant who is arrested or cited for, or convicted of, any disqualifying offense or other moving violation during the period of time the application is pending, must immediately report such arrests, citations, or convictions to the Diabetes Waiver Program, 400 Seventh Street, SW., Washington, DC 20590. Failure to do so may result in a denial or rescission of the waiver. No waiver will be issued while any charge against an applicant, for what would be a disqualifying offense, is still pending. Convictions occurring during the processing of the application will be considered in the overall driving record.

(4) Have provided a board-certified or board-eligible endocrinologist with a complete medical history (including, but not limited to, the date insulin use began, all hospitalization reports, consultation notes for diagnostic examinations, special studies pertaining to the diabetes, and follow-up reports) and reports of any hypoglycemic insulin reactions within the last three years.

(5) Have been examined by a board-certified or board-eligible endocrinologist who has conducted a complete medical examination after July 29, 1993. The complete medical examination must consist of a comprehensive evaluation of the applicant's medical history and current status, including a review of:

(a) Fasting blood studies (glucose, glycosylated hemoglobin/Hb A_{1c}, including lab reference range) and urinalysis performed during the last six months; and

(b) Insulin dosages and types, diet utilized for control and any significant factors such as smoking, alcohol use, and other medications or drugs taken;

(6) Submit a signed statement prepared by the examining endocrinologist whose status (board-certified or board-eligible) is indicated. The signed statement must include separate declarations indicating the following medical determinations:

(a) The endocrinologist is familiar with the applicant's medical history for the past three years either through actual treatment over that time or through consultation with a physician who has treated the applicant during that time;

(b) The applicant has been using insulin to control his/her diabetes from the date of the application back to the date the three years of driving experience began;

(c) The applicant does not have *severe hypoglycemia* (i.e., episodes of altered consciousness requiring the assistance of another person to regain control);

(d) The applicant does not have *hypoglycemia unawareness* (i.e., the inability to recognize the early symptoms of hypoglycemia such as sweating, anxiety, forceful heartbeat and light-headedness);

(e) Within the past three years, the applicant has not had a hypoglycemic reaction, at any time, that resulted in any change in mental status that would have been, in the endocrinologist's opinion, detrimental to safe driving;

(f) The applicant's diabetic condition will not adversely affect his/her ability to operate a CMV.

(g) The applicant has been educated in diabetes and its management, thoroughly informed of and understands the procedures which must be followed to monitor and manage his/her diabetes and what procedures should be followed if complications arise; and

(h) The applicant has the ability and has demonstrated willingness to properly monitor and manage his/her diabetes.

(7) Submit a separate signed statement from an examining ophthalmologist that the applicant has been examined after July 29, 1993 and that the applicant does not have *unstable proliferative diabetic retinopathy* (i.e., unstable advancing disease of blood vessels in the retina) and has stable visual acuity (at least 20/40 [Snellen] in each eye separately, with or without corrective lenses.

Note: If a waiver is granted, the individual must obtain a certificate of qualification from a medical examiner showing that he or she is qualified under part 391 with the waiver from § 391.41(b)(3).

Application Instructions

Applicants for a waiver from the insulin-using diabetes mellitus qualification requirement are required to submit their applications on plain

paper (there is no application form), include all supporting documents, and use the format set forth below. Each information item must be completed by an appropriate answer or marked "None", if not applicable.

Vital Statistics

Name of applicant (first name, middle initial, last name);
Address (street number and name);
City, State, and Zip Code;
Telephone Number (area code and number);
Sex (male or female);
Date of Birth (month, day, and year);
Age;
Social Security Number;
State Driver's License Number (List all licenses held during the three-year period either immediately preceding the date of application, or the three-year period immediately preceding the date you last held a license (after April 1, 1990) to operate a CMV.));
Issuing State;
Driver's License Expiration Date; and
Driver's License Classification Code (If not a CDL classification code, specify what vehicles may be operated under such code).

Experience

Note: If you have no experience in a particular type of vehicle, indicate with "0" or "None." List the number of years and the number of miles driven for each category below.

Number of years driving straight trucks;
Approximate number of miles driving straight trucks;
Number of years driving tractor trailer combinations;
Approximate number of miles driving tractor/trailer combinations;
Number of years driving buses; and
Approximate number of miles driving buses.

Anticipated Operations After Waiver Is Issued

Your employer's/prospective employer's name, address and telephone number;
The type of vehicle you will operate (straight truck, tractor trailer combination, bus);
The commodities that will be transported (e.g., general freight, liquids in bulk (in cargo tanks), steel, dry bulk, large heavy machinery, refrigerated products);
The States in which you will drive;
The estimated number of miles you will drive per year;
The estimated number of daylight driving hours per week; and
The estimated number of nighttime driving hours per week.

Experience Factor

You must have accumulated at least three years experience operating a CMV on a regular basis and that experience must be recent enough to reflect your capabilities. You must have accumulated the required experience during the most recent three years. To qualify for a waiver, you must have been an insulin-using diabetic during the period from the date of the application back to the date the documented cumulative three-years of driving experience began.

Supporting Documents

Your application must include supporting documents for each of the six areas listed below, showing that:

(1) You currently possess a license to operate a CMV by submitting one of the following:

(a) A legible photostatic copy of both sides of the commercial driver's license (CDL) you now possess; or

(b) Submitting a legible photostatic copy of both sides of the driver's license (non-CDL) you now possess or the license you last possessed to operate a CMV after April 1, 1990; or

(c) A certification from the State licensing agency showing the type and effective dates of your last license;

(2) You have operated a CMV for the three-year period immediately preceding:

(a) The date of the application, if you are currently licensed to drive a CMV; or

(b) The date (after April 1, 1990) you last held a valid license to operate a CMV by submitting the following:

(i) A signed statement from your present and/or past employer(s) on company letterhead. If letterhead is unavailable, you must obtain a notarized statement from the employer(s). In the event your previous employer(s) are no longer in business, or you were operating as an independent motor carrier, submit a notarized statement, signed by you.

(ii) Information in the statements must indicate if your job was driving a CMV; what type of vehicle was operated; whether it was full-time or part-time employment (part-time employment must be explained in detail); and the dates you started and stopped driving a CMV;

(3) Your motor vehicle driving record (MVR) for the period from the date of the application back to the date the documented cumulative three-years of driving experience began (You must submit an MVR from each State in which you were licensed during that cumulative three-year period);

(a) Contains no suspensions, cancellations, or revocations of your driver's license for the operation (moving violations) of any motor vehicle (including your personal vehicle);

(b) Contains no involvement in an accident, as defined in 49 CFR 390.5, for which you received a citation and were subsequently convicted for a moving traffic violation while operating a CMV

(c) Contains no convictions for a disqualifying offense, as defined in 49 CFR 383.51(b)(2), or more than one serious traffic violation, as defined in 49 CFR 383.5, while driving a CMV which disqualified, or should have disqualified, you in accordance with the driver disqualification provisions of 49 CFR 383.51; and

(d) Contains no more than two convictions for any other moving traffic violations in a CMV;

Note: The driving record must be furnished by an official State agency, on its letterhead, bear the State seal, or official stamp and be signed by an authorized State official. No other documentation will be accepted. If the MVR shows either convictions for moving violations or accident involvement but does not indicate the type of vehicle operated or the number of miles above the posted speed limit, additional official documentation must be provided by you (e.g., a copy of the citation or accident report, or copies of court records).

Special Note: Any waiver applicant who is arrested or cited for, or convicted of, any disqualifying offense or other moving violation during the period of time the application is pending, must immediately report such arrests, citations, or convictions to the Diabetes Waiver Program, 400 Seventh Street, SW., Washington, DC 20590. Failure to do so may result in a denial or rescission of the waiver. No waiver will be issued while any charge against an applicant, for what would be a disqualifying offense, is still pending. Convictions occurring during the processing of the application will be considered in the overall driving record.

(4) You have been examined by a board-certified or board-eligible endocrinologist who has conducted a complete medical examination after July 29, 1993. You are urged to supply the examining endocrinologist with a copy of this **Federal Register** notice. The complete medical examination must consist of a comprehensive evaluation of your medical history and current status, including a review of:

(a) Fasting blood studies (glucose, glycosylated hemoglobin/Hb A_{1c}, including lab reference range) and urinalysis during the last six months; and

(b) Insulin dosages and types, diet utilized for control, and any significant factors such as smoking, alcohol use, and other medications or drugs taken.

(5) You must submit a signed statement prepared by a board-certified or board-eligible endocrinologist whose status (board-certified or board-eligible) is indicated. The signed statement from the endocrinologist must include separate declarations, based upon the findings that resulted from the required examination, indicating the following medical determinations:

(a) The endocrinologist is familiar with your medical history for the past three years either through actual treatment over that time, or through consultation with a physician who has treated you during that time;

(b) You have been using insulin to control your diabetes during the period from the date of the application back to the date the documented cumulative three-years of driving experience began;

(c) You do not have *severe hypoglycemia* (i.e., episodes of altered consciousness requiring the assistance of another person to regain control);

(d) You do not have *hypoglycemia unawareness* (i.e., the inability to recognize the early symptoms of hypoglycemia such as sweating, anxiety, forceful heartbeat and light-headedness);

(e) Within the last three years, you have not had a hypoglycemic reaction that resulted in any change in mental or physical status that would have been, in the endocrinologist's opinion, detrimental to safe driving;

(f) Your diabetic condition would not adversely impact on your ability to operate a CMV.

(g) You have been educated in diabetes and its management, thoroughly informed of and understand the procedures which must be followed to monitor and manage your diabetes, and what procedures should be followed if complications arise;

(h) You have the ability and have demonstrated your willingness to properly monitor and manage your diabetes;

Note: A sample of the required declarations appears below.

(6) You must submit a separate signed statement from an examining ophthalmologist that you have been examined after July 29, 1993 and that you *do not have unstable proliferative diabetic retinopathy* and that you *have stable distant visual acuity* (at least 20/40 [Snellen] in each eye separately, with or without corrective lenses).

In an effort to aid the examining physician in furnishing the required signed statements, a suggested format is furnished below:

Examining Physician's Letterhead

(Name, address and telephone number)

I examined _____(first name, middle initial, last name) on _____(month, date, year). I understand that the examination is one of the preconditions required of a person who applies to the Federal Highway Administration for a waiver from the qualification requirements contained in the Federal Motor Carrier Safety Regulations at 49 CFR 391.41(b)(3). I fully understand what type of examination is required. I, therefore, based upon my examination, do declare:

(a) I am familiar with the patient's medical history for the past three years either through actual treatment over that time, or through consultation with the physician who has treated the patient during that time;

(b) The patient has been using insulin to control his/her diabetes during the period from the date of the application back to the date the documented cumulative three-years of driving experience began;

(c) The patient does not have *severe hypoglycemia*;

(d) The patient does not have *hypoglycemia unawareness*;

(e) Within the last three years, the patient has not had a hypoglycemic reaction that resulted in any change in mental or physical status that would have been detrimental to safe driving;

(f) The patient's diabetic condition would not adversely impact on the patient's ability to operate a CMV.

(g) The patient has been educated in diabetes and its control, thoroughly informed of and understands the procedures which must be followed to monitor and manage his/her diabetes, and what procedures should be followed if complications arise;

(h) The patient has the ability and has demonstrated his/her willingness to properly monitor and manage his/her diabetes.

_____

(Physician's Signature)

[ ] Board-Certified Endocrinologist

[ ] Board-Eligible Endocrinologist

Note: Do not submit medical records, doctor notes, medical bills, insurance records, lab reports, etc.

Waiver Conditions

Once an individual is accepted into the waiver program, there are 14 requirements that must be complied with in order to retain the waiver. These requirements will ensure the driver's diabetes is managed properly and that the FHWA receives the necessary data needed to complete the research effort. Failure to comply with any of these special conditions may result in the revocation of the waiver. As a waived driver, you will be required to:

(a) Carry, use, and record, in a log, the readings from a portable self-monitoring blood glucose device (SMBG) that is equipped with a computerized memory. Blood glucose monitoring must be performed one hour prior to and approximately every four hours while on duty as defined in 49 CFR 395.2. Paper tapes generated by SMBGs having a printing capability may be used in lieu of a log prepared by the waived driver. Make log records of blood glucose values available to any authorized enforcement official upon request;

(b) Carry upon your person and use, as necessary, a source of rapidly absorbable glucose;

(c) Carry insulin and the equipment/materials necessary for administering the medication;

(d) Report, in writing, any citation for a moving violation involving the operation of a CMV to the Diabetes Waiver Program no later than 15 days following the issuance of such citation. A photostatic copy of the citation issued must accompany the written report;

(e) Report, in writing, the judicial/administrative disposition of any citation for a moving violation involving the operation of a CMV to the Diabetes Waiver Program no later than 15 days following the notice of disposition;

(f) Report, in writing, involvement in any accident whatsoever while operating a CMV to the Diabetes Waiver Program no later than 15 days following the accident (include State, insurance company, and/or motor carrier accident reports);

(g) Report, in writing, any change of residence, address, or telephone number to the Diabetes Waiver Program no later than 15 days after such a change;

(h) Report, in writing, any change of employer, including name, address, and telephone number, or type of vehicle operated to the Diabetes Waiver Program no later than 15 days after such a change.

(i) Submit any medical information derived from medical assistance or treatment arising from any accident involvement to the Diabetes Waiver Program no later than 15 days following the accident. A copy of the attending medical specialist's and laboratory reports will meet the reporting requirement;

(j) Submit log records of your blood glucose values for the 24-hour period immediately prior to any accident involvement to the Diabetes Waiver Program no later than 15 days following the accident.

(k) Submit a signed statement from the board-certified or board-eligible endocrinologist who conducted the initial medical evaluation to the Diabetes Waiver Program, no later than 15 days before each 6-month anniversary of the waiver issuance date, that you have been examined and your diabetic condition is currently stable and under control. This semi-annual examination must be conducted within the 6-week period immediately

preceding each 6-month anniversary of the waiver issuance date. You must make your log records of your blood glucose values for the preceding 3 months available to the examining endocrinologist at the time of the required examination;

(l) Waived drivers who use a medical specialist, other than the specialist who conducted the initial medical evaluation, must be reexamined by an endocrinologist, using the criteria and procedures established for the pre-qualification examination and submit a signed statement from that board-certified or board-eligible endocrinologist;

Note: Do not submit medical records, bills, or reports.

(m) Submit a signed statement from an ophthalmologist to the Diabetes Waiver Program, no later than 15 days before each anniversary of the waiver issuance date, that you have been examined and that you do not have unstable proliferative diabetic retinopathy, and that you continue to have stable visual acuity (at least 20/40 [Snellen] in each eye, corrected or uncorrected). This annual examination must be conducted within the 6-week period immediately preceding the anniversary of the waiver issuance date;

Note: Do not submit medical records, bills, or reports.

(n) Report to the Diabetes Waiver Program, no later than the 15th calendar day of each month (not including the month in which the waiver becomes effective), the following information:

(1) The number of interstate/intrastate miles you drove a commercial motor vehicle (CMV) during the preceding month. For example, if you drove 3,000 miles for the preceding month (July), you must report that information no later than the 15th day of the next month (August);

(2) The number of daylight hours and the number of nighttime hours you drove a CMV during the preceding month. For example, if you drove 170 daylight hours and 50 nighttime hours during the preceding month (July), you must report that information no later than the 15th day of the next month (August); and

(3) The number of days you did not drive a CMV during the preceding month. For example, if you did not drive a CMV a total of 9 days during the preceding month (July), you must report that information no later than the 15th day of the next month (August).

Note: This monthly report must be mailed as soon after the first day of each month as possible. This will ensure that the report will be received at the office of the Driver Waiver Program no later than the 15th day of each month.

All documentation described in items (d) through (n), above, must be mailed to the Diabetes Waiver Program, 400 Seventh Street, SW., Washington, DC 20590. Failure to submit timely reports will be cause for revocation of the waiver.

Control Group Participants

The FHWA is seeking a large number of drivers who are currently qualified under the FMCSRs to volunteer for the control group. These volunteers will be asked to submit the same demographic and work-related information required from waiver applicants. The FHWA seeks the cooperation of all motor carriers, owner-operators, drivers, trade associations, and labor unions to encourage drivers to volunteer for participation in this very important study. The FHWA will pursue additional outreach efforts to enlist the necessary cooperation. Those drivers interested in participating in the control group should notify the FHWA of their interest by writing the Waiver Program Control Group, 400 Seventh Street, SW., Washington, DC 20590 or by calling 1-800-832-5660 and asking for information concerning the Waiver Program Control Group. Following such contact, information will be sent to each prospective control group volunteer.

Those drivers who voluntarily participate in the control group will be asked to:

(a) Report any citation for a moving violation involving the operation of a CMV to the Waiver Program Control Group within 15 days following issuance (a photostatic copy of the citation issued will meet the reporting requirement);

(b) Report the judicial/administrative disposition of such charge to the Waiver Program Control Group within 15 days following the notice of disposition;

(c) Report any accident involvement whatsoever while operating a CMV to the Waiver Program Control Group within 15 days following the accident (include State, insurance company, and/or motor carrier accident reports);

(d) Report any change of residence address or telephone number to the Waiver Program Control Group within 15 days after such a change;

(e) Report any change of employers, including name, address, and telephone number, or type of vehicle operated to the Waiver Program Control Group within 15 days after such a change.

(f) Report the below information to the Waiver Program Control Group by the 15th calendar day of each quarter. The quarterly report should be mailed as soon after the first day of each quarter as possible. This will ensure that the report will be received at the office of the Driver Waiver Program by the 15th day of each quarter.

(1) The number of interstate/intrastate miles you drove a commercial motor vehicle (CMV) during the preceding quarter. For example, you drove 12,000 miles for the preceding quarter (three-month period) that ended on June 30. You must report that information by the 15th day of the next quarter (July 15);

(2) The number of daylight hours and the number of nighttime hours you drove a CMV during the preceding quarter. For example, you drove 500 daylight hours and 150 nighttime hours during the preceding quarter that ended on June 30. You must report that information by the 15th day of the next quarter (July 15); and

(3) The number of days you did not drive a CMV during the preceding quarter. For example, you did not drive a CMV a total of 26 days during the preceding quarter that ended on June 30. You must report that information by the 15th day of the next quarter (July 15).

(49 U.S.C. app. 2505; 49 U.S.C. 504 and 3102; 49 CFR 1.48.)

Issued on: July 21, 1993.

Rodney E. Slater,

Administrator.

[FR Doc. 93-18062 Filed 7-28-93; 8:45 am]

BILLING CODE 4910-22-P

federal register

Thursday
July 29, 1993

Part III

Department of Education

Office of Postsecondary Education

Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Education Opportunity Grant Programs; Notice of Revised Hardware Requirements

DEPARTMENT OF EDUCATION

Office of Postsecondary Education

Federal Perkins Loan, Federal Work-Study, and Federal Supplemental Educational Opportunity Grant Programs

AGENCY: Department of Education.

ACTION: Notice of revised hardware requirements for the electronic submission of the Fiscal Operations Report and Application to Participate in the Federal Perkins Loan, Federal Work-Study (FWS), and Federal Supplemental Educational Opportunity Grant (FSEOG) Programs.

SUMMARY: The Secretary gives notice to institutions of higher education that, beginning with the 1992–93 Fiscal Operations Report and 1994–95 Application to Participate (FISAP), the minimum hardware requirements for three components have been revised by the Department. The Dual Floppy version of submission will be eliminated. If you used the Dual Floppy version last year, you must call (301) 565–0032 to request either the 3½" or 5¼" hard disk version. Further, the internal memory minimum is increased from 512K to 640K (with at least 512K available for Electronic FISAP) and the DOS version minimum is increased from 2.0 to 3.1. An institution of higher education must utilize equipment that meets the revised hardware requirements to file the Electronic FISAP.

Background

The Department has determined that these revised hardware requirements will make the Electronic FISAP process more efficient and less burdensome for institutions of higher education that participate in the campus-based programs. It is no longer cost effective to support the Dual Floppy version of the Electronic FISAP. Further use of the Dual Floppy would hamper future enhancements to the software. The revised hardware requirements for the Electronic FISAP process will further reduce the number of some common institutional data errors because it enables new screen edits to be incorporated into the data submission process. The revised hardware requirements will also reduce the time needed to complete the Electronic FISAP process because it allows the addition of screen switching. Screen switching enables an institution of higher education to change between data entry screens without the need to go to the selection menu.

General Information

In order to file the FISAP electronically, the following hardware requirements must be met:

Component	Minimum	Recommended
CPU	IBM compatible.	Same.
Drives	Hard Disk (with at least one diskette drive).	Same.
Internal Memory.	640K	Same.
Size of drives	3½" or 5¼"	Same.
MS DOS	3.1	Same.
Printer	Not required	132 column width.
Modem	Not required	1200 baud (Hayes compatible).

Note: A printer or a modem is not required for submission of the Electronic FISAP data, although both may be helpful. An important feature of the Electronic FISAP software is the ability of the institutional user to enter and edit data before proceeding from one screen to the next; a printer enables the user to print the error messages that are displayed on the screen before returning to the line items to change data. A modem allows the user to transmit the data via a telephone line, which is recognized as a safer means of data submission than mailing the diskettes. In addition, telephone transmission guarantees an automatic acknowledgement of the Department's receipt of the institution's FISAP data. If an institution does not currently have the hard disk drive equipment that is necessary for the electronic transmission of its FISAP data, it must either purchase or lease the equipment or make arrangements to have another party or parties (e.g., another postsecondary institution or firm) complete the data transmission process.

Applicable Regulations

The following regulations are applicable to these programs:

Federal Perkins Loan—34 CFR parts 674 and 668.

Federal Work-Study—34 CFR parts 675 and 668.

Federal Supplemental Educational Opportunity Grant—34 CFR parts 676 and 668.

FOR FURTHER INFORMATION CONTACT: Arthur Iwanicki, Chief, Systems Improvement and Planning Branch, Campus-based Programs Systems Division, Office of Student Financial Assistance, U.S. Department of Education, 400 Maryland Avenue, SW., (room 4651, ROB–3), Washington, DC 20202–5452. Telephone (202) 708–5739. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Authority: 20 U.S.C. 1087aa *et seq.*; 42 U.S.C. 2751 *et seq.*; and 20 U.S.C. 1070b *et seq.*

(Catalog of Federal Domestic Assistance Numbers: 84.038, Federal Perkins Loan Program; 84.033, Federal Work-Study Program; and 84.007, Federal Supplemental Educational Opportunity Grant Program)

Dated: July 22, 1993.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 93–18056 Filed 7–28–93; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
July 29, 1993

Part IV

Department of Education

Research in Education of Individuals With Disabilities Program; Notice Inviting Applications

DEPARTMENT OF EDUCATION

[CFDA No.: 84.023]

Research in Education of Individuals With Disabilities Program; Notice Inviting Applications for New Awards for Fiscal Year 1994

Purpose of Program: To advance and improve the knowledge base and improve the practice of professionals, parents, and others providing early intervention, special education, and related services, including professionals in regular education environments, to provide children with disabilities effective instruction and enable them to successfully learn.

This notice supports the National Education Goals by improving understanding of how to enable children and youth with disabilities to reach higher levels of academic achievement.

Eligible Applicants: Eligible applicants are State and local educational agencies, institutions of higher education, and other public agencies and nonprofit private organizations.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR part 324.

Applications Available: August 20, 1993.

Priorities: Under 34 CFR 75.105(c)(3) and 34 CFR 324.10, the Secretary gives an absolute preference to applications that meet the following priorities. The Secretary funds under these competitions only applications that meet one of these absolute priorities:

Absolute Priority 1—Advancing and Improving the Research Knowledge Base (CFDA 84.023A)

This priority supports a wide range of research and related activities that support innovation, development, exchange, and use of advancements in knowledge and practice designed to contribute to the improvement of instruction and learning of infants, toddlers, children, and youth with disabilities.

Invitational Priority

Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications.

The Secretary is particularly interested in pilot studies, projects that employ new methodologies, descriptive studies, projects to advance assessment, projects that synthesize state-of-the-art research and practice, projects for research dissemination and utilization, and projects that analyze extant data bases. The Secretary further encourages studies that use these approaches to address the needs of infants, toddlers, children and youth with disabilities from racial or ethnic minority groups.

Absolute Priority 2—Student-Initiated Research Projects (CFDA 84.023B)

This priority provides support for student-initiated research projects focusing on special education and related services for children and youth with disabilities and early intervention services for infants and toddlers, consistent with the purposes of the program, as described in 34 CFR 324.1.

Invitational Priority

Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Short-term projects (up to 12 months) that would develop research skills in postsecondary students. The Secretary further encourages projects that, while carried out by the student, would include a principal investigator who serves as a mentor to the student/researcher.

Absolute Priority 3—Field-Initiated Research Projects (CFDA 84.023C)

This priority provides support for field-initiated research projects focusing on special education and related services for children and youth with disabilities and early intervention services for infants and toddlers, consistent with the purposes of the program, as described in 34 CFR 324.1.

RESEARCH IN EDUCATION OF INDIVIDUALS WITH DISABILITIES PROGRAM

[Application Notices for Fiscal Year 1994]

Title and CFDA No.	Deadline for transmittal of applications	Estimated available funds*	Estimated range or size of awards	Estimated No. of awards*	Project period in months
Advancing and improving the research knowledge base (CFDA No. 84.023A).	10/22/93	$1,725,000	$50,000–100,000 for entire project period [1].	23	Up to 12.
Student-initiated research projects (CFDA No. 84.023B).	10/22/93	150,000	5,000–20,000 for entire project period [2].	12	Up to 12.
Field-initiated research projects (CFDA No. 84.023C).	01/14/94	3,120,000	100,000–180,000 per year [3] ..	20	Up to 60.

[1] Projects will not be funded in excess of $100,000 for the entire project period. Any project approved by reviewers that exceeds the estimated size of award will be required to be performed, as proposed, within the announced amount.

[2] Projects will not be funded in excess of $20,000 for the entire project period. Any project approved by reviewers that exceeds the estimated size of award will be required to be performed, as proposed, within the announced amount.

[3] Projects will not be funded in excess of $180,000 in the first year. Any project approved by reviewers that exceeds the estimated size of award will be required to be performed, as proposed, within the announced amount. Multi-year projects are likely to be level funded unless there are increases in costs attributable to significant changes in activity level.

NOTE: The Department of Education is not bound by any estimates of available funds or number of awards contained in this notice.

For Technical Information Contact: For information on the Advancing and Improving the Research Knowledge Base (CFDA 84.023A) competition, please contact Judith Fein, U.S. Department of Education, 400 Maryland Avenue, SW., room 3524, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–8116. For information on the Student-Initiated Research Projects (CFDA 84.023B) competition, please contact Dr Melville

J. Appell, U.S. Department of Education, 400 Maryland Avenue, SW., room 3529, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–8113. For information on the Field-Initiated Research Projects (CFDA 84.023C) competition, please contact Dr. Tom V. Hanley, U.S. Department of Education, 400 Maryland Avenue, SW., room 3526, Switzer Building, Washington, DC 20202–2641. Telephone: (202) 205–8110.

For Applications and General Information Contact: Requests for applications and general information should be addressed to: Darlene Crumblin, U.S. Department of Education, 400 Maryland Avenue, SW., room 3525, Switzer Building, Washington, DC 20202–2641. Telephone (202) 205–8953. Individuals who are hearing impaired may call the Federal Dual Party Relay Service at 1–800–877–8339.

Program Authority: 20 U.S.C. 1441–1443.

Dated: July 23, 1993.

William L. Smith,

Acting Assistant Secretary, Office of Special Education and Rehabilitative Services.

[FR Doc. 93–18055 Filed 7–28–93; 8:45 am]

BILLING CODE 4000–01–U

federal register

Thursday
July 29, 1993

Part V

Department of Education

34 CFR Part 377

Demonstration Projects to Increase Client Choice Program; Final Rule

DEPARTMENT OF EDUCATION

34 CFR Part 377

RIN 1820-AB23

Demonstration Projects to Increase Client Choice Program

AGENCY: Department of Education.

ACTION: Final Regulations.

SUMMARY: The Secretary adopts these regulations to implement the Demonstration Projects to Increase Client Choice Program (program) authorized in the Rehabilitation Act Amendments of 1992. The program provides grants to States and public and nonprofit agencies and organizations to pay all or part of the costs of projects to demonstrate ways to increase client choice in the rehabilitation process. The final regulations incorporate statutory requirements and provide rules for applying for and spending Federal funds provided under this program.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the **Federal Register** or later if Congress takes certain adjournments. 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: Ann Queen, U.S. Department of Education, 400 Maryland Avenue, S.W., Room 3038, Mary E. Switzer Building, Washington, D.C. 20202-2575. Telephone: (202) 205-8292. Individuals who use a telecommunication device for the deaf (TDD) may call the TDD number at (202) 205-5896.

SUPPLEMENTARY INFORMATION: These final regulations implement the Demonstration Projects to Increase Client Choice Program authorized in title VIII, section 802(g), of the Rehabilitation Act of 1973, as amended by the Rehabilitation Act Amendments of 1992 (Pub. L. 102-569, enacted October 29, 1992) (the Act). The purpose of the program is to stimulate creative efforts to increase client choice in the rehabilitation process, including choice in selecting vocational goals and objectives, services to achieve those objectives, and providers of services, thereby improving the quality of the rehabilitation process. The program is an important step forward in achieving the National Education Goals. Specifically, the program addresses Goal Five, which calls for every adult American to be literate and to possess the skills necessary to compete in a global economy and to exercise the rights and responsibilities of citizenship, by providing improved vocational rehabilitation opportunities for an increased number of people with disabilities.

On April 1, 1993, the Secretary published a notice of proposed rulemaking (NPRM) for this program in the **Federal Register** (58 FR 17308). The major issues related to this program are discussed in the preamble to the NPRM. The major differences between the proposed regulations and these final regulations are as follows:

- The minimum scope of choice that grantees are required to provide to clients has been expanded from choice in the selection of providers to choice in the selection of goals, services, and providers.
- Several provisions have been added to ensure that clients who participate in this program are provided the information they need to make informed choices and that, if the client requests, family members, guardians, or authorized representatives will be permitted to participate in the development of the client's written plan.

Analysis of Comments and Changes

Fifteen commenters responded to the Secretary's invitation to comment on the NPRM. The following is an analysis of those comments and of the changes that have been made in the regulations since publication of the NPRM. Substantive issues are discussed under the section of the regulations to which they pertain. Minor and technical changes to the language published in the NPRM—and suggested changes the Secretary is not legally authorized to make under the applicable statutory authority—are not always addressed.

Title I standards

Comment: Two commenters expressed the view that all of the standards, rights, and remedies applicable to the State Vocational Rehabilitation Services Program and its clients, such as an order of selection requirement that gives priority to individuals with the most severe disabilities and client appeal rights, should apply to the demonstration projects under this program.

Discussion: The State Vocational Rehabilitation Services Program and all of the standards, rights, and remedies applicable to that program and its clients are authorized under title I of the Act. Congress established this demonstration program under section 802(g) of title VIII of the Act. There is no basis in section 802(g) for requiring demonstration projects under this program to comply with all of the standards, rights, and remedies applicable to the State Vocational Rehabilitation Services Program. In addition, as a matter of policy, the Secretary believes that applying all of the title I requirements would be too burdensome for, and contrary to the nature of, demonstration projects that will be operating on budgets of approximately $400,000.

Changes: None.

Scope of choice (Section 377.3)

Comment: A number of commenters objected to the fact that the proposed regulations do not require projects to provide choice in all aspects of the rehabilitation process. Several commenters stated that the regulations are inconsistent with the statute in this respect. Some commenters specifically urged that choice of employment goals and outcomes be required, and some commenters specifically emphasized the need for choice of services.

Discussion: Section 802(g)(1) of the Act provides the Commissioner with the authority to make grants for projects to demonstrate ways to increase client choice in the rehabilitation process, including the selection of providers of vocational rehabilitation services. The Secretary does not interpret this provision to require each project to demonstrate choice in all aspects of the rehabilitation process. However, the Secretary agrees that the program regulations should require each project to demonstrate ways to provide increased client choice in the selection of goals and services, as well as providers. Moreover, the Secretary will seek to fund projects that, as a group, demonstrate choice in all aspects of the rehabilitation process.

Changes: Section 377.1 has been revised to provide that the program is designed to assist projects that demonstrate ways to increase client choice in the vocational rehabilitation process, including the choice of goals, services, and providers.

Section 377.3(a) has been revised to provide that, at a minimum, all projects must demonstrate ways to increase the choices available to clients in selecting goals, services, and providers.

Section 377.21(a)(1)(i) has been revised to provide that the Secretary reviews each applicant's plan of operation to determine the extent to which the project will provide increased client choice in the rehabilitation process, including, at a minimum, choice in the selection of goals, services, and providers.

Section 377.21 has also been revised to add a new paragraph (a)(8) to provide that in reviewing each applicant's plan of operation, the Secretary considers the extent to which the applicant's plan describes a satisfactory system for conducting vocational assessment with eligible clients to ensure that a full range of vocational goals are considered.

Eligible client (Section 377.5(b))

Comment: One commenter asked why individuals who are currently receiving vocational rehabilitation services are not eligible clients under this program. Another commenter recommended that the definition of "eligible client" under this program be revised to be consistent with the eligibility requirements under the State Vocational Rehabilitation Services Program.

Discussion: The definition of "eligible client" is taken from section 802(g)(8)(B) of the statute. The Secretary does not have the authority to change this definition.

Changes: None.

Employment outcome (Section 377.5(c))

Comment: One commenter wondered whether sheltered employment is excluded from the definition of "employment outcome."

Discussion: The definition of "employment outcome" in the regulations for this program is consistent with the definition of the term under the title I program. Any employment outcome that the Secretary has permitted in the past under the State Vocational Rehabilitation Services Program is permitted under this program. "Sheltered employment" is included within the phrase "extended employment in a community rehabilitation program" in the definition of "employment outcome" in these regulations.

Changes: None.

Voucher (Sections 377.5(c) and 377.21(a)(7))

Comment: One commenter recommended that the definition of this term be revised to specify that a voucher must be for a specific service to be delivered during a specific time period. Another commenter was concerned that a voucher of a certain monetary value might provide an affluent client with a greater range of choices than a voucher of the same monetary value would provide a more financially needy client. That commenter recommended an economic needs test for anyone participating in a voucher program to ensure comparability of services.

Discussion: The definition of "voucher" is purposely broad because the Secretary does not wish to restrict creativity in the development of demonstration projects proposing the use of vouchers. The Secretary believes that the regulations provide appropriate checks on the use of vouchers in § 377.11(a)(6), which requires applicants that propose a voucher system to describe the manner in which they will determine the monetary value of vouchers, and in § 377.21(a)(7), which authorizes the Secretary to consider the extent to which the proposed use and valuation of vouchers is workable. The Secretary declines to add any further restrictions on the potential uses of vouchers to the regulations.

Changes: None.

Informed choice (Section 377.11)

Comment: A number of commenters recommended that provisions be added to the regulations to ensure that clients are provided necessary information to make informed choices. One commenter recommended that each project include a training component to improve clients' abilities to make informed choices. Several commenters noted that individuals with cognitive disabilities may need alternative modes of communication, in order to participate meaningfully in the preparation of the written services plan. One commenter suggested that the written plan be prepared in a client's native language. Several commenters recommended that family members, guardians, or authorized representatives be allowed to participate in the development of the written plan. Several commenters recommended that the written plan include a statement by the client describing how he or she was informed about and involved in choosing among alternative goals, services, and providers. Several commenters recommended that applicants be required to describe in their applications the manner in which they would provide the information necessary for clients to make informed choices.

Discussion: The Secretary agrees with the commenters that clients should be afforded the opportunity to make informed choices. The Secretary believes that in order to afford this opportunity, clients must be provided with information about their options and have the right to have family members, guardians, advocates, or other authorized representatives participate in the development of their written plan. In addition, the Secretary believes alternative modes of communication should be provided for individuals with cognitive disabilities, if necessary, to provide informed choice. Although the Secretary agrees that preparing the written plan in the native language of clients would also promote informed client choice, the Secretary believes it would impose too great a burden to require this of all demonstration projects and declines to add it to the regulations.

Changes: Section 377.11(a) would be revised to add a new provision that requires applicants to describe the manner in which they will provide individuals, including individuals with cognitive disabilities, the information necessary to make informed choices, including, at a minimum, informed choices in the selection of goals, services, and providers.

Section 377.11(b)(1) would be revised to require that applicants assure that, if a client elects, the client's written plan will be established with the participation of family members, guardians, advocates, or other authorized representatives of the client.

Accreditation standards (Section 377.11(a)(3))

Comment: Several commenters were concerned that existing State accreditation standards may not be appropriate for the new methods and types of providers that may be used in this demonstration program, and one commenter recommended that projects be allowed to develop alternative accreditation methods. Other commenters were concerned that the existing accreditation standards in some States may not be stringent enough and recommended that professional certification be required. Several commenters suggested that the regulations should include more specific requirements regarding the quality assurance of providers. One commenter recommended that accreditation be required from national credentialing bodies.

Discussion: The requirement that providers be accredited or meet other quality or cost control criteria of the State is taken from section 802(g)(3)(ii) of the statute. The Secretary believes it is both appropriate and consistent with the Act to leave quality assurance standards up to the States. The Secretary intends to evaluate the effectiveness of State accreditation and other quality assurance standards in the Department's overall evaluation of the demonstration programs.

Changes: None.

Misspent Funds (Section 377.11(a)(5)/ Preamble)

Comment: Several commenters requested clarification of the term "misspent funds," which is used in the

preamble of the NPRM. Commenters asked if funds would be considered "misspent" if a client did not find a job or was not successfully rehabilitated, if the cost of a service was too high, or if a client was dissatisfied with the services provided. One commenter asked if the term "misspent funds" would be interpreted to apply only to situations in which a provider engages in false, misleading, or deceptive practices. Commenters recommended that the reference to misspent funds be removed from the preamble of the NPRM or that the term be defined more clearly, and that more guidance be provided concerning the establishment of costs for services.

Discussion: The Secretary does not believe funds are misspent if a client does not find a job or if a client is dissatisfied with services. The Secretary believes funds are misspent if they are spent in violation of the regulatory or statutory provisions governing the program. For example, the Secretary believes funds would be misspent if they were provided to an individual with a disability who was already receiving services under an individualized written rehabilitation program established through a designated State unit or if they were paid to a service provider that did not meet the accreditation or other quality assurance criteria established by the State. The Secretary does not believe any further guidance in the regulations regarding the establishment of costs for services or the meaning of misspent funds is necessary or appropriate at this time.

Changes: None.

Plan of Operation: Range of disabilities (Section 377.21(a))

Comment: Some commenters were concerned that the proposed regulations do not require demonstration projects to serve individuals from a full range of disability groups, including individuals with severe disabilities. One commenter suggested that a significant cross-disability sample is necessary for evaluation purposes. Some commenters recommended that the non-discrimination provision also require applicants to ensure that clients would be selected without regard to the type or severity of their disability.

Discussion: The Secretary agrees that a significant cross-disability sample would be most useful for evaluation purposes. For this reason, under § 377.22(b), the Secretary considers the diversity of clients served among all of the funded projects in making grants under this program. However, the Secretary does not intend to require each project to serve a full range of disability groups because the Secretary believes that it would restrict the creativity of strategies proposed by applicants to increase client choice.

Changes: None.

Project period (Section 377.21(a)(1)(ii))

Comment: Several commenters expressed concern that not all eligible clients would attain employment outcomes within the project period. One commenter suggested that applicants be permitted to request an extended project period based on the needs of eligible clients.

Discussion: The term "project period" is defined in the Education Department General Administrative Regulations (EDGAR) to mean the period for which the appropriate official of the Department approves a project. (34 CFR 77.1) EDGAR also provides for an extension of the project period under special circumstances described in 34 CFR 75.261. The Secretary does not believe there is any need to deviate from the provisions contained in EDGAR for projects funded under this program.

Changes: None.

Application requirements (Section 377.21(a)(4))

Comment: Two commenters expressed the view that it will be very difficult for applicants to provide information regarding the number of eligible clients available to participate in a project by type of disability and the number of eligible clients available to participate in a project who are individuals with severe disabilities.

Discussion: The Secretary believes it is important for applicants to have some knowledge regarding the available pools of eligible clients in order to develop useful demonstration projects. The Secretary expects applicants to use existing data sources to obtain this information, including, for example, data from the decennial census that includes information on the numbers of individuals with work-related disabilities in a given geographic area.

Changes: None.

Adequacy of resources: Facilities (Section 377.21(b)(2)(i))

Comment: One commenter asked whether the word "facilities" in the selection criteria should be replaced with the word "programs."

Discussion: "Facilities" as used in this provision of the selection criteria refers to the buildings an applicant for a demonstration project plans to use. "Facilities" is defined in the Department's grant regulations in 34 CFR 77.1(c). The Secretary does not believe it would be appropriate to replace the word "facilities" with the word "programs" in this context.

Changes: None.

Enabling Choice (Section 377.21(c)(3))

Comment: One commenter suggested replacing the word "allowing" in § 377.21(c)(3) of the proposed regulations with the word "enabling."

Discussion: The Secretary agrees that the concept of "enabling" choice is more consistent with the purposes of the program, which is to empower clients to make informed choices.

Changes: The word "allowing" in paragraph (c)(3) of § 377.21 has been removed, and the word "enabling" has been inserted in its place.

Evaluation plan (Section 377.21(d))

Comment: Several commenters made suggestions for strengthening the evaluation plan requirements. One commenter suggested requiring independent evaluations of project outcomes. One commenter suggested that evaluation make use of qualitative, as well as quantitative, data. One commenter recommended that systems for monitoring and accounting for the use of funds, for determining the monetary value of services or products, and for ensuring client satisfaction be highlighted in any evaluation plan.

Discussion: Section 802(g)(7) of the Act requires the Commissioner of the Rehabilitation Services Administration (RSA) to conduct an evaluation of the demonstration projects funded under this program with respect to services provided, clients served, client outcomes obtained, implementation issues addressed, the cost effectiveness of the project, and the effects of increased client choice on clients and service providers. The Department is in the process of developing an evaluation plan for this program in accordance with these statutory requirements and will consider these comments in formulating that plan. The Secretary does not believe it is necessary or useful to require each project to have an independent evaluator evaluate its project. Nor does the Secretary believe it is necessary to strengthen the evaluation plan requirements for each project.

Changes: None.

Record collection requirements (Section 377.30(a))

Comment: One commenter noted that the record collection provisions in the proposed regulations would require grantees to collect information regarding the national origin of clients, which is not required under the current data

reporting system for the State Vocational Rehabilitation Services Program. Other commenters recommended that grantees be required to provide information regarding post-placement services and consumer satisfaction.

Discussion: The Secretary agrees with the commenter that the record collection requirements under this program should be consistent with the requirements under the State Vocational Rehabilitation Services Program. The Secretary also agrees that information should be provided regarding any post-placement services that are provided and believes that paragraph (a)(1) of this section, which requires grantees to provide information regarding the types of services provided, includes any post-placement services that are provided. The Secretary agrees that client satisfaction information should be obtained and evaluated, but believes this is best done independently in the Department's program evaluation, rather than by each grantee as part of its project evaluation.

Changes: The term "national origin" has been removed from the record collection requirements in § 377.30(a)(3) of the final regulations.

Client Assistance Program (CAP) (Section 377.31)

Comment: Some commenters requested that RSA provide additional guidance to the CAP in terms of its jurisdiction over and relationship to service providers under this program.

Discussion: The Secretary agrees that additional guidance regarding this issue would be useful, but does not believe the regulations for this program are the proper vehicle for providing this guidance. This issue will be clarified in future sub-regulatory guidance regarding the nature, scope, and authority of the CAP.

Changes: None.

Matching (Section 377.32)

Comment: One commenter recommended that a provision be added to the regulations to permit waiver of the matching requirement for applicants from rural or economically depressed areas.

Discussion: The regulations do not establish a specific matching requirement, but instead permit the Secretary to determine each year that new awards are made whether to require a match, not to exceed 10 percent of project costs. The Secretary believes that if such a requirement is imposed it should be applied uniformly to all grantees.

Changes: None.

Miscellaneous

Comment: One commenter urged that a portion of funds under this program be set aside for demonstration projects that increase choice for individuals who have mental retardation.

Discussion: There is no basis in the statute for setting aside funds under this program for projects that serve only individuals who have mental retardation.

Changes: None.

Comment: One commenter recommended that the proposed regulations be strengthened to require each project to establish an advisory committee of consumers and providers to participate in the design, oversight, and evaluation of the project.

Discussion: The Secretary encourages projects to establish advisory committees, but declines to require that every project be designed and overseen by an advisory committee of consumers and providers. The Secretary notes that if a project does establish an advisory committee, the requirements relating to advisory committees in 34 CFR 369.46 would apply, as provided under § 377.4 of these final regulations.

Changes: None.

Comment: None.

Discussion: Through Department review, it was noted that the term "individual with a severe disability," which is used several times in the proposed regulations, was not defined.

Changes: The term "Individual with a severe disability" is defined in section 7(15)(A) of the Rehabilitation Act of 1973, as amended, and that definition has been added to § 377.5 of the final regulations.

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.

Intergovernmental Review

This program is subject to the requirements of Executive Order 12372 and the regulations in 34 CFR part 79. The objective of the Executive order is to foster an intergovernmental partnership and a strengthened federalism by relying on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

In accordance with the order, this document is intended to provide early notification of the Department's specific plans and actions for this program.

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 377

Choice, Grant programs—education, Grant programs—social programs, Reporting and recordkeeping requirements, Vocational rehabilitation.

(Catalog of Federal Domestic Assistance Number has not been assigned)

Dated: July 9, 1993.

Richard W. Riley,

Secretary of Education.

The Secretary amends title 34 of the Code of Federal Regulations by adding a new part 377 to read as follows:

PART 377—DEMONSTRATION PROJECTS TO INCREASE CLIENT CHOICE PROGRAM

Subpart A—General

Sec.

377.1 What is the Demonstration Projects to Increase Client Choice Program?
377.2 Who is eligible for an award?
377.3 What types of activities may the Secretary fund?
377.4 What regulations apply?
377.5 What definitions apply?

Subpart B—How Does One Apply for an Award?

377.10 How does an eligible entity apply for an award?
377.11 What is the content of an application for an award?

Subpart C—How Does the Secretary Make an Award?

377.20 How does the Secretary evaluate an application?
377.21 What selection criteria does the Secretary use?
377.22 What additional factors does the Secretary consider in making grants?

Subpart D—What Post-Award Conditions Must be Met by a Grantee?

377.30 What information must a grantee maintain and provide to the Secretary?
377.31 What information must a grantee provide to eligible clients?
377.32 What are the matching requirements?

Authority: Sec. 802(g) of the Rehabilitation Act of 1973; 29 U.S.C. 797a(g), unless otherwise noted.

Subpart A—General

§ 377.1 What is the Demonstration Projects to Increase Client Choice Program?

The Demonstration Projects to Increase Client Choice Program is designed to provide financial assistance for projects that demonstrate ways to increase client choice in the vocational rehabilitation process, including choice in the selection of vocational rehabilitation goals, services, and providers.

(Authority: Sec. 802(g)(1) of the Rehabilitation Act of 1973; 29 U.S.C. 797a(g)(1))

§ 377.2 Who is eligible for an award?

States and public and nonprofit agencies and organizations are eligible to receive a grant under this program.

(Authority: Sec. 802(g)(1) of the Rehabilitation Act of 1973; 29 U.S.C. 797a(g)(1))

§ 377.3 What types of activities may the Secretary fund?

The Secretary provides financial assistance under this program for activities that are directly related to planning, operating, and evaluating projects to demonstrate effective ways to increase the choices available to eligible clients in the rehabilitation process as follows:

(a) At a minimum, all projects must demonstrate effective ways to increase the choices available to clients in selecting goals, services, and providers of services.

(b) Projects may also use these funds to demonstrate additional ways to increase the choices available to clients in the rehabilitation process.

(Authority: Secs. 802(g)(1) and 802(g)(2)(A) of the Rehabilitation Act of 1973; 29 U.S.C. 797a(g) (1) and (2))

§ 377.4 What regulations apply?

The following regulations apply to the Demonstration Projects to Increase Client Choice Program:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR Part 74 (Administration of Grants to Institutions of Higher Education, Hospitals, and Nonprofit Organizations).

(2) 34 CFR Part 75 (Direct Grant Programs).

(3) 34 CFR Part 77 (Definitions that Apply to Department Regulations).

(4) 34 CFR Part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(5) 34 CFR Part 80 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments).

(6) 34 CFR Part 81 (General Education Provisions Act—Enforcement).

(7) 34 CFR Part 82 (New Restrictions on Lobbying).

(8) 34 CFR Part 85 (Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants)).

(9) 34 CFR Part 86 (Drug-Free Schools and Campuses).

(b) The following regulations in 34 CFR Part 369 (Vocational Rehabilitation Service Projects): §§ 369.43, 369.46, and 369.47.

(c) The regulations in this part 377.

(Authority: Sec. 802(g) of the Rehabilitation Act of 1973; 29 U.S.C. 797a(g))

§ 377.5 What definitions apply?

(a) *Definitions in the Rehabilitation Act of 1973, as amended (the Act).* The following terms used in this part are defined in the Act:

Client or eligible client means an individual with a disability who is not currently receiving services under an individualized written rehabilitation program established through a designated State unit. (Section 802(g)(8) of the Act)

Individual with a disability means any individual who—

(1) Has a physical or mental impairment that for that individual constitutes or results in a substantial impediment to employment; and

(2) Can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to title I, II, III, VI, or VIII of the Act. (Section 7(8)(A) of the Act)

Individual with a severe disability means an individual with a disability—

(1) Who has a severe physical or mental impairment that seriously limits one or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance, or work skills) in terms of an employment outcome;

(2) Whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time; and

(3) Who has one or more physical or mental disabilities resulting from amputation, arthritis, autism, blindness, burn injury, cancer, cerebral palsy, cystic fibrosis, deafness, head injury, heart disease, hemiplegia, hemophilia, respiratory or pulmonary dysfunction, mental retardation, mental illness, multiple sclerosis, muscular dystrophy, musculo-skeletal disorders, neurological disorders (including stroke and epilepsy), spinal cord conditions (including paraplegia and quadriplegia), sickle cell anemia, specific learning disability, end-stage renal disease, or another disability or combination of disabilities determined on the basis of an assessment for determining eligibility and vocational rehabilitation needs to cause comparable substantial functional limitation. (Section 7(15)(A) of the Act)

State means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (until the Compact of Free Association with Palau takes effect). (Section 7(16) of the Act)

Vocational rehabilitation services means the services authorized in section 103(a) of the Act. (Section 103(a) of the Act)

(b) *Definitions in EDGAR.* (1) The following terms used in this part are defined in 34 CFR 77.1:

Applicant
Application
Award
Budget period
Department
EDGAR
Nonprofit
Project
Project period
Public
Secretary

(2) The following terms used in this part are defined in 34 CFR 74.3:

Grant
Grantee

(c) *Other definitions.* The following definitions also apply to this part:

Employment outcome means entering or retaining full-time or, if appropriate, part-time competitive employment in the integrated labor market, the practice of a profession, self-employment, homemaking, farm or family work (including work for which payment is in kind rather than in cash), extended employment in a community rehabilitation program, supported employment, or other gainful work.

Voucher means a credit of specified monetary value, issued by a grantee to an eligible client, that the eligible client exchanges for vocational rehabilitation services from a qualified provider.

(Authority: Secs. 7(5), 7(8)(A), and 802(g) of the Rehabilitation Act of 1973; 29 U.S.C. 706 and 29 U.S.C. 797a(g))

Subpart B—How Does One Apply for an Award?

§ 377.10 How does an eligible entity apply for an award?

In order to apply for a grant, an eligible entity shall submit an application to the Secretary in response to an application notice published in the **Federal Register**.

(Authority: Sec. 802(g)(3) of the Rehabilitation Act of 1973; 29 U.S.C. 797a(g)(3))

§ 377.11 What is the content of an application for an award?

(a) The grant application must include a description of—

(1) The manner in which the applicant intends to promote increased client choice in the geographical area identified in the application;

(2) The manner in which the applicant intends to provide individuals, including individuals with cognitive disabilities, the information necessary to make informed choices, including, at a minimum, informed choices in the selection of goals, services, and providers.

(3) The outreach activities the applicant plans to conduct to obtain eligible clients, including clients who are individuals with a severe disability;

(4) The manner in which the applicant will ensure that service providers are accredited or meet any quality assurance and cost-control criteria established by the State;

(5) The manner in which the applicant will ensure that eligible clients are satisfied with the quality and scope of services provided;

(6) The manner in which the applicant will monitor and account for use of funds to purchase services;

(7) The manner in which the applicant will determine the monetary value of the services or products available to clients, including, if appropriate, the monetary value of vouchers;

(8) The manner in which the applicant will address the needs of individuals with disabilities who are from minority backgrounds; and

(9) Those features of the proposed project that the applicant considers to be essential and a discussion of their potential for widespread replication.

(b) The application also must include assurances from the applicant that—

(1) A written plan to provide vocational rehabilitation services will be established for, and with the full participation of, each eligible client, and, if the client elects, with the participation also of family members, guardians, advocates, or authorized representatives, that at a minimum will include—

(i) A statement of the client's vocational rehabilitation goals, which must include goals that are designed to lead to an employment outcome consistent with the client's unique strengths, resources, priorities, concerns, abilities, and capabilities;

(ii) A statement of the specific vocational rehabilitation services to be provided and the projected dates for the initiation and termination of each service; and

(iii) A description of an evaluation procedure for determining whether the client's vocational rehabilitation goals are being achieved, including—

(A) Objective evaluation criteria; and

(B) An evaluation schedule;

(2) The Federal funds granted under this part will be used to supplement, and in no case to supplant, funds made available from other Federal and non-Federal sources for projects providing increased choice in the rehabilitation process;

(3) At least 80 percent of the funds awarded for any project under this part will be used to provide vocational rehabilitation services, as specifically chosen by eligible clients;

(4) The applicant will cooperate fully with the Secretary in a national evaluation, including assisting the Department's contractor in selecting and obtaining data for a control group established through random assignment or by the selection of a matched comparison group; and

(5) Individuals with disabilities will be involved in the development and implementation of the project.

(c) Each applicant also shall submit to the Secretary any other information and assurances that the Secretary determines to be necessary.

(Approved by the Office of Management and Budget under control number 1820–0018)

(Authority: Secs. 21(b)(5), 802(g)(2), 802(g)(3), 802(g)(5), 802(g)(6), and 802(g)(7) of the Rehabilitation Act of 1973; 29 U.S.C. 718b and 29 U.S.C 797a(g)(2), (3), (5), (6), and (7))

Subpart C—How Does the Secretary Make an Award?

§ 377.20 How does the Secretary evaluate an application?

(a) The Secretary evaluates an application on the basis of the criteria in § 377.21.

(b) The Secretary awards up to 100 points for these criteria.

(c) The maximum possible score for each criterion is indicated in parentheses.

(Authority: Sec. 802(g)(3) of the Rehabilitation Act of 1973; 29 U.S.C. 797a(g)(3))

§ 377.21 What selection criteria does the Secretary use?

The Secretary uses the following criteria to evaluate an application:

(a) *Plan of operation.* (30 points) The Secretary reviews each application to determine the quality of the plan of operation for the project, including—

(1) The extent to which the project includes specific intended outcomes that—

(i) Will accomplish the purpose of the program to provide increased client choice in the rehabilitation process, including at a minimum increased choice in the selection of goals, services, and providers, leading to an employment outcome;

(ii) Are attainable within the project period, given the project's budget and other resources;

(iii) Are objective and measurable for purposes of evaluation, including an estimate of the numbers of clients to be served;

(iv) Include objectives to be met during each budget period that can be used to determine the progress of the project toward meeting its intended outcomes;

(2) The extent to which the plan of operation specifies the methodology for accomplishing each objective of the project;

(3) The extent to which the applicant's plan of management, including resources and timelines, is designed to achieve each objective and intended outcome during the period of Federal funding;

(4) The extent to which the applicant's plan identifies the numbers of eligible clients by type of disability and the number of eligible clients with severe disabilities who are available to participate in the project;

(5) The extent to which the applicant plans to conduct outreach activities to obtain eligible clients;

(6) The extent to which the applicant's plan ensures that clients who are otherwise eligible to participate are selected without regard to race, color, national origin, gender, or age;

(7) The extent to which the applicant's plan describes a workable process for determining the monetary value of any service or product offered to eligible clients, including, if appropriate, the value of vouchers; and

(8) The extent to which the applicant's plan describes a satisfactory system for conducting vocational assessment with eligible clients to ensure that a full range of vocational goals are considered;

(b) *Key personnel and other resources.* (15 points) (1) The Secretary reviews each application to determine the quality of key personnel proposed for the project, including—

(i) The relevant experience and training of the project director;

(ii) The relevant experience and training of each of the other key personnel to be used on the project;

(iii) The amount of time that each person referred to in paragraphs (b)(1)(i) and (ii) of this section will commit to the project;

(iv) The extent to which persons referred to in paragraphs (b)(1)(i) and (ii) of this section are capable of providing technical assistance to other entities interested in replicating the project; and

(v) The extent to which the applicant will ensure that persons employed through the project are selected and work without regard to race, color, national origin, gender, age, or disabling condition.

(2) The Secretary reviews each application to determine the adequacy of the resources the applicant plans to devote to the project, including—

(i) The facilities that the applicant plans to use;

(ii) The equipment and supplies that the applicant plans to use; and

(iii) The recordkeeping capabilities of the applicant for financial and evaluation purposes.

(c) *Service provision.* (20 points) The Secretary reviews each application to determine the quality and comprehensiveness of the services to be offered and the applicant's capacity to provide increased choice in the provision of services to eligible clients, including the extent to which the applicant—

(1) Has the capacity to evaluate the eligibility of applicants for services and to develop written plans for services for individual clients;

(2) Has demonstrated knowledge of a wide range of potential service providers that can meet the needs of eligible clients;

(3) Has described a workable process for enabling eligible clients to choose from among a wide range of service providers;

(4) Has described satisfactory systems to account for the appropriate expenditure of funds; and

(5) Has described satisfactory systems to ensure the provision of quality services.

(d) *Evaluation plan.* (10 points) The Secretary reviews each application to determine the quality of the evaluation plan for the project, including the extent to which the applicant's methods of evaluation—

(1) Are appropriate to the project;

(2) Will determine how successful the project is in meeting its intended outcomes; and

(3) Are objective and produce data that are quantifiable, including data that are required under § 377.30.

(e) *National significance.* (15 points) The Secretary reviews each application to determine the extent to which—

(1) Project findings might be effectively used within the State vocational rehabilitation service system; and

(2) Project activities might be successfully replicated by other entities.

(f) *Budget and cost effectiveness.* (10 points) The Secretary reviews each application to determine the extent to which—

(1) The budget for the project is adequate to support the project activities;

(2) Costs are reasonable in relation to the objectives of the project.

(Approved by the Office of Management and Budget under control number 1820–0018)

(Authority: Sec. 802(g)(3) of the Rehabilitation Act of 1973; 29 U.S.C. 797a(g)(3))

§ 377.22 What additional factors does the Secretary consider in making grants?

In addition to the criteria in § 377.21, the Secretary considers the following factors in making grants under this program:

(a) The diversity of strategies to increase client choice, in order to ensure that a variety of approaches are demonstrated by funded projects.

(b) The diversity of clients to be served, in order to ensure that a variety of disability populations are served by funded projects.

(c) The geographical distribution of funded projects.

(Authority: Sec. 802(g)(4) of the Rehabilitation Act of 1973; 29 U.S.C. 797a(g)(4))

Subpart D—What Post-Award Conditions Must be Met by a Grantee?

§ 377.30 What information must a grantee maintain and provide to the Secretary?

(a) Each grantee shall maintain the records that the Secretary requires to conduct an evaluation of projects funded under this program, which at a minimum must include information regarding the—

(1) Types of services provided;

(2) Costs of services provided;

(3) Number of clients served by disability, race, gender, and age;

(4) Number of clients with a severe disability served;

(5) Client outcomes obtained;

(6) Implementation issues addressed; and

(7) Any other information the Secretary requires.

(b) Each grantee shall comply with any request from the Secretary for those records.

(Approved by the Office of Management and Budget under control number 1820–0018)

(Authority: Secs. 802(g)(5) and 802(g)(7) of the Rehabilitation Act of 1973; 29 U.S.C. 797a(g) (5) and (7))

§ 377.31 What information must a grantee provide to eligible clients?

Each grantee shall advise all clients and applicants for services under this program, or their parents, family members, guardians, advocates, or authorized representatives, of the availability and purposes of the Client Assistance Program under section 112 of the Act, including information on means of seeking assistance under that program.

(Authority: Sec. 20 of the Rehabilitation Act of 1973; 29 U.S.C 718a)

§ 377.32 What are the matching requirements?

Grants may be made for paying all or part of the costs of projects under this program. If part of the costs is to be covered by the grantee, the amount of grantee contribution is specified in the application notice and will not be required to be more than 10 percent of the total cost of the project.

(Authority: Sec. 802(g)(1) of the Rehabilitation Act of 1973; 29 U.S.C. 797a(g)(1))

[FR Doc. 93–18059 Filed 7–28–93; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
July 29, 1993

Part VI

Department of the Interior

Bureau of Indian Affairs

Soboba Band of Mission Indians; Judgment Funds; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Plan for the Use of the Soboba Band of Mission Indians Judgment Funds in Docket No. 80-A-1 Before the United States Claims Court

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice. This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary for Indian Affairs for 209 DM 8.

EFFECTIVE DATE: This plan was effective as of April 29, 1993.

FOR FURTHER INFORMATION CONTACT: Terry Lamb, Historian, Bureau of Indian Affairs, Division of Tribal Government Services, MS 2611-MIB, 1849 C Street NW., Washington, DC 20240.

SUPPLEMENTARY INFORMATION: The Act of October 19, 1973, (Pub. L. 93-134, 87 Stat. 466), as amended, requires that a plan be prepared and submitted to Congress for the use and distribution of funds appropriated to pay a judgment of the Indian Claims Commission or Court of Claims to any Indian tribe. Funds were appropriated on January 8, 1992 in satisfaction of the award granted to the Soboba Band of Mission Indians before the United States Claims Court in Docket 80-A-1. The plan for the use of the funds was submitted to Congress with a letter dated January 7, 1993, and was received (as recorded in the Congressional Record) by the Senate on January 27, 1993, and by the House of Representatives on February 2, 1993. The plan became effective April 29, 1993, as provided by the 1973 Act, as amended by Public Law 97-458, since a joint resolution disapproving it was not enacted. The plan reads as follows:

For the Use of Judgment Funds Awarded to the Soboba Band of Mission Indians in Docket 80-A-1 Before the United States Claims Court

The funds appropriated on January 8, 1992, in satisfaction of the award granted in Docket 80-A-1 to the Soboba Band of Mission Indians before the United States Claims Court, less attorney fees and litigation expenses, and including all interest and investment income accrued, shall be used and distributed as herein provided.

A. Twenty percent (20%)

Twenty percent (20%) of the funds, including principal, interest, and investment income accrued, shall be available on a budgetary basis for programming purposes, for tribal economic and social development programs, in accordance with priorities determined by the tribal governing body in areas which may include, but are not limited to: Health care, education, social services, elderly assistance, housing, general community improvement, and tribal government programs.

B. Eighty percent (80%)

The remaining eighty percent (80%) of the funds, including principal, interest, and investment income accrued, shall continue to be invested by the Secretary of the Interior, until such time as the tribal governing body adopts and submits a plan for the use of the funds. Such a plan shall require approval by the Secretary.

General Provisions

None of the funds used or made available under this plan shall be subject to Federal or State income taxes, nor shall such funds nor their availability be considered as income or resources, nor otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which such household or member would otherwise be entitled under the Social Security Act or, except for any per capita shares in excess of $2,000, any Federal or federally assisted programs.

Woodrow W. Hopper, Jr.,

Assistant Secretary—Indian Affairs.

[FR Doc. 93-18112 Filed 7-28-93; 8:45 am]

BILLING CODE 4310-02-M

federal register

Thursday
July 29, 1993

Part VII

Department of the Interior

Bureau of Indian Affairs

Indian Gaming; Notice

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Gaming

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of approved addendum to Tribal-State Compact.

SUMMARY: Pursuant to 25 U.S.C. 2710, of the Indian Gaming Regulatory Act of 1988 (Pub. L. 100–497), the Secretary of the Interior shall publish, in the **Federal Register**, notice of approved Tribal-State Compacts for the purpose of engaging in Class III (casino) gambling on Indian reservations. The Assistant Secretary—Indian Affairs, Department of the Interior, through his delegated authority, has approved the Pari-Mutuel Racing Addendum to Gaming Compact Between the Turtle Mountain Band of Chippewas and the State of North Dakota, which was enacted on April 8, 1993.

DATES: This action is effective July 29, 1993.

FOR FURTHER INFORMATION CONTACT: Hilda Manuel, Director, Indian Gaming Management Staff, Bureau of Indian Affairs, Washington, DC 20240, (202) 219–4066.

Dated: July 14, 1993.

Woodrow W. Hopper,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 93–18111 Filed 7–28–93; 8:45 am]

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