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Friday  
September 20, 1991

# Federal Register

**Briefings on How To Use the Federal Register**  
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Washington, DC, see announcement on the inside cover of  
this issue.



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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
  2. The relationship between the Federal Register and Code of Federal Regulations.
  3. The important elements of typical Federal Register documents.
  4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

### DENVER, CO

- WHEN:** September 26, at 9:00 am
- WHERE:** Denver Federal Center, Building 20  
(E8 entrance on 2nd Street)  
Conference Room B1409, Denver, CO
- RESERVATIONS:** Federal Information Center  
1-800-359-3997

### WASHINGTON, DC

- WHEN:** September 30, at 9:00 am
- WHERE:** Office of the Federal Register  
First Floor Conference Room  
1100 L Street, NW, Washington, DC
- RESERVATIONS:** 202-523-5240

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# Rules and Regulations

Federal Register

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Friday, September 20, 1991

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

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

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 73

RIN 3150-AA90

#### Access Authorization Program for Nuclear Power Plants

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Final rule: Confirmation of effective date for information collection requirements.

**SUMMARY:** In a final rule published in the Federal Register on April 25, 1991 (56 FR 18997), the Nuclear Regulatory Commission amended 10 CFR part 73 to require an access authorization program for granting unescorted access to individuals at nuclear power plants. The Office of Management and Budget approved the information collection requirements contained in this final rule on July 1, 1991.

**EFFECTIVE DATE:** The information collection requirements contained in §§ 73.56(a) (1), (2), and (3), (b) (1) and (2), (c), (d), (e), (f) (1) and (2), (g) (1) and (2) and (h)(1) are effective on July 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Dr. Sandra D. Frattali, Division of Regulatory Applications, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-3773, or Brenda Jo Shelton, Office of Information Resources Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone (301) 492-8132.

**SUPPLEMENTARY INFORMATION:** The effective date for 10 CFR 73.56, Personnel access authorization requirements for nuclear power plants, was May 28, 1991, except for the additional information collection

requirements contained in §§ 73.56(a) (1), (2), and (3), (b) (1) and (2), (c), (d), (e), (f) (1) and (2), (g) (1) and (2) and (h)(1), which, as an additional information collection burden, were subject to approval by the Office of Management and Budget. The information collection requirements contained in these paragraphs were approved and became effective on July 1, 1991, under OMB clearance number 3150-0002.

Dated at Rockville, Maryland, this 13th day of September, 1991.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 91-22721 Filed 9-19-91; 8:45 am]

BILLING CODE 7590-01-M

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

#### 14 CFR Part 39

[Docket No. 91-NM-144-AD; Amendment 39-8037; AD 91-20-03]

#### Airworthiness Directives; Boeing Model 737-300 Series Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** This amendment supersedes an existing airworthiness directive (AD), applicable to certain Boeing Model 737-300 series airplanes, which currently requires inspection for chafing and leaks on the variable stator vane control system fuel manifold, inspections for correct operation of the three fifth/ninth stage pneumatic duct coupling clamps, and replacement or relocation of components, if necessary. This amendment expands the applicability of the existing AD by adding affected airplanes. This amendment is prompted by information from the manufacturer which indicates that the variable stator control system fuel manifolds on additional airplanes are also subject to chafing and leaks. This condition, if not corrected, could result in fuel leakage, causing a potential fire hazard and subsequent engine shutdown.

**DATES:** Effective October 7, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director

of the Federal Register as of October 7, 1991.

**ADDRESSES:** The applicable service information may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen S. Bray, Seattle Aircraft Certification Office, Propulsion Branch, ANM-140S; telephone (206) 227-2681. Mailing address: FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

**SUPPLEMENTARY INFORMATION:** On April 28, 1988, the FAA issued AD 88-11-01, Amendment 39-5918 (53 FR 16698, May 11, 1988), to require inspection of Boeing Model 737-300 series airplanes for chafing and leaks on the variable stator vane control system fuel manifold, inspections for correct orientation of the three fifth/ninth stage pneumatic duct coupling clamps, and relocation of the left fan cowl hold open rod and brackets. That action was prompted by reports of damage to variable stator vane control system fuel manifolds and chafing of the fuel supply tube lower clamp. This condition, if not corrected, could result in fuel leakage causing a potential fire hazard and subsequent engine shutdown.

Since issuance of AD 88-11-01, the FAA has been advised recently that 121 additional airplanes worldwide (76 of which are U.S.-registered) have variable stator vane control system fuel manifolds which are also subject to the chafing and leak problems addressed by the existing AD.

The FAA has reviewed and approved Boeing Alert Service Bulletin 737-71A1208, Revision 2, dated March 23, 1989, which describes the inspection for correct orientation of the three fifth/ninth stage pneumatic duct coupling clamps, and relocation of left fan cowl hold open rod assembly.

Since this condition is likely to exist or develop on these additional airplanes of the same type design, this AD supersedes AD 88-11-01 to require inspection of additional affected

airplanes, repair or replacement of chafed components, and relocation of components, in accordance with the service bulletin previously described.

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

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

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

**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—[AMENDED]**

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

**§ 39.13 [Amended]**

2. Section 39.13 is amended by removing Amendment 39-5918 and by

adding the following new airworthiness directive:

**91-20-03. Boeing: Amendment 39-8037.**  
Docket No. 91-NM-144-AD. Supersedes AD 88-11-01.

Applicability: Model 737-300 series airplanes, listed in Boeing Alert Service Bulletin 737-71A1208, Revision 2, dated March 23, 1989, certificated in any category. Compliance: Required as indicated, unless previously accomplished.

To prevent fuel leaks caused by chafing of the engines fuel tube and variable stator vane manifolds, accomplish the following:

(a) For airplanes listed in Boeing Alert Service Bulletin 737-71A1208, dated December 10, 1987: Within the next 30 days after May 27, 1988 (the effective date of Amendment 39-5918), inspect the variable stator vane fuel manifold for chafing and leaks, and check orientation of the fifth/ninth stage pneumatic duct coupling clamps, in accordance with that service bulletin. Repair or replace chafed components and relocate components, as necessary, before further flight.

(b) For airplanes listed in Boeing Alert Service Bulletin 737-71A1208, Revision 2, dated March 23, 1989, and not subject to paragraph (a) of this AD: Within the next 60 days after the effective date of this AD, inspect the variable stator vane fuel manifold for chafing and leaks, and check orientation of the fifth/ninth stage pneumatic duct coupling clamps, in accordance with that service bulletin. Repair or replace chafed components and relocate components, as necessary, before further flight.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Seattle ACO.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(e) The inspections and repairs shall be done in accordance with Boeing Alert Service Bulletin 737-71A1208, dated December 10, 1987, or Boeing Alert Service Bulletin 737-71A1208, Revision 2, dated March 23, 1989, as applicable. Boeing Alert Service Bulletin 737-71A1208, Revision 2, dated March 23, 1989, incorporates the following list of effective pages:

Page No.	Revision level	Date
1-6, 8, 14, 26.....	2	March 23, 1989
7, 9-13, 15-25, 27-28.	1	November 3, 1988

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 Boeing Commercial Airplane Group,

P.O. Box 3707, Seattle, Washington 98124. Copies may be inspected at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment supersedes Amendment 39-5918, AD 88-11-01.

This amendment (39-8037, AD 91-20-03) becomes effective October 7, 1991.

Issued in Renton, Washington, on September 9, 1991.

Darrell M. Pederson,  
Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.  
[FR Doc. 91-22652 Filed 9-19-91; 8:45 am]

BILLING CODE 4910-13-M

**14 CFR Part 39**

[Docket No. 91-NM-180-AD; Amendment 39-8041; AD 91-20-07]

**Airworthiness Directives; Airbus Industrie Model A300, A300-600, and A310 Series Airplanes**

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Industrie Model A300, A300-600, and A310 series airplanes, which requires repetitive dye penetrant inspections to detect cracks, rupture, or fuel leaks of the fuel feedline adapter, and replacement of the adapter, if necessary. This amendment is prompted by a recent report of a fuel leak in the auxiliary power unit (APU) compartment. This condition, if not corrected, could result in an APU compartment fire.

DATES: Effective October 7, 1991.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 7, 1991.

ADDRESSES: The applicable service information may be obtained from Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. This information may be examined at the FAA, Northwest Mountain Region, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., room 8401, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Greg Holt, Standardization Branch, ANM-113; telephone (206) 227-2140. Mailing address: FAA, Northwest Mountain Region, Transport Airplane

Directorate, 1601 Lind Avenue SW., Renton, Washington 98055-4056.

**SUPPLEMENTARY INFORMATION:** The Direction Générale de l'Aviation Civile (DGAC) which is the airworthiness authority of France, in accordance with existing provisions of a bilateral airworthiness agreement, has notified the FAA of an unsafe condition which may exist on certain Airbus Industrie Model A300, A300-600, and A310 series airplanes. There has been a recent report of a fuel leak in the APU compartment of a Model A300 series airplane which caused a fire when the crew attempted an APU start. Inspection revealed that the fuel feedline adapter was broken off at the welded joint. Cracks in the weld or a separation at the weld joint of the fuel feedline adapter could cause a fuel leak at this location when the APU fuel feedline is pressurized. This condition, if not corrected, could result in an APU compartment fire.

Airbus Industrie has issued All Operators Telex (AOT) 49-01, Issue 3, dated April 25, 1991, which describes procedures to perform repetitive dye penetrant inspections to detect cracks, rupture, or fuel leaks of the fuel feedline adapter, and replacement of the adapter with an improved, non-welded one-piece-body adapter, if necessary.

Airbus Industrie has also issued Service Bulletins A300-49-0049, A300-49-6009, and A310-49-2012, all dated July 12, 1991, which describe in further detail procedures to install an improved, non-welded one-piece-body adapter. Installation of this improved adapter would terminate the need for repetitive inspections.

The French DGAC has classified the AOT and service bulletins as mandatory, and has issued Airworthiness Directive 91-103-123(B) addressing this subject.

This airplane model is manufactured in France and type certificated in the United States under the provisions of § 21.29 of the Federal Aviation Regulations and the applicable bilateral airworthiness agreement.

Since this condition is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD requires repetitive dye penetrant inspections to detect cracks, rupture, or fuel leaks of the fuel feedline adapter, and replacement of the adapter with an improved, non-welded one-piece-body adapter, if necessary; and verification of correct torque values of the starter motor cable terminals and the generator cable terminals; in accordance with the AOT previously described.

The repetitive inspections required by paragraph (a) of this AD are considered to be interim action. The FAA intends to revise this rulemaking action to require installation of the improved, non-welded one-piece-body adapter on all affected Model A300, A300-600, and A310 series airplanes. However, the proposed compliance time for installation of the improved adapter is sufficiently long so that notice and public comment will not be impracticable.

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

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

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

#### 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—[AMENDED]

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

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

#### § 39.13 [Amended]

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

91-20-07. AIRBUS INDUSTRIE: Amendment 39-8041. Docket No. 91-NM-180-AD.

Applicability: Model A300, A300-600, and A310 series airplanes equipped with an auxiliary power unit (APU) fuel feedline adapter, P/N A4937021700000 (welded configuration), certificated in any category.

Compliance: Required as indicated, unless previously accomplished.

To prevent an APU compartment fire, accomplish the following:

(a) Within 100 hours time-in-service after the effective date of this AD, and thereafter at intervals not to exceed 400 hours time-in-service; perform a dye penetrant inspection to detect cracks, rupture, or fuel leaks at the weld of the fuel feedline adapter, in accordance with Airbus Industrie All Operators Telex (AOT) 49-01, Issue 3, dated April 25, 1991:

(1) If cracks, rupture, or fuel leaks are found, replace the adapter with an improved, non-welded one-piece-body adapter prior to the next APU operation, or placard the APU inoperative until the adapter is replaced with the improved adapter, in accordance with Airbus Industrie Service Bulletin A300-49-0049, A300-49-6009, or A310-49-2012, all dated July 12, 1991, as applicable.

(2) Installation of an improved, non-welded one-piece-body adapter, in accordance with the Airbus Industrie Service Bulletin A300-49-0049, A300-49-6009, or A310-49-2012, all dated July 12, 1991, constitutes terminating action for the repetitive inspections required by paragraph (a) of this AD.

(b) Within 100 hours time-in-service after the effective date of this AD, verify the correct torque values of the starter motor cable terminals and the generator cable terminals in accordance with Airbus Industrie All Operators Telex (AOT) 49-01, Issue 3, dated April 25, 1991. Correct any torque value discrepancies, prior to further flight, in accordance with the AOT.

(c) An alternative method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Standardization Branch, ANM-113, FAA, Transport Airplane Directorate.

Note: The request should be forwarded through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Standardization Branch, ANM-113.

(d) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the requirements of this AD.

(e) The inspection requirements shall be done in accordance with Airbus Industrie All Operators Telex (AOT) 49-01, Issue 3, dated April 25, 1991. The replacement requirements shall be done in accordance with Airbus Industrie Service Bulletin A300-49-0049, A300-49-6009, or A310-49-2012, all dated July 12, 1991. 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 Airbus Industrie, Airbus Support Division, Avenue Didier Daurat, 31700 Blagnac, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington; or at the Office of the Federal Register, 1100 L Street NW., Room 8401, Washington, DC.

This amendment (39-8041, AD 91-20-07) becomes effective October 7, 1991.

Issued in Renton, Washington, on September 10, 1991.

**Darrell M. Pederson,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 91-22651 Filed 9-19-91; 8:45 am]

BILLING CODE 4910-13-M

## DEPARTMENT OF LABOR

### Office of Workers' Compensation Programs

#### 20 CFR Part 10

[RIN 1215-AA66]

#### Claims for Compensation Under the Federal Employees' Compensation Act, As Amended

**AGENCY:** Employment Standards Administration, Labor.

**ACTION:** Final rule.

**SUMMARY:** The Department of Labor is making a technical change to the regulations implementing the Federal Employees' Compensation Act (FECA) (5 U.S.C. 8101, *et seq.*) to reflect recent amendments to the law. By Public Law 101-303, the age at which surviving spouses can remarry but still retain survivors benefits under the FECA was changed from age 60 to 55. Public Law 101-534 raised the maximum amount available to pay for a personal attendant from \$500 to \$1500 per month. Because the change merely incorporates the new statutory language the rule is published as a final rule, effective immediately.

**DATES:** The rule is effective September 20, 1991.

**FOR FURTHER INFORMATION CONTACT:** Thomas M. Markey, Director for Federal Employees' Compensation, Employment Standards Administration, U.S. Department of Labor, room S-3229, Frances Perkins Building, 200 Constitution Avenue NW., Washington,

DC 20210; Telephone (202) 523-7552.

**SUPPLEMENTARY INFORMATION:** Two recent amendments to the FECA require technical changes in the implementing regulations. One amendment lowered from 60 to 55, the age after which remarriage does not affect benefits for surviving spouses of federal employees who die as a result of a work-related injury. The other amendment in the law increased the amount payable for an attendant allowance from \$500 per month to \$1500 per month. These final rules amend the regulations to reflect these amendments.

#### Remarriage

The FECA, at 5 U.S.C. 8133, provides compensation benefits to a widow or widower of an eligible federal employee who dies as a result of a work-related injury. The benefits are 45 percent (if there are dependent children) or 50 percent (if no child) of the monthly pay of the deceased employee. Section 8133(b)(1) provides that a surviving spouse is entitled to benefits until he or she dies or if he or she remarries before reaching a specified age (the remarriage age). Remarriage after that age has no effect on the benefits. Prior to amendment, that age was 60 years, but Public Law 101-303 (effective May 29, 1990) lowered the remarriage age to 55 years. Section 10.306 and 10.311(c) of the regulations are amended to reflect the changes in the law.

#### Attendant Allowance

Another amendment to the FECA (Pub. L. 101-534, effective October 1, 1990), increased the amount of additional compensation payable for services of an attendant provided in section 8111(a) (5 U.S.C. 8111) from a maximum of \$500 per month to a maximum of \$1500. The attendant allowance is payable where the Office of Workers' Compensation Programs finds that the services of a personal attendant are necessary for any impairment resulting from an accepted work-related injury making the individual so helpless as to require constant attendance for such personal needs as dressing, bathing and bathroom needs. This rule changes § 10.305 to reflect this increase in available benefits.

Based on 1990 payment claim history, it is estimated that the additional annual cost resulting from the increased attendant allowance could be \$1.9 million. The equivalent of 175 individuals receive the attendant allowance for a full year (not all individuals need an attendant for more than a few weeks or months).

Although the maximum amount payable has been increased, it is not expected that all eligible beneficiaries would have to pay this amount; some would be able to engage the services of an attendant for less than the maximum amount. We estimate that 25 percent of Federal employees live in a geographic area where use of an attendant would increase to the new maximum. The other 75 percent would be able to employ services of an attendant at approximately the 1991 Federal minimum wage of \$4.25 per hour, or \$12,376 per year (based on a seven day/56 hour work week). Combining these two groups gives an average of \$13,782 per year. Since the increased benefit may encourage more people to apply for the benefit, we estimate that there could be 5 potential recipients of the benefit. Multiplying 5 by \$13,782 per year gives a total of \$2.96 million, or an increase of \$1.9 million from 1989 total expenditures of a little more than \$1 million.

There should be no additional cost for the change of the remarriage age for the first two years, since the individuals who remarry below age 60 were entitled to two years of benefits. We know that \$4.85 million in death benefits were paid in 1989 in cases where the date of birth of the employee (we do not have information on the age of the recipient readily available) would make him or her between 55 and 60 years old. Assuming that the age of the widow(er) would be approximately the same, and assuming that 15 percent of these widow(ers) would remarry after age 55 (about 10 percent remarry after age 60), the additional five percent who remarry between 55 and 60 would get additional benefits resulting from this amendment totalling \$242,500 per year (five percent of \$4.85 million).

#### Publication in Final

The Department of Labor has determined, pursuant to 5 U.S.C. 553(b)(B), that good cause exists for waiving public comment on this amendment to the regulations because the change is mandated by law and involves no interpretation. The Department has determined that good cause exists for waiving the customary requirement for delay in the effective date of a final rule for 30 days following its publication. Therefore, this amendment shall be effective immediately. See 5 U.S.C. 553(d)(3). This finding is made because the change is mandated by a statutory change and involves no discretionary action.

#### Classification—Executive Order 12291

The Department of Labor does not

believe that this final rule constitutes a "major rule" under Executive Order 12291, because it is not likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in cost or process for consumers, individual industries, Federal, state or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, no regulatory analysis is required.

**Paperwork Reduction Act**

None.

**Regulatory Flexibility Act**

The Department believes that the rule will have "no significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Public Law 96-354, 91 Stat. 1164 (5 U.S.C. 605(b)). The proposed regulations apply primarily to Federal agencies and their employees. The rules do not affect small entities. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory impact analysis is required.

**List of Subjects in 20 CFR Part 10**

Claims, Government employees, Archives and records, Health records, Freedom of Information, Privacy, Penalties, Health profession, Workers' compensation, Employment, Administrative practices and procedures, Wages, Health facilities, Dental health, Medical devices, Health care, Lawyers, Legal services, Student, X-rays, Labor, Insurance, Kidney diseases, Lung diseases, and Tort Claims.

For the reasons set out in the preamble, 20 CFR part 10 is amended as set forth below:

**PART 10—CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT, AS AMENDED**

1. The authority citation for part 10 continues to read as follows:

Authority: 5 U.S.C. 301; Reorg. Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 5 U.S.C. 8145; 8149; Secretary's Order 1-89; Employment Standards Order 90-02.

2. Section 10.305 is revised to read as follows:

**§ 10.305 Attendant allowance.**

An employee who has been awarded compensation may receive an additional sum of not more than \$1,500 a month, as the Office considers necessary to pay for the service of an attendant, when the Office finds that the service of an attendant is necessary constantly because the employee is totally blind or has lost the use of both hands or both feet, or is paralyzed and unable to walk, or because of any impairment resulting from the injury making the employee so helpless as to require constant attendance.

3. Section 10.306 is amended by revising paragraph (a) to read as follows:

**§ 10.306 Eligibility for death benefits and death benefit rates.**

(a) If there is no child entitled to compensation, the employee's surviving spouse shall receive compensation equal to 50 percent of the employee's pay until death or remarriage before reaching 55 years of age. Upon remarriage, the surviving spouse will be paid a lump sum equal to 24 times the monthly compensation payment (excluding compensation payable on account of another individual) to which the surviving spouse was entitled immediately before the remarriage. If remarriage occurs at age 55 or older, the lump sum payment will not be paid and compensation shall continue until death.

\* \* \* \* \*

4. Section 10.311 is amended by revising paragraph (c) to read as follows:

**§ 10.311 Lump sum awards.**

\* \* \* \* \*

(c) On remarriage before age 55, a surviving spouse entitled to compensation under 5 U.S.C. 8133, shall be paid a lump sum equal to 24 times the monthly compensation payment (excluding compensation payable on account of another individual) to which the surviving spouse was entitled immediately before the remarriage.

\* \* \* \* \*

Signed at Washington, DC, this 16th day of September, 1991.

Lawrence W. Rogers,  
Director, Office of Workers' Compensation Programs.

[FR Doc. 91-22645 Filed 9-19-91; 8:45 am]

BILLING CODE 4510-27-M

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 271**

[FRL-4010-9]

**Oklahoma; Final Authorization of State Hazardous Waste Management Program Revisions**

**AGENCY:** Environmental Protection Agency.

**ACTION:** Immediate final rule.

**SUMMARY:** The State of Oklahoma has applied for final authorization of revisions to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The Environmental Protection Agency (EPA) has reviewed the State of Oklahoma's application and has made a decision, subject to public review and comment, that the Oklahoma hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Thus, EPA intends to approve the Oklahoma hazardous waste program revisions, subject to the authority retained by EPA in accordance with the Hazardous and Solid Waste Amendments of 1984. The Oklahoma application for program revision is available for public review and comment.

**DATES:** This final authorization for the State of Oklahoma shall be effective on November 19, 1991, unless EPA publishes a prior Federal Register action withdrawing this immediate final rule. All comments on the Oklahoma program revision application must be received by the close of business October 21, 1991.

**ADDRESSES:** Copies of the Oklahoma program revision application and the materials EPA used in evaluating the revision are available from 8:30 a.m. to 4 p.m., Monday through Friday at the following addresses for inspection and copying: Oklahoma State Department of Health, 1000 Northeast Tenth Street, Oklahoma City, Oklahoma 73117-1299, U.S. EPA, Region 6, Library, 12th Floor, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202; and U.S. EPA, Headquarters, Library, PM 211A, 401 M Street SW., Washington, DC 20460. Written comments, referring to Docket Number OK-91-2, should be sent to the Authorization Coordinator, Grants and Authorization Section (6H-HS), RCRA Programs Branch, U.S. EPA, Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas 75202, phone (214) 655-6760.

**FOR FURTHER INFORMATION CONTACT:** Dick Thomas, Grants and Authorization Section, RCRA Programs Branch, U.S. EPA Region 6, First Interstate Bank Tower at Fountain Place, 1445 Ross Avenue, Dallas, Texas, 75202, phone (214) 655-6760.

**SUPPLEMENTARY INFORMATION:**

**A. Background**

States with final authorization under section 3006(b) of RCRA or the "Act", 42 U.S.C. 6926(b), have a continuing obligation to maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal hazardous waste program. In addition, as an interim measure, the Hazardous and Solid Waste Amendments of 1984 (Pub. L. 98-616, November 8, 1984, hereinafter "HSWA") allows States to revise their programs to become substantially equivalent instead of equivalent to RCRA requirements promulgated under HSWA authority. States exercising the latter option receive "interim authorization" for the HSWA requirements under section 3006(g) of RCRA, 42 U.S.C. 6926(g), and later apply for final authorization for the HSWA requirements.

Revisions to State hazardous waste programs are necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur. Most commonly, State program revisions are necessitated by changes to EPA's regulations in 40 CFR parts 260-266, 268 and 124 and 270.

**B. Oklahoma**

Oklahoma initially received final authorization on December 27, 1984, (See 49 FR 50362) to implement its base hazardous waste management program. Oklahoma has received authorization for additional revisions to its program. These approvals were published in the FR on the following dates; April 17, 1990, (55 FR 14280), September 26, 1990, (55 FR 39274), and April 2, 1991, (56 FR 13411). On August 31, 1990, Oklahoma submitted a complete revision application for additional program approvals. Today, Oklahoma is seeking approval of its program revision in accordance with § 271.21(b)(3).

EPA has reviewed the State of Oklahoma's application, and has made an immediate final decision that the Oklahoma hazardous waste program revision satisfies all of the requirements necessary to qualify for final authorization. Consequently, EPA intends to grant final authorization for the additional program modifications to Oklahoma. The public may submit

written comments on EPA's final decision up until October 21, 1991. Copies of Oklahoma's application for program revision are available for inspection and copying at the locations indicated in the "Addresses" section of this notice.

Approval of the Oklahoma program revision shall become effective in 60 days unless an adverse comment pertaining to the State's revision discussed in this notice is received by the end of the comment period. If an adverse comment is received, EPA will publish either (1) a withdrawal of the immediate final decision or (2) a notice containing a response to comments which either affirms that the immediate final decision takes effect or reverses the decision.

The Oklahoma program revision application includes State regulatory changes that are equivalent to the rules promulgated in the Federal RCRA implementing regulations in 40 CFR parts 260 through 266, 270, and 124 that were published in the Federal Register through March 7, 1989. The State's statutory authority is provided by the Oklahoma Controlled Industrial Waste Disposal Act, as amended, 63 O.S. 1981 §§ 1-2009 et seq. The Act was last amended May 30, 1990. Pursuant to this Act, the Oklahoma State Department of Health issued Rules and Regulations for Industrial Waste Management, ODH Bulletin 0525, as amended April 12, 1990, effective June 4, 1990, and as amended June 21, 1990, effective August 9, 1990. The chart below lists the State analogs that are being requested as equivalent to the appropriate Federal requirements.

Oklahoma is not authorized to operate the Federal program on Indian lands. This authority remains with EPA unless provided for in a future statute or regulation.

Federal Citation	State Analog
1. Identification and Listing of Hazardous Waste; Treatability Studies Sample; July 19, 1988; [53 FR 27290].	Rules and Regulations for Industrial Waste Management, ODH Bulletin 0525, Chapter 2, Section 210, as amended April 12, 1990, effective June 4, 1990.
2. Hazardous Waste Management System; Standards for Hazardous Waste Storage and Treatment Tank Systems; September 2, 1988; [53 FR 34079].	Chapter 2, Section 210.
3. Identification and Listing of Hazardous Waste; and Designation, Reportable Quantities, and Notification; September 13, 1988; [53 FR 35412].	Chapter 2, Section 210.

Federal Citation	State Analog
4. Permit Modifications for Hazardous Waste Management Facilities; September 28, 1988; [53 FR 37912]; as amended October 25, 1988; [53 FR 41649].	Chapter 2, Section 210.
5. Statistical Methods for Evaluating Ground-Water Monitoring Data from Hazardous Waste Facilities; October 11, 1988; [53 FR 39720].	Chapter 2, Section 210.
6. Identification and Listing of Hazardous Waste; Removal of Iron Dextran from the List of Hazardous Wastes; October 31, 1988; [53 FR 43878].	Chapter 2, Section 210.
7. Identification and Listing of Hazardous Waste; Removal of Strontium Sulfide from the list of Hazardous Wastes; October 31, 1988; [53 FR 43881].	Chapter 2, Section 210.
8. Hazardous Waste Miscellaneous Units; Standards Applicable to Owners and Operators; January 9, 1989; [54 FR 615].	Chapter 2, Section 210.
9. Amendment to Requirements for Hazardous Waste Incinerator Permits; January 30, 1989; [54 FR 4286].	Chapter 2, Section 210.
10. Changes to Interim Status Facilities for Hazardous Waste Management Permits; Modifications of Hazardous Waste Management Permits; Procedures for Post-Closure Permitting; March 7, 1989; [54 FR 9596].	Chapter 2, Section 210.

**C. Decision**

I conclude that the Oklahoma application for program revision meets all of the statutory and regulatory requirements established by RCRA. Accordingly, Oklahoma is granted final authorization to operate its hazardous waste program as revised.

Oklahoma now has responsibility for permitting treatment, storage, and disposal facilities within its borders and carrying out the aspects of the RCRA program, subject to the limitation of its revised program application and previously approved authorities. Oklahoma also has primary enforcement responsibilities, although EPA retains the right to conduct inspections under sections 3007 of the RCRA and to take enforcement actions under sections 3008, 3013, and 7003 of RCRA.

**D. Codification in Part 272**

EPA uses part 272 for codification of the decision to authorize the Oklahoma program and for incorporation by

reference of those provisions of the Oklahoma statutes and regulations that EPA will enforce under sections 3008, 3013, and 7003 of RCRA. EPA is reserving amending part 272, subpart LL, until a later date.

#### Compliance with Executive Order 12291

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

#### Certification Under the Regulatory Flexibility Act

Pursuant to the provisions of 4 U.S.C. 605(b), I hereby certify that this authorization will not have a significant economic impact on a substantial number of small entities. This authorization effectively suspends the applicability of certain Federal regulations in favor of the Oklahoma program, thereby eliminating duplicative requirements for handlers of hazardous waste in the State. It does not impose any new burdens on small entities. This rule, therefore, does not require a regulatory flexibility analysis.

#### List of Subjects in 40 CFR Part 271

Administrative practice and procedure, Confidential business information, Hazardous materials transportation, Hazardous waste, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Water pollution control, Water supply.

**Authority:** This notice is issued under the authority of Sections 2002(a), 3006 and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: September 12, 1991.

Robert E. Layton, Jr.,  
Regional Administrator.

[FR Doc. 91-22727 Filed 9-19-91; 8:45 am]  
BILLING CODE 6560-50-M

#### 40 CFR Part 721

[OPTS-50591A; FRL-3932-8]

RIN 2070-AB27

#### Ethane, 2-chloro-1,1,1,2-tetrafluoro-; Withdrawal of Significant New Use Rule

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Withdrawal of final rule.

**SUMMARY:** EPA is withdrawing a significant new use rule (SNUR) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance ethane, 2-chloro-1,1,1,2-tetrafluoro-, which was

the subject of premanufacture notice (PMN) P-88-1763. EPA initially published this SNUR using direct final procedures. EPA received a notice of intent from interested parties who wish to make adverse or critical comments on this rule. Therefore, the Agency is withdrawing this rule, as required under the Expedited SNUR rulemaking process (40 CFR 721 subpart D). In a separate notice of proposed rulemaking in today's Federal Register, EPA is proposing a SNUR for this substance with a 30-day comment period.

**EFFECTIVE DATE:** This rule is effective on September 20, 1991.

**FOR FURTHER INFORMATION CONTACT:** David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. E-543-B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 260-3725, TDD: (202) 260-1532.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of April 25, 1991, at 56 FR 19228, EPA issued several direct final SNURs including a SNUR for the substance ethane, 2-chloro-1,1,1,2-tetrafluoro-, number P-88-1763. Under § 721.160, EPA is required to withdraw rules issued under direct final procedures if the Agency receives notice of intent to submit adverse or critical comments within 30 days of publication of the rule in the Federal Register. EPA has received such a notice of intent regarding the SNUR for PMN P-88-1763 and is therefore withdrawing the subject SNUR and, according to § 716.160(a)(3)(iii), is proposing the rule elsewhere in today's Federal Register. For further information regarding EPA's expedited process for issuing SNURs, interested parties are directed to 54 FR 31314 (July 27, 1989).

The record for the direct final SNUR for this substance which is being withdrawn by this rule was established at OPTS-50591. That record includes information considered by the Agency in developing this rule, and includes the notice of intent to submit adverse or critical comments to which the Agency has responded with this notice of withdrawal. The docket control number for the withdrawal is OPTS-50591A. For details refer to the proposal elsewhere in today's Federal Register. The relevant portions of the original docket for the direct final SNUR are being incorporated under OPTS-50591B, which is established for the proposed rule.

A public version of the records, without any CBI, is available in the TSCA Public Docket Office from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays.

The TSCA Public Docket Office is located in rm. NE-G004, 401 M St., SW., Washington, DC 20460.

#### List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: September 13, 1991.

Victor J. Kimm,  
Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR part 721 is amended as follows:

#### PART 721—[AMENDED]

1. The authority citation for Part 721 will continue to read as follows:  
Authority: 15 U.S.C. 2604 and 2607.

#### § 721.1006 [Removed]

2. By removing § 721.1006.  
[FR Doc. 91-22719 Filed 9-19-91; 8:45 am]  
BILLING CODE 6560-50-F

#### DEPARTMENT OF THE INTERIOR

#### Bureau of Land Management

[AK-932-4214-10; A-062396]

#### 43 CFR Public Land Order 6882

#### Partial Revocation of Public Land Order No. 3776 for Selection of Land by the State of Alaska

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public Land Order.

**SUMMARY:** This order revokes a public land order insofar as it affects approximately 41.23 acres of National Forest System land withdrawn for use by the Forest Service, Department of Agriculture, as the administrative site for the Maybeso Experimental Forest. The land is no longer needed for the purpose for which it was withdrawn. This action opens approximately 35.19 acres of land for selection by the State of Alaska, if such land is otherwise available. If the land is not selected by the State, it will be opened to mining and will be subject to the terms and conditions of the national forest reservation and any other withdrawal of record. The remaining 6.04 acres of land will remain closed to mining until a further order is published.

**EFFECTIVE DATE:** September 20, 1991.

**FOR FURTHER INFORMATION CONTACT:** Sandra C. Thomas, BLM Alaska State Office, 222 W. 7th Avenue, No. 13,

Anchorage, Alaska 99513-7599, 907-271-5477.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1988), it is ordered as follows:

1. Public Land Order No. 3776, which withdrew land for the Maybeso Experimental Forest Administrative Site, is hereby revoked insofar as it affects the following described land:

**Copper River Meridian**

*Tongass National Forest*

Located within T. 74 S., R. 84 E., more specifically described as:

(a) That portion of U.S. Survey No. 6640, that when subdivided will be lot 4, U.S. Survey No. 6640. (Now identified as lot 4, Group Survey No. 536, as filed in the BLM Alaska State Office.)

The area described contains approximately 35.19 acres.

(b) That portion of U.S. Survey No. 6640, that when subdivided will be lot 1, U.S. Survey No. 6640. (Now identified as lot 1, Group Survey No. 536, as filed in the BLM Alaska State Office.)

The area described contains approximately 6.04 acres.

The areas described above aggregate approximately 41.23 acres.

2. Subject to valid existing rights, and any other withdrawal of record, the land described in paragraph 1(a) above is hereby opened for selection by the State of Alaska under the Alaska Statehood Act of July 7, 1958, 48 U.S.C. prec. 21 (1988).

3. As provided by section 6(g) of the Alaska Statehood Act, the State of Alaska is provided a preference right of selection for the land described in paragraph 1(a) above, for a period of ninety-one (91) days from the date of publication of this order, if such land is otherwise available. Any of the land described herein that is not selected by the State of Alaska will be subject to the terms and conditions of the Tongass National Forest reservation and any other withdrawal of record.

4. At 10 a.m. on December 17, 1991, the land described in paragraph 1(a) above will be opened to location and entry under the United States mining laws. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including adverse possession under 30 U.S.C. 38 (1988), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival

locators over possessory rights since Congress has provided for such determinations in local courts.

5. The land described in paragraph 1(b) above will remain closed to location and entry under the United States mining laws until a further opening order is published.

Dated: September 16, 1991.

Frank A. Bracken,

*Deputy Secretary of the Interior.*

[FR Doc. 91-22712 Filed 9-19-91; 8:45 am]

BILLING CODE 4310-JA-M

**OFFICE OF PERSONNEL  
MANAGEMENT**

**45 CFR Part 801**

**Voting Rights Program**

**AGENCY:** Office of Personnel Management.

**ACTION:** Final rule with request for comments.

**SUMMARY:** The Office of Personnel Management (OPM) is establishing a new office for filing applications or complaints under the Voting Rights Act of 1965, as amended. The Attorney General has determined that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution.

**DATES:** This rule is effective September 17, 1991. In view of the need for its publication without an opportunity for prior comment, comments will still be considered. To be timely, comments must be received on or before October 21, 1991.

**ADDRESSES:** Send or deliver comments to James S. Green, Deputy General Counsel, Office of Personnel Management, room 7F08A, 1900 E Street, NW., Washington, DC 20415.

**FOR FURTHER INFORMATION CONTACT:** Stephanie Peters, (202) 606-1701.

**SUPPLEMENTARY INFORMATION:** The Attorney General has designated Adams County, Mississippi and Monroe County, Mississippi, as additional examination points under the provisions of the Voting Rights Act of 1965, as amended. He determined on September 11, 1991, that this designation is necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, OPM will appoint Federal Examiners to review the qualifications of applicants to be registered to vote and Federal Observers to observe local elections.

Under section 553(b)(3)(B) of title 5 of the United States Code, the Director finds that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because of OPM's legal responsibilities under 42 U.S.C. 1973e(a) and other parts of the Voting Rights Act of 1965, as amended, which require OPM to publish counties certified by the U.S. Attorney General and locations with these counties where citizens can be federally listed and become eligible to vote, and where Federal observers can be sent to observe local elections.

Under section 553(d)(3) of title 5 of the United States Code, the Director finds that good cause exists to make this amendment effective in less than 30 days. The regulation is being made effective immediately in view of the pending election to be held in the subject county, where Federal observers will observe the election under the authority of the Voting Rights Act of 1965, as amended.

**E.O. 12291, Federal Regulation**

I have determined that this is not a major rule as defined under section 1(b) of E.O. 12291, Federal Regulation.

**Regulatory Flexibility Act**

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it adds one new location to the list of counties in the regulations concerning OPM's responsibilities under the Voting Rights Act.

**List of Subjects in 45 CFR Part 801**

Administrative practice and procedure, Voting Rights.

U.S. Office of Personnel Management.

Constance Berry Newman,

*Director.*

Accordingly, OPM is amending 45 CFR part 801 as follows:

**PART 801—VOTING RIGHTS  
PROGRAM**

1. The authority citation for Part 801 continues to read as follows:

**Authority:** 5 U.S.C. 1103; 7, 9, 79, Stat. 440, 411 (42 U.S.C. §§ 1973e, 1973g).

2. Appendix A to part 801 is amended by adding alphabetically the Adams and Monroe Counties to Mississippi to read as follows:

**Appendix A**

\* \* \* \* \*

**Mississippi**

Adams; Prentiss Inn, U.S. 61 S. Natchez, Mississippi 39121; (601) 442-7524/25; September 17, 1991.  
 Monroe; Shellane Motel, Room 44, Highway 45 N, Aberdeen, Mississippi, 39730; (601) 369-2192/2193; September 17, 1991.

[FR Doc. 91-22563 Filed 9-19-91; 8:45 am]

BILLING CODE 6325-01-M

**DEPARTMENT OF TRANSPORTATION****Coast Guard****46 CFR Part 28**

[CGD 88-079]

RIN 2115-AD12

**Commercial Fishing Industry Vessel Regulations Document**

**AGENCY:** Coast Guard, DOT.

**ACTION:** Final rule; corrections.

**SUMMARY:** This notice corrects regulations previously published in the *Federal Register* August 14, 1991 [56 FR 40364] regarding the Coast Guard's issuance of regulations for documented or state numbered uninspected fishing, fish processing, and fish tender vessels to implement provisions of the Commercial Fishing Industry Vessel Safety Act of 1988. These regulations are intended to improve the overall safety of commercial fishing industry vessels.

**EFFECTIVE DATE:** This rule is effective on September 15, 1991.

**FOR FURTHER INFORMATION CONTACT:** LCDR Ed McCauley, Merchant Vessel Inspection and Documentation Division, Fishing Vessel/Offshore Activities Branch (G-MVI-4), room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593-0001, (202)-267-2307.

**SUPPLEMENTARY INFORMATION:** These regulations apply to all U.S. Commercial fishing industry vessels, whether existing before, or built or altered after September 15, 1991, and provide requirements for their equipment, design, and operations. Additional equipment is required for documented vessels that operate beyond the Boundary Lines or that operate with more than 16 individuals on board. Design and construction requirements

that apply to vessels built after or which undergo a major conversion completed after September 15, 1991, are also included, if those vessels operate with more than 16 individuals on board. Additionally, casualty and injury reporting requirements are included that apply to all underwriters of primary insurance for commercial fishing industry vessels, owners of commercial fishing industry vessels, and all employees injured on such vessels.

**Corrections:**

(1) On page 40364, 1st column, under **"FOR FURTHER INFORMATION CONTACT:"** section, delete all information and insert the following: LCDR Ed McCauley, Merchant Vessel Inspection and Documentation Division, Fishing Vessel/Offshore Activities Branch (G-MVI-4), room 1405, U.S. Coast Guard Headquarters, 2100 Second Street, SW, Washington, DC 20593-0001, (202)-267-2307.

(2) On page 40365, 3rd column, 6th paragraph, line 2, change the date from "May 16, 1990" to May 16, 1991.

(3) On page 40368, 1st column, 5th paragraph, line 16, change "may" to "many" so that it reads "where many wearable PFDs".

(4) On page 40369, 2nd column, 2nd paragraph, line 3, change implementation date to read November 15, 1991.

(5) On page 40371, 2nd column, 2nd paragraph, line 13, delete the word "of" so it reads "concern because the relatively".

(6) On page 40372, 1st column, 2nd paragraph, line 4, change the statute reference to read § 28.140(c).

(7) On page 40386, substitute September 15, 1991 for the [effective date] in the 2nd and 4th decision tree diamonds.

(8) On page 40388, 2nd column, 1st paragraph, line 8, change "\$ 28.710" to read § 28.580.

(9) On page 40388, 2nd column, 4th paragraph, line 19, add a comma after the word "equipment" so it reads "such equipment", is adequate".

(10) On page 40392, 1st column, 5th paragraph, change "Section 28.600" to read Section 28.700.

(11) On page 40392, 1st column, 7th paragraph, change "Section 28.610" to read Section 28.710.

(12) On page 40392, 2nd column, 3rd paragraph, change "Section 28.620" to read Section 28.720.

**§ 28.115 [Corrected]**

(13) On page 40397, 1st column, in § 28.115 Table 28.115, "Devices required" column, line 4, delete meters).

**§ 28.120 [Corrected]**

(14) On page 40398, § 28.120 Table 28.120(a), "Area" column, line 1, delete coma between "miles" and "of" so it reads "20-50 miles of coastline".

**§ 28.120 [Corrected]**

(15) On page 40398, Table 28.120(a), "Area" column, line 3, add a coma between "Line" and "within" so it reads "Boundary Line, within".

**§ 28.120 [Corrected]**

(16) On page 40398, Table 28.120(c), "Vessel type" column, line 6, change "11 meters") to read (11 meters).

**§ 28.160 [Corrected]**

(17) On page 40400, in § 28.160 Table 28.160, "Quantity and location" column, line 8, delete colon between "the" and "vicinity" so it reads "located in the vicinity of".

**§ 28.500 [Corrected]**

(18) On page 40407, 3rd column, 9th paragraph, 3rd line, in § 28.500, insert the word "started" between "conversion" and "on" so it reads "major conversion started on or after".

**§ 28.550 [Corrected]**

(19) On page 40410, 1st column, 7th paragraph, line 1-2, in § 28.550 change "(0.423 Newtons per square meter)" to 30 Kilograms per square meter).

(20) On page 40410, 1st column, 8th paragraph, line 1-2, change "(0.021 Newtons per square millimeter)" to (15 Kilograms per square meter).

**§ 28.570 [Corrected]**

(21) On page 40413, 3rd column, in § 28.570 Table 28.575, under "Y" column, line 5, change "0.65" to 0.97.

**§ 28.575 [Corrected]**

(22) On page 40414, in Subpart E—Stability, § 28.575, amend to include Figure 28.575; added following Table 28.575.

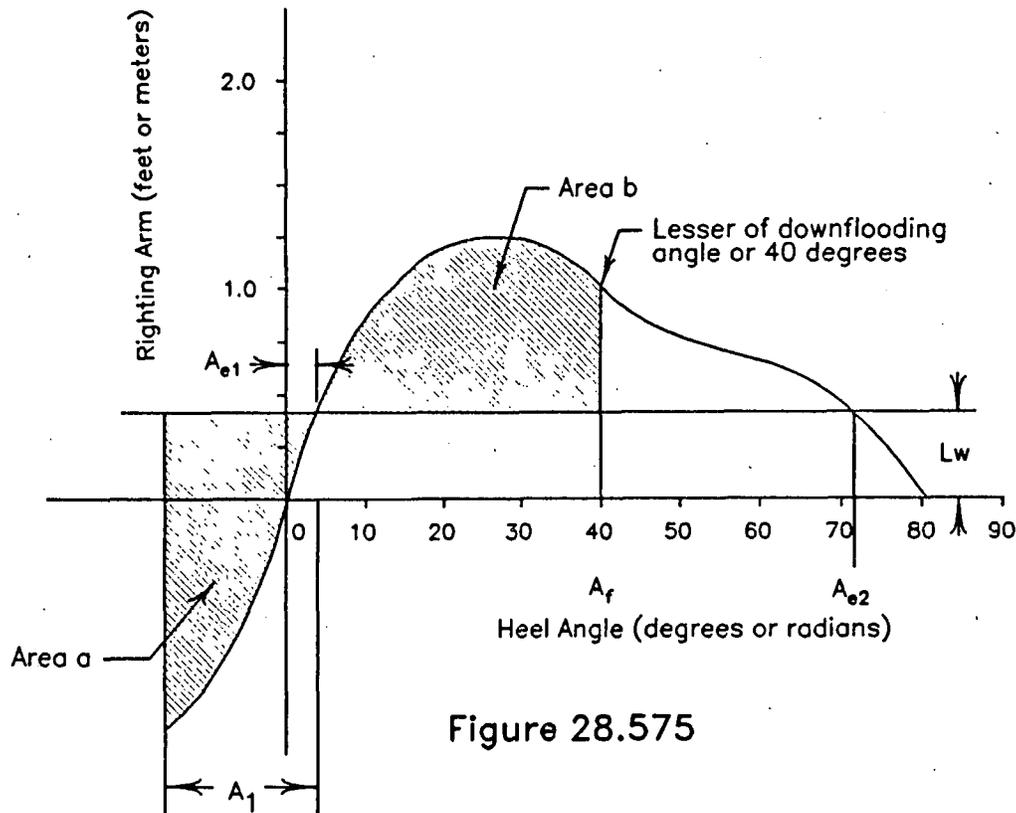


Figure 28.575

**§ 28.580 [Corrected]**

(23) On page 40415, in Subpart E—Stability, § 28.580, remove Figure 28.580 and move it to page 40416 inserting it in column 2, after § 28.580(i).

Dated: September 13, 1991.

D.H. Whitten,

Acting Chief, Office of Marine Safety,  
Security and Environmental Protection.

[FR Doc. 91-22611 Filed 9-19-91; 8:45 am]

BILLING CODE 4910-14-M

**FEDERAL COMMUNICATIONS  
COMMISSION**

**47 CFR Part 73**

[MM Docket No. 91-160; RM-7718]

**Radio Broadcasting Services; Sterling,  
KS**

**AGENCY:** Federal Communications  
Commission.

**ACTION:** Final rule.

**SUMMARY:** This document allots Channel 239A to Sterling, Kansas, in response to a petition filed by Early Williams. See 56 FR 28129, June 19, 1991. The coordinates

for Channel 239A are 38-10-56 and 98-14-27. There is a site restriction 4.6 kilometers (2.9 miles) southwest of the community. With this action, this proceeding is terminated.

**DATES:** *Effective Date:* October 28, 1991.

The window period for filing applications for Channel 239A at Sterling will open on October 29, 1991, and close on November 29, 1991.

**FOR FURTHER INFORMATION CONTACT:**

Kathleen Scheuerle, Mass Media  
Bureau, (202) 634-6530.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Report and Order, MM Docket No. 91-160, adopted September 4, 1991, and released September 16, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

**PART 73—[AMENDED]**

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

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

**§ 73.202 [Amended]**

2. Section 73.202(b), the Table of FM Allotments under Kansas, is amended by adding Channel 239A, Sterling.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91-22705 Filed 9-19-91; 8:45 am]

BILLING CODE 6712-01-M

**DEPARTMENT OF TRANSPORTATION****National Highway Traffic Safety Administration****49 CFR Part 580**

[Docket No. 87-09 Notice 15]

RIN 2127-AC42

**Odometer Disclosure Requirements**

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

**ACTION:** Final rule.

**SUMMARY:** This notice amends the odometer regulations in 49 CFR part 580 to implement the 1990 amendments to the Federal odometer law relating to the use of powers of attorney (Pub. L. 101-641). The notice defines "original secure power of attorney," provides that a transferee who exercises a power of attorney may submit a copy of the title to the State (without having to submit an application for a new title) along with the original power of attorney, provides that the State shall retain the documents, and establishes a process for the States to petition for approval of alternative procedures. It also addresses the use of reassignment documents and makes additional clarifying amendments.

**DATES:** This final rule is effective as of October 21, 1991, except that the amendment to § 580.5 is effective as of June 22, 1992.

**FOR FURTHER INFORMATION CONTACT:** Mattie Cohan Condray, Office of the Chief Counsel, room 5219, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC, 20590 (202-366-1834).

**SUPPLEMENTARY INFORMATION:****Background**

This notice issues a final rule to implement the latest in a series of amendments to the Federal odometer law, enacted as part of an ongoing effort

to accommodate the commercial needs of the automobile industry and the administrative needs of the State titling agencies without compromising the consumer protection afforded by the law.

These legislative adjustments reflect circumstances arising after the Truth in Mileage Act of 1986 (Pub. L. 99-579) (TIMA), a law that amended the odometer law (Pub. L. 92-513, 15 U.S.C. 1981-1991) to require each person selling a motor vehicle to disclose the odometer reading on the vehicle's title, rather than using a separate statement. The law directed the States to conform their titles and titling procedures to enable the titles to be used for odometer disclosure. Although most States had already begun to use the title for odometer disclosure, the final rule issued by NHTSA to implement the law (53 FR 29464, August 5, 1988) required a number of adjustments in State procedures as well as in commercial practices.

The adjustment in commercial practice that met the strongest opposition from the motor vehicle industry was the rule's prohibition of the use of powers of attorney (POA) for odometer disclosure. The agency considered the vehicle title to be of paramount importance in retaining odometer information necessary for enforcement purposes, and regarded the POA as a document that could be used to avoid disclosure on the title. The industry, in contrast, saw the POA as essential in transactions where the title was lost or in the hands of a bank or other lienholder and was therefore not available to the owner at the time of the sale. Without a POA authorizing the purchaser to execute the odometer disclosure on the title, it was argued, the purchaser would have to have the seller return to complete the transaction—a situation that could lead to costly delays for commercial purchasers.

In response to the industry's concerns, Congress amended TIMA in 1988 (Pub. L. 100-561) to permit the use of a secure power of attorney in circumstances where the title was not present at the time of sale, on condition that the transferor keep a copy of the POA and that the transferee return the original POA to the State after executing the disclosure on the title. The amendment directed NHTSA to establish reasonable conditions for the use of the POA.

In an interim final rule to implement the amendment (54 FR 9809, March 8, 1989), the agency permitted the use of a secure POA when the title is held by a lienholder and stipulated that the person receiving the POA must return the original POA to the State, along with the

title showing the executed odometer statement and an application for a new title.

In response to comments that the POA procedures were too restrictive, NHTSA issued a final rule (54 FR 35879, August 30, 1989) modifying the procedure by permitting the use of a POA when the title has been lost or misplaced as well as when it is held by a lienholder, but adopting the requirement for the transferee to submit a title application with the POA. The latter requirement prompted four petitions for reconsideration, which the agency denied on February 22, 1990 (55 FR 6257).

The denial of the petitions for reconsideration did not quiet the controversy about the requirement that a title application be submitted with the POA. The dealers associations argued that the requirement disregarded the commercial reality of the used car business, in which a significant percentage of vehicles acquired by trade or purchase are not sold directly to a retail consumer but are wholesaled. In the typical wholesale transaction, it was argued, the selling dealer would never obtain title himself but would simply execute the reassignment form on the title to the wholesale purchaser. A requirement to obtain a title would thus create delays and add cost to many transactions, without benefit to consumers.

In the midst of these objections, the agency received a petition from the State of Florida which seemed to offer a suitable alternative. Under the Florida proposal, the transferee would use its authority under a POA to execute the odometer disclosure on the title, but instead of submitting an application for title to the State with the original POA, would submit only a copy of the title showing the executed odometer statement. The State would thereupon file both documents and would have them available for any investigation of alleged odometer fraud. The transferee could proceed to use the original title to reassign ownership to a wholesaler, without delay or hindrance. NHTSA granted the Florida petition on July 23, 1990, and subsequently issued a notice of proposed rulemaking (55 FR 34941, August 27, 1990).

During the pendency of the rulemaking on the Florida petition, another amendment to TIMA was enacted (Pub. L. 101-641, November 28, 1990), which bars the agency from requiring a new title to be issued by the State which issued the power of attorney. This amendment effectively directs NHTSA to terminate its

requirement that the transferee submit an application for title with the original POA. At the same time, the amendment authorizes the agency to require the State to retain the power of attorney or to adopt alternative measures consistent with the purposes of the act. The amendment thus authorizes the agency to adopt a procedure resembling that proposed in response to the Florida petition.

On February 28, 1991, NHTSA issued a notice withdrawing the August 1990 NPRM and proposing rulemaking to implement the provisions of the new amendment (56 FR 8313), and has completed its review of the comments submitted in response to that notice. It is the agency's hope that the following discussion of the provisions adopted in the final rule will resolve the issues surrounding the use of the POA and other documents used for the disclosure of odometer information.

#### Definitions

In the February 28 notice, NHTSA proposed to amend § 580.3 to define "original power of attorney" as the secure document issued by the State and any attached copies which are also printed on secure paper.

Only two commenters, the National Automobile Dealers Association (NADA) and the National Auto Auction Association (NAAA), addressed this definition. NADA supported the definition, stating that the proposed amendment "will facilitate commerce in instances where the State that issued the power of attorney is not the same as the State that will issue the new title." NAAA, however, opposed the definition as too narrow and proposed instead to allow any copy, whether or not on secure paper, to be an "original." The adoption of such a definition would thwart Congress' intent that the secure document be transferred back to the issuing State. By specifying that the secure power of attorney form be set forth by means of a secure printing process or other secure process, it seems clear that Congress intended the distinguishing feature between an "original" and a "copy" be the secure nature of the "original."

NAAA also suggested that the making of secure copies might be technically unfeasible. Although NHTSA does not require more than one secure document, there is nothing in the rulemaking record to indicate that a multi-copy form with more than one secure copy could not be readily produced. Neither the American Association of Motor Vehicle Administrators (AAMVA), nor any other commenter, suggested this would be technically unfeasible and NAAA did

not provide any data or information to support its position. Rather, the Texas State Department of Highways and Public Transportation suggested that such secure copy forms could be made available. Thus, the NAAA suggestion will not be adopted and the definition of "original power of attorney" will remain as proposed.

The proposed definition of original power of attorney raised another issue. AAMVA, NADA, NAAA, the Texas State Department of Highways and Public Transportation and the California Department of Transportation each suggested that the original POA should be passed on with the title instead of being returned to the issuing state. These commenters argue that by keeping the original title and POA together, any alterations on the title or POA would be easier to detect when they are eventually submitted to the State in which the car is next titled.

Although there may be merit in having the original POA accompany the title, the agency has no discretion to permit this procedure as an alternative to returning the POA with the title. The statute states that "the person granted such power of attorney . . . shall submit the original back to the State". In view of this statutory requirement, the final rule requires the original POA to be returned to the State of issuance. However, to address the concerns of those who believe that the POA should accompany the title, the agency notes that the definition of "original power of attorney" permits a secure copy of the POA to be considered an "original." As NADA stated in support of our definition, "allowing for multicopy originals will allow an 'original' to be sent to the State that issued the power of attorney as well as one to be sent forward with the title," as the States would like.

#### Submission of the Power of Attorney and Title to the State

The Pennsylvania Department of Transportation (PennDOT) noted that the language in the rule requiring the person exercising the power of attorney to submit it to the issuing state "with a copy of the transferor's title" could, "[u]nder strict interpretation, . . . require a copy of the title even in circumstances where the power of attorney was being submitted with the actual title for processing of a [new title application]." NHTSA did not intend to require a copy of the title in addition to the actual title document in such cases, nor does the agency believe that Congress intended such a result. Accordingly, NHTSA adopts, with minor editorial adjustment, PennDOT's

suggestion to amend the language of § 580.13(f) to specify that the transferee exercising a power of attorney shall submit to the issuing State the original power of attorney with either a copy of the transferor's title or the actual title if the transferee is submitting a title application at the same time.

Another clarifying amendment was suggested by the Missouri Department of Revenue. Missouri recommended that § 580.13(f) of the rule state specifically that the transferee submit a copy of the "front and back" of the transferor's title when returning the executed power of attorney to the issuing state. We appreciate Missouri's concern but do not think it is necessary to add such language to the regulatory text. We think it is clear that the term title refers to the entire document, front and back, and that anything less than the whole of the title is not the "title," but a portion of the title. The transferee will need to submit a copy of both sides of the title in order to comply with the requirements of § 580.13(f).

The Washington State Department of Licensing commented that returning the power of attorney and a copy of the title to the issuing state will create problems because the power of attorney and the title may not have been issued by the same State and, therefore, the documents would have to be returned to different States. Such is not the case. The regulation specifies that "[t]he transferee shall submit the original power of attorney form to the State that issued it, with a copy of the transferor's title." Consequently, the "issuing" State to which both documents must be returned is the State that issued the power of attorney. There is no requirement for submitting any document to the State that issued the original title.

#### Retention of Powers of Attorney by the State

The new law expressly prohibits NHTSA from requiring title applications to be filed with powers of attorney (POA), and expressly grants NHTSA the authority to require the States to retain submitted powers of attorney. The agency therefore proposed to amend § 580.13(f) to eliminate the requirement that title applications accompany the powers of attorney submitted back to the State by the persons exercising them. The agency received no comments regarding this proposed amendment and adopts it without change.

The Pennsylvania Department of Transportation requested an amendment stating that the "State issuing the original power of attorney

form MAY choose whether to accept a copy of the transferor's title or require the original title document to be submitted with the secure power of attorney." As with other discretionary provisions in TIMA, the Federal law will not require any transferee to retitle a vehicle in connection with the use of a secure power of attorney, but the Federal law does not prohibit a State from adopting such a requirement if it so chooses.

NHTSA further proposed to amend § 580.13(f) to require a State which receives an executed power of attorney and transferor's title in accordance with that section, to retain those documents for five years. The five year retention period was intended to parallel the record retention requirement imposed on dealers, distributors and lessors.

The Washington State Department of Licensing was the only commenter who objected to any State record retention requirement. Although it did not actually suggest that the proposed retention requirement be withdrawn, it did state that "NHTSA cannot expect States to keep the original secure POA and title copy documents (even in microfilm form) of vehicles which have left their jurisdictions to be titled in another jurisdiction." Washington provided no evidence to support its claim that the mere retention of records would be impossible. While the State did note a trend toward "paper elimination," States are not limited to retaining the records in paper form. Furthermore, none of the other States who commented, nor AAMVA in any way suggested that the very concept of retaining these records is impracticable. Finally, elimination of this requirement would hamper enforcement efforts and thwart the intent of Congress.

Several commenters urged NHTSA to decrease the retention period, recommending instead a one year retention requirement or a retention period equal to the State's current titling record retention period. The California Department of Motor Vehicles (CaDMV) and the AAMVA for example, each noted that most fraud is detected within 12 months of titling, making the first year of retention most crucial. The Texas State Department of Highways and Public Transportation indicated that, once retitled, the new titling state will have a copy of the requisite records. AAMVA, NADA, CaDMV and the Iowa Department of Transportation all commented that five years is longer than most current State titling record retention periods and that a five year period will require additional handling,

resulting in additional costs to the States.

Upon reviewing these comments, the agency has concluded that a fixed five-year retention period would be unduly burdensome to the States. NHTSA does not favor an across-the-board one year retention period. While most fraud may be detected within the first 12 months after titling, a significant amount of fraud is not detected within that time. Consequently, a period longer than twelve months is preferable. Under § 580.13(f) as originally adopted, a power of attorney form submitted to the State with a title application would be retained for a period equal to the State's standard titling record retention period, which would not necessarily be five years (but, given current State practice, would exceed one year). In light of this and of the cost concerns of the commenters, the agency agrees that its enforcement concerns can be met without mandating a five year retention period and therefore adopts the suggestion of several commenters that the powers of attorney be retained by the State for a period of three years or at least equal to the State's titling record retention period, whichever is shorter. As stated in the NPRM, the State may retain either the original copies it receives or a photostat, carbon or other facsimile copy, including any media by which such information may be stored, provided there is no loss of information.

#### Approval of Alternate Requirements

The TIMA contemplates the administrative approval by NHTSA of alternative methods of odometer disclosure, provided those alternate methods are consistent with the purposes of the Act. At the time the 1990 amendment was enacted, the agency had issued a rulemaking notice proposing a mechanism in § 580.11 whereby the agency could grant a State's request for approval of an alternative to the requirements of § 580.13(f) regarding the disposition of POAs. Although that notice was withdrawn, the proposal was reissued with the NPRM. Under that proposal, a State could submit a petition to NHTSA's Chief Counsel setting forth the requirements in effect in the petitioning State, including a copy of the applicable State law or regulation and an explanation of how the requirements are consistent with the Act. Notice of grant or denial of the petition would be issued by the Chief Counsel to the petitioner without further notice in the **Federal Register**.

Three commenters, NAAA, NADA and the Oregon Department of Transportation (ODOT), expressed an

opinion on this proposal. NAAA opposed the proposal while NADA and ODOT supported it with suggestions for further improvement.

As an initial matter, NAAA questioned NHTSA's authority to approve alternate State procedures for submission of odometer disclosure documents. To substantiate its claim, NAAA argued that the section of TIMA dealing with approval of alternate requirements does not address the procedure by which disclosure documents shall be submitted to the State. It is the agency's view that TIMA authorizes the agency to approve procedural alternatives as well as disclosure format alternatives. House Report 99-833, discussing *inter alia*, the requirements contained in TIMA, explains the intended reach of the alternate requirement approval requirement: "[this provision] states that the requirements of subsections (d) and (e)(1) [which concern the use of secure titles containing mileage disclosure statements and require lessees to provide mileage statements to their lessors upon the lessors' transfers of their vehicles] shall apply in a state unless the State has in effect alternate motor vehicle mileage requirements approved by the Secretary of Transportation." This language does not imply that Congress intended to limit the agency's authority to approve alternate disclosure formats only.

While the agency believes that the "alternate requirements" section of TIMA alone provides statutory authority to NHTSA to create the approval mechanism we have proposed, the subsequent amendments provide further authority. For example, 1988 and 1990 amendments each specifically discuss the disposition of the secure power of attorney and neither suggests that the agency's authority to approve alternatives is circumscribed.

NAAA's substantive opposition to the proposal centers around a concern that the creation of such an approval mechanism will foster non-uniformity and will "exacerbate \* \* \* confusion \* \* \* in interstate titling procedures." We appreciate NAAA's concern and agree that greater uniformity among State titling laws and procedures would be desirable. However, Congress never intended to preempt all State vehicle registration, titling and sales laws. In fact, as noted in House Report 99-833, Congress provided in the law for approval of alternate requirements to "give States maximum flexibility in implementing odometer disclosure provisions." NHTSA has attempted to follow this approach throughout the

rulemaking process. We have tried, where possible, to preserve State discretion. Where we have limited that discretion, it is because Congressional intent and the needs of the Act demand it.

Moreover, NHTSA does not share NAAA's belief that the creation of a mechanism to approve alternate procedures for the disposition of secure powers of attorney will, in fact, result in "fifty or more different procedures." The creation of a mechanism does not automatically result in the exercise of that mechanism. Since its original effective date of April 29, 1989, § 580.11 has contained a procedure for the approval of disclosures other than those specified in the regulation and the agency has yet to receive a petition under that section. Furthermore, the need for alternate secure power of attorney disposition methods should be diminished because the retitling requirement has been eliminated. However, the agency still believes that it is important to have the ability to assess alternate methods should a State develop a system that will meet enforcement needs while better meeting some State-specific need of its own.

We also disagree with NAAA's charges that we failed to consider whether the proposed rule will undercut fraud prevention and what the consequences will be for interstate transactions. As noted in the NPRM, any State requesting approval of an alternate system will have to demonstrate specifically how its proposal is consistent with the purposes of the Act, including an analysis of what effect the proposed alternative will have on combating odometer fraud. With respect to NAAA's concern about the effects on interstate transactions, the agency notes that the States have maintained their own vehicle registration, titling and sales laws since long before the introduction of Federal odometer laws. Many of the problems currently encountered by the auctions stem from differences in State laws not affected by the odometer law. Moreover, to the extent that problems have arisen due to varying State implementation of odometer matters within their discretion, NHTSA encourages the States to work together to ameliorate such differences.

Finally, NAAA notes that the proposal that petitions be reviewed and acted upon without notice in the *Federal Register* will add to the confusion of title clerks and others who already have to master many different State practices. NADA also suggested that a brief period of public notice and comment would be

appropriate. Upon reflection, we agree that a notice and comment period and public notice of the disposition of the petition would benefit all concerned. Accordingly, the final rule provides that upon submission of a petition under this section, NHTSA will publish a *Federal Register* notice describing the State proposal and indicating an initial determination, pending a 30-day comment period. Notice of the final action on the petition will also be published in the *Federal Register*.

The Oregon DOT supported the alternative procedures proposal, but requested that the "criteria for approving alternate programs be expanded" because the proposal, as written, allows for "very little in the way of 'alternatives'." Since the only criterion for approving petitions submitted under the proposal is that the State alternative be consistent with the purposes of the Act, and since we do not have the authority to approve alternatives that are not consistent with the purposes of the Act, we believe that the language is sufficiently broad. Accordingly, we are adopting the changes to § 580.11, as proposed, with the addition of the comment period.

#### Use of Reassignment Forms By Titled Owners

A number of commenters objected to a proposed amendment to § 580.5 that would require a titled owner to make his or her odometer disclosure on the vehicle's title, and not on a reassignment document. It is apparent from the comments that the purpose and scope of the proposed amendment were not clearly understood.

The purpose of the proposed amendment was to prevent a titled owner who sells a vehicle from using a document other than the title or a secure power of attorney to make the odometer disclosure required by law. The central purpose of TIMA had been to make the title document the sole vehicle for odometer disclosure, thereby completing a years-long movement among the States toward the use of the title for disclosure. The practice of using a separate document for odometer disclosure, which had been common in the early days of the Federal odometer law, had been shown to be too vulnerable to abuse. Although the 1988 and 1990 amendments had recognized the necessity of using a power of attorney in some circumstances, the Congress had placed strict controls on the circumstances in which a POA could be used. These controls reflect Congress's reluctance to allow the use of any document other than the title document for odometer disclosure.

In proposing to prohibit titled owners from using reassignment forms for odometer disclosure, the agency acted in the belief that the reassignment forms would be subject to the same abuses that had compromised the effectiveness of the older, separate disclosure statements. Unlike the POA, which has a legitimate purpose if the title is lost or held by a lienholder, a separate reassignment form has no commercial purpose at the time of the first transfer by a titled owner. In most cases, the title itself would be available to the owner. Alternatively, if a lienholder has the title, the owner could execute a POA authorizing the transferee to complete the odometer disclosure on the title.

The limited scope of the proposal needs to be stressed: it would prohibit reassignment forms only for the titled owner. States may continue to provide supplementary reassignment forms. Thus, the proposal would not interfere with dealer-to-dealer reassignments, all of which could take place as they do now.

The commenter expressing the strongest objection to the proposal was the State of Arkansas, which had been under the impression that NHTSA had previously approved the State's reassignment form. The South Carolina Department of Highways and Public Transportation and the NADA shared Arkansas' belief that NHTSA had approved the Arkansas reassignment form. In reviewing the communications between Arkansas and NHTSA, we note that we approved the information content of the form, but that we were not asked to approve the use of the form and did not approve its use as a substitute for TIMA disclosure. Moreover, NHTSA specifically advised AAMVA that although Arkansas' proposed form allowing transfer by titled owners as well as dealers would appear not to be prohibited under the rules, NHTSA could not endorse such a use because it is at odds with the use of the secure power of attorney and its attendant protection against fraud. This position has been repeated by the agency, both orally and in writing, including admonitions that the agency would address this issue by rule if necessary. At this time, we believe it is necessary to promulgate a rule expressly prohibiting the use of the reassignment form by titled owners.

In reaffirming its position, the agency acknowledges that there may be circumstances under which a document other than the title itself or a secure POA could be used for odometer disclosure. At the least, however, such a document would have to be used in a

way that would ensure the retention of the odometer information and enable law enforcement agencies to use it in investigating odometer fraud. This is the case with the POA procedure, which contains a number of safeguards. The appropriate procedure for considering such an alternative would be the petition process established in § 580.11 for considering alternative odometer disclosures.

Upon reviewing all of the comments on the proposed amendment to § 580.5, NHTSA has decided to adopt the amendment as proposed, to prohibit a titled owner from using a reassignment form for his or her odometer disclosure. This amendment has an effective date of June 22, 1991, rather than October 21, 1991. NHTSA has chosen a later effective date for this amendment to allow States the opportunity to deplete form supplies, make necessary alterations to existing forms and/or pursue the alternate disclosure petition process, as they may wish. NHTSA believes a nine month lead time will be sufficient to accommodate the needs of the States.

#### Clarification of Section 580.11(c)

In reviewing § 580.11, the agency tentatively determined that the language of paragraph (c) of that section was unclear. Specifically, the use of the term "extension" in the sentence "The effect of a grant of a petition is to relieve a State from responsibility to conform the State motor vehicle titles with §§ 580.5 and 580.7 of this part during the time of the extension." could cause some confusion. The effect of a grant of such a petition would be to relieve a State from responsibility to conform its titles with §§ 580.5 and 580.7 for as long as the approved alternate disclosure requirements were in effect in that State, but the term "extension" in that sentence could be confused with the extension given a State to bring its title into conformance with the requirements of this part.

To avoid any confusion, NHTSA proposed to amend that sentence to read as follows: "The effect of the grant of a petition is to relieve a State from responsibility to conform the State disclosure requirements with §§ 580.5, 580.7 or 580.13(f) for as long as the approved alternate disclosure requirements remain in effect in that State." The agency received no comments on this proposal and is, accordingly, adopting it as proposed.

#### Extension of Implementation Dates

AAMVA requested that NHTSA include in the final rule a provision allowing States to "petition for an

extension of any established implementation date based upon which existing statutes and regulations must be amended to comply with the provisions of this new rule, as well as allowing States to exhaust currently existing forms and other documents which may need to be changed."

Since the NPRM had not proposed a new implementation extension process, the agency would not be able to grant AAMVA's request without first seeking additional comment. Based on its initial review, NHTSA does not believe that such an extension is necessary or advisable.

Neither the statute nor the rule requires States to make secure powers of attorney available. Consequently, there is no "deadline" by which a State must change any statutes or regulations regarding the use of such powers of attorney. Nor does this rulemaking action require the alteration of any forms. Accordingly, there is no need for any implementation extension and, therefore, no need for any new procedure by which to request such an extension. With respect to the implementation dates regarding the availability of Federally conforming title documents, nothing in this rulemaking affects those documents and, therefore, there is no need to alter the existing extension petition procedure. In the interests of achieving full implementation, we would not want to take any action, especially unnecessary action, which would encourage further delays.

#### Odometer Disclosure by Power of Attorney

We received one comment suggesting a technical amendment to § 580.13(b). The commenter, Joanne S. Faulkner, Esq., suggests that this section should be amended to require that, if a power of attorney is to be used, such power of attorney/odometer disclosure statement should be completed "before executing any transfer of ownership documents." Ms. Faulkner argues that this restriction should replace the "in connection with" language that generally controls the time frame in which disclosures are to be made as a means of reducing the possibility of abuse inherent in a flexible time frame.

We decline to adopt Ms. Faulkner's suggestion. We note first that her suggestion lies outside the scope of the NPRM. Further, we do not think such a change is necessary. Ms. Faulkner notes that there is no reason why the parties to a vehicle transfer cannot complete the secure power of attorney at the time of transfer. We agree. However, it is because of this fact that we find her

suggested amendment unnecessary. The power of attorney is intended for use when the title is not present at the time of sale so the seller will not have to make a return trip to the dealership. Thus, there is every incentive for the parties to complete the power of attorney form at the time of sale, without the rule having to so specify. At this point we have no indication that parties using secure powers of attorney are completing them at any time other than the point of sale, or that the "flexible time frame" is being used to perpetrate fraud in the use of secure powers of attorney.

#### Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that this rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule may result in States adopting more costly new recordkeeping procedures; however, these costs could be offset by the lowered cost resulting from the issuance of fewer titles than the State would have to issue under the current rule.

#### Regulatory Impacts

##### A. Costs and Benefits to Dealers, States and Consumers

NHTSA has analyzed this rule and determined that it is neither "major" within the meaning of Executive Order 12291, nor "significant" within the meaning of the Department of Transportation regulatory policies and procedures. A regulatory evaluation has been prepared analyzing the impacts of the rule and has been placed in Docket 87-09, Notice 15. Any interested person may obtain a copy of this regulatory evaluation by writing to the NHTSA Docket Section, room 5109, 400 Seventh Street, SW., Washington, DC 20590, or by calling the Docket Section at (202) 366-4949. Summarizing this evaluation, this rule does not impose any costs on dealers or distributors. Any costs to the States may be offset by savings the States will achieve from the issuance of fewer titles than are required under the current rule.

##### B. Small Business Impacts

The agency has also considered the impacts of this rule in relation to Regulatory Flexibility Act. For the reasons discussed above, I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly,

no regulatory flexibility analysis has been prepared.

**C. Environmental Impacts**

NHTSA has considered the environmental implications of this rule, in accordance with the National Environmental Policy Act, and determined that it will not significantly affect the human environment. Accordingly, an environmental impact statement has not been prepared.

**D. Paperwork Reduction Act**

The Office of Management and Budget (OMB) has already approved NHTSA's information collection requirements that require consumer, dealers, distributors, lessors and auction companies to disclose and/or retain mileage information. (OMB2127-0047). This rule does not propose any new information collection requirements as that term is defined by OMB in 5 CFR part 1320.

**List of Subjects in 49 CFR Part 580**

Odometers, Consumer protection.  
In consideration of the foregoing, 49 CFR part 580 is amended as follows:

**PART 580—[AMENDED]**

The authority citation for 49 CFR part 580 continues to read as follows:

Authority: 15 U.S.C. 1988; delegation of authority at 49 CFR 1.50(f) and 501.8(e)(1).

1. In § 580.3 the following is added between the definitions of "mileage" and "secure printing process or other secure process:"

**§ 580.3 Definitions.**

\* \* \* \* \*

*Original power of attorney* means, for single copy forms, the document set forth by secure process which is issued by the State, and, for multicopy forms, any and all copies set forth by secure process which are issued by the State.

\* \* \* \* \*

2. In § 580.5, paragraph (c) introductory text is revised as follows:

**§ 580.5 Disclosure of odometer information.**

\* \* \* \* \*

(c) In connection with the transfer of ownership of a motor vehicle, each transferor shall disclose the mileage to the transferee in writing on the title or, except as noted below, on the document being used to reassign the title. In the case of a transferor in whose name the vehicle is titled, the transferor shall disclose the mileage on the title, and not on a reassignment document. This written disclosure must be signed by the transferor, including the printed name. In connection with the transfer of

ownership of a motor vehicle in which more than one person is a transferor, only one transferor need sign the written disclosure. In addition to the signature and printed name of the transferor, the written disclosure must contain the following information:

\* \* \* \* \*

3. In § 580.11, paragraphs (a) and (c) are revised as follows:

**§ 580.11 Petition for approval of alternate disclosure requirements.**

(a) A State may petition NHTSA for approval of disclosure requirements which differ from the disclosure requirements of §§ 580.5, 580.7, or 580.13(f) of this part.

\* \* \* \* \*

(c) Notice of the petition and an initial determination pending a 30-day comment period will be published in the Federal Register. Notice of final grant or denial of a petition for approval of alternate motor vehicle disclosure requirements will be published in the Federal Register. The effect of the grant of a petition is to relieve a State from responsibility to conform the State disclosure requirements with §§ 580.5, 580.7, or 580.13(f), as applicable, for as long as the approved alternate disclosure requirements remain in effect in that State. The effect of a denial is to require a State to conform to the requirements of §§ 580.5, 580.7 or 580.13(f), as applicable, of this part until such time as the NHTSA approves any alternate motor vehicle disclosure requirements.

4. In § 580.13, paragraph (f) is revised as follows:

**§ 580.13 Disclosure of odometer information by power of attorney.**

\* \* \* \* \*

(f) Upon receipt of the transferor's title, the transferee shall complete the space for mileage disclosure on the title exactly as the mileage was disclosed by the transferor on the power of attorney form. The transferee shall submit the original power of attorney form to the State that issued it, with a copy of the transferor's title or with the actual title when the transferee submits a new title application at the same time. The State shall retain the power of attorney form and title for three years or a period equal to the State titling record retention period, whichever is shorter. If the mileage disclosed on the power of attorney form is lower than the mileage appearing on the title, the power of attorney is void and the dealer shall not complete the mileage disclosure on the title.

Issued on: September 13, 1991.

Jerry Ralph Curry,  
Administrator, National Highway Traffic Safety Administration.

[FR Doc. 91-22508 Filed 9-19-91; 8:45 am]

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**DEPARTMENT OF THE INTERIOR**

**Fish and Wildlife Service**

**50 CFR Part 17**

RIN/1018-AB42

**Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Six Plants From the Island of Lanai, Hawaii**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) determines six plants, *Abutilon eremitopetalum* (no common name (NCN)), *Cyanea macrostegia* subsp. *gibsonii* (NCN), *Gahnia lanaiensis* (NCN), *Phyllostegia glabra* var. *lanaiensis* (NCN), *Tetramolopium remyi* (NCN), and *Viola lanaiensis* (NCN), to be endangered pursuant to the Endangered Species Act of 1973, as amended (Act). Five of these taxa are known only from the Lanaihale area of Lanai Island, Hawaii, and the sixth from Aualua Ridge in the northwestern part of the island. The six plants are threatened by one or more of the following: Habitat degradation and competition by naturalized, exotic vegetation; predation or habitat destruction by feral animals; and an increased potential for extinction resulting from stochastic events because of the small numbers of extant individuals and their restricted distribution. Potential threats include fire and destruction or damage to the taxa and their habitat as a secondary result of urbanization and development of the island. This rule implements the protection and recovery provisions afforded by the Act for these plants.

**EFFECTIVE DATE:** October 21, 1991.

**ADDRESSES:** The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, Honolulu, Hawaii 96813.

**FOR FURTHER INFORMATION CONTACT:** Derral R. Herbst, at the above address (808/541-2749 or FTS 551-2749).

## SUPPLEMENTARY INFORMATION:

## Background

*Abutilon eremitopetalum*, *Cyanea macrostegia* subsp. *gibsonii*, *Gahnia lanaiensis*, *Phyllostegia glabra* var. *lanaiensis*, and *Viola lanaiensis* are endemic to the island of Lanai; *Tetramolopium remyi* at one time also grew on West Maui, but presently is believed to be extinct on that island (Lowrey 1990). The island of Lanai is a small island totaling about 139 square miles (sq mi) (361 sq kilometers (km)) in area. Lanai is a shield volcano built by eruptions at its summit and along three rift zones; the principal rift zone runs in a northwesterly direction and forms a broad ridge whose highest point, Lanaihale, has an elevation of 3,370 feet (ft) (1,027 meters (m)). The entire ridge is commonly called Lanaihale, after its highest point. The only known extant populations of five of the six taxa in this rule are found on the summit, slopes, or valleys of Lanaihale; the sixth taxon is confined to Aualua Ridge in the northwestern part of the island. All six taxa are known only from privately-owned land. A Lowland Wet Forest community covers the summit and narrow valleys of Lanaihale. Lowland Wet Forest communities occur on the six largest Hawaiian Islands at about 300 to 4,000 ft (100 to 1,200 m) in elevation (Gagne and Cuddihy 1990). Although annual rainfall averages about 37 inches (in) (94 centimeters (cm)) in this vegetation type on Lanai, there is considerable cloud cover during most afternoons and nights, and fog drip nearly triples the annual precipitation (Ekern 1964). The substrate is primarily silty clay and clay (Foote et al. 1972). The vegetation is a mixture of native and exotic species with native 'ohi'a and uluhe fern (*Metrosideros polymorpha* and *Dicranopteris linearis*, respectively) being the dominant species. The known existing populations of *Cyanea macrostegia* subsp. *gibsonii*, *Gahnia lanaiensis*, *Phyllostegia glabra* var. *lanaiensis*, and *Viola lanaiensis* are members of this community.

*Abutilon eremitopetalum*, which grows on the dry leeward slopes and valleys of Lanaihale, and *Tetramolopium remyi*, which grows on Aualua Ridge on the northwestern part of the island, are members of the Lowland Dry Shrubland vegetation community. This vegetation type occurs in leeward situations on all of the main islands except Niihau and Kahoolawe, at about 330 to 1,970 ft (100 to 600 m) in elevation (Gagne and Cuddihy 1990). The land type is "Rock land;" "Very stony land, eroded;" and "Rock outcrop." The annual rainfall is about 10

to 25 in (25 to 64 cm), mostly falling between November and April (Foote et al. 1972). The vegetation comprises typical dry lowland plants such as lama (*Diospyros sandwicensis*), wiliwili (*Erythrina sandwicensis*), 'a'ali'i (*Dodonaea viscosa*), nehe (*Lipochaeta* spp.), and koa haole (*Leucaena leucocephala*).

## Discussion of the Six Species

*Abutilon eremitopetalum* is based on a specimen collected by George C. Munro in Maunalei Valley, Lanai, in 1930 (Caum 1933; George Munro, in litt., 1951). Edward L. Caum described it as a new species, naming it *A. cryptopetalum* because its petals were small and completely enclosed by the calyx (Caum 1933). *Abutilon cryptopetalum* Caum, a later homonym as the name had previously been given to an Australian species of the genus, was renamed *A. eremitopetalum* by Caum, maintaining the meaning of its original specific epithet (Christophersen 1934). In 1932, Otto Degener discovered a shrub in the Waianae Mountains of Oahu, which resembled an *Abutilon* except that it had reduced or "aborted" petals completely enclosed by the calyx. He established a new genus, *Abortopetalum*, for his discovery, basing the genus upon its short, enclosed petals which he believed to be a unique feature (Degener 1932). Degener later transferred Caum's species to his new genus, giving rise to the epithet *Abortopetalum eremitopetalum* (Degener 1936). Erling Christophersen (1934) noted that all characters of the genus *Abortopetalum* are encompassed within the morphological range of *Abutilon* and reduced Degener's genus to synonymy, a course accepted by all botanists except Degener.

*Abutilon eremitopetalum* is a shrub in the mallow family (Malvaceae) with grayish-green, densely hairy, heart-shaped leaves; the leaves are 2.5 to 5 in (7 to 12 cm) long. One or two flowers on stems up to 1.5 in (4 cm) long are in the leaf axils. The calyx of the flowers is green, cup-shaped, and about 0.5 in (1.5 cm) long. The petals are shorter than the calyx and are bright green on the upper surface and reddish on the lower surface. The staminal column extends beyond the calyx and is white to yellow, with red style branches tipped with green stigmas. The fruit is a hairy, brown, dry, cylindrical capsule and about 0.3 in (1 cm) long. It is the only *Abutilon* on Lanai whose flowers have green petals hidden within the calyx (Bates 1990).

Historically, *Abutilon eremitopetalum* was found in small, widely scattered colonies at elevations of between 700

and 1,000 ft (215 and 305 m) in the ahupua'a (geographical areas) of Kalulu, Mahana, Maunalei, Mamaki, and Paawili on the northern, northeastern, and eastern parts of Lanai Island (Caum 1933; Hawaii Heritage Program (HHP) 1990b, 1990c; G. Munro, in litt., 1951). Today, about 30 (Hawaii Plant Conservation Center (HPCC) 1990a; Robert Hobdy, State Dept. of Land and Natural Resources, pers. comm., 1990) to 70 (HHP 1990a) individuals are known from a single population in Kahea Gulch on the northeastern part of the island. Habitat degradation and competition by encroaching exotic plant species such as lantana (*Lantana camara*), koa haole, and sourbush (*Pluchea carolinensis*) probably are the main threats to this species (HHP 1990a, HPCC 1990a). Browsing by axis deer (*Axis axis*) is another threat (HHP 1990a; HPCC 1990a; R. Hobdy, pers. comm., 1990). Although *Abutilon eremitopetalum* does not appear to be a preferred food of the deer, they will browse the species if other food sources become scarce. Grazing on grasses and forbs has the potential to promote soil erosion; this usually is limited to sheet erosion as the shrubs in the area prevent mass movement of the soil (R. Hobdy, pers. comm., 1990). Fire is another potential threat because the area is dry much of the year. The small number of extant individuals is in itself a considerable threat, as the limited gene pool may depress reproductive vigor, or a single natural or man-caused environmental disturbance could destroy the only known existing population. Cattle (*Bos taurus*) are known to have destroyed the plants in the past (G. Munro, in litt., 1951), but today are not a problem as the island is no longer a cattle ranch.

*Cyanea macrostegia* subsp. *gibsonii* was first collected by William Hillebrand in July, 1870, "on the highest wooded ridge" (Lanaihale) of the island of Lanai (Rock 1919). Hillebrand, a medical doctor and author of "Flora of the Hawaiian Islands," named his new species *Cyanea gibsonii* in honor of Walter Murray Gibson (Hillebrand 1888), a Mormon missionary who had established a settlement on the island and later became a notorious figure in Hawaiian politics. The type specimen was deposited in the Berlin Herbarium, which was destroyed in 1943; in 1988 an isotype in the National Herbarium of Victoria, Melbourne, Australia, was designated as the lectotype (Lammers 1988). In 1987, Harold St. John, questioning the validity of the characters used to delineate the genus *Cyanea*, transferred all species of *Cyanea* to the closely related genus *Delissea* (St. John 1987, St. John and

Takeuchi 1987). Few botanists have accepted St. John's taxonomy for this group; the majority continue to recognize the genus *Cyanea* (Lammers 1990). Several botanists noted the similarity between *C. gibsonii* and a Maui species of *Cyanea*, *C. macrostegia* (Rock 1919, Wimmer 1943), the Lanai plant differing only in that it has a curved (rather than suberect) corolla. Thomas Lammers, the latest monographer of the Hawaiian members of this family, believed that it would be more appropriate to treat the two as conspecific subspecies and published the new combination and status in 1988.

*Cyanea macrostegia* subsp. *gibsonii*, a member of the bellflower family (Campanulaceae), is a palm-like tree 3.2 to 23 ft (1 to 7 m) tall. The leaves are elliptic or oblong, about 8 to 31 in (20 to 80 cm) long and 2.5 to 8 in (6.5 to 20 cm) wide; the upper surface usually is smooth, while the lower is covered with fine hairs. The leaf stem often is covered with small prickles throughout its length. The inflorescences are horizontal and clustered among the leaves, each bearing 5 to 15 curved flowers which are blackish-purple externally and white or pale lilac within. The fruit is a yellowish-orange berry about 0.6 to 1.2 in (1.5 to 3 cm) long. The following combination of characters separates this taxon from the other members of the genus on Lanai: calyx lobes oblong, narrowly oblong, or ovate in shape; and the calyx and corolla both more than 0.2 in (0.5 cm) wide (Lammers 1990, Rock 1919, Wimmer 1943).

*Cyanea macrostegia* subsp. *gibsonii* historically is documented from the summit of Lanaihale and the upper parts of Mahana, Kaiholena, and Maunalei valleys of Lanai Island (Lammers 1990, Rock 1919). It presently is known from two gulches in upper Kaiholena Valley and one of the feeder gulches into Maunalei Valley. The Maunalei population was last seen in the late 1980's and, although its habitat showed signs of disturbance, was the healthiest of the three populations (R. Hobdy, pers. comm., 1990). In 1989, only a single plant could be found at one of the Kaiholena sites, and it was being overgrown by kahili ginger (*Hedychium gardnerianum*) (R. Hobdy, pers. comm., 1990). Browsing by deer and encroaching exotic species of plants are the main threats (R. Hobdy, pers. comm., 1990). The small number of extant individuals also is a threat, as the limited gene pool may depress reproductive vigor, or any natural or man-caused environmental disturbance could destroy the only known existing population.

*Gahnia lanaiensis* was first collected by Otto and Isa Degener on "Lanai, east of Munro Trail and north of Lanai-hale, in shrubby rainforest at 3,000 ft., Sept. 4, 1963 \* \* \*" (Degener and Degener 1965). The following year, the Degeners and J.H. Kern published the new taxon, naming it for the island on which it grows (Degener *et al.* 1964). The species is considered endemic to the island of Lanai, but is very closely related to *G. melanocarpa* of eastern Australia (Koyama 1990).

*Gahnia lanaiensis*, a member of the sedge family (Cyperaceae), is a tall (5 to 10 ft (1.5 to 3 m)), tufted, perennial, grass-like plant. This sedge may be distinguished from grasses and other genera of sedges on Lanai by its spirally arranged flowers, its solid stems, and its numerous, three-ranked leaves. *Gahnia lanaiensis* differs from the other members of the genus on the island by its achenes (seed-like fruits), which are 0.14 to 0.18 in (0.35 to 0.45 cm) long and purplish-black when mature (Koyama 1990).

*Gahnia lanaiensis* is known from 15 or 16 large clumped plants growing along the summit of Lanaihale (HHP 1990d to 1990f). The population extends for a distance of about 0.8 mi (1.3 km) between 3,000 and 3,360 ft (915 and 1,025 m) in elevation (HHP 1990d to 1990f). This distribution encompasses the entire known historic range of the species. The primary threat to this species is the small number of plants and their restricted distribution, which increases the potential for extinction from stochastic events. Potentially, a long-term threat to the species is posed by the planned development of the island. Presently, hotels are being built and a tourist industry is planned. The Munro Trail, which traverses Lanaihale, affords a beautiful view of the island and is sure to be popular with tourists. Approximately 30 percent of the known plants of *G. lanaiensis* grow along this trail system. Increased human use of the trail could lead to the destruction of individuals of the species. Disturbance of the soil or destruction of groundcover plants would increase the potential for erosion and open the area to invading exotic plants (Joel Lau, HHP, pers. comm., 1990). Manuka (*Leptospermum scoparium*), a weedy tree introduced from New Zealand, is spreading along Lanaihale, but has not yet reached the *Gahnia* area. However, manuka may expand its distribution into the remaining *Gahnia* habitat and may compete with *Gahnia* for space.

*Phyllostegia glabra* var. *lanaiensis* was first collected by Horace Mann, Jr., and William Tufts Brigham during the

year they spent collecting botanical specimens in Hawaii (May 1864 to May 1865). It is presumed that all collections of this taxon were made in the "mountains of Lanai," but the plant is known definitely only from Kaiholena Gulch. Earl E. Sherff described this variety in 1934, naming it for the island on which it grows (Sherff 1934).

*Phyllostegia glabra* var. *lanaiensis* is a robust, erect to decumbent, glabrous, perennial herb in the mint family (Lamiaceae). Its leaves are thin, narrow, lance-shaped, 3 to 9.5 in (8 to 24 cm) long and 0.6 to 1 in (1.6 to 2.5 cm) wide, often red-tinged or with red veins, and toothed at their edges. The flowers are in clusters of 6 to 10 per leaf axil, mostly only at the ends of branches. The flowers are white, occasionally tinged with purple, and are variable in size, about 0.4 to 1 in (1 to 2.5 cm) long. The fruit consists of four small, fleshy nutlets. Two varieties of *P. glabra* occur on Lanai. The variety *lanaiensis* can be distinguished from the variety *glabra* by its shorter calyx and narrower leaves. *Phyllostegia imminuta*, the only other member of the genus on Lanai, is a hairy plant with a calyx about 0.1 in (0.3 cm) long, while *P. glabra* lacks hair and has a calyx about 0.2 to 0.4 in (0.4 to 1.1 cm) long (Degener and Degener 1960, Fosberg 1936a, Sherff 1935b, Wagner *et al.* 1990).

*Phyllostegia glabra* var. *lanaiensis* has not been seen for several years. Last sighted in the 1980's, a single plant was seen in a gulch feeding into the back of Maunalei Valley (R. Hobdy, pers. comm., 1990). The gulches and valleys of Lanaihale are very rugged and have steep walls; consequently they are not explored with any regularity. Because no thorough recent surveys for this taxon have been conducted in this rugged terrain, the likelihood that this plant still exists is very good. Browsing by deer and invading, competing exotic plants are the two main threats to all the native vegetation within the historic range of this taxon (R. Hobdy, pers. comm., 1990).

*Tetramolopium remyi* was first collected on Maui, most likely in the foothills of western Maui, by Ezechial Jules Remy, between 1851 and 1855. In 1861, Asa Gray described the species as *Vittadinia remyi*, reducing the genus *Tetramolopium* to section of *Vittadinia* in the same publication (Gray 1861). William Hillebrand was the first to collect the species on Lanai. After reviewing previous work, he decided to maintain the genus *Tetramolopium* and transferred all Hawaiian *Vittadinia* to that genus (Hillebrand 1888). Drake del Castillo (1888) placed this species in the

closely related genus *Erigeron*; he gave no explanation for his action, and this course has not been followed by other botanists.

*Tetramolopium remyi*, a member of the sunflower family (Asteraceae), is a much branched, decumbent (reclining, with the end ascending) or occasionally erect shrub up to about 15 in (40 cm) tall. Its leaves are firm, very narrow, 0.6 to 1.4 in (1.5 to 3.5 cm) long, and with the edges rolled inward when the leaf is mature. There is a single flower head per branch. The heads are 0.4 to 0.6 in (0.9 to 1.5 cm) in diameter and on stalks 1.6 to 4.7 in (4 to 12 cm) tall; each comprises 70 to 100 yellow disk and 150 to 250 white ray florets. The stems, leaves, flower bracts, and fruit are covered with sticky hairs. *Tetramolopium remyi* has the largest flower heads in the genus. Two other species of the genus are known historically from Lanai, but both have purplish rather than yellow disk florets and from 4 to 60 rather than 1 flower head per branch (Lowrey 1986, 1990; Sherff 1935a).

A single population of *Tetramolopium remyi*, comprising about 35 plants growing in an area of about 2,500 sq ft (230 sq m), is known to be extant; the population is found on Aualua Ridge at an elevation of about 750 ft (228 m). From the time the population was first observed about 11 years ago, it has decreased slightly. However, fluctuations in population size are normal, depending on season and rainfall (R. Hobdy, pers. comm., 1990). Historically, the species also was known from the Lahaina area of West Maui. As it has not been documented from Maui since 1944, it is believed to be extinct on that island. Browsing by deer and mouflon sheep (*Ovis musimon*) and competition from invading weedy species, primarily broomsedge (*Andropogon virginicus*) and Guinea grass (*Panicum maximum*), are the main threats to the species (HPCC 1990b; R. Hobdy, pers. comm., 1990). The plants are tiny and can easily be displaced and eliminated by invading exotic species. Because the population grows on a dry part of the island, fires also are a potential threat (HPCC 1990b).

*Viola lanaiensis* was first collected by Remy on Lanai sometime between 1851 and 1855. Hillebrand (1888) mentioned in passing that Remy's specimen probably was *V. robusta*, but it was not until 1911 that it was critically studied. In that year, Joseph Rock described the Lanai plant as a variety of *Viola helenae*, a species restricted to the Wahiawa drainage basin of Kauai (Rock 1911). Independently, and without knowledge

of Rock's publication, Wilhelm Becker described the taxon, named it *V. lanaiensis*, and selected a specimen collected by Rock as the type (Becker 1916). The similarity between the Lanai plant and *V. helenae* is superficial, and most botanists today regard the Lanai *Viola* as a distinct species (Becker 1916; St. John 1979, 1989; Wagner *et al.* 1990).

*Viola lanaiensis* is a member of the violet family (Violaceae) and is a small, erect, unbranched or little branched subshrub, 4 to 16 in (10 to 40 cm) tall. The leaves, which are clustered toward the upper part of the stem, are lance-shaped, about 2.4 to 4.3 in (6 to 11 cm) long and 0.5 to 1.0 in (1.3 to 2.5 cm) wide. Below each leaf is a pair of narrow, membranous stipules, about 0.4 in (0.9 cm) long. The flowers are small, 0.4 to 0.6 in (1.0 to 1.5 cm) long, white tinged with purple or with purple veins, occurring singly or up to four per upper leaf axil. The fruit are capsules, about 0.4 to 0.5 in (1.0 to 1.3 cm) long. It is the only member of the genus on Lanai (Becker 1916, MacCaughy 1918, St. John 1989, Skottsberg 1940, Wagner *et al.* 1990).

*Viola lanaiensis* historically was known from the summit and upper slopes of Lanaihale from near the head of Hookio Gulch to Haalelepaakai, a distance of about 2.5 mi (4 km). Presently, two small populations exist. Although their size currently is unknown, it is estimated that the two populations total less than 500 plants (J. Lau, pers. comm., 1990). This estimate undoubtedly is very high (Derrall Herbst, pers. obs.). Threats include browsing by deer and competition from invading exotic plants (J. Lau, pers. comm., 1990, St. John 1981), and the potential of extinction from stochastic events due to the small population size and restricted distribution. As most of the plants grow along the Lanaihale trails, the threat of destruction or damage to the plants will increase as the tourist industry continues to develop the island.

#### Previous Federal Action

Federal action on these plants began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. In that document, *Gahnia lanaiensis* and *Viola lanaiensis* (as *V. helenae* var. *lanaiensis*) were considered to be endangered; *Abutilon eremitopetalum*, *Cyanea macrostegia* subsp. *gibsonii* (as *C. gibsonii*), *Phyllostegia glabra* var. *lanaiensis*, and

*Tetramolopium remyi* were considered to be extinct. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including *Abutilon eremitopetalum*, *Cyanea macrostegia* subsp. *gibsonii* (as *C. gibsonii*), *Gahnia lanaiensis*, *Phyllostegia glabra* var. *lanaiensis*, *Tetramolopium remyi*, and *Viola lanaiensis* (as *V. helenae* var. *lanaiensis*). The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975, **Federal Register** publication.

General comments received in relation to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired.

The Service published updated notices of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), and February 21, 1990 (55 FR 6183). In these notices, *Abutilon eremitopetalum*, *Cyanea macrostegia* subsp. *gibsonii* (as *C. gibsonii* in the 1980 and 1985 notices of review), *Gahnia lanaiensis*, *Phyllostegia glabra* var. *lanaiensis*, *Tetramolopium remyi*, and *Viola lanaiensis* (as *V. helenae* in the 1980 and 1985 notices of review) were treated as Category 1 candidates for Federal listing. Category 1 taxa are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly

submitted on that date. On October 13, 1983, the Service found that the petitioned listing of these species was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988, and 1989. On September 17, 1990, the Service published in the *Federal Register* (55 FR 38236) a proposal to list these six taxa as endangered. This proposal was based primarily on information supplied by the Hawaii Heritage Program, data from specimens in the Herbarium Pacificum of the Bernice P. Bishop Museum, and the observations of botanists and naturalists. The Service now determines *Abutilon eremitopetalum*, *Cyanea macrostegia* subsp. *gibsonii*, *Gahnia lanaiensis*, *Phyllostegia glabra* var. *lanaiensis*, *Tetramolopium remyi*, and *Viola lanaiensis* to be endangered species with the publication of this rule.

#### Summary of Comments and Recommendations

In the September 17, 1990, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the final listing decision. The public comment period ended on November 16, 1990. Appropriate State agencies, county and city governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in the "Maui News" on September 28, 1990, which invited general public comment. No public hearing was requested or held. Three letters of comment were received. Two conservation organizations responded to our request for comments: The Hawaii Heritage Program of The Nature Conservancy compared the status information in the proposed rule and found it consistent with the information for the six taxa that they had in their files; the Center for Plant Conservation supported the listing of the taxa. The third response was from Castle and Cooke, Inc. (C&C), which owns approximately 98 percent of the island of Lanai. They did not support the listing of the six taxa. Their comments and the Service's response to each are given below.

*Issue 1:* C&C questioned the observed rarity of the taxa in the proposed rule. In their view, neither the distributions nor the populations of the six plants are

fully known at the present time, but the distributions are likely to be greater than stated in the proposal, and therefore the plants would not qualify for endangered status. Also, given our lack of knowledge of the population size and distribution of the six taxa, the threat of destruction from stochastic events is highly speculative. Their rationale for this statement was as follows:

*First:* Lanaihale comprises an area of about 9,000 acres (3,642 hectares); its gulches and valleys are rugged and steep walled and have not been explored with any frequency or regularity.

*Second:* With the exception of *Abutilon eremitopetalum*, the known individuals of the taxa in the proposed rule are found in the vicinity of the existing trails on Lanaihale. C&C believes that no recent, thorough surveys have been conducted throughout the historic ranges of the taxa or other parts of Lanaihale where these plants potentially could be found. Therefore C&C believes it very likely that additional occurrences of each taxon exist on Lanaihale and that the proposed rule has significantly underestimated the abundance and distribution of these taxa. The Hawaii Heritage Program, one of the major sources of information in the proposed rule, states that its data base does not provide a definitive or comprehensive statement on the distribution and abundance of species.

*Third:* The information in the proposed rule concerning the six plants apparently came from personal communications from very few individuals or from the Hawaii Heritage Program data base. With the exception of *Gahnia lanaiensis*, the information in the proposal is based upon the personal observations of Robert Hobdy which, C&C believes, were made during field surveys on Lanai between August 16 and September 2, 1987. During this short period of time, Hobdy made several significant discoveries, which would indicate that the data used by the Service in proposing these plants as endangered is too limited to make an informed decision concerning their populations and distributions.

*Service Response:* First: More data on the population size and distribution of these plants would have been desirable, but is unnecessary to demonstrate the present-day rarity of the taxa. Given the threats to these plants, the amount of sampling which has occurred on the island (see "Third" below), and the noted decline in the quality of the habitat over the years, it is unlikely that

a sufficiently large and widespread, yet undiscovered population exists to warrant removal of the taxa from consideration for listing as endangered.

*Second:* The proposed rule mentions only two plants, *Gahnia lanaiensis* and *Viola lanaiensis*, with populations in the vicinity of the existing trails on Lanaihale; the distributions given for the other four plants are ridges and walls and floors of valleys. As discussed in the preceding response, the Service believes that the available information on these taxa is sufficient to warrant listing them as endangered. Section 4(b)(1)(A) of the Act states that the Secretary of the Interior shall make a determination whether any species is an endangered species or a threatened species solely on the basis of the best scientific data available. Therefore the Hawaii Heritage Program's statement that its data base may not have the final word on taxa in no way removes these plants from consideration as endangered or threatened taxa. The Act also requires that the Service periodically review all taxa listed by the Federal government as endangered or threatened. The discovery of additional populations could lead to the downlisting or delisting of the taxa.

*Third:* Knowledge of the flora of the island of Lanai began with the collections of Ezechiel Jules Remy, made between 1851 and 1855. By 1920, at least eight other botanists had collected on the island. Beginning in 1927, George C. Munro, a resident of Lanai and manager of the cattle ranch on the island, took an active interest in the flora of the island, and for the next 12 years sent specimens of the island's plants to the Bishop Museum. He freely shared his knowledge of the island's flora with other interested parties such as Dr. F. R. Fosberg, who spent a week botanizing on the island with him in 1935. Since that time a great number of botanists and naturalists have collected and studied the plants of Lanai. Perhaps the longest stay by a non-resident interested in Lanai's flora was that of Drs. Otto and Isá Degener, who spent three months on the island in late 1963 and early 1964. It was during their visit that Robert Hobdy became interested in the flora of the island. Mr. Hobdy is now recognized as the authority on the flora of Lanai and has continued up to the present to study the island's plants; his information is the most current. As Hobdy is an authority on the plants of Lanai, and as his information is the most current (he has conducted surveys since that of 1987), his observations were cited most frequently in the proposed rule. However, all available information

on the island's plants (including the results of Munro, Fosberg, and the Degeners) was taken into account while drafting the proposed rule.

**Issue 2:** The proposed tourist industry does not present a threat to the plants. None of the development will take place on Lanaihale, a mostly rugged, not easily accessible area, and use of Lanaihale will be controlled by C&C.

**Service Response:** The proposed rule acknowledges that no development presently planned for the island will directly impact the six plants included in the proposal. However, the Service stands by its statement that the plants face a *potential* threat of damage to their habitat due to increased human traffic stemming from recreational use and development-related activities. The first four phases of development planned for the island include 352 hotel rooms, 500 single family homes, and about 200 townhouses. Compared with the pre-development numbers, this will almost double the number of residential units and will be an increase of 342 hotel units (State of Hawaii 1980). It is unknown what further development will occur if the first four phases are successful. Many of the valley of Lanaihale are rugged and not easily accessible, but the Munro Trail, which traverses Lanaihale, is a good jeep road and is easily hiked. Two of the plants included in the proposed rule occur along the trail and are susceptible to inadvertent damage by those using the trail. Regardless of the numerous amenities provided downslope by C&C, many people enjoy hiking or traveling by jeep in more remote areas and it is very likely that the use of Lanaihale by unguided individuals will increase with the influx of people attracted by the development of the island.

**Issue 3:** Fire does not pose a significant threat to the plants, as Lanaihale is damp most of the year.

**Service Response:** Fire is listed as a threat to two of the plants, *Tetramolopium remyi* and *Abutilon eremitopetalum*. These species grow on lower elevation, dry ridges where fires do occur on occasion.

**Issue 4:** Any threat from axis deer is likely to be reduced in the future. Because deer have damaged vegetation on the island and pose a risk to Lanai's watershed on Lanaihale, C&C is undertaking measures to control and reduce the deer population.

**Service Response:** The Act requires that the Service periodically review the status of all taxa listed by the Federal government as endangered or threatened. A change in status could lead to the downlisting or delisting of the taxa. Should the population of axis

deer be reduced to the point that it no longer poses a threat to one or more of these plants, then the status of those taxa will be reassessed and they would be downlisted or delisted if warranted.

**Issue 5:** Habitat degradation and competition by naturalized, exotic vegetation does not pose a significant threat. The proposed rule mentions that only three of the plants, *Phyllostegia glabra* var. *lanaiensis*, *Tetramolopium remyi*, and *Viola lanaiensis*, were threatened by competing, naturalized vegetation. *Phyllostegia glabra* var. *lanaiensis* has not been seen for several years, but is likely to still exist, according to the proposed rule. The *Tetramolopium remyi* population has decreased only slightly in the last 11 years. This seems to belie the proposed rule's contention that these plants can easily be eliminated by invading, exotic species.

**Service Response:** The proposed rule states that *Abutilon eremitopetalum* is threatened by encroaching exotic plants such as lantana, koa haole, and sourbush; *Cyanea macrostegia* subsp. *gibsonii* by kahili ginger; *Gahnia lanaiensis* potentially by manuka, which is spreading along Lanaihale; *Tetramolopium remyi* by broomsedge and Guinea grass; and *Viola lanaiensis* by various invading, exotic plants. Although *Phyllostegia glabra* var. *lanaiensis* has not been seen since the 1980's, the proposed rule states that exotic plants are a threat to all native vegetation within its historic range. That aggressive, exotic vegetation can and does compete with and often replaces native vegetation is well documented for many parts of the world, including Hawaii. The dry land species in the proposed rule, such as *Tetramolopium remyi*, are doubly threatened by the presence of grasses. Grasses provide fuel for fires, and a fire usually will favor the more rapid spread of the grasses; also very few species can outcompete well established, perennial grasses such as those that threaten *Tetramolopium remyi*. A single fire or a year of weather favorable to the grasses could mark the end of the population of *Tetramolopium remyi*. The fact that this species appears to have maintained its population over the past 11 years does not discount the threat that exotic vegetation poses to its survival.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that the six taxa from Lanai in this rule should be classified as endangered species. Procedures found at section 4 of

the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Abutilon eremitopetalum* Caum (NCN), *Cyanea macrostegia* subsp. *gibsonii* (Hillebr.) Lammers (NCN), *Gahnia lanaiensis* Degener, I. Degener, and J. Kern (NCN), *Phyllostegia glabra* var. *lanaiensis* Sherff (NCN), *Tetramolopium remyi* (A. Gray) Hillebr. (NCN), and *Viola lanaiensis* W. Becker (NCN) are as follows:

#### A. The Present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range

As evidenced by remnants of native vegetation on this island, Lanai probably was covered throughout by forests and shrublands before arrival of the early Polynesians who discovered the islands. Much of Lanai's vegetation was destroyed by early land use practices, which include cattle and sheep (*Ovis aries*) ranching; the clearing of land for pineapple cultivation; and the introduction of feral animals such as goats (*Capra hircus*), deer, and mouflon sheep, and domestic animals such as cattle and pigs (*Sus scrofa*) which later became feral (Cuddihy and Stone 1990, Fosberg 1936b, Tomich 1986). Over the ensuing years, the cattle, sheep, goats, and pigs were destroyed or removed from the island. But it is estimated that only about 10 percent of the island presently remains in native forest or shrubland (Alan Holt, the Nature Conservancy of Hawaii, pers. comm., 1990). Today, habitat degradation due to axis deer, and, to a lesser extent, mouflon, and the invasion of and competition by exotic species of plants probably are the two greatest threats to the six taxa in this rule. The axis deer is now considered to be the major threat to the forests of Lanai (Culliney 1988). Deer and mouflon browse on native vegetation (see Factor C), destroying or damaging the habitat. Also, their trampling removes vegetation and litter important to soil-water relations, compacts the soil, promotes erosion, and opens areas, allowing exotic plants to invade. Deer are common throughout the summit; very few patches of forest are untouched by them. Ridge tops in particular, are being invaded, but so are gulches (R. Hobdy, pers. comm., 1990).

Lanai is in the process of converting from an agricultural (pineapple) to a tourist-based economy. Hotels are being

built in conjunction with an anticipated increase in the tourist industry. Although at present there are no plans for development which would directly impact Lanaihale, it is inevitable that an increase in the number of people on the island will have that effect. The Munro Trail, which traverses Lanaihale, affords a beautiful view of the island and will likely be popular with tourists. Approximately 30 percent of the known plants of *Gahnia lanaiensis* and most of the known *Viola lanaiensis* plants grow along this trail or one of its branches. Increased hiking or jeep-riding along the trail could lead to the destruction of individuals of these plants. Disturbance of the soil or destruction of groundcover plants due to these activities would increase the potential for erosion and open the area to invading exotic plants.

*B. Overutilization for commercial, recreational, scientific, or educational purposes*

Illegal collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity and would seriously impact the taxa in this rule. Disturbance to the area by trampling during recreational use (hiking, for example) would promote erosion and greater ingress by competing exotic species. This threat will increase as the tourist industry becomes a more prominent force on Lanai.

*C. Disease or Predation*

Axis deer and mouflon sheep are managed by the State for recreational hunting on the island. The deer are primarily on the summit and in the gulches of Lanaihale, whereas mouflon are more common on the drier slopes—precisely the habitats of the six taxa included in this rule. In addition to habitat degradation resulting from their activities, which was discussed in Factor A above, their browsing also destroys or damages plants.

*D. The Inadequacy of Existing Regulatory Mechanisms*

There are no State laws or existing regulatory mechanisms at the present time to protect these taxa or to prevent their further decline. However, Hawaii's Endangered Species Act (Hawaii Revised Statutes (HRS), section 195D-4(a)) states, "Any species of aquatic life, wildlife or land plant that has been determined to be an endangered species pursuant to the Endangered Species Act (of 1973) shall be deemed to be an endangered species under the provisions of this chapter \* \* \*". Further, the State may enter into agreements with Federal

agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (section 195D-5(c)). Funds for these activities could be made available under section 6 of the Federal Act (State Cooperative Agreements). Listing of the six taxa from Lanai will therefore reinforce and supplement the protection available to the taxa under State law. The Federal Act also will offer additional protection to the taxa, because it is a violation of the Act for any person to remove, cut, dig up, damage, or destroy an endangered plant in an area not under Federal jurisdiction in knowing violation of State law or regulation or in the course of any violation of a State criminal trespass law.

*E. Other Natural or Manmade Factors Affecting its Continued Existence*

The small number of populations and of individual plants of these taxa increases the potential for extinction from stochastic events. The limited gene pool may depress reproductive vigor, or a single man-caused or natural environmental disturbance could destroy a significant percentage of the individuals of these taxa.

Several species of exotic plants have become common on the summit and in the gulches and valleys of Lanaihale. Strawberry guava (*Psidium cattleianum*) is most common on the northern end of Lanaihale, firebush (*Myrica faya*) is most common on the southern end, and manuka has spread through the range (R. Hobdy, pers. comm., 1990). Kahili ginger is common on some of the valley floors, as in Kaiholena Gulch, while koa haole, lantana, and sourbush also are aggressive invaders. These weedy plants are more aggressive than the native species and compete more successfully for water, minerals, space, and light. In the drier areas, broomsedge and Guinea grass are the dominant exotic species (R. Hobdy, pers. comm., 1990). Not only do these species compete with native plants such as *Tetramolopium remyi*, they are a source of fuel, increasing the potential threat of fire in the area (HPCC 1990b).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining to make this rule final. Based on this evaluation, the preferred action is to list *Abutilon eremitopetalum*, *Cyanea macrostegia* subsp. *gibsonii*, *Gahnia lanaiensis*, *Phyllostegia glabra* var. *lanaiensis*, *Tetramolopium remyi*, and *Viola lanaiensis* as endangered. These taxa

are threatened by predation and habitat degradation by feral animals, by encroachment and competition from exotic species of plants, and/or by the potential of stochastic events to extirpate these small populations with restricted distributions. They also face the potential threat of damage to their habitat by increased human traffic stemming from recreational use and development-related activities. In addition, wildfires can eliminate plants and habitat. Because these taxa are in danger of extinction throughout all or a significant portion of their range, they fit the definition of endangered as defined in the Act. Critical habitat is not being designated for these taxa for reasons discussed in the "Critical Habitat" section of this rule.

**Critical Habitat**

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat concurrently with determining a species to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for these taxa. Such a determination would result in no known benefit to the taxa. The publication of descriptions and maps required when critical habitat is designated would increase the degree of threat to these plants from possible take or vandalism and, therefore, could contribute to their decline and increase enforcement problems. The listing of these taxa as endangered publicizes the rarity of the plants and, thus, can make them attractive to researchers, curiosity seekers, or collectors of rare plants. All involved parties and the major landowner have been notified of the general location and importance of protecting the habitat of these taxa. Protection of their habitat will be addressed through the recovery process and through the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for these taxa is not prudent at this time, because such designation would increase the degree of threat from vandalism, collecting, or other human activities, and because it is unlikely to aid in the conservation of these taxa.

**Available Conservation Measures**

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in

conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Although none of these taxa occur on Federal land, private activities requiring Federal permits or funding can be affected. In this case, the Federal agency is responsible for consulting with the Service under section 7 of the Act to ensure that the activities they provide permits or funding for are not likely to jeopardize the continued existence of any listed species.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. With respect to the six plants from the island of Lanai, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal with respect to any endangered plant for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale these species in interstate or foreign commerce; remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such plants on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy listed plants on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation

agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances.

It is anticipated that few, if any, trade permits would ever be sought or issued because the taxa are not common in cultivation or in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 N. Fairfax Drive, room 432-ARLSQ, Arlington, Virginia 22203-3507 (703/358-2104, FTS 921-2093).

#### National Environmental Policy Act

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the *Federal Register* on October 25, 1983 (48 FR 49244).

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U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541-2749 or FTS 551-2749).

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Regulations Promulgation

PART 17—[AMENDED]

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407, 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500, unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under the families indicated, to the List of Endangered and Threatened Plants:

§ 17.12 Endangered and threatened plants.

\* \* \* \* \*

(h) \* \* \* \*

Author

The primary author of this final rule is Dr. Derral R. Herbst, Fish and Wildlife Enhancement, Pacific Islands Office,

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae—Aster family:						
<i>Tetramolopium remyi</i> .....	None .....	U.S.A. (HI) .....	E	435	NA	NA
Campanulaceae—Bellflower family:						
<i>Cyanea macrostegia</i> subsp. <i>gibsonii</i> .....	None .....	U.S.A. (HI) .....	E	435	NA	NA
Cyperaceae—Sedge family:						
<i>Gahnia lanaiensis</i> .....	None .....	U.S.A. (HI) .....	E	435	NA	NA
Lamiaceae—Mint family:						
<i>Phyllostegia glabra</i> var. <i>lanaiensis</i> .....	None .....	U.S.A. (HI) .....	E	435	NA	NA
Malvaceae—Mallow family:						
<i>Abutilon eremitopetalum</i> .....	None .....	U.S.A. (HI) .....	E	435	NA	NA
Violaceae—Violet family:						
<i>Viola lanalensis</i> .....	None .....	U.S.A. (HI) .....	E	435	NA	NA

Dated: August 27, 1991.

Richard N. Smith,  
Acting Director, Fish and Wildlife Service.  
[FR Doc. 91-22893 Filed 9-19-91; 8:45am]  
BILLING CODE 4310-55-M

## 50 CFR Part 17

RIN 1018-AB42

### Endangered and Threatened Wildlife and Plants; Determination of Endangered Status for Five Plants From the Wahiawa Drainage Basin

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) determines five plants, *Cyanea undulata* (no common name (NCN)), *Dubautia pauciflora* (NCN), *Hesperomannia lydgatei* (NCN), *Labordia lydgatei* (kamakahala), and *Viola helenae* (NCN), to be endangered pursuant to the Endangered Species Act of 1973, as amended (Act). These species are known only from the Wahiawa drainage basin located on the island of Kauai, Hawaii. The five plants have been variously affected and are threatened by one or more of the following: habitat degradation and competition by naturalized, exotic vegetation; predation by rats which eat fruit, seeds, or vegetative parts of the plants; habitat destruction and potential seed transport of exotic plants by feral pigs; a typhoon which opened some small areas and allowed exotic species to invade; and the potential for extinction because of the depauperate number of extant individuals and their severely restricted distribution. This rule implements the protection and recovery provisions provided by the Act for these species.

**EFFECTIVE DATE:** October 21, 1991.

**ADDRESSES:** The complete file for this rule is available for public inspection, by appointment, during normal business hours at the U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, Honolulu, Hawaii 96813.

**FOR FURTHER INFORMATION CONTACT:** Derral R. Herbst, at the above address (808/541-2749 or FTS 551-2749).

#### SUPPLEMENTARY INFORMATION:

##### Background

*Cyanea undulata*, *Dubautia pauciflora*, *Hesperomannia lydgatei*, *Labordia lydgatei*, and *Viola helenae* are endemic to the Wahiawa drainage basin in the Koloa District of southern Kauai. Kauai is the oldest of the eight major Hawaiian Islands. Because of its

age and relative isolation, the levels of floristic diversity and endemism are higher on Kauai than on any other island in the archipelago. The Wahiawa Mountains area has one of the oldest and most diverse montane wet forests in Hawaii. In addition to the wet forest ecosystem, permanent streams, bogs, and ridge summit habitats also comprise the Wahiawa Mountains area. The majority of the plant communities are primary in nature with high floristic endemism. There has been relatively little disturbance to the area in the past, but alien plants are encroaching and feral pigs are present. Listing these five endemic species as endangered will aid in protecting and improving this habitat which also is home to an additional 18 or more taxa of extremely rare plants.

The area is roughly triangular in shape with Kapalaoa, Mt. Kahili, and Puuauka forming the three corners; it is about 1,200 acres (485 hectares) in size. The elevation ranges from about 2,000 to 3,300 feet (ft) (610 to 1,000 meters (m)). The land is owned primarily by a single corporate landowner, with a small parcel of State-owned land forming one corner of the triangle. The Wahiawa drainage basin is an important source of water for the agricultural industry on this part of the island and is managed by the landowner to preserve water quality.

#### Discussion of the Five Species

Until its rediscovery on June 10, 1988, *Cyanea undulata* was known only from the type collection made by Charles Forbes in 1909 in the "damp woods surrounding the Wahiawa swamp," and an earlier collection, now lost, by the Reverend J.M. Lydgate in 1908, probably from the same area (Rock 1919). Forbes described the plant as a new species in 1912, naming it for the wavy appearance of its leaf margins (Forbes 1912). In 1987, Harold St. John, questioning the validity of the characters used to delineate the genus *Cyanea*, transferred all species of *Cyanea* to the closely related genus *Delissea* (St. John 1987a, St. John and Takeuchi 1987). The prior existence of the combination *Delissea undulata* necessitated a new name for *Cyanea undulata* when treated as a *Delissea*. For this reason, St. John published *Delissea forbesii* as a new name for *Cyanea undulata* (St. John 1987a), and 4 months later published *Delissea lydgatei* as the new name (St. John 1987b). The second name is superfluous and thus illegitimate. Few botanists accept St. John's taxonomy for this group, and continue to recognize the genus *Cyanea* (Lammers 1990).

*Cyanea undulata* is an unbranched shrub in the bellflower family (Campanulaceae) and is about 6 to 12 ft

(1.8 to 3.6 m) tall. The leaves are narrowly elliptic, about 12 to 16 inches (in) (30 to 40 centimeters (cm)) long and 1 to 2 in (3 to 5 cm) wide, with wavy margins; the upper surface is smooth, and the lower is covered with fine, rust-colored hairs. The leaf stem is winged throughout its length. The inflorescence is about 17 in (45 cm) long and bears five or six yellowish, slightly curved, hairy flowers. The fruit is an orange berry about 0.7 in (1.7 cm) long (Lammers 1990, Rock 1919, Wimmer 1943). The size, shape, and the wavy margins of the leaves distinguish this species from the rest of the genus.

*Cyanea undulata* is presently known from a single small population of about three or four individuals growing along the bank of a tributary of the Wahiawa Stream (Steven Perlman, Hawaii Plant Conservation Center, pers. comm., 1990). Several exotic plant species such as *Psidium cattleianum* (strawberry guava) and *Melastoma candidum* (melastoma) have invaded the drainage basin and are moving up along the stream (Timothy Flynn and David Lorence, National Tropical Botanical Garden, and S. Perlman, pers. comms., 1990). Habitat degradation and competition by exotic species are major threats to the native plants growing along the stream banks. The small number of extant individuals is in itself a considerable threat, because the limited gene pool may result in depressed reproductive vigor, or a single natural or man-caused environmental disturbance could destroy the only known existing population.

The earliest collections of *Dubautia pauciflora* were made in 1909 by C.N. Forbes and in 1911 by J.M. Lydgate, both from the "Wahiawa Mountains (on a ridge just above tributary of the Wahiawa Stream)." There is no further record of the species until it was rediscovered by S. Perlman in 1979 in the "Wahiawa Mts., on E facing ridge of 10° slope 30 m from an unnamed left (Hanapepe) fork of Wahiawa Stream \* \* \* ." This is the same general area from which the Forbes and Lydgate collections were made, and consists of a population of about 30 plants. Two additional populations have been found since 1979. A population of about three plants is on the Mt. Kahili ridge that forms the eastern boundary of the Wahiawa drainage basin. The other is a small population along the east fork of the Wahiawa Stream (T. Flynn, D. Lorence, and S. Perlman, pers. comms., 1990). In 1981, H. St. John and G.D. Carr (1981) described the taxon as a new species, based on a specimen that Carr collected from the population

discovered by Perlman. The specific name denotes the fact that this species has the smallest number of florets (flowers) per head of any of the Hawaiian members of its tribe.

*Dubautia pauciflorula* is a member of the sunflower family (Asteraceae) and is a somewhat sprawling to erect shrub up to about 10 ft (3 m) tall. The leaves are clustered toward the ends of the branches, oppositely arranged, narrow, widening toward the tip, 3 to 8 in (8 to 21 cm) long, and up to 1.3 in (3.2 cm) wide. There are 50 to 500 heads in an open inflorescence 3 to 12 in (8 to 30 cm) long and 2 to 30 in (6 to 30 cm) wide; each head comprises 2 to 4 florets. The florets are yellow, while the stems and bracts of the heads are often purple. The fruits are small dry seeds, about 0.1 in (0.3 cm) long (Carr 1985, 1990; St. John and Carr 1981).

In addition to the threat posed due to the small number of remaining individuals, two other potential threats to *Dubautia pauciflorula* exist: One is habitat degradation and competition by invading exotic plants, which are now beginning to be observed in the area; the other is feral pigs. A few pigs have been seen and some rooting and disturbance have been observed in the area, but at present, it is not extensive. Feral pigs damage and destroy plants, their rooting opens areas allowing competing exotic plants to invade, and they transport seeds of alien plants (T. Flynn, D. Lorence, and S. Perlman, pers. comms., 1990).

*Hesperomannia lydgatei* was first collected by J.M. Lydgate in the Wahiawa Mountains in 1908, and was named in his honor by C.N. Forbes the following year (Forbes 1909). The only other collection documenting the species' existence before its rediscovery by C.H. Lamoureux in 1955, was one made by Forbes in 1909. Today four populations of the species are known, all along or near the Wahiawa Stream or its tributaries. The first population is of four or five trees above Wahiawa Stream just behind Kanaele Bog. This population was estimated at 30 to 36 trees and seedlings in 1972. Another population of about 10 to 12 trees is farther upstream. A third population of 40 to 50 trees and a fourth population both grow along tributaries of the stream; about 10 years ago the fourth population was estimated to be between 100 to 125 plants. While the present size of this population is unknown, it probably is less than the original estimate (Hawaii Heritage Program Collection Log Sheet dated April 4, 1989; T. Flynn, D. Lorence, S. Perlman, pers. comms., 1990).

*Hesperomannia lydgatei* is a member of the sunflower family and resembles a spineless tree thistle with pendent flowers. It is a small tree, rarely over 10 ft (3 m) tall. The leaves are paler beneath, alternately arranged, elliptic or lance-shaped, but wider above the middle, 4 to 12 in (10 to 30 cm) long, and 1.4 to 3.5 in (3.5 to 9 cm) wide. The flower heads are 1.5 to 2 in (4 to 5 cm) tall, with usually 4 or 5 heads on slender stems clustered at the ends of branches, pendent when mature. The flower heads are enclosed by four to eight circles of overlapping bracts, the outer ones brown or purplish, the inner ones silver. The florets are yellow and are split about to the middle into narrow lobes. Mature fruits are unknown (Carlquist 1957, Degener 1932, Fedde 1911, Forbes 1909, St. John 1981, Wagner *et al.* 1990). It is the only member of the genus on Kauai, and the only one with pendent flowers.

The threats to this species are similar to those for the preceding species: Competition from invading exotic plants, small numbers and sizes of populations, and increasing habitat degradation by feral pigs (T. Flynn, D. Lorence, and S. Perlman, pers. comms., 1990).

*Labordia lydgatei* is known only from five collections: one by J.M. Lydgate in 1908 or 1909, two by C.N. Forbes in 1909, one by S. Perlman in 1987, and one by W.L. Wagner and C.T. Imada in 1988. The species presently is known from a single population of about three individuals located at the end of the valley above one of the tributaries of Wahiawa Stream (S. Perlman, pers. comm., 1990). C.N. Forbes described this species in 1916, naming it in honor of its discoverer, the Reverend Lydgate (Forbes 1916).

*Labordia lydgatei* is a member of the strychnine family (Loganiaceae) and is a many-branched shrub or small tree with sparsely hairy, square stems. The leaves are elliptic, often widening toward the tip, smooth above but with fine hairs on the lower surface; they are 2 to 4 in (5 to 10 cm) long and 0.8 to 2.8 in (2 to 7 cm) wide. The inflorescence comprises 6 to 21 small, slender, funnel-shaped, pale yellow flowers, each about 0.3 in (0.7 cm) long. The fruit is a small, two-parted, ovoid, woody capsule with a short, blunt beak at its tip (Forbes 1916, Sherff 1939, Wagner *et al.* 1990). This species can be separated from *L. tinifolia*, the only other member of the genus on this part of Kauai, by its sessile cymes. The small, restricted population and the likelihood of invasion by competing exotic species are the main threats to the species.

*Viola helenae* was collected by J.M. Lydgate in the Wahiawa Mountains in May, 1908. Using this specimen as the type, he and C.N. Forbes described the species the following year and named it for Lydgate's wife, Helen (Forbes 1909). Two years later, J.F. Rock (1911) described a similar plant from the island of Lanai as a variety of *Viola helenae*. The similarity between the two taxa is superficial, and most botanists today regard the Lanai plant as a distinct species (Becker 1916, St. John 1979, Wagner *et al.* 1990).

*Viola helenae*, a violet (Violaceae), is a small, erect, unbranched subshrub, 1 to 2.5 ft (30 to 80 cm) tall. The leaves, which are clustered toward the upper part of the stem, are lance-shaped, about 3 to 5 in (7.5 to 13 cm) long and 0.8 to 1 in (2 to 2.5 cm) wide. Below each leaf is a pair of narrow, membranous stipules (leaf-like structures), about 0.5 in (1.3 cm) long. The flowers are small, less than 0.4 in (1 cm) long, on stems about 1.8 in (4.5 cm) long, pale lavender or white, occurring singly or in pairs in the upper leaf axils. The fruit are capsules, about 0.5 in (1.1 cm) long (Fedde 1911, St. John 1989, Skottsberg 1940, Wagner *et al.* 1990). The lance-shaped leaves distinguish this species from all the other violets on this island.

*Viola helenae* is known from two populations, one along each branch of the Wahiawa Stream. The total number of individuals in the 2 populations is estimated at about 13 (T. Flynn, D. Lorence, and S. Perlman, pers. comms., 1990). The small number and restricted distribution of the species and resultant susceptibility to stochastic events threaten the plant with extinction. Some pig trails and rooting have been observed near this species, but the evidence of pig activity was localized and little was seen. However, destruction by feral pigs is a potential threat (T. Flynn, D. Lorence, and S. Perlman, pers. comms., 1990). Competition from naturalized plants also is a potential threat, as the species grows along the Wahiawa Stream, and exotic species of plants are moving up along the stream banks. A small population of three or four individuals of *V. helenae* disappeared soon after strawberry guava moved into the habitat where the tree canopy had been opened by Typhoon Iwa in 1982.

#### Previous Federal Action

Federal action on these plants began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the

United States. This report, designated as House Document No. 94-51, was presented to Congress on January 9, 1975. *Hesperomannia lydgatei* and *Viola helenae* were considered to be endangered and *Labordia lydgatei* as threatened in that document. On July 1, 1975, the Service published a notice in the **Federal Register** (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the **Federal Register** (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including *Hesperomannia lydgatei* and *Viola helenae*. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975, **Federal Register** publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, **Federal Register** publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the **Federal Register** (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with four other proposals that had expired.

The Service published updated notices of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), and February 21, 1990 (55 FR 6183). *Hesperomannia lydgatei* and *Viola helenae* were included as Category 1 candidates on all three lists, indicating that the Service had on file substantial information on biological vulnerability and threats to support preparation of listing proposals. *Labordia lydgatei* was included as a Category 2 candidate on the 1980 and 1985 lists, meaning that the Service had some evidence of vulnerability, but not enough data to support a listing proposal at the time. *Labordia lydgatei* was upgraded to Category 1 status on the 1990 list as a result of the Service receiving additional information. *Dubautia pauciflorula* was included as a Category 1 candidate on the 1990 list, which was the first notice of review published after this plant was described as a new species. *Cyanea*

*undulata* was included as a Category 3A species in the 1990 list, meaning that the Service had reason to believe that the species was extinct. The updated information for the Hawaiian species on the 1990 list was submitted for publication prior to the rediscovery of *Cyanea undulata*.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires that all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. On October 13, 1983, the Service found that the petitioned listing of these species was warranted, but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988, and 1989. On September 17, 1990, the Service published in the **Federal Register** (55 FR 38242) a proposal to list these five species as endangered. This proposal was based primarily on surveys done in the area by W.L. Wagner of the Smithsonian Institution, D. Lorence and T. Flynn of the National Tropical Botanical Garden, and C. Imada and W. Takeuchi of the Bernice P. Bishop Museum; information supplied by the Hawaii Heritage Program; and the observations of other botanists and naturalists. The Service now determines these five taxa to be endangered with the publication of this rule.

#### Summary of Comments and Recommendations

In the September 17, 1990, proposed rule and associated notifications, all interested parties were requested to submit factual reports or information that might contribute to the final listing decision. The public comment period ended on November 16, 1990. Appropriate State agencies, county and city governments, Federal agencies, scientific organizations, and other interested parties were contacted and requested to comment. A newspaper notice was published in *The Garden Island Sunday* on September 30, 1990, which invited general public comment. No public hearing was requested or held. Three conservation organizations responded to our request for comments. One organization stated that the proposed rule was consistent with the information on the five taxa that they had in their files, the second

organization supported the listing of the five species and informed the Service of the actions that they had undertaken on behalf of the species, the third had no comments.

#### Summary of Factors Affecting the Species

After a thorough review and consideration of all information available, the Service has determined that five plants, *Cyanea undulata*, *Dubautia pauciflorula*, *Hesperomannia lydgatei*, *Labordia lydgatei*, and *Viola helenae*, should be classified as endangered species. Provisions found at section 4 of the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the listing provisions of the Act were followed. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). These factors and their application to *Cyanea undulata* C. Forbes (NCN), *Dubautia pauciflorula* St. John and G. Carr (NCN), *Hesperomannia lydgatei* C. Forbes (NCN), *Labordia lydgatei* C. Forbes (kamakahala), and *Viola helenae* C. Forbes and Lydgate (NCN) are as follows:

##### A. The Present or Threatened Destruction, Modification, or Curtailment of Its Habitat or Range

Habitat degradation and competition by exotic species of plants appear to be the main threats to these five species. There has been relatively little disturbance to the Wahiawa drainage basin in the past, but several aggressive exotic species of plants, such as strawberry guava and melastoma have invaded the area and are moving up along the stream beds. All five species included in this proposal are presently known primarily from along the banks of the streams or near the stream beds. In 1982 Typhoon Iwa opened some small areas in the basin, allowing exotic species to invade. At least one population of *Viola helenae* succumbed as a result. Some feral pig trails and rooting have been seen in the area, but the rooting was localized and not much damage was noted. This situation could very quickly change, however, if the pig population increases. While foraging, pigs turn up several inches of the soil surface, and in so doing, damage and destroy plants, and open areas allowing exotic plants to invade. Pigs establish trails among feeding areas and transport seeds, both internally and externally, further aiding in the spread of exotic species.

### B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Not known to be a factor. However, unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity and would seriously impact the species. Disturbance to the area by human trampling would promote greater ingress by competing exotic species.

### C. Disease or Predation

Not known to be applicable. However, rats are known from the area and damage to fruits, seeds, and plants from their foraging on other species has been observed. For example, most species of the genus *Cyanea* have thick, succulent bark. Some of the more common species of the genus have been girdled by rats, the bark perhaps providing a source of food. Also, rats have completely stripped the bark from a *Clermontia* shrub, a similar, closely related plant, growing at the edge of Kanaele Bog.

### D. The Inadequacy of Existing Regulatory Mechanisms

State regulations prohibit the removal, destruction, or damage of plants found on State lands. However, the regulations are difficult to enforce because of limited personnel. Hawaii's Endangered Species Act (Hawaii Revised Statutes (HRS), section 195D-4(a)) states, "Any species of aquatic life, wildlife, or land plant that has been determined to be an endangered species pursuant to the Endangered Species Act (of 1973) shall be deemed to be an endangered species under the provisions of this chapter \* \* \*." Further, the State may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (HRS, section 195D-5(c)). Funds for these activities could be made available under section 6 of the Federal Act (State Cooperative Agreements). Listing of these five species will therefore reinforce and supplement the protection available to them under State law. The Federal Act also will offer additional protection to the five plant species because it is a violation of the Act for any person to remove, cut, dig up, damage, or destroy an endangered plant in an area not under Federal jurisdiction in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law

### E. Other Natural or Manmade Factors Affecting Its Continued Existence

The small number of populations and of individual plants of the five species included in this rule is in itself a considerable threat. The limited gene pool may depress reproductive vigor, or a single human-caused or natural environmental disturbance could destroy a significant percentage of the known individuals of these species. One population of *Hesperomannia lydgatei* may contain more than 100 individuals, and therefore may not have a substantially limited gene pool; however, the small number of individuals remaining in the other populations and the small number of populations indicate that the species is vulnerable to threats associated with reduced reproductive vigor and unpredicted environmental disturbances.

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these species in determining to make this rule final. Based on this evaluation, the preferred action is to list *Cyanea undulata*, *Dubautia pauciflora*, *Hesperomannia lydgatei*, *Labordia lydgatei* and *Viola helenae* as endangered. These species are threatened by the small size and restricted distribution of their populations and by encroachment and competition from exotic species of plants. They also face the potential threat of predation and damage to their habitat by rodents and feral pigs. Because these species are in danger of extinction throughout all or a significant portion of their range, they fit the definition of endangered as defined in the Act. Critical habitat is not being designated for these species for reasons discussed in the "Critical Habitat" section of this rule.

### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat concurrently with determining a species to be endangered or threatened. The Service finds that designation of critical habitat is not presently prudent for these species. Such a determination would result in no known benefit to the species. The few known populations are primarily on private land which is zoned as conservation land. State government agencies can be alerted to the presence of the plant without the publication of critical habitat descriptions and maps. The publication of such descriptions and

maps would make these plants more vulnerable to incidents of take or vandalism, thereby contributing to their decline, and increasing enforcement problems. The listing of species as endangered publicizes the rarity of the plants and, thus, can make these plants attractive to researchers, curiosity seekers, or collectors of rare plants. All involved parties and the landowners have been notified of the general location and importance of protecting habitat of these species. Protection of the species' habitat will be addressed through the recovery process and through the section 7 consultation process. Therefore, the Service finds that designation of critical habitat for the five species covered in this rule is not prudent at this time, because such a designation would increase the degree of threat from vandalism, collecting, or other human activities and because it is unlikely to aid in the conservation of these species.

### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of a listed species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service. Although none of these species occur on Federal land, private activities requiring Federal permits or

funding can be affected. In this case, the Federal agency is responsible for consulting with the Service under section 7 of the Act to ensure that the activities they provide permits or funding for are not likely to jeopardize the continued existence of any listed species.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 set forth a series of general trade prohibitions and exceptions that apply to all endangered plants. With respect to the five plants from the Wahiwawa drainage basin, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61, apply. These prohibitions, in part, make it illegal with respect to any endangered plant for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale these species in interstate or foreign commerce; remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy listed plants on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62 and 17.63 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered plant species under certain circumstances.

It is anticipated that few, if any, trade permits would ever be sought or issued because the species are not common in cultivation nor in the wild. Requests for copies of the regulations on plants and inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 432-ARLSQ, Arlington, Virginia 22203-3507 (703/358-2104, FTS 921-2093).

**National Environmental Policy Act**

The Fish and Wildlife Service has determined that an Environmental Assessment, as defined under the

authority of the National Environmental Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

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**Author**

The primary author of this final rule is Dr. Derral R. Herbst, Fish and Wildlife Enhancement, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541-2749 or FTS 551-2749).

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

**Regulations Promulgation**

**PART 17—[AMENDED]**

Accordingly, part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, is amended as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. Amend § 17.12(h) by adding the following, in alphabetical order under the families indicated, to the List of Endangered and Threatened Plants:

**§ 17.12 Endangered and threatened plants.**

\* \* \* \* \*  
(h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Asteraceae—Aster family:						
<i>Dubautia pauciflora</i> .....	None.....	U.S.A. (HI).....	E	436	NA	NA
<i>Hesperomannia lydgatei</i> .....	None.....	U.S.A. (HI).....	E	436	NA	NA

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Campanulaceae—Bellflower family:						
<i>Cyanra undulata</i>	None	U.S.A. (HI)	E	436	NA	NA
Loganiaceae—Strychnine family:						
<i>Labordia lydgatei</i>	Kamakahala	U.S.A. (HI)	E	436	NA	NA
Violaceae—Violet family:						
<i>Viola helena</i>	None	U.S.A. (HI)	E	436	NA	NA

Dated: August 27, 1991.  
 Richard N. Smith  
 Acting Director, Fish and Wildlife Service.  
 [FR Doc. 91-22694 filed 9-19-91; 8:45 am]  
 BILLING CODE 4310-55-M

**DEPARTMENT OF COMMERCE**  
**National Oceanic and Atmospheric Administration**  
**50 CFR Part 672**

[Docket No. 901184-1042]

**Groundfish of the Gulf of Alaska**

**AGENCY:** National Marine Fisheries Service (NMFS), NOAA, Commerce.  
**ACTION:** Notice of closure; request for comments.

**SUMMARY:** The Director, Alaska Region, NMFS, (Regional Director), has determined that the remainder of the total allowable catch (TAC) specified for "other rockfish" in the Central Regulatory Area of the Gulf of Alaska (Central Regulatory Area) is necessary to support anticipated groundfish fisheries in that area. He is establishing a directed fishing allowance and is prohibiting further directed fishing for "other rockfish" by vessels fishing in that area with any gear. These actions are necessary to prevent the TAC of "other rockfish" from being exceeded. The intent of this action is to ensure optimum use of groundfish while conserving "other rockfish" stocks.

**DATES:** Effective from 12 noon, Alaska local time (A.l.t.), September 16, 1991 through December 31, 1991.

**COMMENTS:** are invited on or before October 1, 1991.

**ADDRESSES:** Comments should be mailed to Dale R. Evans, Chief, Fisheries Management Division, National Marine Fisheries Service, P.O. Box 21668, Juneau, Alaska 99802-1668, or be delivered to 9109 Mendenhall Mall

Road, Federal Building Annex, Suite 6, Juneau, Alaska.

**FOR FURTHER INFORMATION CONTACT:** Andrew N. Smoker, Resource Management Specialist, NMFS, 907-586-7229.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) governs the groundfish fishery in the exclusive economic zone of the Gulf of Alaska under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Fishery Management Council and is implemented by regulations appearing at 50 CFR 611.92 and parts 620 and 672.

The amount of a species or species group apportioned to a fishery, the TAC is defined at § 672.20(a)(2) and § 672.20(c)(1). The final notice of 1991 initial specifications of groundfish established the "other rockfish" TAC in the Central Regulatory Area at 5,454 mt (March 1, 1991; 56 FR 8723).

Under § 672.20(c)(2), the Regional Director has determined that the TAC apportioned to the "other rockfish" fishery in the Central Regulatory Area soon will be reached. He is establishing a directed fishing allowance of 5,133 mt for that species group with consideration of the amount that will be taken as incidental catch in anticipated directed fisheries in the Central Regulatory Area. The Regional Director has determined that the directed fishing allowance for "other rockfish" in the Central Regulatory Area will be taken on September 16, 1991. Directed fishing for "other rockfish" is prohibited as of that date.

In accordance with § 672.20(g)(5), vessels fishing in the Central Regulatory Area after the closure may not retain "other rockfish" at any particular time during a trip in an amount equal to or greater than 20 percent of the amount of all the other fish species retained at the same time by the vessel during the same

trip as measured in round weight equivalents.

**Classification**

This action is taken under 50 CFR 672.20 and is in compliance with Executive Order 12291.

The Assistant Administrator for Fisheries, NOAA, finds for good cause that it is impractical and contrary to the public interest to provide prior notice and comment or to delay the effective date of this notice. Immediate effectiveness of this notice is necessary to benefit U.S. fishermen participating in DAP Pacific cod operations who would otherwise unnecessarily be prohibited from fishing due to a premature closure. However, interested persons are invited to submit comments in writing on or before October 1, 1991 (see ADDRESSES).

**List of Subjects in 50 CFR Part 672**

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: September 16, 1991.

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

[FR Doc. 91-22659 Filed 9-16-91; 4:25 pm]

BILLING CODE 3510-22-M

**50 CFR Part 675**

[Docket No. 901199-1021]

**Groundfish of the Bering Sea and Aleutian Islands Area**

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

**ACTION:** Notice of closure.

**SUMMARY:** The Director, Alaska Region, NMFS (Regional Director), has determined that the primary allowance of the prohibited species catch (PSC) of Pacific halibut for the domestic annual

processing (DAP) flatfish fishery in Bycatch Limitation Zones (Zones) 1 and 2H of the Bering Sea and Aleutian Islands management area (BSAI) as defined at 50 CFR 675.2, has been caught. Therefore, NMFS is closing directed fishing with trawl gear in Zones 1 and 2H of the BSAI for yellowfin sole and "other flatfish" in the aggregate. This action is necessary to prevent the primary allowance of halibut for the flatfish fishery from being exceeded before the end of the fishing year. The intent of this action is to ensure optimum use of groundfish while conserving Pacific halibut stocks.

**EFFECTIVE DATES:** 12 noon, Alaska local time (A.l.t.), September 16, 1991, through midnight, A.l.t., December 31, 1991.

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

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for the Groundfish Fishery in the Bering Sea and Aleutian Islands Area (FMP) governs the groundfish fishery in the exclusive economic zone within the BSAI under the Magnuson Fishery Conservation and Management Act. The FMP was prepared by the North Pacific Management Council and is implemented by regulations appearing at 50 CFR 611.93 and parts 620 and 675.

The final rule for amendment 16 to the FMP (56 FR 2700, January 24, 1991) established PSC limits for Pacific halibut for groundfish fisheries in the BSAI area. Under § 675.21(a)(4), the primary PSC limit of Pacific halibut while conducting any domestic annual harvest trawl fishery for groundfish in the BSAI during any fishing year is 4,440 metric tons (mt). Section 675.21(b)(1) provides that the PSC limit of Pacific halibut be further apportioned into bycatch allowances, one of which is assigned to the DAP flatfish fishery. The final notice of initial specifications of groundfish in the BSAI for 1991 (56 FR 6290, February 15, 1991) established the primary Pacific halibut allowance for the DAP flatfish fishery at 660 mt.

Under § 675.21(c)(1)(iii), the Regional Director has determined that U.S. fishing vessels using trawl gear will catch the primary PSC allowance of Pacific halibut in the BSAI area by September 16, 1991 while participating in the DAP flatfish fishery. Therefore, NMFS is closing Zones 1 and 2H of the BSAI area to vessels fishing with trawl gear and engaged in directed fishing for yellowfin sole and "other flatfish" in the aggregate from 12 noon, A.l.t., September 16, 1991, through midnight, A.l.t., December 31, 1991.

In accordance with § 675.20(h)(8) and § 675.21(b)(4)(iv) vessels fishing with trawl gear in Zones 1 and 2H cannot retain at any particular time during a trip amounts of yellowfin sole and "other flatfish" in the aggregate that are equal to or greater than 20 percent of the amount of all other fish species retained, at the same time on the vessel during the same trip, as calculated in round weight equivalents.

#### Classification

This action is taken under §§ 675.20 and 675.21 and complies with Executive Order 12291.

#### List of Subjects in 50 CFR Part 675

Fish, Fisheries, Reporting and recordkeeping requirements.

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

Dated: September 16, 1991.

Richard H. Schaefer,

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

[FR Doc. 91-22660 Filed 9-16-91; 4:25 pm]

BILLING CODE 3510-22-M

#### 50 CFR Part 685

[Docket No. 910645-1145]

#### Pelagic Fisheries of the Western Pacific Region

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

**ACTION:** Emergency interim rule; extension of effective date.

**SUMMARY:** The Secretary of Commerce (Secretary) extends an emergency rule now in effect that closes the areas within 75 nautical miles (nm) of the Counties of Kauai and Honolulu, and within 50 nm of the Counties of Maui and Hawaii. This action is intended to prevent gear conflicts between longline vessels and troll and handline vessels.

**EFFECTIVE DATES:** The interim regulations amending part 685 published on June 19, 1991 (56 FR 28116, as corrected at 56 FR 31689, July 11, 1991), are extended from 0000 hours local time September 18, 1991, to 2400 hours local time December 16, 1991.

**ADDRESSES:** Copies of the environmental assessment prepared for the emergency rule may be obtained from E.C. Fullerton, Director, Southwest Region, National Marine Fisheries Service, 300 South Ferry Street, Terminal Island, CA 90731.

**FOR FURTHER INFORMATION CONTACT:** Kitty Simonds, Executive Director, Western Pacific Fishery Management Council, Honolulu, Hawaii, (808) 523-

1368, or Svein Fougner, Fisheries Management Division, Southwest Region, NMFS, Terminal Island, California, (214) 514-6660.

**SUPPLEMENTARY INFORMATION:** Under the emergency action authority of section 305(c) of the Magnuson Fishery Conservation and Management Act (Magnuson Act), the Secretary of Commerce issued an emergency rule (56 FR 28116, June 19, 1991; corrected by a notice published on July 11, 1991, 56 FR 31689) temporarily amending the Fishery Management Plan for Pelagic Fisheries of the Western Pacific Region (FMP) and its implementing regulations. The rule, which is effective from 0000 hours local time June 14, 1991, until 2400 hours local time September 17, 1991, prohibits fishing for pelagic species with longline gear within 75 nm of Kauai County (which includes the islands of Kauai, Niihau, and Kaula) and Honolulu County (which is the island of Oahu), and 50 nm around Maui County (which includes the islands of Maui, Kahoolawe, Lanai, and Molokai) and Hawaii County (which is the island of Hawaii). The closures are intended to prevent conflicts between longline gear and troll and handline gear by precluding longline fishing in areas on which troll and handline fisheries have been dependent. Additional information on the basis for this action may be found in the *Federal Register* of June 19, 1991.

At its meeting on August 22, 1991, the Western Pacific Fishery Management Council (Council) agreed that the emergency rule should be extended for a second 90-day period. The Council is proceeding with an amendment to the FMP to make the closures permanent. The Council also requested that the emergency rule be modified to provide a method and criteria to allow persons with a long history of participation in and dependence on the longline fishery in the closed area to continue their historic fishing practices. This request is being addressed in a separate action.

Because the same circumstances still exist in the fishery as when the emergency rule took effect, the Secretary extends for 90 days the effective dates of the rule with the modification noted, under section 305(c)(3)(B) of the Magnuson Act. The emergency rule is exempt from the normal review procedures of Executive Order 12291 as provided in section 8(a)(1) of that order. This rule was reported to the Director of the Office of Management and Budget with an explanation of why following the procedures of that order was not possible.

**List of Subjects in 50 CFR Part 685**

**Fisheries, Fishing, Reporting and  
recordkeeping requirements.**

Dated: September 16, 1991.

**Samuel W. McKeen,**

*Acting Assistant Administrator for Fisheries,  
National Marine Fisheries Service.*

[FR Doc. 91-22678 Filed 9-17-91; 9:17 am]

**BILLING CODE 3510-22-M**

# Proposed Rules

Federal Register

Vol. 56, No. 183

Friday, September 20, 1991

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

## FEDERAL RESERVE SYSTEM

### 12 CFR Part 203

[Regulation C; Docket No. R-0736]

#### Home Mortgage Disclosure

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rule.

**SUMMARY:** The Board is publishing for public comment proposed changes to Regulation C (Home Mortgage Disclosure) and to the instructions and reporting forms that financial institutions must use in complying with the annual reporting requirements under the regulation. The major substantive change calls for financial institutions to begin using 1990 census tract numbers (instead of the currently used 1980 census tract numbers) to identify and report property locations beginning on January 1, 1992.

**DATES:** Comments must be received on or before October 23, 1991. The revised instructions and reporting forms will apply to loan and application data collected by financial institutions beginning January 1, 1992.

**ADDRESSES:** Comments should refer to Docket No. R-0736 and be sent to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551. They may also be delivered to the guard station in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.) between 8:45 a.m. and 5:15 p.m. weekdays. Comments received will be available for inspection and copying by any member of the public in the Freedom of Information Office, room B-1122 of the Eccles Building between 9 a.m. and 5 p.m. weekdays.

**FOR FURTHER INFORMATION CONTACT:** W. Kurt Schumacher, Staff Attorney, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at 202-452-2412; for the

hearing impaired only, contact Dorothea Thompson, Telecommunications Device for the Deaf, at 202-452-3544.

#### SUPPLEMENTARY INFORMATION:

##### (1) Background

The Board's Regulation C (12 CFR part 203) implements the Home Mortgage Disclosure Act of 1975 (HMDA) (12 U.S.C. 2801 *et seq.*). The Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) made a number of significant amendments to HMDA. (Pub. L. 101-73, section 1211, 103 Stat. 183, 524-526.) These changes were reflected in amendments to Regulation C that took effect on January 1, 1990. (See 54 FR 51356, December 15, 1989.) The regulation requires depository and nondepository financial institutions that have over \$10 million in assets and have offices in metropolitan statistical areas (MSAs) to disclose annually their originations and purchases of mortgage and home improvement loans, as well as applications they have received for such loans.

Under appendix A to the regulation, data must be recorded on a "Loan/Application Register" (LAR) that reporting institutions must send to their regulatory agency no later than March 1 following the calendar year for which they are reporting. The Federal Financial Institutions Examination Council (FFIEC) compiles the HMDA data for each institution and then issues annual disclosure statements to the reporting institutions. Within 30 days after receiving their statements from the FFIEC, institutions must make them available to the public for inspection and copying in at least one home or branch office in each MSA. The FFIEC also compiles the HMDA data for all institutions in each MSA and sends aggregate reports to central data depositories located in each MSA.

In processing and reviewing financial institutions' LARs for the 1990 calendar year (which was the first year reflecting the FIRREA amendments to HMDA), the Board and the other regulatory agencies (the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, and the Department of Housing and Urban Development) identified the need for certain changes to the instructions and forms used in reporting HMDA data. These revisions

would allow for the more efficient and accurate collection and submission of home mortgage data by financial institutions.

Additionally, the proposal contains one change—relating to census tract numbers—that will have a significant impact on reporting institutions and on the quality of the data disclosed to the public. Currently, institutions report property location using census tract numbers from the 1980 census. The Board is proposing to require that financial institutions report property location using 1990 census tracts for loan applications and transactions that take place beginning January 1, 1992.

Changing to 1990 census tracts will make the HMDA data more useful. Many of the output tables that comprise the disclosure statement rely on population and other characteristics for given census tracts (for example, composition of the tract by residents' race or national origin and income level, and age of housing stock). Because of the changes that have occurred since 1980, use of 1990 census tracts and demographics will produce more accurate and useful data in the HMDA disclosure statements and aggregate reports.

The Board's staff has met with representatives of the Bureau of the Census concerning the availability of materials necessary for financial institutions to change over to using 1990 census tracts: (1) An index of street addresses-census tract numbers, and (2) outline maps to locate any properties not listed on the index. The maps are available now; the index will be available by year-end.

To ensure that institutions covered by HMDA are able to obtain the materials in time to comply beginning January 1992, the HMDA supervisory agencies will work closely with the Bureau of the Census in seeking ways to expedite the distribution of census materials.

The comment period ends on October 23, 1991. Because the proposed changes are technical in nature and for the most part simply provide clarification, and because prompt implementation of any changes in reporting requirements is in the public interest, the Board has set a 30-day comment period in place of the 60 days normally called for in the Board's policy statement on rulemaking (44 FR 3957, January 19, 1979). The Board

believes an abbreviated comment period is desirable to ensure that a final rule is in place as soon as possible to provide guidance to covered lenders.

In accordance with section 3507 of the Paperwork Reduction Act of 1980 (44 U.S.C. Ch. 35; CFR 1320.13), the proposed revisions to the reporting form will be reviewed by the Board under the authority delegated to the Board by the Office of Management and Budget after consideration of the comments received during the public comment period.

## (2) Proposed revisions

This section describes only the more significant proposed changes; others are self-explanatory. To facilitate review by commenters, section (4) contains a complete version—with revisions indicated—of the proposed instructions as found in Appendix A. Section (4) also contains copies of the HMDA transmittal sheet and reporting form, as they would be revised under this proposal.

### Section 203.2 Definitions

#### 203.2(e)(2)

The Board proposes to revise subsection (e)(2) of the definition of a financial institution to clarify that the loan volume used to determine coverage for nondepository mortgage lenders refers to loan origination volume. Thus, the test measures the percentage of an institution's home purchase loan originations against its total loan origination volume—not total loan volume.

### Section 203.4 Compilation of Loan Data

#### 203.4(a) Data Format and Itemization

This section would be amended to reflect that home improvement loans may be refinanced, in addition to home purchase loans. (See also the proposed revisions to the instructions at paragraph II.A.1., below.)

### Section 203.6 Enforcement

#### 203.6(a) Administrative Enforcement

The Board proposes revising this section to make clear that civil money penalties are part of the administrative sanctions that section 305 of the Home Mortgage Disclosure Act authorizes for violations of HMDA reporting requirements. The FIRREA legislation containing the 1989 amendments to HMDA provides for the use of civil money penalties on a much broader scale than existed previously

## Appendix A—Form and Instructions for Loan/Application Register Instructions to Lending Institutions

### I. General

#### A. Who Must File a Report

*Paragraph 3.* The Board proposes the addition of the word "origination" in paragraph 3 to be consistent with the planned changes to § 203.2(e)(2) discussed above.

#### C. Format

*Paragraph 1.* This paragraph would be revised to indicate that financial institutions are expected to submit their LARs in automated format, unless they have fewer than a specified minimum of reported transactions during the calendar year. Among other changes, it would also be amended to specify that where hard copies are permitted, the two copies submitted must be typed, not handwritten.

### II. Completion of Register

#### A. Data To be Reported

*Paragraph 1.* In conjunction with the proposed changes to § 203.4(a) of the regulation, paragraph 1 would be revised to indicate that certain refinancing of home improvement loans are reportable, as are refinancing of home purchase loans.

*Paragraph 2.* The Board proposes to add language concerning the treatment of brokered loan applications and applications received through correspondent lenders. Given the frequency of questions received by the regulatory agencies, the Board believes that financial institutions need to be made more aware of their reporting responsibilities for these types of transactions.

#### B. Data To Be Excluded

*Paragraph 1.* The Board proposes to amend the parenthetical as shown to provide a more straightforward example of a type of business-related loan that is not to be reported under HMDA.

#### C. Itemization of Data

##### 1. Application or loan information.

###### a. Application or loan number.

The Board proposes to revise paragraph 1.a. to bar the use of an applicant's name or social security number as part of the application or loan number field. Lenders are still permitted to use any other letters, numerals, or a combination of the two—up to 25 characters long—as the application or loan number.

*b. Date application received.* The Board proposes to provide a uniform code of "0" to be used whenever the

correct response is "not applicable." The Board believes that establishing a single code for this and other fields would reduce the errors and the need for corrections that would have to be made on an institution's LAR. The Board solicits comments on this particular item to determine whether the implementation of this type of change would cause an unwarranted disruption of established computer or automated reporting systems.

##### e. Explanation of purpose codes.

###### Code 1: Home purchase

*Paragraph i.* Under this proposed change, a loan secured by a dwelling and made for the purpose of purchasing a second dwelling would be subject to reporting under HMDA. The Board believes that the effect of this change will be minimal, and that the clarification is consistent with the statutory language that refers generally to the reporting of mortgage loans "secured by property" either within or outside an MSA. Paragraph II.C.3. of the instructions ("Property location") has similarly been changed to be consistent with this proposed revision.

###### Code 2: Home improvement

*Paragraph iii.* The proposed language in paragraph iii. has been added to address questions regarding the reporting of home equity lines of credit. The proposal makes clear that while normally a home improvement loan must be reflected as a home improvement loan on an institution's records to be reportable, this requirement does not apply in the case of home equity lines of credit. However, for the credit line to be reportable, the lender must have determined that the applicant intends to use at least a portion of the proceeds of a dwelling-secured credit line for home improvement purposes; the lender would report only that portion, not the entire line of credit. Paragraph iii. also makes clear that a lender that reports such originations also must report applications for home equity credit lines that do not result in originations (for example, denials).

###### Code 3: Refinancings

*Paragraph i.* Paragraph i. would be revised to incorporate guidance to lenders regarding what is a refinancing (that is, the satisfaction of an existing obligation that is replaced by a new obligation). However, renewals of short-term balloon-payment loans would not be reported—even if they could technically be considered a refinancing.

*Paragraph iii.* The Board proposes clarifying the reporting instructions in paragraph iii. concerning refinancing. The proposed change instructs lenders

to report the full amount of a refinancing if the outstanding loan balance, plus any new funds earmarked by the consumer for home purchase or home improvement, exceed 50 percent of the total new loan amount requested. Lenders are not to report the refinancing at all if 50 percent or less of the loan proceeds (or the loan amount applied for) are for home purchase or home improvement.

*g. Loan amount.* Paragraph g. is being revised to specify that loan amounts of less than \$500 should not be reported.

*3. Property location.*

Paragraph 3. would be revised in line with the proposed change to paragraph 1.e. to cover instances in which a home purchase loan is secured by one dwelling, but made for the purpose of purchasing another dwelling. Generally, the geographic data should be recorded for the property in which the security interest is taken. However, if a home purchase loan is secured by both properties, the institution would report the geographic data for the property being purchased.

*c. Census tract and d. Census tract number.*

The Board proposes to require the use of 1990 census data to identify property locations for data that are collected beginning January 1, 1992. The Board believes this action is appropriate given the obsolescence of the currently utilized 1980 census materials, and given the scheduled availability of 1990 materials from the Bureau of the Census in time for the institutions to obtain the updated information for use in 1992. The Board believes switching to the use of more current census materials at this time is necessary to provide greater accuracy and meaning to analyses performed using HMDA data. Paragraphs c. and d. will be revised to reflect this changed requirement.

Note that these two paragraphs have also been revised to require the use of the code "0" instead of "NA" for those instances in which a financial institution is not required to provide the property location. As stated above, the Board specifically requests comment on whether adopting such a change would result in undue burdens to financial institutions in requiring changes to existing formats for automated reporting.

*f. Nondepository lenders.* Under the proposal, a new paragraph would be added to alert nondepository financial institutions of the need to monitor loan activity within MSAs. The statute and regulation provide that a nondepository mortgage lender is deemed to have a branch office in any MSA where it received five or more loan applications,

or originated or purchased five or more home purchase or home improvement loans, during the *preceding* calendar year. In order for an institution to establish that it is in compliance with this "five or more loan" rule, however, the institution must have kept complete records on the geographic distribution of its lending activity for the previous calendar year. To comply with this rule, nondepository mortgage lenders may find it easier to give the property location data for all loans relating to property located within any MSA.

*4. Applicant Information—Race or national origin, sex and income.*

*e. Income.* The Board proposes to amend this paragraph to clarify that institutions must report the total amount of the gross annual income (of the applicant and any co-applicant) that they rely on in making their credit decision. Monthly income or net income figures should not be entered in this column.

*5. Type of purchaser.*

*Paragraph a.* The Board proposes to revise this paragraph to address explicitly those cases in which a loan application was not originated—code "0" would be used for situations in which a loan was originated but not sold, and it would also be used where a loan was not originated at all.

*6. Reasons for denial.*

This paragraph would be revised to state that the reasons for denial column should be left blank if the action taken was anything other than a loan denial. There were indications in the reporting of 1990 data that confusion among some reporters may exist concerning the similarity of certain terms. Code 5 under the "Action Taken" column is entitled "file closed for incompleteness." That code applies only if the financial institution requests additional information from the applicant pursuant to section 202.9(c) of Regulation B, Equal Credit Opportunity (12 CFR 202 *et seq.*) and does not receive the information within the time specified. In this instance, no denial action has been taken by the reporting institution. In contrast, the reason for denial code number 7 is phrased "credit application incomplete." This code applies when the loan application was denied outright by the financial institution because the required credit materials were not complete.

**Forms: Loan/Application Register Transmittal Sheet, Loan/Application Register, and Loan/Application Register Code Sheet**

In addition to making minor editorial and technical revisions, The Board proposes to change the forms used by

financial institutions in compiling and reporting their HMDA data as follows:

1. Financial institutions would supply their tax identification number on the transmittal sheet that accompanies their data submission. This information will assist the agencies in identifying any duplicate submissions among covered institutions.

2. The Loan/Application Register form has been reformatted to illustrate more clearly the information that lenders must provide. These changes should help reduce data entry errors on the LARs. Text has been added to the top of the form advising reporters that "All columns (except Reasons for Denial) must be completed for each entry. See the instructions for details." This addition will alert financial institutions of the need to consult the instructions before attempting to complete entries on the register, and to leave no columns blank when information is required.

3. Consistent with the revised instructions, the income column under the "Applicant Information" heading has been rephrased "Gross Annual Income in thousands," to avoid a problem that was encountered in the reporting of 1990 data.

4. In accordance with proposed changes in the instructions, the code for all "not applicable" responses has been changed to code "0" on the Loan/Application Register Code Sheet. If adopted, this change should result in easier and more efficient entry of data by financial institutions.

(3) *List of Subjects in 12 CFR Part 203*  
Banks, Banking, Consumer protection, Federal Reserve System, Home mortgage disclosure, Mortgages, Reporting and recordkeeping requirements.

(4) *Text of proposed revisions.* For the reasons set forth in this notice and pursuant to the Board's authority under section 305(a) of the Home Mortgage Disclosure Act (12 U.S.C. 2804(a)), the Board proposes to amend Regulation C, Home Mortgage Disclosure (12 CFR part 203) and revise the forms and instructions thereto (Appendix A to part 203).

Certain conventions have been used to highlight the proposed changes to the regulation and the instructions. New language is shown inside bold-faced arrows, while language that would be deleted is set off with brackets. Because only minor changes to the regulation itself are proposed, the Board is publishing only those regulatory sections that would be affected. A complete copy of the proposed instructions (including the HMDA reporting forms) follows the regulatory

text. The reporting forms appear as they would be adopted under the proposal—they have not been highlighted to show the proposed changes. The materials in appendix B (regarding the form and instructions for data collection on race or national origin and sex) are not being republished, as no changes are being proposed that would modify those items.

**PART 203—HOME MORTGAGE DISCLOSURE**

1. The authority citation for part 203 continues to read:

Authority: 12 U.S.C. 2801-2810.

2. Section 203.2(e) would be revised to read as follows:

**§ 203.2 Definitions.**

(e) *Financial institution* means:

(2) A for-profit mortgage lending institution (other than a bank, savings association, or credit union) whose home purchase loan originations equaled or exceeded ten percent of its loan ▶ originations ◀ volume, measured in dollars, in the preceding calendar year.

3. Section 203.4(a) introductory text would be revised to read as follows:

**§ 203.4 Compilation of loan data.**

(a) *Data format and itemization.* A financial institution shall collect data regarding applications for, and originations and purchases of, home purchase ▶ and home improvement ◀ loans (including refinancings) [and home improvement loans] for each calendar year. These data shall be presented on a register in the format prescribed in Appendix A ▶ of this part ◀ and shall include the following items:

4. Section 203.6(a) would be revised to read as follows:

**§ 203.6 Enforcement.**

(a) *Administrative enforcement.* A violation of the act or this regulation is subject to administrative sanctions as provided in section 305 of the [act]. ▶ act, including the imposition of civil money penalties, where applicable: ◀ Compliance is enforced by the agencies listed in Appendix A of this [regulation] ▶ part ◀.

5. Appendix A to part 203 would be revised to read as follows:

**Appendix A to Part 203—Form and Instructions for Loan/Application Register Loan/Application Register Form**

Public reporting burden for [this] collection of ▶ this ◀ information is estimated to vary from 10 to 750 hours per response, with an average of 120 hours per response, including time to gather and maintain the data needed and to review instructions and complete the information collection. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the burden, to Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

**Instructions to Lending Institutions**

*I. General*

**A. Who Must File A Report**

1. Subject to some exceptions that are discussed below, banks, savings associations, credit unions, and other mortgage lending institutions must complete a register listing data about loan applications received, loans originated, and loans purchased if on the preceding December 31 the institution:

- a. had assets of more than \$10 million, and
- b. had a home or a branch office in a "metropolitan statistical area" or a "primary metropolitan statistical area" (both are referred to in these instructions by the term "MSA").

**Example:** If on December 31, [1989,] you had a home or a branch office in an MSA and your assets exceeded \$10 million, you must complete a register that lists the home purchase and home improvement loans that you originate or purchase during ▶ the next ◀ calendar year [1990], and also lists applications that did not result in an origination.

2. You need not complete a register—even if the tests for asset size and location are met—if your institution is a bank, savings association, or credit union and it made *no* first-lien home purchase loans on one-to-four family dwellings in the preceding calendar year.

3. You need not complete a register—even if the tests for asset size and location are met—if your institution is a for-profit mortgage lender (other than a bank, savings association, or credit union) and the home purchase loans that you originated in the preceding year came to less than 10 percent of your total loan ▶ origination ◀ volume, measured in dollars.

4. If you are a for-profit mortgage lender (other than a bank, savings association, or credit union) the asset test is based on the combined assets of your institution and any parent corporation.

5. If you are the subsidiary of a bank or savings association you must complete a separate register for your institution and submit it, directly or through your parent, to the agency that supervises your parent.

**B. Institutions Exempted From HMDA**

Institutions that are specifically exempted by the Federal Reserve Board from complying with federal law because they are covered by a similar state law on mortgage loan disclosures must use the disclosure form required by their state law.

**C. Format**

[1. You must use the format of this loan/application register, but you are not required to use the form itself. For example, you may produce a computer printout instead. The layout must conform exactly, however, to that of this register, including the order of columns, column headings, etc. Or you may submit the data in machine-readable form (see paragraph D.2. below).]

▶ 1. Institutions are expected to submit data to their supervisory agencies in a machine-readable form (unless fewer than 70 records are to be reported). The format must conform exactly to the form FR HMDA-LAR, including the order of columns, column headings, etc. Contact your federal supervisory agency for information regarding procedures and technical specifications for automated data submission. An institution that submits its register in non-automated form must send two copies that are typed or computer printed and that use the format of the loan/application register; you are not required to use the form itself. ◀ Each page must be numbered, and the total number of pages must be given (for example, "Page 1 of 3").

2. The required data are to be entered in the register for each loan origination, each application acted [upon during the calendar year, and each loan purchased] ▶ on, and each loan purchased during the calendar year ◀. Your institution [will have to] ▶ should ◀ decide on the procedure it wants to follow—▶ for example, ◀ whether to begin entering the required data when an application is received, or to enter the data when final action is taken (such as when a loan goes to closing or an application is denied). Keep in mind that an application is to be reported in the calendar year when final action is taken. Loan originations are to be reported in the year they go to closing; do not report applications for loans that have been approved but [that] have not gone to closing at year-end.

3. Your institution may [use] ▶ collect the data on ◀ separate registers at different branches, or separate registers for different loan types (such as for home purchase or home improvement loans, or for loans on multifamily dwellings). [But] ▶ However, ◀ you must submit [the registers] ▶ all of the data ◀ to your supervisory agency in *one* ▶ complete ◀ package, with the prescribed transmittal sheet; and an officer of your institution must certify to the accuracy of the data.

4. Entries need *not* be grouped by MSA, or chronologically, or by census tract numbers, or in any other particular order. But make sure the application or loan numbers (discussed under paragraph II.C1.a.▶. ◀ below) are unique. [If separate registers are being maintained in various branches, your institution could add a letter code to identify

different branches, or assign series of numbers to each branch, to avoid duplicate numbers.]

[5. Number each page of your report, indicating the total number of pages (for example, "Page 1 of 25").]

#### D. Submission of Report; Release of Disclosure Statements

1. You must submit the register to the office specified by your federal supervisory agency no later than March 1 following the calendar year for which the data are compiled. A list of the agencies appears at the end of these instructions.

[2. Institutions are encouraged to submit data in machine-readable form. Contact your federal supervisory agency for information regarding electronic submission.]

[3. If you submit your register in hard copy, you must send two copies.]

[4.] ▶2.◀ The FFIEC (Federal Financial Institutions Examination Council) will prepare a disclosure statement from the data [that] you submit. Your disclosure statement will be returned to [you at] the address [that you indicate] ▶indicated◀ on the transmittal sheet. When you receive that disclosure statement you must make a copy available for inspection by the public within 30 calendar days. You must make it available at your home office and, if you have physical branch offices in other MSAs, at one branch office in each of those MSAs. (Your agency can provide you with HMDA posters that you can use to inform the public of the availability of your disclosure statement.)

#### II. Completion of Register

##### A. Data To Be [shown] ▶reported◀

1. [Show] ▶Report◀ the data on home purchase and home improvement loans that you originated (or that were originated in your name) and loans that you purchased during the calendar year covered by the report. Report these data even if the loans were subsequently sold. Include refinancings of home purchase ▶and home improvement◀ loans.

2. For these same types of loans, [show] ▶report◀ the data for applications that did not result in originations—for example, applications that your institution denied or that the applicant withdrew during the calendar year covered by the report. ▶In the case of brokered loan applications or applications forwarded to you through a correspondent, show the data for all loans denied by your institution whether or not they would have closed in your institution's name.◀ Include applications that were received in the previous calendar year but not acted upon until the calendar year covered by the ▶current◀ register.

##### B. Data To Be Excluded

Do not report the following loans or applications for loans: 1. Loans that, although secured by real estate, are made for purposes other than home purchase, home improvement, or refinancing (for example, do not report a loan secured by residential real property for purposes of financing college tuition, a vacation, or ▶goods for◀ business [Operations]) ▶inventory◀;

2. Loans received in a fiduciary capacity (for example, by your trust department);

3. Loans on unimproved land;

4. Construction or bridge loans and other temporary financing;

5. The purchase of an interest in a pool of loans (such as mortgage-participation certificates); or

6. The purchase solely of the right to service loans.

#### C. Itemization of Data

Your loan/application register must include the following:

1. Application or loan information.

a. Application or loan number. Enter an identifying number [or code] that can be used later to retrieve the loan or application file. It can be any number of your choosing (not exceeding 25 characters). You may use letters, numerals, or a combination of both. ▶Do not use the applicant's or borrower's name or social security number.◀

[But make] ▶Make◀ sure that all numbers are unique within your institution. If your register contains data for branch offices, for example, you could use [codes] ▶a letter or a numerical code◀ to identify the loans or applications of [particular] ▶different◀ branches, or could assign ▶a◀ certain series of numbers to particular branches to avoid duplicate numbers.

b. Date application received. Enter the date the loan application was received by your institution by month, day, and year, using numerals ▶in the form MM/DD/YY◀ (for example, [02/28/90] ▶01/15/92◀). [Or, if] ▶If◀ your institution normally records the date shown on the application form, you may use that date. Enter ["NA"] ▶the code 0◀ for loans purchased by your institution.

c. Type. Indicate the type of loan (or loan application) by entering the applicable code from the following:

- 1—Conventional (any loan other than FHA, VA or FmHA loans)
- 2—FHA-insured (Federal Housing Administration)
- 3—VA-guaranteed (Veterans Administration)
- 4—FmHA-insured (Farmers Home Administration)

d. Purpose. Indicate the purpose of the loan or application by entering the applicable code from the following:

- 1—Home purchase (one-to-four family)
- 2—Home improvement (one-to-four family)
- 3—Refinancing (home purchase ▶or home improvement,◀ one-to-four family)
- 4—Multifamily dwelling (home purchase, home improvement, and refinancings)

e. Explanation of purpose codes.

##### Code 1: Home Purchase

1. This code applies to loans [made], and to applications for loans, ▶made◀ for the purpose of purchasing a residential dwelling for one to four families, if the loan is ▶to be◀ secured by [a lien] ▶the dwelling being purchased or by another dwelling◀.

ii. At your option, you may use code 1 for loans that are made for home improvement purposes but are secured by a first lien, if you normally classify such first-lien loans as home purchase loans.

##### Code 2: Home Improvement

1. Code 2 applies to loans and applications for loans that (1) the borrowers have said will be used for repairing, rehabilitating, or

remodeling one-to-four family residential dwellings, and (2) are recorded on your books as home improvement loans.

ii. Report both secured and unsecured loans.

iii. At your option, you may [record] ▶report◀ a home equity line of credit as a home improvement loan if the borrower or applicant indicates at the time of application or when the account is opened that some portion of the proceeds will be used for home improvement ▶(even if the credit line is not recorded on your institution's books as a home improvement loan). See Paragraph g.iii. "Loan Amount," below, for further instructions. If you choose to report originations of home equity lines of credit, you must also report applications for such loans that did not result in originations.◀ [(For such credit lines, under "Amount" in paragraph g. below, enter only that portion of the line which the borrower or applicant indicates will be for home improvement purposes.) Report only in the year the line is established.]

##### Code 3: Refinancings

1. Use this code [only] for refinancings ▶(and applications for refinancings)◀ of home purchase ▶or home improvement◀ loans on one-to-four family residential dwellings. ▶(A refinancing involves the satisfaction of an existing obligation that is replaced by a new obligation undertaken by the same borrower—but do not report renewals of short-term balloon-payment loans.)◀

ii. Use this code whether or not you were the original creditor on the loan being refinanced, and whether or not the refinancing [results in] ▶involves◀ an increase in the outstanding principal.

iii. Report the full amount of a refinancing if [more than 50 percent of the loan proceeds] ▶the amount outstanding on the original loan, plus the amount of new money that◀ is for home purchase or home improvement ▶purposes (if any), is greater than 50 percent of the total new loan amount. Do not report a transaction if 50 percent or less of the loan proceeds or the amount applied for is for home purchase or home improvement.◀ [You may treat the amount that is equivalent to the unpaid principal of the original loan as being for home purchase].

##### Code 4: Multifamily Dwelling

i. Use this code for loans and loan applications on dwellings for five or more families, including home purchase loans, refinancings, and loans for repairing, rehabilitation, and remodeling purposes.

ii. Do not use this code for loans on individual condominiums or cooperative units; use codes 1, 2, or 3 for such loans, as applicable.

f. ▶Owner◀ Occupancy. Use the applicable code to indicate whether the property to which the loan or loan application relates is to be owner-occupied as a principal dwelling.

1—Owner-occupied as a principal dwelling  
2—Not owner-occupied  
[3] ▶0◀—Not applicable.

i. Use code 2 or loans on second homes or vacation homes, as well as on rental properties.

ii. Use code 2 only for nonoccupant loans or applications ▶ for nonoccupant loans, ◀ related to one-to-four family dwellings (including individual condominium or cooperative units).

iii. Use code [3] ▶ 0 ◀ if the property to which the loan relates is a multifamily dwelling; is not located in an MSA; or is located in an MSA in which your institution has neither a home nor a branch office.

iv. For purchased loans, you may assume that the property will be owner-occupied as a principal dwelling ▶ (code 1) ◀ unless the loan documents or application contain information to the contrary.

g. ▶ Loan ◀ Amount. Enter the amount of the loan or application. Round to the nearest thousand (\$500 should be rounded up to ▶ the next ◀ \$1,000). ▶ Do not report loans below \$500. ◀ Show in terms of thousands; for example, a loan for \$167,300 should be entered as 167 ▶ and one for \$15,605 as 16 ◀.

i. For home purchase loans that you originate, ["amount"] ▶ "Loan Amount" ◀ means the original principal amount of the loan. For home purchase loans that you purchase, ["amount"] ▶ "Loan Amount" ◀ means the unpaid principal balance of the loan at the time of purchase.

ii. For home improvement loans (both originations and purchases), you may include unpaid finance charges in the amount if that is how you record such loans on your books.

iii. For lines of credit secured by home equity, include only that portion of the line indicated by the applicant or borrower at the time the application is made or when the account is opened as being for the purpose of home improvement. Report only in the year the line is established.

iv. For a loan application that was denied or withdrawn, enter the amount applied for.

v. If you offered to lend less than the applicant applied for, enter the amount of the loan if the offer was accepted by the applicant. If the offer was not accepted, enter the amount initially applied for.

2. Action taken. Indicate the type of action taken on the application or loan by using ▶ one of ◀ the following codes:

- 1—Loan originated
- 2—Application approved but not accepted by applicant
- 3—Application denied
- 4—Application withdrawn
- 5—File closed for incompleteness
- 6—Loan purchased by your institution

a. Type of action taken. Do not report any loan application still pending at the end of the calendar year. You will report that application in your register for the year final action is taken.

i. Use code 2 where an application has been approved by you, but where the applicant fails to respond to your notification of approval or your commitment letter within the specified time.

ii. Use code 4 only when an application has been expressly withdrawn by the applicant ▶ before a credit decision was made ◀.

iii. Use code 5 if you sent a written notice of incompleteness under section [202.9(c)] ▶ 202.9(c)(2) ◀ of Regulation B (Equal Credit

Opportunity) and if the applicant failed to respond to your request for additional information within the period of time specified in your notice.

b. Date ▶ of action taken ◀. Enter the date by month, day, and year, using numerals ▶ in the form MM/DD/YY ◀ (for example, [02/28/90] ▶ 02/22/92 ◀).

i. For loans originated, enter the settlement or closing date. ▶ For loans purchased, enter the date of purchase by your institution. ◀

ii. For applications denied, applications approved but not accepted by the applicant, and files closed for incompleteness, enter the date that the action was taken by your institution or the date the notice was sent to the applicant.

iii. For applications withdrawn, enter the date that you received the applicant's express withdrawal; or you may enter the date shown on the notification from the applicant, in the case of a written withdrawal.

3. Property location. In these columns [you will] enter the applicable codes for the MSA, state, county, and census tract [locations] for the property to which a loan relates. ▶ For home purchase loans secured by one dwelling, but made for the purpose of purchasing another dwelling, report the property location data on the property in which the security interest is to be taken. If the home purchase loan is secured by more than one property, however, report the location data for the property being purchased. ◀ (See paragraph [e.] ▶ 3.e. ◀ below for treatment of loans on property outside the MSAs in which you have offices.)

a. MSA. For each loan or loan application, indicate the location of the property by the MSA number. Enter only the MSA number, not the MSA name. MSA boundaries are defined by the U.S. Office of Management and Budget; use the boundaries that were in effect on January 1 of the calendar year for which you are reporting.

b. State and county. [Use the [ ▶ You must use the Federal Information Processing Standard (FIPS) ◀ two-digit numerical code for ▶ the ◀ state and the three-digit numerical code for ▶ the ◀ county. ▶ These codes are ◀ available from your regional supervisory agency ▶ or the FFIEC ◀. [Use only these established codes.] Do not use the abbreviations used by the U.S. Postal Service.

c. Census tract. Indicate the census tract [in which] ▶ where ◀ the property is located.

i. Enter the code ["NA"] ▶ 0 ◀ if the property is located in an area not divided into census tracts on the U.S. Census Bureau's census-tract outline maps (see paragraph d. below).

ii. If the property is located in a county with a population of 30,000 or less in the [1980] ▶ 1990 ◀ census, enter ["NA"] ▶ the code 0 ◀ or enter the census tract number. To determine population, use the Census Bureau's [PC80-1-A] ▶ 1990 CPH-2 ◀ population series even if the population has increased above 30,000 since [1980] ▶ 1990 ◀.

d. Census tract number. To determine the census tract number, consult the U.S. Census Bureau's ▶ Census Tract + Street Index, and for addresses not listed in the index, the Census Bureau's ◀ census tract outline maps.

You must use the maps from the Census Bureau's [PHC80-2 series for the 1980 census] ▶ 1990 CPH-3 series ◀, or equivalent [1980] ▶ 1990 ◀ census data from the Census Bureau (such as [GBF/DIME files]) ▶ the Census TIGER/Line File ◀ or from a private publisher. [You will continue to use the maps in the 1980 series until you are advised differently by your supervisory agency, even if more current maps are available.]

e. Outside-MSA. For loans on property located outside the MSAs in which you have a home or branch office (or outside any MSA), you may [either] enter [the code "NA" in] the MSA, state, county, and census tract [columns] ▶ numbers ◀ or enter the [data] ▶ code 0 in each of these columns. ◀ [Keep in mind that if you are a for-profit mortgage lending institution (other than a bank, savings association, or credit union) and (1) you received five or more loan applications or (2) originated or purchased five or more home purchase or home improvement loans in an MSA in the preceding year, you must complete these columns because you are considered to have a branch office in that MSA, whether or not you have a physical office there.]

▶ f. Nondepository lenders. If you are a for-profit mortgage lending institution (other than a bank, savings association, or credit union), and in the preceding calendar year you received applications for, or originated or purchased, loans for home purchase or home improvement adding up to a total of five or more for a given MSA, you are deemed to have a branch office in that MSA, whether or not you have a physical office there. As a result, you will have to complete these columns for any transactions in that MSA. Because you must keep complete records about lending within MSAs in the current calendar year so as to report data accurately the following year, to comply with this rule, you may find it easier routinely to enter the geographic information for any property located within any MSA. ◀

4. ▶ Applicant Information—◀ Race or national origin, sex, and income. Appendix B of Regulation C contains instructions for the collection of data on race or national origin and sex, and also contains a sample form for data collection. You may also use the form that you use to obtain data on race or national origin and sex under section 202.13 of Regulation B.

a. Applicability. You must report this information concerning applicants for loans that you originate and applications that you receive.

i. You need not collect or report this information for loans purchased; if you choose not to, enter the [appropriate] code ▶ 0, as ◀ specified in the lists under paragraphs [c.,] ▶ 4.c., ◀ d., and e. below for "not applicable."

ii. If your institution is a bank, savings association, or credit union that had assets of \$30 million or less on the preceding December 31, you may—but need not—collect and report these data. If you choose not to, enter the [appropriate codes] ▶ code 0, as ◀ specified in the lists under paragraphs [c.,] ▶ 4.c., ◀ d., and e. below for "not applicable."

iii. If the borrower or applicant is not a natural person (a corporation or partnership, for example), use the [appropriate] code ▶0◀ under paragraphs [c.] ▶4.c.◀, d., and e. below for 11not applicable."

b. Telephone and mail applications. Any [application forms] ▶loan applications◀ mailed to applicants must contain a collection form similar to that shown in Appendix B, and you must record ▶on your register◀ the data on race or national origin and sex if the applicant provides it. If the applicant chooses not to provide the data, enter the applicable code [number] for "information not provided by applicant in mail or telephone application" under paragraphs [c.] ▶4.c.◀ and d. below.

c. Race or national origin of borrower or applicant. Use the following codes to indicate the race or national origin of the applicant or borrower under column "A" and of any co-applicant or co-borrower under column "CA." If there is more than one co-applicant, provide this information only for the first co-applicant listed on the application form. ▶If there are no co-applicants or co-borrowers, entered the code 0 for "not applicable" in the co-applicant column:◀

- 1—American Indian or Alaskan native
  - 2—Asian or Pacific Islander
  - 3—Black
  - 4—Hispanic
  - 5—White
  - 6—Other
  - 7—Information not provided by applicant in mail or telephone application
- [8] ▶0◀—Not applicable

d. Sex of borrower or applicant. Use the following codes to indicate the sex of the applicant or borrower under column "A" and of any co-applicant or co-borrower under column "CA." If there is more than one co-applicant, provide this information only for the first co-applicant listed on the application [form:] ▶form. If there are no co-applicants or co-borrowers, enter the code 0 for "not applicable:"◀

- 1—Male
  - 2—Female
  - 3—Information not provided by applicant in mail or telephone application
- [4] ▶0◀—Not applicable

e. Income. Enter the ▶gross annual◀ income that your institution relied upon in making the credit decision.

i. Round all dollar amounts to the nearest thousand (round \$500 up to the next \$1,000), and show in terms of thousands. For example, \$35,550 should be reported as 36.

ii. For loans on multifamily dwellings, enter ["NA."] ▶0◀

iii. If no income is asked for or relied on in the credit decision (such as in "no income verification" type loans), enter ["NA."] ▶0◀

5. Type of purchaser. [For loans] ▶Enter the applicable code to indicate whether a loan that your institution◀ originated or purchased [and] ▶was◀ then sold ▶to a secondary market entity◀ within the same calendar year[. enter the applicable code to indicate the secondary market entity]:

[0—Loan was not sold in calendar year covered by register]

- 1—FNMA (Federal National Mortgage Association)
  - 2—GNMA (Government National Mortgage Association)
  - 3—FHLMC (Federal Home Loan Mortgage Corporation)
  - 4—FmHA (Farmers Home Administration)
  - 5—Commercial bank
  - 6—Savings bank or savings association
  - 7—Life insurance company
  - 8—Affiliate institution
  - 9—Other type of purchaser
- ▶0—Loan was not sold in calendar year covered by register/loan not originated◀

[a. If you originated or purchased a loan and did not sell the loan that same calendar year, enter code 0.]

[b.] ▶a.◀ If you sell a loan in a succeeding year, you need not report the sale.

[c.] ▶b.◀ If you conditionally assign a loan to GNMA in connection with a mortgage-backed security transaction, use code 2.

[d.] ▶c.◀ Loans "swapped" for mortgage-backed securities are to be treated as sales; enter the type of entity receiving the loans that are swapped as the purchaser.

[e.] ▶d.◀ Use code 8 for loans sold in the same year to an institution affiliated with you, such as a subsidiary or a parent corporation.

▶e. If you originated or purchased a loan and did not sell it during that same calendar year, enter the code 0. Also use code 0 for applications that were denied, withdrawn, or approved but not accepted by the applicant; and when files were closed for incompleteness.◀

6. Reasons for denial. You need not enter the reasons for the denial of an application. But if you wish to do so, you may indicate up to three reasons by using the following codes:

- 1—Debt-to-income ratio
- 2—Employment history
- 3—Credit history
- 4—Collateral
- 5—Insufficient cash (downpayment, closing costs)
- 6—Unverifiable information
- 7—Credit application incomplete
- 8—Mortgage insurance denied
- 9—Other

▶Leave this column blank if the "action taken" on the application is not a denial. For example, do not complete this column if the application was withdrawn or the file was closed for incompleteness.◀ If your institution uses the model form for adverse action supplied in the appendix to Regulation B (Form C-1 in Appendix C, Sample Notification Form, which offers some 20 reasons for denial), the following list shows which codes to use.

a. [Use code] ▶Code◀ 1 for: Income insufficient for amount of credit requested, and Excessive obligations in relation to income.

b. [Use code] ▶Code◀ 2 for: Temporary or irregular employment, and Length of employment.

c. [Use code] ▶Code◀ 3 for: Insufficient number of credit references provided; Unacceptable type of credit references provided; No credit file; Limited credit experience; Poor credit performance with us; Delinquent past or present credit obligation with others; Garnishment, attachment, foreclosure, repossession, collection action, or judgment, and Bankruptcy.

d. [Use code] ▶Code◀ 4 for: Value or type of Collateral not sufficient.

e. [Use code] ▶Code◀ 6 for: Unable to verify credit references, Unable to verify employment, Unable to verify income, and Unable to verify residence.

f. [Use code] ▶Code◀ 7 for: Credit application incomplete.

g. [Use code] ▶Code◀ 9 for: Length of residence, Temporary residence, and Other.

### III. Federal supervisory agencies

Send your loan/application register and direct any questions to the office of your federal supervisory agency specified below. If you are the ▶nondepository◀ subsidiary of a bank, savings association, or credit union, send the register to the supervisory agency for your parent institution.

▶1.◀ National banks and their subsidiaries. District office of the Office of the Comptroller of the Currency [serving the district in which] ▶supervising◀ the national bank [or subsidiary is located].

▶2.◀ State member banks of the Federal Reserve System, their subsidiaries, and subsidiaries of bank holding companies.

Federal Reserve Bank serving the district in which the state member bank [or subsidiary] is located ▶; the Federal Reserve Bank specified by the Board of Governors for institutions other than state member banks◀.

▶3.◀ Nonmember insured banks (except for federal savings banks) and their subsidiaries. Regional Director of the Federal Deposit Insurance Corporation for the region in which the bank or subsidiary is located.

▶4.◀ Savings institutions insured under the Savings Association Insurance Fund of the FDIC; federally-chartered savings banks insured under the Bank Insurance Fund of the FDIC (but not including state-chartered savings banks insured under the Bank Insurance Fund), their subsidiaries, and subsidiaries of savings institution holding companies. [To the District] ▶Regional◀ or other office specified by the Office of Thrift Supervision.

▶5.◀ Credit unions. National Credit Union Administration, Office of Examination and Insurance, 1776 G Street, NW., Washington, DC 20458.

▶6.◀ Other depository institutions. Regional Director of the Federal Deposit Insurance Corporation for the region in which the institution is located.

▶7.◀ Other mortgage lending institutions. Assistant Secretary for Housing, HMDA Reporting—Room 9233, U.S. Department of Housing and Urban Development, 451 7th Street, SW. Washington, DC 20410.

BILLING CODE 6210-01-M

Form FR HMDA-LAR  
OMB No. 7100-0247 Approval expires December 31, 1992  
Hours per response: 10-750 (120 average)  
This report is required by law (12 USC 2801-2810 and 12 CFR 203)

# LOAN/APPLICATION REGISTER

## TRANSMITTAL SHEET

You must complete this transmittal sheet (please type or print) and attach it to the Loan/Application Register, required by the Home Mortgage Disclosure Act, that you submit to your supervisory agency.

Reporter's Identification Number

Agency Code

Reporter's Tax Identification Number

\_\_\_\_\_

\_\_\_\_\_

The Loan/Application Register that is attached covers activity during 19 \_\_\_\_ and contains a total of \_\_\_\_ pages.

Enter the name and address of your institution. The disclosure statement that is produced by the Federal Financial Institutions Examination Council will be mailed to the address you supply below:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, ZIP

Enter the name and telephone number of a person who may be contacted if questions arise regarding your report:

\_\_\_\_\_  
Name

( ) \_\_\_\_\_  
Telephone Number

If your institution is a subsidiary of another institution or corporation, enter the name of your parent:

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, ZIP

Enter the name and address of your supervisory agency (or your parent's supervisory agency):

\_\_\_\_\_  
Name

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, ZIP

An officer of your institution must complete the following section.

**I certify to the accuracy of this report.**



# LOAN/APPLICATION REGISTER CODE SHEET

Use the following codes to complete the Loan/Application Register. The instructions explain the proper use of each code.

Application or Loan Information	Applicant Information	Type of Purchaser
Type:	Race or National Origin:	
1 -- Conventional (any loan other than FHA, VA or FmHA loans)	1 -- American Indian or Alaskan Native	1 -- FNMA (Federal National Mortgage Association)
2 -- FHA-insured (Federal Housing Administration)	2 -- Asian or Pacific Islander	2 -- GNMA (Government National Mortgage Association)
3 -- VA-guaranteed (Veterans Administration)	3 -- Black	3 -- FHLMC (Federal Home Loan Mortgage Corporation)
4 -- FmHA-insured (Farmers Home Administration)	4 -- Hispanic	4 -- FmHA (Farmers Home Administration)
	5 -- White	5 -- Commercial Bank
Purpose:	6 -- Other	6 -- Savings Bank or Savings Association
	7 -- Information not provided by applicant in mail or telephone application	7 -- Life Insurance Company
	0 -- Not applicable	8 -- Affiliate institution
1 -- Home purchase (one-to-four family)	Sex:	9 -- Other type of purchaser
2 -- Home improvement (one-to-four family)	1 -- Male	0 -- Loan was not sold in calendar year covered by register/loan not originated
3 -- Refinancing (home purchase or home improvement, one-to-four family)	2 -- Female	
4 -- Multifamily dwelling (home purchase, home improvement, and refinancings)	3 -- Information not provided by applicant in mail or telephone application	<b>Reasons for Denial (optional)</b>
Owner-Occupancy:	0 -- Not applicable	1 -- Debt-to-income ratio
1 -- Owner-occupied as a principal dwelling		2 -- Employment history
2 -- Not owner-occupied		3 -- Credit history
0 -- Not applicable		4 -- Collateral
Action Taken:		5 -- Insufficient cash (downpayment, closing costs)
1 -- Loan originated		6 -- Unverifiable information
2 -- Application approved but not accepted by applicant		7 -- Credit application incomplete
3 -- Application denied by financial institution		8 -- Mortgage insurance denied
4 -- Application withdrawn by applicant		9 -- Other
5 -- File closed for incompleteness		
6 -- Loan purchased by your institution		

By order of the Board of Governors of the Federal Reserve System, September 17, 1991.  
**William W. Wiles,**  
*Secretary of the Board.*  
 [FR Doc. 91-22784 Filed 9-19-91; 8:45 am]  
 BILLING CODE 6210-01-M

**DEPARTMENT OF LABOR**  
**Office of Workers' Compensation**  
**Programs**

20 CFR Part 10

RIN 1215-AA60

**Claims for Compensation Under the Federal Employees' Compensation Act, as Amended**

**AGENCY:** Employment Standards Administration, Labor.

**ACTION:** Notice of proposed rulemaking; request for comment.

**SUMMARY:** The Department of Labor proposes to revise the regulations implementing the Federal Employees' Compensation Act by adding the female reproductive organs to the list of organs of the body for which claim may be made for a schedule award. This action follows review of the issue instigated by inquiries on the availability of schedule awards for these organs. Benefits would be at the same level as provided for male reproductive organs, which were added to the schedule in 1975.

**DATES:** Written comments must be submitted on or before November 4, 1991.

**ADDRESSES:** Send written comments to Thomas M. Markey, Director for Federal Employees' Compensation, Employment Standards Administration, U.S. Department of Labor, Room S-3229, Frances Perkins Building, 200 Constitution Avenue NW., Washington, DC 20210; Telephone (202) 523-7552.

**FOR FURTHER INFORMATION CONTACT:** Thomas M. Markey, Director for Federal Employees' Compensation, Telephone (202) 523-7552.

**SUPPLEMENTARY INFORMATION:** The Federal Employees' Compensation Act (FECA) at 5 U.S.C. 8107, establishes a compensation schedule for the loss or loss of use of specified organs and members of the body. This form of benefit is called a schedule award, which may be paid in addition to (but not concurrent with) wage loss compensation available under other sections of the Act. The statutory schedule lists the organs and members for which benefits are payable and establishes the maximum amount of the award, expressed in terms of a number of weeks of compensation. In addition to

the list of organs specified by the statute, section 8107(22), which was added in 1974 (Pub. L. 93-416), gives the Secretary of Labor authority to add other organs to the compensation schedule. That section also provides that the maximum award for any organs added by the Secretary cannot exceed 312 weeks. The Office of Workers' Compensation Programs (OWCP) proposes to add the female reproductive organs to the compensation schedule.

The authority to add organs to the schedule has to date been exercised only once. By rules which became effective February 14, 1975, the Department of Labor added new organs and specified a maximum award (in weeks) for each as follows: breast (52), kidney (156), larynx (160), lung (156), penis (205), testicle (52) and tongue (160). See 20 CFR 10.304(b).

The Department has received inquiries concerning the availability of schedule awards for loss of use of the female reproductive organs, and has determined that under the narrow circumstances presented, the compensation schedule should be expanded and the female reproductive organs added.

The proposed addition to the schedule would encompass the ovaries and Fallopian tubes, and the uterus/cervix and the vulva/vagina. These anatomical features reflect the description of the female reproductive organs in the American Medical Association's Guides to the Evaluation of Permanent Impairment (Third Edition). This reference work is the standard used by the Department's OWCP for evaluating permanent impairment.

OWCP requires the Guides be used by physicians conducting examinations to determine the percent of the loss of use of a scheduled member. The Guides provide detailed direction on how to determine loss of use for each member of the body, specifying what functions are to be measured and how those measurements are to be made. After the medical determination is made on the extent of loss of use, the amount of the award is calculated based on the number of weeks specified by the compensation schedule. For total (100 percent) loss, the award is for the maximum number of weeks established by the schedule; for partial losses the award is prorated, so, for example, where there is a 50 percent loss of use, one-half the maximum would be paid.

The proposed maximum award under the schedule for loss or loss of use of the female reproductive organs is 309 weeks, which represents the total combined value assigned by existing rules to the male reproductive organs

(testicles and penis). In determining the maximum rate for the female reproductive organs, OWCP first looked at the 1975 rules which made additions to the schedule. OWCP determined that the maximum award for the loss or loss of use of the male reproductive organs should also be used for the female reproductive organs: 52 weeks for each ovary and Fallopian tube and 205 weeks for the rest of the female reproductive organs (cervix/uterus and vulva/vagina).

The cost of adding the female reproductive organs to the schedule is difficult to estimate, since no schedule awards for these organs have been made in the past. The amount of an individual award would be based on the percent of loss of use, which is particularly difficult to estimate. The cost is estimated as follows: The total universe from which schedule award claims for the female reproductive organs could arise is represented by the claims where the accepted conditions involve the female reproductive organs (a snapshot of the compensation payment rolls in 1990 indicated that there were 53 such cases); a detailed review of these cases revealed that only five involve a permanent loss or loss of use to the organ, which is necessary for a schedule award. It is also assumed for purposes of this estimate that the individuals would receive the average benefit payment which is about \$365 per week, and it is further assumed that each individual would receive the maximum award possible (309 weeks for total loss of both ovaries, the Fallopian tubes, uterus/cervix and vulva/vagina). Based on these assumptions, the maximum annual cost of this rule could be \$563,965 per year (5 × \$365 × 309). This estimate is high, since it should not be expected that each individual would get the maximum award.

**Classification—Executive Order 12291**

The Department of Labor has concluded that the regulatory proposal does not constitute a "major rule" under Executive Order 12291, because it is unlikely to result in: (1) an annual effect on the economy of \$100 million or more; (2) a major increase in cost or prices for consumers, individual industries, federal, state or local government agencies, or geographic regions; or (23) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. The rule applies only to Federal employees and the Federal agencies which employ

them. Accordingly, no regulatory analysis is required.

**Paperwork Reduction Act**

None.

**Regulatory Flexibility Act**

The Department believes that the rule will have "no significant economic impact upon a substantial number of small entities" within the meaning of section 3(a) of the Regulatory Flexibility Act, Public Law 96-354, 91 Stat. 1164 (5 U.S.C. 605(b)). The proposed regulations apply primarily to Federal agencies and their employees. No additional burdens are being imposed on small entities. The Secretary has certified to the Chief Counsel for Advocacy of the Small Business Administration to this effect. Accordingly, no regulatory impact analysis is required.

**List of Subjects in 20 CFR Part 10**

Claims, Government employees, Archives and records, Health records, Freedom of Information, Privacy, Penalties, Health profession, Workers' compensation, Employment, Administrative practices and procedures, Wages, Health facilities, Dental health, Medical devices, Health care, Lawyers, Legal services, Student, X-rays, Labor, Insurance, Kidney diseases, Lung diseases, and Tort claims. For the reasons set out in the preamble, it is proposed that Part 10 of chapter I of title 20 of the Code of Federal Regulations be amended as follows:

**PART 10—CLAIMS FOR COMPENSATION UNDER THE FEDERAL EMPLOYEES' COMPENSATION ACT, AS AMENDED**

1. The authority citation for 20 CFR part 10 continues to read as follows:

**Authority:** 5 U.S.C. 301; Reorg. Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; 5 U.S.C. 8145, 8149; Secretary's Order 1-89; Employment Standards Order 90-02.

2. Section 10.304 is amended by revising paragraph (b) to read as follows:

**§ 10.304 Schedule compensation rate.**

(a) \* \* \*

(b) Authority is provided under 5 U.S.C. 8107(c)(22) to add other internal and external organs to the compensation schedule. Pursuant to this authority, the following is added:

	Weeks
Breast (one).....	52
Kidney (one).....	156
Larynx.....	160

	Weeks
Lung (one).....	156
Penis.....	205
Testicle (one).....	52
Tongue.....	160
Ovary (one).....	52
Uterus/cervix and vulva/vagina.....	205

\* \* \* \* \*  
 Signed at Washington, DC, this 16th day of September 1991.  
 Lynn Martin,  
 Secretary of Labor.  
 [FR Doc. 91-22644 Filed 9-19-91; 8:45 am]  
 BILLING CODE 4510-27-M

**ENVIRONMENTAL PROTECTION AGENCY**

**40 CFR Part 721**

[OPTS-50591B; FRL-3932-9]

RIN 2070-AB27

**Ethane, 2-chloro-1,1,1,2-tetrafluoro-; Proposed Significant New Use Rule**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** EPA is proposing a significant new use rule (SNUR) under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for the chemical substance ethane, 2-chloro-1,1,1,2-tetrafluoro-, which is the subject of premanufacture notice (PMN) P-889-763, and which is subject to a TSCA section 5(e) consent order issued by EPA. This proposal would require certain persons who intend to manufacture, import, or process this substance for a significant new use to notify EPA at least 90 days before commencing any manufacturing or processing activities for a use designated by this SNUR as a significant new use. The required notice would provide EPA with the opportunity to evaluate the intended use and, if necessary, to prohibit or limit that activity before it can occur.

**DATES:** Written comments must be submitted to EPA by October 21, 1991.

**ADDRESSES:** Since some comments may contain confidential business information (CBI), all comments must be sent in triplicate (with additional sanitized copies if confidential business information is involved) to: TSCA Document Receipt Office (TS-790), Office of Toxic Substances, Environmental Protection Agency, room E-105, 401 M St., SW., Washington, DC 20460. Comments should include the docket control number. The docket control number for the chemical

substance covered in this SNUR is OPTS-50591B. Nonconfidential versions of comments on this proposed rule will be placed in the rulemaking record and will be available for public inspection. Unit VII. of this preamble contains additional information on submitting comments containing CBI.

**FOR FURTHER INFORMATION CONTACT:** David Kling, Acting Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Environmental Protection Agency, rm. EB-543-B, 401 M St., SW., Washington, DC 20460, Telephone: (202) 554-1404, TDD: (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** This proposed SNUR would require persons to notify EPA at least 90 days before commencing that manufacture, import, or processing of P-88-1763 for the significant new uses designated herein. The required notice would provide EPA with information with which to evaluate an intended use and associated activities.

**I. Authority**

Section 5(a)(2) of TSCA (15 U.S.C. 2604(a)(2)) authorizes EPA to determine that a use of a chemical substance is a "significant new use." EPA must make this determination by rule after considering all relevant factors, including those listed in section 5(a)(2). Once EPA determines that a use of a chemical substance is a significant new use, section 5(a)(1)(B) of TSCA requires persons to submit a notice to EPA at least 90 days before they manufacture, import, or process the chemical substance for that use. Section 26(c) of TSCA authorizes EPA to take action under section 5(a)(2) with respect to a category of chemical substances.

Persons subject to this SNUR would comply with the same notice requirements and EPA regulatory procedures as submitters of premanufacture notices under section 5(a)(1) of TSCA. In particular, these requirements include the information submission requirements of section 5(b) and (d)(1), the exemptions authorized by section 5(h)(1), (h)(2), (h)(3), and (h)(5), and the regulations at 40 CFR part 720. Once EPA receives a SNUR notice, EPA may take regulatory action under section 5(e), 5(f), 6, or 7 to control the activities for which it has received a SNUR notice. If EPA does not take action, section 5(g) of TSCA requires EPA to explain in the Federal Register its reasons for not taking action.

Persons who intend to export a substance identified in a proposed or final SNUR are subject to the export notification provisions of TSCA section

12(b). The regulations that interpret section 12(b) appear at 40 CFR part 707.

## II. Applicability of General Provisions

General regulatory provisions applicable to SNURs are codified at 40 CFR part 721, subpart A. On July 27, 1988 (53 FR 28354) and July 27, 1989 (54 FR 31298), EPA promulgated amendments to the general provision which apply to this SNUR. In the *Federal Register* of August 17, 1988 (53 FR 31252), EPA promulgated a "User Fee Rule" (40 CFR part 700) under the authority of TSCA section 26(b). Provisions requiring persons submitting significant new use notices to submit certain fees to EPA are discussed in detail in that *Federal Register* document. Interested persons should refer to these documents for further information.

## III. Background

EPA published a direct final SNUR for the chemical substance which was the subject of PMN P-88-1763 in the *Federal Register* of April 25, 1991 at 56 FR 19229. EPA received notice of intent to submit adverse comments during the 30 days following publication. Therefore, in accord with § 721.160, the final SNUR for P-88-1763 is being withdrawn elsewhere in this issue of the *Federal Register* and this proposed rule on the substance is being issued. In addition, EPA noted that § 721.72(e), which exempts certain significant new use notification requirements when a chemical substance is used below a certain concentration, omitted the concentration level of the exemption. The concentration level is part of this proposal.

EPA is not soliciting and will not respond to comment on any of the other SNURs that were published in the April 25, 1991, *Federal Register* because those rules became final without comment effective May 25, 1991. The supporting rationale and background to this proposal are more fully set out in the preamble to the direct final SNUR for this substance and in the preamble to EPA's first direct final SNURs published in the *Federal Register* of April 24, 1990, at 55 FR 17376. Consult that preamble for further information on the objectives, rationale, and procedures for the proposal and on the basis for significant new use designations including provisions for developing test data.

## IV. Substance Subject to This Rule

EPA is proposing significant new use and recordkeeping requirements for the following chemical substance under part 721 subpart E.

### PMN Number P-88-1763

*Chemical Name:* Ethane, 2-chloro-1,1,1,2-tetrafluoro-

*CAS Number:* 2837-89-0.

*Effective Date of Section 5(e) Consent Order:* October 16, 1990.

*Basis for Section 5(e) Order:* The order was issued under section 5(e)(1)(A)(i), (ii)(I), and (ii)(II) of TSCA based on the finding that this substance may present an unreasonable risk of injury to health, and there may be significant or substantial exposure to the substance. *Toxicity Concern:* Similar substances have been shown to cause cancer, developmental toxicity, neurotoxicity, and chronic liver effects in laboratory animals.

*Recommended Testing:* EPA has determined that a 90-day inhalation toxicity study in rats (40 CFR 798.2650) would help characterize possible liver toxicity and neurotoxicity of the substance, a two-species developmental inhalation toxicity study (40 CFR 798.4000) would help characterize possible developmental toxicity of the substance, and a 2-year, two-species inhalation bioassay (40 CFR 798.3300) would help characterize the possible carcinogenicity of the substance. The PMN submitter has agreed not to exceed the production volume limit without performing these studies.

*CFR Citation:* 40 CFR 721.1006.

## V. Applicability of SNUR to Uses Occurring Before Effective Date of the Final SNUR

EPA has decided that the intent of section 5(a)(1)(B) is best served by designating a use as a significant new use as of the date of proposal rather than as of the effective date of the rule. Because this SNUR was first published on April 25, 1991, as a direct final rule, that date will serve as the date after which uses will be considered to be new uses. If uses which had commenced between that date and the effective date of this rulemaking were considered ongoing, rather than new, any person could defeat the SNUR by initiating a significant new use before the effective date. This would make it difficult for EPA to establish SNUR notice requirements. Thus, persons who begin commercial manufacture, import, or processing of the substance for uses regulated through this SNUR after April 25, 1991, will have to cease any such activity before the effective date of this rule. To resume their activities, such persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires. EPA, not wishing to unnecessarily disrupt the

activities of persons who begin commercial manufacture, import, or processing for a proposed significant new use before the effective date of the SNUR, has promulgated provisions to allow such persons to comply with this proposed SNUR before it is promulgated. If a person were to meet the conditions of advance compliance as codified at § 721.45(h) (53 FR 28354, July 17, 1988), the person will be considered to have met the requirements of the final SNUR for those activities. If persons who begin commercial manufacture, import, or processing of the substances between proposal and the effective date of the SNUR do not meet the conditions of advance compliance, they must cease that activity before the effective date of the rule. To resume their activities, these persons would have to comply with all applicable SNUR notice requirements and wait until the notice review period, including all extensions, expires.

## VI. Economic Analysis

EPA has evaluated the potential costs of establishing significant new use notice requirements for potential manufacturers, importers, and processors of the chemical substance at the time of the direct final rule. The analysis is unchanged for the substance in this proposed rule. The Agency's complete economic analysis is available in the public record for this proposed rule (OPTS-50591B).

## VII. Comments Containing Confidential Business Information

Any person who submits comments claimed as confidential business information must mark the comments as "confidential," "trade secret," or other appropriate designation. Comments not claimed as confidential at the time of submission will be placed in the public file. Any comments marked as confidential will be treated in accordance with the procedures in 40 CFR part 2. Any party submitting comments claimed to be confidential must prepare and submit a nonconfidential public version in triplicate of the comments that EPA can place in the public file.

## VIII. Rulemaking Record

EPA has established a record for this rulemaking (docket control number OPTS-50591B). The record includes basic information considered by the Agency in developing this proposed rule. EPA will supplement the record with additional information as it is received.

EPA will accept additional materials for inclusion in the record at any time between this proposal and designation

of the complete record. EPA will identify the complete rulemaking record by the date of promulgation. A public version of the record, without any CBI, is available in the TSCA Public Docket Office from 8 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, except legal holidays. The TSCA Public Docket Office is located in rm. NE-G004, 401 M St., SW., Washington, DC.

## IX. Regulatory Assessment Requirements

### A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore requires a Regulatory Impact Analysis. EPA has determined that this proposed rule would not be a "major" rule because it would not have an effect on the economy of \$100 million or more, and it would not have a significant effect on competition, costs, or prices. While there is no precise way to calculate the total annual cost of compliance with this rule, EPA estimates that the cost for submitting a significant new use notice would be approximately \$2,052 to \$9,666, plus a \$2,500 user fee payable to EPA to offset EPA costs in processing the notice. EPA believes that, because of the nature of the rule and the substance involved, there would be few significant new use notices submitted. Furthermore, while the expense of a notice and the uncertainty of possible EPA regulation may discourage certain innovation, that impact would be limited because such factors are unlikely to discourage an innovation that has high potential value.

This regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291.

### B. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (5 U.S.C. 605(b)), EPA has determined that this rule would not have a significant impact on a substantial number of small businesses. EPA has not determined whether parties affected by this rule would likely be small businesses. However, EPA expects to receive few SNUR notices for the substance. Therefore, EPA believes that the number of small businesses affected by this rule would not be substantial, even if all of the SNUR notice submitters were small firms.

### C. Paperwork Reduction Act

OMB has approved the information collection requirements contained in this rule under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), and has assigned OMB

control number 2070-0012. Public reporting burden for this collection of information is estimated to vary from 30 to 170 hours per response, with an average of 100 hours per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Chief, Information Policy Branch, PM-223, U.S. Environmental Protection Agency, 401 M St., SW., Washington, DC 20460; and to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information requirements contained in this proposal.

### List of Subjects in 40 CFR Part 721

Chemicals, Environmental protection, Hazardous materials, Recordkeeping and reporting requirements, Significant new uses.

Dated: September 13, 1991.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that 40 CFR part 721 be amended as follows:

### PART 721—[AMENDED]

1. The authority citation for part 721 would continue to read as follows:

Authority: 15 U.S.C. 2604 and 2607.

2. By adding new § 721.1006 to subpart E to read as follows:

#### § 721.1006 Ethane, 2-chloro-1,1,1,2-tetrafluoro-

(a) *Chemical substances and significant new uses subject to reporting.* (1) The chemical substance identified as ethane, 2-chloro-1,1,1,2-tetrafluoro- (CAS No. 2837-89-0; P-88-1763) is subject to reporting under this section for the significant new uses described in paragraph (a)(2) of this section.

(2) The significant new uses are:

(i) *Hazard communication program.* Requirements as specified in § 721.72(a), (b), (c), (d), (e) (concentration set at 0.1 percent), (f), and (g)(5). The following additional human hazard precautionary statement shall appear on the MSDS as specified in § 721.72(c):

Inhalation of high concentrations of vapor is harmful and may cause heart irregularities, unconsciousness, or death. Intentional misuse can be fatal. Vapor reduces oxygen available

for breathing and is heavier than air. Liquid contact causes frostbite. The effects in animals from single exposure by inhalation include central nervous system effects, anesthesia, and decreased blood pressure. Cardiac sensitization occurred in dogs exposed to a concentration of 2.5 percent in air and given an intravenous epinephrine challenge. Repeated exposures produced increased liver weights, anesthetic effects, irregular respiration, poor coordination, and nonspecific effects such as decreased body weight gain. However, no irreversible effects were seen as evidenced by histopathologic evaluation. As part of an extensive toxicology program, halogenated chlorofluorocarbon-124 will be tested in subchronic, developmental, and chronic/cancer studies. Avoid breathing high concentration of vapor. Use with sufficient ventilation to keep employee exposure below recommended limits. Avoid contact of liquid with skin and eyes. Wear chemical splash goggles and lined butyl gloves. Do NOT allow product to contact open flame or electrical heating elements because dangerous decomposition products may form.

The following additional human health hazard precautionary statements shall appear on each label as specified in § 721.72(b):

Inhalation of high concentrations of this substance in vapor form may cause:

- (a) Heart irregularities.
- (b) Unconsciousness.
- (c) Death.

(ii) *Industrial, commercial, and consumer activities.* Requirements as specified in § 721.80(q). In addition it is a significant new use to use this substance as a blowing agent in the manufacture of structural insulation foams for commercial or consumer purposes.

(b) *Specific requirements.* The provisions of subpart A of this part apply to this section except as modified by this paragraph.

(1) *Recordkeeping requirements.* Recordkeeping requirements as specified at § 721.125(a), (b), (c), (f), (g) (h), and (i) are applicable to manufacturers, importers, and processors of this substance.

(2) *Limitations or revocation of certain notification requirements.* The provisions of § 721.185 apply to this significant new use rule.

(3) *Determining whether a specific use is subject to this section.* The provisions of § 721.575(b)(1) apply to this section.

(Approved by the Office of Management and Budget under OMB control number 2070-0012)

[FR Doc. 91-22718 Filed 9-19-91; 8:45 am]

BILLING CODE 6560-50-F

**40 CFR Part 744**

[OPTS-62100B; FRL 3946-3]

**Proposed Regulation of Land Application of Sludge From Pulp and Paper Mills Using Chlorine and Chlorine Derivative Bleaching Processes****AGENCY:** Environmental Protection Agency (EPA).**ACTION:** Proposed rule; notice of meeting.**SUMMARY:** Notice is hereby given that a peer review panel will meet to evaluate the risk assessments underlying the proposed regulation of land application of sludge from pulp and paper mills using chlorine and chlorine derivative bleaching processes. Interested parties will be given an opportunity to address the peer review panel. The plenary sessions of the meeting will be open to the public.**DATES:** The peer review panel will meet on October 1 and 2, 1991, from 9 am to 5 pm. Persons wishing to attend the plenary sessions should contact the party listed under FOR FURTHER INFORMATION CONTACT before September 24, 1991.**ADDRESS:** The peer review panel meeting will be held at the Greenbelt Marriott, 6400 Ivy Lane, Greenbelt, MD 20770.**FOR FURTHER INFORMATION CONTACT:** David Kling, Acting Director, Environmental Assistance Division (TS-799), U.S. Environmental Protection Agency, 401 M St., SW., rm. E-543B, Washington, DC 20460, telephone: (202) 554-1404, TDD: (202) 554-0551.**SUPPLEMENTARY INFORMATION:** On May 10, 1991, EPA issued a proposed regulation governing the land application of sludge from pulp and paper mills using chlorine and chlorine-derivative bleaching processes (56 FR 21802). In that proposed rule, EPA indicated that it would conduct a peer review of the ecological risk assessment and the human health exposure assessment used to calculate human risk, which were performed as part of the rule investigation. Carcinogenicity of dioxin will not be addressed at this review. The results of the peer review will be entered into the rulemaking record for this proceeding (Docket OPTS-62100) on or about October 25, 1991.

The peer review panel will hold a meeting on October 1 and 2, 1991, from 9 am to 5 pm each day, at the Greenbelt

Marriott, 6400 Ivy Lane, Greenbelt, MD 20770. The plenary sessions of the peer review panel meeting, consisting of the morning session on October 1, 1991 and the afternoon session on October 2, 1991, will be open to the public. Persons wishing to attend the meeting must call the party named in FOR FURTHER INFORMATION CONTACT in order to preregister. Preregistrants will receive a fact sheet prior to the meeting.

Members of the public will be granted the opportunity to make oral comments at the first plenary session. Individual comments will be limited to 5 minutes.

Persons wishing to address the peer review panel should indicate their intention to do so when they preregister for the meeting. The meeting chair may accept comments by additional persons, and may waive or extend the 5 minute limit if time permits more extended comments or if the number of persons wishing to comment is small.

Dated: September 13, 1991.

**Mark A. Greenwood,**  
*Director, Office of Toxic Substances.*[FR Doc. 91-22717 Filed 9-19-91; 8:45 am]  
**BILLING CODE 6560-50-F****FEDERAL COMMUNICATIONS COMMISSION****47 CFR Part 73**

[MM Docket No. 91-267, RM-7785]

**Television Broadcasting Services; Kennett, MO****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.**SUMMARY:** This document requests comments on a petition filed by New Life Evangelistic Center, Inc., proposing the allotment of Channel 58 to Kennett, Missouri, as that community's first local television service. There is a site restriction 15.1 kilometers (9.4 miles) south of the community at coordinates 36-06-09 and 90-02-25. Channel 58 also requires a plus offset.**DATES:** Comments must be filed on or before November 4, 1991, and reply comments on or before November 19, 1991.**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with FCC, interested parties should serve the petitioner's counsel, as follows: John H.

Midlen, Jr., Gregory H. Guillot, Midlen &amp; Guillot, Chartered, 3238 Prospect Street, NW., Washington, DC 20007-3214.

**FOR FURTHER INFORMATION CONTACT:** Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-267 adopted September 3, 1991, and released September 16, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are—prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

**List of Subjects in 47 CFR Part 73**

Radio broadcasting.

Federal Communications Commission.

**Michael C. Ruger,**  
*Assistant Chief, Allocations Branch, Policy and Rules Division, Mass Media Bureau.*[FR Doc. 91-22706 Filed 9-19-91; 8:45 am]  
**BILLING CODE 6712-01-M****47 CFR Part 73**

[MM Docket No. 91-268, RM-7790]

**Radio Broadcasting Services; Fort Kent, ME****AGENCY:** Federal Communications Commission.**ACTION:** Proposed rule.**SUMMARY:** This document requests comments on a petition filed by The University of Maine System requesting the allotment of Channel 293C3 to Fort

Kent, Maine, and reservation of the channel for noncommercial educational use. The coordinates for Channel 293C3 are 47-15-30 and 68-33-30. Concurrence of the Canadian government will be requested for the allotment of Channel 293C3 at Fort Kent as a specially negotiated short-spaced allotment.

**DATES:** Comments must be filed on or before November 4, 1991 and reply comments on or before November 19, 1991.

**ADDRESSES:** Federal Communications Commission, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner's counsel, as follows: Todd D. Gray, Margaret L. Miller, Dow, Lohnes & Albertson, 1255 Twenty-third Street, NW., Washington, DC 20037.

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

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's Notice of Proposed Rule Making, MM Docket No. 91-268 adopted September 5, 1991, and released September 16, 1991. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, Downtown Copy Center, 1714 21st Street, NW., Washington, DC 20036, (202) 452-1422.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contact.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Radio broadcasting.

Federal Communications Commission.

Michael C. Ruger,

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

[FR Doc. 91-22707 Filed 9-19-91; 8:45 am]

BILLING CODE 6712-01-M

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

#### 50 CFR Part 17

RIN 1018-AB69

#### Endangered and Threatened Wildlife and Plants; Proposed Endangered or Threatened Status for 16 Plants From the Island of Molokai, HI

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) proposes endangered status pursuant to the Endangered Species Act of 1973, as amended (Act), for 15 plants: *Bidens wiebkei* (ko'oko'olau), *Brighamia rockii* (pua 'ala), *Canavalia molokaiensis* ('awikiwiki), *Clermontia oblongifolia* ssp. *brevipes* ('oha wai), *Cyanea mannii* (haha), *Cyanea procera* (haha), *Hedyotis mannii* (pilo), *Hibiscus arnottianus* ssp. *immaculatus* (koki'o ke'oke'o), *Melicope reflexa* (alani), *Phyllostegia mannii* (no common name (NCN)), *Pritchardia munroi* (loulou), *Schiedea lydgatei* (NCN), *Silene alexandri* (NCN), *Silene lanceolata* (NCN), and *Stenogyne bifida* (NCN). The Service also proposes threatened status for one plant, *Tetramolopium rockii* (NCN). All known extant populations of the 16 taxa, except one, are found only on the island of Molokai, Hawaii; the exception is also found on the island of Hawaii. Fifteen of these taxa are known from East Molokai and one is also known from West Molokai. The 16 plant taxa and their habitats have been variously affected and are threatened by 1 or more of the following: Habitat degradation and/or predation by wild, feral, or domestic animals (axis deer, goats, pigs, sheep, and cattle); competition for space, light, water, and nutrients by naturalized, alien vegetation; habitat loss from fires; predation by rats; human recreational activities; and military training exercises. Because of the depauperate number of extant individuals and their severely restricted distributions, populations of these taxa are subject to an increased likelihood of extinction from stochastic events. This proposal, if made final, if made final, would implement the Federal protection and recovery provisions provided by the Act. Comments and materials related to this proposal are solicited.

**DATES:** Comments from all interested parties must be received by November 19, 1991. Public hearing requests must be received by November 4, 1991.

**ADDRESSES:** Comments and materials concerning this proposal should be sent

to Robert P. Smith, Field Supervisor, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Derral R. Herbst, at the above address (808/541-2749 or FTS 551-2749).

#### SUPPLEMENTARY INFORMATION:

##### Background

*Bidens wiebkei*, *Brighamia rockii*, *Canavalia molokaiensis*, *Clermontia oblongifolia* ssp. *brevipes*, *Cyanea mannii*, *Cyanea procera*, *Hedyotis mannii*, *Hibiscus arnottianus* ssp. *immaculatus*, *Melicope reflexa*, *Phyllostegia mannii*, *Pritchardia munroi*, *Schiedea lydgatei*, *Silene alexandri*, *Stenogyne bifida*, and *Tetramolopium rockii* are currently known only from the island of Molokai, Hawaii. *Silene lanceolata* is found on both Molokai and on the island of Hawaii.

The island of Molokai, the fifth largest in the Hawaiian island chain, is approximately 38 miles (mi) (61 kilometers (km)) long, up to 10 mi wide, and encompasses an area of about 266 square (sq) mi (688 sq km) (Foote *et al.* 1972, Plasch 1985). Three shield volcanoes make up most of the land mass of Molokai: West Molokai Mountain, East Molokai Mountain, and a volcano that formed Kalaupapa Peninsula (Department of Geography, University of Hawaii 1983). Molokai can also be divided into three major sections: The West Molokai section, comprising West Molokai Mountain; the central Molokai section or Hoolehua Plain formed between the two large mountain masses; and the East Molokai section, incorporating East Molokai Mountain and Kalaupapa Peninsula (Foote *et al.* 1972).

The taller and larger East Molokai Mountain rises 4,970 feet (ft) (1,813 meters (m)) above sea level (Walker 1990) and comprises roughly 50 percent of the island's land area. Topographically, the windward side of East Molokai differs from the leeward side. Precipitous cliffs line the northern windward coast with deep inaccessible valleys dissecting the coastline. The annual rainfall on the windward side is 75 to over 150 inches (in) (200 to over 375 centimeters (cm)), distributed throughout the year. The soils are poorly drained and high in organic matter. The gulches and valleys are usually very steep, but sometimes gently sloping (Foote *et al.* 1972). Much of the native

vegetation on the northern part of East Molokai is intact because of its relative inaccessibility to humans and animals (Culliney 1988), although destructive ungulates have begun to enter the coastline in recent years (Joel Lau, The Nature Conservancy of Hawaii (TNCH), pers. comm., 1990). *Brighamia rockii*, *Canavali molokaiensis*, *Hibiscus arnotianus* ssp. *immaculatus*, and *Stenogyne bifida* extend through various windward vegetation communities, from Coastal Dry Communities along the northern coast to the Montane Mesic Communities found inland on that side of the island. Halawa, on Molokai's extreme eastern end, has the same soil types as the windward side of the island. *Bidens wiebkei* is the only proposed plant taxon that grows in the Lowland to Montane Mesic Shrublands and Forests found on this section of the island.

Although Molokai's windward side receives most of the island's rainfall, some falls onto the upper slopes of the leeward (southern) side, decreasing as elevation decreases, and resulting in diverse leeward communities from wet forests to dry shrub and grasslands. The average annual rainfall on the leeward side of East Molokai is between 30 and 50 in (80 and 130 cm), mostly falling between November and April. The gently sloping to very steep topography of upland regions has predominantly well drained and medium-textured soils. *Clermontia oblongifolia* ssp. *brevipes*, *Cynanea manii*, *Cynanea procera*, *Hedyotis manii*, *Melicope reflexa*, *Phyllostegia manii*, *Pritchardia munroi*, *Schiedea lydgatei*, *Silene alexandri*, and *Silene lanceolata* are found in habitats that extend from upper elevation Montane Wet Forests down to the Lowland Dry Communities on the leeward side of the island.

On the northwestern portion of East Molokai is Kalaupapa Peninsula, created after most of the island had been formed. Kalaupapa is the site of a Hansen's Disease settlement operated by the State Department of Health but with a cooperative agreement with the National Park Service. One population of *Tetramolopium rockii* is located along its ash-covered, basaltic coastline.

With the advent of cattle ranching and later pineapple cultivation, most of Molokai, particularly West Molokai and East Molokai's southern section, was converted to pasture land. The only remaining large tracts of native vegetation are found within the Molokai Forest Reserve on the upper elevation portions of East Molokai; most of the proposed plant taxa are restricted to this forest reserve. *Tetramolopium*

*rockii* is the only proposed taxon found on West Molokai, restricted to coastal calcareous sand dunes on the island's northeastern corner, where the impacts of ranching activities and development have been quite limited. This Coastal Dry Community extends from sea level to 1,000 ft (300 m) in elevation with annual rainfall of 10 to 40 in (250 to 1,000 millimeters (mm)).

Of the 16 proposed taxa, *Silene lanceolata* is the only species that is currently found on an island other than Molokai. The Hawaii Island populations of *S. lanceolata* grow in the saddle region between Mauna Kea and Mauna Loa Mountains. Hawaii's two largest volcanoes. The Montane Dry Shrub and Grassland communities to which this species belongs extend into the subalpine zone, from 1,600 to 9,500 ft (500 to 2,900 m) in elevation with annual rainfall between 12 and 40 in (300 and 1,000 mm) (Gagne and Cuddihy 1990).

The land that supports these 16 plant taxa is owned by the State of Hawaii, the Federal government, and private entities. The three State agencies are the Department of Land and Natural Resources (including the Natural Area Reserves System and Forest Reserves), the Department of Health, and the Department of Hawaiian Home Lands, the last two of which include cooperative management agreements with the National Park Service. Federally-owned land consists of the Pohakuloa Training Area on the island of Hawaii, under the jurisdiction of the U.S. Army. Among various private owners are the Nature Conservancy of Hawaii (TNCH) and a private owner with a conservation easement with that conservation organization.

#### Discussion of the 16 Taxa Proposed for Listing

*Bidens wiebkei* was named by the Earl Edward Sherff in honor of Henry Wiebke, a school principal on Molokai, who, with Otto Degener, discovered the plant in 1928 (Sherff 1928b). Sherff (1928a) named *Bidens campylothea* var. *nematocera* based on Wilhelm Hillebrand's (1888) description of an unnamed variety of *Campylothea grandiflora* from Molokai; he later raised this taxon to specific status and published the combination *Bidens nematocera* (Sherff 1935a). Hillebrand's type, the only specimen of *B. nematocera* collected, was deposited in Berlin and destroyed during World War II. Nevertheless, in the current treatment of the genus, Fred R. Ganders and Kenneth M. Nagata (1990) tentatively consider *B. nematocera* to be synonymous with *B. wiebkei*.

*Bidens wiebkei*, a member of the aster family (Asteraceae), is a perennial herb which is somewhat woody at the base and grows from 1.6 to 3.3 ft (0.5 to 1 m) tall. The opposite, pinnately compound leaves are 2.8 to 5.1 in (7 to 13 cm) long and each has three to seven leaflets, 1 to 3 in (2.5 to 8 cm) long and 0.4 to 1 in (1 to 2.5 cm) wide. Flower heads are arranged on side branches in clusters of usually 10 to 30, each 0.6 to 1 in (1.6 to 2.5 cm) in diameter and comprising 4 to 6 sterile, yellow ray florets, about 0.5 in (10 to 12 mm) long and 0.08 to 0.2 in (2 to 5 mm) wide, and 9 to 18 bisexual, yellow disk florets. Fruits are brownish-black achenes (dry, one-seeded fruits), which are curved or twisted and winged and measure 0.2 to 0.4 in (6 to 9 mm) long and 0.04 to 0.08 in (0.9 to 2 mm) wide. This plant is distinguished from other *Bidens* species which grow on Molokai by its erect habit and the curved or twisted, winged achenes (Degener and Sherff 1932a, 1932b; Ganders and Nagata 1990).

Historically, *Bidens wiebkei* was known from Pelekunu and the easternmost section of Molokai at Halawa (Hawaii Heritage Program (HHP) 1990a1, 1990a6). It is still found near Halawa and was recently discovered on Puu Kolekole, just south of its historical range, on privately-owned land (HHP 1990a1 to 1990a5). The five known populations of this species are scattered along steep, exposed slopes (Gagne and Cuddihy 1990; HHP 1990a2, 1990a3, 1990a5) in *Metrosideros polymorpha* ('ohi'a) dominated mesic shrublands and forests at 820 to 3,450 ft (250 to 1,050 m) in elevation (Ganders and Nagata 1990), extending over a distance of 2.5 by 1 mi (4 by 1.6 km), and numbering no more than 60 individuals. Other associated plant species include *Antidesma* (hame), *Nestegis sandwicensis* (olopua), *Pisonia* (papala kepau), and *Scaevola gaudichaudii* (naupaka kuahiwi) (Cuddihy et al. 1982, HHP 1990a5). The major threats to *Bidens wiebkei* include habitat degradation and possible predation by deer and feral goats, competition with alien plants (*Melinis minutiflora* (molasses grass) and *Schinus terebinthifolius* (Christmas berry)), and fire. Damage or vandalism by humans of those plants found along trails is also a serious threat.

Asa Gray (Mann 1868) described *Brighamia insignis* based upon alcohol-preserved flowers and fruits collected by William Tufts Brigham on Molokai and a dried specimen collected on Kauai or Niihau by Ezechiel Jules Remy. Brigham's bottled material has since been lost. In his monograph, Harold St.

John (1969) named plants collected on Molokai *B. rockii* and *B. rockii* f. *longiloba*, based, respectively, upon specimens collected by Frances Raymond Fosberg and Charles Noyes Forbes. The specific epithet was chosen to honor Joseph F. Rock. St. John (1969) also described *B. remyi*, based upon a specimen collected on Maui by Remy. In the current treatment of the genus, Thomas G. Lammers (1990) recognizes only two species: *B. rockii* for plants which presently can be found on Molokai and possibly for those which were formerly found on Lanai and Maui, and *B. insignis* for the Kauai and Niihau plants.

*Brighamia rockii*, a member of the bellflower family (Campanulaceae), grows as an unbranched plant 3.3 to 16 ft (1 to 5 m) tall with a thickened, succulent stem which tapers from the base. The fleshy, oval leaves are widest at their tips and are arranged in a rosette at the top of the plant. They measure 2.4 to 8.7 in (6 to 22 cm) long and 2 to 6 in (5 to 15 cm) wide. The fragrant flowers are clustered in groups of three to eight in the leaf axils (the point between the leaf and the stem). Each flower cluster is on a stalk 1.4 to 3.0 in (3.5 to 7.5 cm) long, and each flower is on a stalk 0.2 to 0.5 in (6 to 12 mm) long. The green basal portion of the flower (hypanthium) has 10 ribs and is topped by 5 calyx lobes 0.01 to 0.3 in (2.5 to 8 mm) long. The petals are fused into a green to yellowish-green tube 3.1 to 5.1 in (8 to 13 cm) long and 0.1 to 0.2 in (0.2 to 0.4 cm) wide which flares into five white, elliptic lobes 0.7 to 1.5 in (1.7 to 3.7 cm) long and 0.3 to 0.5 in (0.8 to 1.3 cm) wide. The fruit is a capsule 0.5 to 0.8 in (13 to 20 mm) long, 0.3 to 0.4 in (7 to 10 mm) wide, and 0.1 to 0.2 in (3 to 4 mm) thick which contains numerous seeds about 0.05 in (1.1 to 1.2 mm) long. This species is a member of a unique endemic Hawaiian genus with only one other species, found on Kauai, from which it differs by the color of its petals, its longer calyx lobes, and its shorter flower stalks (Lammers 1990, St. John 1969).

*Brighamia rockii* once ranged along the northern coast of East Molokai from Kalaupapa to Halawa and may possibly have grown on Lanai and Maui (HHP 1990b1, 1990b2, 1990b4; Lammers 1990). Today its range has decreased to scattered populations on steep, inaccessible sea cliffs along East Molokai's northern coastline from Anapuhi Beach to Wailau Valley on private land, and on the relatively inaccessible State-owned sea stack of Huelo, east of Anapuhi Beach (HHP 1990b3, 1990b5 to 1990b8; Hawaii Plant

Conservation Center (HPCC) 1990a). The 5 known populations of *Brighamia rockii* that extend over this 6.5 mi (10.5 km) long stretch total fewer than 200 individuals (HHP 1990b3, 1990b5 to 1990b8). The plants are found in rock crevices on steep sea cliffs, often within the spray zone, in Coastal Dry to Mesic Forests or Shrublands at an elevation of sea level to 1,540 ft (0 to 470 m) with such associated species as 'ohi'a, *Canthium odoratum* (alahe'e), *Diospyros sandwicensis* (lama), *Osteomeles anthyllidifolia* ('ulei), and *Scaevola* (naupaka) (HHP 1990b1 to 1990b3, 1990b5 to 1990b7; HPCC 1990a; Lammers 1990). Ungulate damage (and possibly predation) by deer and goats poses a serious threat to *Brighamia rockii*. Although there is no evidence that rats feed on the fruits, rats are a potential threat as evidenced by predation on related Hawaiian genera. Competition with the alien plant Christmas berry is also a potential threat.

Forbes first collected *Canavalia molokaiensis* on Molokai in 1912, and 50 years later Otto Degener, Isa Degener, and J. Sauer described the species (Degener *et al.* 1962). Fosberg (1966) reduced several Hawaiian species of the genus to varieties, resulting in the name *C. galeata* var. *molokaiensis* for this taxon. In his revision of the Hawaiian taxa of the genus, St. John (1970) accepted *C. molokaiensis* and published two additional names, *C. peninsularis* and *C. stenophylla*, for Molokai plants. In the current treatment (Wagner and Herbst 1990), however, only *C. molokaiensis* is recognized.

*Canavalia molokaiensis*, a member of the pea family (Fabaceae), is a perennial climbing herb with twining branches. Each leaf is made up of three lance-shaped or sometimes oval leaflets which usually measure 1.4 to 3 in (3.5 to 8 cm) long and 0.5 to 2.1 in (1.3 to 5.4 cm) wide. Four to 15 flowers are arranged along a stalk 1.2 to 3.5 in (3 to 9 cm) long. The calyx (fused sepals), which is 0.8 to 1.1 in (20 to 28 mm) long, comprises a larger upper lip with two lobes and a smaller lower lip with three lobes. The five rose-purple petals vary from 1.4 to 1.9 in (36 to 47 mm) in length. The flattened pods, 4.7 to 6.3 in (12 to 16 cm) long and 0.9 to 1.4 in (2.3 to 3.5 cm) wide, enclose flattened, dark reddish-brown, oblong-elliptic seeds which are 0.7 to 0.9 in (17 to 22 mm) long and about 0.5 in (12 to 14 mm) wide. The only species of its genus found on Molokai, this plant can be distinguished from others in the genus by its narrower leaflets and its larger, rose-purple flowers (Degener *et al.* 1962, Sauer 1964, Wagner and Herbst 1990).

Historically, *Canavalia molokaiensis* was known from East Molokai, at Kalaupapa, Pelekunu, and farther south in Kahuaawi Gulch and the region of Manawai (HHP 1990c1 to 1990c3, 1990c9). It now has a more restricted range: From Kalaupapa to Waialeia, Kaunakakai, and Kamakou (HHP 1990c3 to 1990c10). This species typically grows in exposed dry sites on steep slopes in mesic shrublands and forests at 2,790 to 3,050 ft (850 to 930 m) in elevation (HHP 1990c7, 1990c10; Wagner and Herbst 1990). The 7 known populations, which contain an estimated 50 individuals, are on State and private land and are distributed over a 7 by 3.5 mi (11 by 5.5 km) area. The largest population of roughly 20 plants lies within a 0.2 acre (ac) (930 sq m) area (J. Lau, pers. comm., 1990). Associated plant species include 'ohi'a, *Chamaesyce* ('akoko), *Dodonaea viscosa* ('a'ali'i), *Styphelia tameiameia* (pukiawe), and *Wikstroemia* ('akia) (Cuddihy *et al.* 1982, HHP 1990c5). Feral ungulates such as goats and pigs degrade the habitat of *Canavalia molokaiensis* (extensively and pose an immediate threat to this species. Predation on a related species of *Canavalia* suggests that goats may possibly consume this species. Competition with the alien plant, molasses grass, is also an immediate threat.

Franz Elfried Wimmer (1943) described *Clermontia oblongifolia* f. *brevipes* based upon a specimen collected by Forbes on Molokai in 1912. The name of the form refers to the plant's short leaves, leaf stalks, and flower stalks. Lammers (1988) raised this taxon to the subspecific level when he published the new combination *C. oblongifolia* ssp. *brevipes*.

*Clermontia oblongifolia* ssp. *brevipes*, a member of the bellflower family, is a terrestrial shrub or tree which reaches a height of 6.6 to 23 ft (2 to 7 m). The leaves, on petioles 0.7 to 1.2 in (1.8 to 3 cm) long, are lance-shaped; have thickened, rounded teeth; and reach a length of 2.8 to 4.3 in (7 to 11 cm) and a width of 0.8 to 2 in (2 to 5 cm). Two or sometimes three flowers are grouped together on a stalk 0.2 to 0.4 in (5 to 10 mm) long, each flower having a stalk 0.4 to 1.8 in (1 to 4.5 cm) long. The flower is 2.4 to 3.1 in (6 to 7.8 cm) long; the calyx and corolla are similar in size and appearance, and each forms an arched tube which is greenish-white or purplish on the outside and white or cream colored on the inside. The nearly spherical, orange fruit is a berry, 0.7 to 1.2 in (17 to 30 mm) long. This species is distinguished from others in the genus by the structure of its calyx and corolla

as well as by the lengths of the flower, the floral lobes, and the green hypanthium. This subspecies differs from others of the species by the shape of its leaves and the lengths of its leaves, leaf stalks, and flower stalks (Lammers 1988, 1990).

The only two known populations of *Clermontia oblongifolia* ssp. *brevipes*, located within 1 mi (1.6 km) of each other in the Kamakou region of East Molokai, occur on private land (HHP 1990d1, 1990d2). Otherwise, the historical range is not known. One population has not been seen for over 40 years and may have been extirpated (HHP 1990d2). The habitat of the other is relatively intact and contains a single individual (HHP 1990d1). This taxon typically grows in shallow soil on gulch slopes in wet 'ohi'a-dominated forests at elevations between 3,500 and 3,900 ft (1,100 and 1,200 m) (HHP 1990d1, 1990d2; J. Lau, pers. comm., 1990). Associated plant species include *Cheirodendron trigynum* ('olapa) (J. Lau, pers. comm., 1990). Feral pigs are an immediate threat to the habitat of the single remaining population of *Clermontia oblongifolia* ssp. *brevipes*. Its limited number makes the taxon vulnerable to extinction by a single stochastic event. Predation on related species suggests that rats may possibly feed on the fruit or plant parts of this taxon.

Brigham named *Delissea mannii* in honor of Horace Mann, Jr., with whom he collected the plant on Molokai in the 1860s and in whose "Enumeration" Brigham published the name (Mann 1867). Hillebrand (1888) transferred the taxon to the genus *Cyanea*, resulting in the name *Cyanea mannii*.

*Cyanea mannii*, a member of the bellflower family, is a branched shrub 5 to 10 ft (1.5 to 3 m) tall. The leaves are narrowly elliptic or lance-shaped, 4.7 to 8.3 in (12 to 21 cm) long and 1 to 2 in (2.5 to 5 cm) wide, and have petioles 0.9 to 3.9 in (2.2 to 10 cm) long and hardened teeth along the leaf margins. Each flower cluster, arising from the axil of a leaf on a stalk 0.8 to 1.4 in (20 to 35 mm) long, comprises 6 to 12 flowers, each on a stalk 0.3 to 0.5 in (8 to 12 mm) long. Each flower has a smooth, green hypanthium which measures about 0.2 in (4 to 6 mm) long and 0.1 to 0.2 in (3 to 5 mm) wide and is topped by triangular calyx lobes 0.1 to 0.2 in (3 to 5 mm) long and 0.08 to 0.1 in (2 to 3 mm) wide. The purplish corolla forms a nearly upright tube 1.2 to 1.4 in (30 to 35 mm) long and 0.1 to 0.2 in (3 to 4 mm) wide, which ends in five spreading lobes. Berries have not been observed. This species is distinguished from the seven other species of the genus on Molokai by a

combination of the following characters: A branched, woody habit; leaves with small, hardened, marginal teeth; and a purplish corolla (Lammers 1990, Rock 1919, Wimmer 1943).

Historically, *Cyanea mannii* was known only from Kalae on East Molokai (HHP 1990e2). In 1984, a single plant was discovered by Thomas Lammers and others west of Puu Kolekole on East Molokai on privately-owned land (HHP 1990e1, Lammers 1990). Since then, five populations have been discovered within Kamakou Preserve on East Molokai. The 6 populations are distributed over an area of about 2 by 0.8 mi (3.2 by 1.2 km) and total about 40 individuals (Edwin Misaki, TNCH, pers. comm., 1991). This species typically grows on the sides of deep gulches (HHP 1990e1; E. Misaki, pers. comm., 1991) in 'ohi'a-dominated mesic to wet forests at elevations of about 3,300 to 3,540 ft (1,000 to 1,080 m) (Lammers 1990). Associated plant species include 'akia, 'olapa, *Dicranopteris linearis* (uluhe), and *Vaccinium* ('ohelo) (E. Misaki, pers. comm., 1991). Feral pigs threaten the habitat of *Cyanea mannii*. Rodents such as rats may feed on the fruit or other parts of the plant, as shown by predation on related species. Because of the small number of remaining individuals, one stochastic event could extirpate a significant proportion of the populations.

Hillebrand discovered *Cyanea procera* on Molokai and formed the specific epithet from a Latin word meaning "tall," in reference to the height of the plant (Hillebrand 1888). St. John (1987, St. John and Takeuchi 1987), believing there to be no generic distinction between *Cyanea* and *Delissea*, transferred the species to the genus *Delissea*, the older of the two generic names, creating *D. procera*. The current treatment, however, maintains the separation of the two genera (Lammers 1990).

*Cyanea procera*, a member of the bellflower family, is a palm-like tree 10 to 30 ft (3 to 9 m) tall with stalkless, lance-shaped leaves 24 to 30 in (60 to 75 cm) long and 3.9 to 6.7 in (10 to 17 cm) wide with tiny hardened teeth along the margins. Each flower cluster has a stalk 1.0 to 1.6 in (25 to 40 mm) long and comprises 10 to 20 flowers, each on a stalk 0.2 to 0.4 in (6 to 10 mm) long. Each flower has a hypanthium, 0.6 to 0.8 in (15 to 20 mm) in length and 0.3 to 0.5 in (8 to 13 mm) in width, topped by shallow triangular calyx lobes 0.1 to 0.2 in (3 to 4 mm) long and about 0.2 in (4 to 5 mm) wide. The purplish corolla forms a nearly upright or slightly curved tube 2.4 to 3.1 in (60 to 80 mm) long and 0.2 to 0.4

in (6 to 11 mm) wide, which ends in five downwardly curving lobes which make the flower appear one-lipped. The ellipse- or egg-shaped berries are 1.2 to 1.8 in (3.0 to 4.5 cm) long and 0.8 to 1.1 in (2.0 to 2.8 cm) wide. This species can be distinguished from other species of the genus and from *C. mannii* by its growth habit, its sessile leaves, and the single-lipped appearance of the corolla (Lammers 1990, Rock 1919, Wimmer 1943).

Historically, *Cyanea procera* was only known from an unspecified site in the Kamalo region of East Molokai (HHP 1991a) until its discovery in 1987 at Puu O Kaeha, west of Kamalo on private land. Two individuals were found in a wet 'ohi'a-dominated forest at an elevation of 3,480 ft (1,060 m). The plants grow within 6.5 ft (2 m) of each other on a steep rock wall with thin soil on the southwest slope of a narrow gulch. Associated plant species include various species of *Asplenium*, *Coprosma ochracea* (pilo), *Pipturus albidus* (mamaki), and *Touchardia latifolia* (olona) (David Lorence, National Tropical Botanical Garden, pers. comm., 1991). Only two plants of *Cyanea procera* are known to exist, making this species vulnerable to extinction if one stochastic event were to occur. Like other *Cyanea* species and related genera, *C. procera* is potentially threatened by predation by rats. Habitat degradation by feral pigs is a potential threat.

Based upon a specimen he collected with Mann on West Maui, Brigham described *Kadua laxiflora* in Mann's list of 1867. In his revision of *Hedyotis*, Fosberg (1943) included *Kadua* in the genus *Hedyotis*, and he published the following names, which are synonymized under *Hedyotis mannii* in the current treatment of the genus (Wagner et al. 1990): *H. mannii* var. *laxiflora*, *H. mannii* var. *munroi*, *H. mannii* var. *scaposa*, *H. molokaiensis*, *H. thyrsoides*, and *H. thyrsoides* var. *hillebrandii* (Fosberg 1943), as well as *H. mannii* var. *cuspidata* (Fosberg 1956).

*Hedyotis mannii*, a member of the coffee family (Rubiaceae), is a perennial plant with smooth, usually erect stems 1 to 2 ft (30 to 60 cm) long which are woody at the base and four-angled or -winged. The leaves are opposite, thin in texture, elliptic to sometimes lance-shaped, and are usually 3 to 7 in (8 to 18 cm) long and 1 to 2.6 in (2.5 to 6.5 cm) wide. Stipules (leaf-like appendages), which are attached to the slightly winged leaf stalks where they join and clasp the stem, are triangular, 0.2 to 0.6 in (5 to 14 mm) long, and have a point usually 0.2 to 0.4 in (4 to 11 mm) long.

Flowers are arranged in loose clusters up to 1 ft (30 cm) long at the ends of the stems and are either bisexual or female. The green hypanthium is top-shaped, about 0.05 in (1 to 1.5 mm) long, with sepals 0.08 to 0.1 in (1.5 to 3 mm) long and 0.04 to 0.08 in (1 to 2 mm) wide at the top. The greenish-white, fleshy petals are fused into a trumpet-shaped tube 0.2 to 0.6 in (5 to 14 mm) long. Capsules are top-shaped and measure 0.08 to 0.1 in (2 to 3 mm) long and about 0.1 in (3 to 4 mm) in diameter. This species' growth habit; its quadrangular or winged stems; the shape, size, and texture of its leaves; and its dry capsule which opens when mature separate it from other species of the genus (Hillebrand 1888, Wagner *et al.* 1990).

*Hedyotis mannii* was once widely scattered on three islands: Lanai, West Maui, and Molokai (HHP 1990f2 to 1990f10). After not being seen for 50 years, this species was rediscovered in 1987 by Steve Perlman on private land in Kawela Gulch on East Molokai (HHP 1990f1). Only two plants are known to exist (Center for Plant Conservation (CPC) 1991). *Hedyotis mannii* typically grows on dark, narrow, rocky gulch walls in mesic and perhaps wet forests (Wagner *et al.* 1990) at 490 to 3,450 ft (150 to 1,050 m) in elevation (HHP 1990f1 to 1990f10). Associated plant species include mamaki, *Cibotium* (hapu'u), *Cyanea* (haha), and *Psychotria* (kopiko) (HHP 1990f1). The limited number of individuals of *Hedyotis mannii* makes it extremely vulnerable to extinction by a single stochastic event. Feral pigs and alien plants such as molasses grass degrade the habitat of this species and contribute to its vulnerability.

Sister Margaret James Roe (1961) described *Hibiscus immaculatus* based upon specimens collected by Forbes on Molokai in 1912. The specific epithet refers to the plant's pure white flowers. In his current treatment of the genus, David M. Bates regards the taxon as *Hibiscus arnottianus* ssp. *immaculatus* (Bates 1990, Wagner *et al.* 1989).

*Hibiscus arnottianus* ssp. *immaculatus*, a member of the hibiscus family (Malvaceae), is a tree up to 10 ft (3 m) tall with alternate, oval, toothed leaves measuring 2 to 2.8 in (5 to 7 cm) long and 1.6 to 2.6 in (4 to 6.5 cm) wide. Six lance-shaped bracts, 0.2 to 0.3 in (5 to 8 mm) long, are found under each of the faintly fragrant flowers, which are arranged singly near the ends of the branches. The calyx is 1 to 1.2 in (2.5 to 3.0 cm) long and cleft into five teeth with long, narrow points. The flaring petals are white and measure 3.1 to 4.3 in (8 to 11 cm) long and 1 to 1.4 in (2.5 to 3.5 cm) wide. Anthers, on spreading filament

tips 0.4 to 0.8 in (1 to 2 cm) long, are arranged along the upper third of the white staminal column, which measures 4 to 5.5 in (10 to 14 cm) in length. Capsules are enclosed by the sepals and contain 0.2 in (4 mm) long seeds which are covered with yellowish-brown hair. This subspecies is distinguished from other native Hawaiian members of the genus by its white petals and white staminal column (Bates 1990; Neal 1965; Rock 1913; Roe 1959, 1961; St John 1981).

*Hibiscus arnottianus* ssp. *immaculatus* once ranged from Waihanau Valley east to Papalaua Valley on East Molokai (HHP 1990g3, 1990g4). This taxon is now confined to a 3 mi (5 km) stretch of the northern coast of East Molokai from Waiehu to between Papalaua and Wailau valleys (Bates 1990; HHP 1990g1, 1990g2, 1990g5) on private and State land. The 4 populations, scattered along steep sea cliffs with native plant species such as alaha'e, hame, lama, mamaki, and 'ohi'a, are believed to total no more than 50 individuals (HHP 1990g1, 1990g5; HPCC 1990b). *Hibiscus arnottianus* ssp. *immaculatus* typically occurs in mesic forests between 50 and 1,600 ft (15 and 480 m) in elevation (Bates 1990, HHP 1990g1 to 1990g5, HPCC 1990b). The major threats to *Hibiscus arnottianus* ssp. *immaculatus* are habitat destruction by feral goats and the small number of remaining populations.

St. John (1944) described and named *Pelea reflexa* based upon a specimen Rock collected on Molokai in 1910. The specific epithet refers to the slightly reflexed capsules. After further study of the genus, Thomas G. Hartley and Benjamin C. Stone (1989) placed *Pelea* into synonymy with *Melicope*, resulting in the new combination *M. reflexa* (Wagner *et al.* 1990).

*Melicope reflexa*, a member of the citrus family (Rutaceae), is a sprawling shrub 3.3 to 10 ft (1 to 3 m) tall with short, yellowish-brown, short-lived hairs on new growth. The opposite, thin, and leathery leaves are elliptical and measure 3.1 to 5.5 in (8 to 14 cm) long and 1.6 to 2.8 in (4 to 7 cm) wide. Flowers arise singly or in clusters of two or three from the leaf axil. The flower cluster has a stalk 0.1 to 0.6 in (3 to 15 mm) long, and each flower is on a stalk 0.6 to 0.8 in (15 to 20 mm) long. Male flowers have not been seen, but female flowers are made up of four overlapping sepals about 0.1 in (3 to 4 mm) long; four petals about 0.2 in (4.8 mm) long; an eight-lobed nectary disk; eight reduced, nonfunctional stamens; and a style about 0.2 in (4 mm) long. The capsules are 0.8 to 1.3 in (20 to 33 mm) wide with four sections 0.4 to 0.7 in (10 to 17 mm)

long which are fused to each other along about one-fourth of their length. One or two glossy black seeds, about 0.3 in (7 to 8 mm) long, are found in each section of the capsule. This species' opposite leaves with leaf stalks usually over 0.4 in (1 cm) long, its larger leaves and fruit, and the partially fused sections of its capsule separate it from other species of the genus (Stone *et al.* 1990).

Historically, *Melicope reflexa* occurred from a ridge between Hanalilolilo and Pepeopae in Kamakou Preserve to as far east as Halawa on East Molokai (HHP 1990h1, 1990h2, 1990h5 to 1990h7). The 3 populations of fewer than 1,000 individuals remain on private land at the headwall of Waikolu Valley, Wailau-Mapulehu summit, and at Honomuni, and are distributed over a distance of about 7.5 mi (12 km) (HHP 1990h2 to 1990h4). *Melicope reflexa* typically grows in wet 'ohi'a-dominated forests with native trees such as 'olapa at elevations between 2,490 and 3,900 ft (760 and 1,190 m) (Stone *et al.* 1990). Major threats to *Melicope reflexa* include habitat degradation by ungulates (axis deer and feral pigs) and competition with the alien plant *Clidemia hirta* (Koster's curse). Because this species is known from a single population, it is possible for one human-caused or natural event to destroy all or a significant portion of the extant individuals. Predation by deer or pigs is a potential threat in areas inhabited by these animals.

Mann (1868) published the name *Stenogyne parviflora* for a plant he and Brigham collected on Haleakala, Maui. Sherff (1934a) published the name *Phyllostegia racemosa* var. *bryanii* for plants collected on Molokai and synonymized *S. parviflora* under the new name *Phyllostegia mannii* (Sherff 1934b). In the current treatment (Wagner *et al.* 1990), *P. mannii* is the name applied to both the Molokai plants and specimens of the apparently extinct Maui plants.

*Phyllostegia mannii*, a nonaromatic member of the mint family (Lamiaceae), is a climbing vine with many-branched, four-sided, hairy stems. The opposite, hairy leaves, which are shaped like narrow triangles or narrow triangular ovals, measure 0.8 to 2.2 in (2 to 5.5 cm) long and 0.3 to 0.9 in (0.7 to 2.3 cm) wide and have coarsely toothed margins. Clusters of four to six flowers are arranged in each of several false whorls along an unbranched flowering stem 1.6 to 6 in (4 to 15 cm) long. The calyx is a bell-shaped, lobed structure. The slightly curved, two-lipped corolla tube is about 0.3 in (7 to 8 mm) long and is thought to be white. The fleshy, dark-green to

black nutlets are 0.08 to 0.1 in (2 to 2.5 mm) long. This species is distinguished from others in the genus by its hairiness; its thin, narrow leaves which are not pinnately divided; and the usual six flowers per false whorl in a terminal inflorescence (Wagner *et al.* 1990).

Historically, *Phyllostegia mannii* was found from Hanalilolilo to Ohialele on East Molokai and at Ukulele on east Maui (HHP 1990i2 to 1990i8). It has been seen on Maui for over 70 years and is apparently extinct on that island (Lammers 1990). This species is now known only from Hanalilolilo within Kamakou Preserve on privately-owned land (HHP 1990i1). The only currently known population contains four individuals. It grows in shaded sites in sometimes foggy and windswept, wet, open, 'ohi'a-dominated forests with a native shrub and tree fern (hapu'u) understory (HHP 1990i1 to 1990i3) at 3,300 to 5,000 ft (1,010 to 1,525 m) in elevation (Wagner *et al.* 1990). Associated plant species include 'olapa, a few native ferns, and *Hedyotis* (manono). The only known population of *Phyllostegia mannii* is threatened by feral pigs. Because of the small number of individuals, a natural or human-caused event could extirpate all or a significant portion of the population.

Joseph F. Rock discovered a new palm on Molokai in 1920 and named it *Pritchardia munroi* in honor of James Munro, manager of Molokai Ranch (Beccari and Rock 1921).

*Pritchardia munroi*, a member of the palm family (Arecaceae), is a tree about 13 to 16 ft (4 to 5 m) tall with a trunk up to about 7.8 in (20 cm) in diameter. The leaf blade is about 35 in (88 cm) long and has a petiole about 33 in (85 cm) long. The leaves and petioles have scattered or deciduous scales and hairs, somewhat larger on the lower leaf ribs. The leaves are deeply divided into segments which have long, drooping tips. Numerous bisexual or functionally male flowers are arranged in clusters on hairy, branching stalks about 20 in (52 cm) long which originate at the leaf bases. The flower consists of a cup-shaped, three-lobed calyx, three petals, six stamens, and a three-lobed stigma. The mature fruit is shiny, black, nearly spherical, and about 0.8 in (2 to 2.2 cm) in diameter. This species is distinguished from others of the genus by its relatively smooth leaves; the grayish-brown hair on the inflorescence stalks, which are shorter than the petioles; and the small size of the fruits (Beccari and Rock 1921, Read and Hodel 1990, St. John 1981).

Historically, *Pritchardia munroi* was found in leeward East Molokai, above Kamalo and near Kapuaokoolau (HHP

1990j1, Read and Hodel 1990). The last known wild specimen grows near the base of a small ravine in remnant dry to mesic forest at an elevation of about 2,000 ft (610 m) on privately-owned land (Garnett 1989, HHP 1990j1, Read and Hodel 1990). Associated plant species include 'a'ali'i, 'ohi'a, pukiawe, and *Pleomele aurea* (hala pepe) (Garnett 1989, HHP 1990ji). A variety of threats affects the only known wild individual of *Pritchardia munroi*. Ungulates (axis deer, goats, and pigs) continue to degrade the habitat around its fenced enclosure and prevent the establishment of seedlings. Other serious threats include fire and predation of seeds by rats. The one known wild individual is vulnerable to extinction in its natural habitat because a single stochastic event could destroy the plant.

Hillebrand (1888) described *Schiedea lydgatei*, naming it in honor of the Reverend John M. Lydgate, who, as a student, accompanied Hillebrand on collecting trips. Otto Degener and Sherff (Sherff 1944) described variety *attenuata*, but no subspecific taxa are recognized in the current treatment (Wagner *et al.* 1990).

*Schiedea lydgatei*, a member of the pink family (Caryophyllaceae), is a low, hairless perennial plant with branched stems 4 to 16 in (10 to 40 cm) long which are woody at the base. The opposite, three-veined leaves are elliptic, 0.8 to 1.8 in (2 to 4.5 cm) long, and 0.2 to 0.6 in (0.6 to 1.5 cm) wide. Bisexual flowers are arranged in loosely spreading clusters 4 to 6.8 in (10 to 17 cm) long. The flowers comprise usually 5 distinct but overlapping, narrowly oval, green sepals, 0.1 to 0.2 in (3 to 4.5 mm) long; 5 nectaries about 0.1 in (2.5 to 3 mm) long; 10 stamens; and usually 3 styles. Petals are lacking. The capsules are about 0.2 in (4 to 5.5 mm) long and open when mature to reveal dark reddish-brown seeds about 0.03 in (0.8 mm) long. The opposite, thin, three-veined leaves with petioles and the smooth, open flower clusters with relatively larger, green sepals separate this species from other members of the genus (Degener and Degener 1956, Sherff 1944, Wagner *et al.* 1990).

Historically, *Schiedea lydgatei* was found in Kalae, Poholua, Makolelau, and Ohia Gulch on East Molokai (HHP 1990k2, 1990k4, 1990k7, 1990k8). This species is now known from scattered populations in a more restricted area in Makakupaia, Kawela, and Makolelau. All 5 populations are distributed over an area of less than 1 by 3.5 mi (1.6 by 5.6 km), totalling fewer than 1,000 individuals (HHP 1990k1, 1990k3, 1990k5, 1990k6, 1990k9). This species is found along ridges and on cattle trails in dry to

mesic grasslands, shrublands, and forests with scattered native and alien trees at elevations of about 2,000 to 2,100 ft (600 to 650 m) (HHP 1990k5, 1990k6; Wagner *et al.* 1990). Associated plant species include 'a'ali'i, 'ohi'a, pukiawe, and uluhe (Gagne and Cuddihy 1990). The major threats to *Schiedea lydgatei* are fire and habitat degradation and competition with the alien plant species molasses grass. Because fire is such a pervasive threat in this species' dry, windswept habitat, a single fire could destroy as many as four of the five populations.

Hillebrand (1888) described *Silene alexandri* based upon a specimen he found on Molokai, and this is the currently accepted name (Wagner *et al.* 1990).

*Silene alexandri*, a member of the pink family, is an erect, perennial plant 1 to 2 ft (30 to 60 cm) tall which is woody at the base. The narrow, elliptic leaves are 1.2 to 2.5 in (30 to 65 mm) long by 0.2 to 0.6 in (6 to 14 mm) wide and hairless except for a fringe of hairs along the margins. Flowers are arranged in open clusters with stalks 0.4 to 0.7 in (10 to 19 mm) long. The 5-lobed, 10-veined, tubular calyx is 0.7 to 1 in (19 to 25 mm) long, and the 5 white, deeply-lobed, clawed petals extend about 0.2 in (4 to 6 mm) beyond the calyx. The capsule is about 0.6 in (14 to 16 mm) long, but seeds have never been seen. The hairless stems, flowering stalks, and sepals and the larger flowers with white petals separate this species from other members of the genus (Hillebrand 1888, Wagner *et al.* 1990, Williams 1896).

Historically, *Silene alexandri* was known from Makolelau and Kamalo on East Molokai, but now it occurs only at the former site on privately-owned land (HHP 1990L1, 1990L2). The sole population of fewer than 10 individuals is found on a cattle trail in remnant dry forest and shrubland (HHP 1990L1, Wagner *et al.* 1990) at an elevation between 2,000 and 2,500 ft (610 and 760 m) (Wagner *et al.* 1990). Associated plant species include 'a'ali'i, 'ohi'a, pukiawe, and uluhe (Gagne and Cuddihy 1990). Feral goats continue to degrade the habitat of *Silene alexandri* and pose a serious threat to remaining populations. Predation of this species may possibly occur. Fire and the small number of individuals are also immediate threats, because a single destructive event could extirpate the entire species.

Gray (1854) based his description of *Silene lanceolata* upon fertile specimens collected on Kauai during the United States Exploring Expedition in 1840, as well as vegetative material collected the

following year on Maui for the same expedition. The specific epithet refers to the plant's narrow leaves. Hillebrand (1888) recognized a variety, and later Sherff (1946) described and named two varieties, *hillebrandii* and *forbesii*. No subspecific taxa are recognized in the current treatment (Wagner *et al.* 1990).

*Silene lanceolata*, a member of the pink family, is an upright, perennial plant with stems 6 to 20 in (15 to 50 cm) long, which are woody at the base. The narrow leaves are 1 to 3 in (25 to 80 mm) long, 0.08 to 0.4 in (2 to 11 mm) wide, and smooth except for a fringe of hairs near the base. Flowers are arranged in open clusters with stalks 0.3 to 0.9 in (8 to 23 mm) long. The 5-toothed, 10-veined calyx is about 0.3 in (7 to 9 mm) long, and the wide portion of the 5 white, deeply-lobed, clawed petals is about 0.2 in (6 mm) long. The capsule is about 0.3 in (8 to 9 mm) long and opens at the top to release reddish-brown seeds about 0.04 in (1 mm) long. This species is distinguished from *S. alexandri*, the only other member of the genus found on Molokai, by its smaller flowers and capsules and its stamens, which are shorter than the sepals (Gray 1854, Hillebrand 1888, Wagner *et al.* 1990, Williams 1896).

The historical range of *Silene lanceolata* included four Hawaiian islands: Kauai, below Puu Kolekole on East Molokai, Maunalei on Lanai, and Mauna Kea on Hawaii Island (HHP 1990m1 to 1990m3, Wagner *et al.* 1990). *Silene lanceolata* now grows on the islands of Molokai and Hawaii. A single population of approximately five individuals was found in 1987 on Molokai, where it remains on private land near Puu Kolekole (HHP 1990m1). The Hawaii Island population at Puu Ahi has not been observed since 1949. However, two populations of this species were discovered in 1991 on Federal land in Kipuka Kalawamauna and Kipuka Alala at Pohakuloa Training Area on the saddle region between Mauna Kea and Mauna Loa. The three Hawaii Island populations are distributed over a distance of roughly 9 mi (15 km) between about 5,200 and 6,000 ft (1,600 and 1,800 m) in elevation (HHP 1990m1; Robert Shaw, Colorado State University, pers. comm., 1991). It is not known whether the Puu Ahi population still exists after decades of ungulate, human-caused, and natural disturbance. The 2 populations at Pohakuloa Training Area number between 95 and 125 individuals (R. Shaw, pers. comm. 1991), giving a total of fewer than 130 known individuals for the species. The populations on the island of Hawaii grow in two dry

habitat types: shrubland dominated by dense *Myoporum sandwicense* (naio), *Sophora chrysophylla* (mamane), and pukiaue with 'a'ali'i, pilo, and *Pennisetum setaceum* (fountain grass); and on 'a'a lava in a former *Chamaesyce olowaluana* ('akoko) forest now converted to fountain grass grassland with 'a'ali'i, mamane, naio, and *Chenopodium oahuense* ('aheahea) (R. Shaw, pers. comm., 1991). On Molokai, this species grows on cliff faces and ledges of gullies in dry to mesic shrubland at an elevation of about 2,600 ft (800 m) (HHP 1990m1 to 1990m3, Wagner *et al.*, 1990). Habitat destruction by feral ungulates (goats, pigs, and sheep); wildfire and fire due to hunting activities and military maneuvers; and alien plant invasion (fountain grass) are immediate threats to *Silene lanceolata*. Military exercises and predation by goats and sheep pose probable threats.

Hillebrand discovered *Stenogyne bifida* on Molokai in 1870 and, when naming the species, chose the specific epithet in reference to the deeply two-lobed upper lip of the corolla (Hillebrand 1888). This name is accepted in the current treatment (Weller and Sakai 1990).

*Stenogyne bifida*, a nonaromatic member of the mint family, is a perennial herb, evidently climbing, with smooth or slightly hairy, four-angled stems. The opposite, membranous, toothed leaves are oval or elliptical in shape, measure 1.7 to 4 in (4.2 to 10 cm) long and 0.7 to 1.4 in (1.7 to 3.6 cm) wide, and are hairless except on the midribs. Flowers are usually arranged in groups of two to six in each of several false whorls at the ends of the stems. The sepals are fused into a toothed calyx which is almost hairless, radially symmetrical, narrowly bell-shaped, and 0.3 to 0.5 in (8 to 12 mm) long. The petals are fused into a nearly straight, yellow tube 0.4 to 0.6 in (10 to 16 mm) long which flares into pale-brown lobes comprising an upper lip about 0.2 in (4 to 6 mm) long and a lower lip about 0.1 in (2 to 4 mm) long. The fruits are fleshy, black nutlets about 0.1 in (2.5 to 3 mm) long. The long, narrow calyx teeth and the deep lobe in the upper lip of the yellow corolla separate this species from others of the genus (Hillebrand 1888, Sherff 1935b, Weller and Sakai 1990).

Historically, *Stenogyne bifida* was known from scattered populations from Waianui in central Molokai to Pukoo Ridge on East Molokai (HHP 1990n3 to 1990n9, Wagner *et al.* 1990). This species is now known from only 3 East Molokai populations totalling fewer than 10

individuals: On Manawai-Kahananui Ridge along a private/State land boundary, on Kolo Ridge, and on the eastern fork of Kawela Gulch in privately-owned Pelekunu Preserve (HHP 1990n1, 1990n2; Steve Anderson Haleakala National Park, pers. comm., 1990). These three populations are scattered over an area of 6.6 sq mi (17 sq km). *Stenogyne bifida* typically grows on steep ridges in 'ohi'a-dominated Montane Mesic to Wet Forests with native species such as hapu'u, manono, 'olapa, *Broussaisia arguta* (kanawao), and *Pouteria* ('ala'a) at elevations between 1,450 and 4,000 ft (450 and 1,200 m) (HHP 1990n1 to 1990n9, HPCC 1990c). Ungulates (axis deer, goats, and pigs) are pervasive threats to populations of *Stenogyne bifida* and may eat this species when available. One trailside population that represents a significant portion of the species could be collected or vandalized.

Sherff (1934c) described *Tetramolopium rockii*, naming it in honor of Rock, who first collected the plant on Molokai in 1910. St. John (1974) described a new genus, *Luteidiscus*, for the species of *Tetramolopium* with yellow disk flowers. He transferred *T. rockii* to the new genus and also described a new species, *L. calcisabulum*. The current treatment (Lowrey 1981, 1986, 1990) reduces St. John's two species to varieties of *Tetramolopium rockii*: the typical variety and var. *calcisabulum*.

*Tetramolopium rockii*, a member of the aster family, is a glandular, hairy, prostrate shrub which forms complexly branching mats 2 to 4 in (5 to 10 cm) tall and 3 to 16 in (8 to 40 cm) in diameter. Leaves of variety *calcisabulum* are 0.8 to 1.2 in (2 to 3 cm) long and 0.2 to 0.3 in (5 to 7 mm) wide, have slightly inrolled edges, and are whitish due to the long silky hairs on their surfaces. Variety *rockii* has smaller, less hairy, flat, yellowish-green leaves, 0.6 to 0.8 in (1.5 to 2.1 cm) long and about 0.2 in (4 to 6 mm) wide. The leaves of both varieties are spatula-shaped with glands and smooth margins. Flower heads, arranged singly at the ends of flowering stalks 1.6 to 4.7 in (4 to 12 cm) long, have a hemispherical involucre (set of bracts beneath the florets) 0.2 to 0.3 in (4 to 8 mm) high and 0.4 to 0.7 in (10 to 18 mm) in diameter. Approximately 60 to 100 white ray florets, 0.1 to 0.2 in (3 to 4.5 mm) long and 0.02 to 0.04 in (0.5 to 1 mm) wide, surround 30 to 55 functionally male, yellow, funnel-shaped disk florets. Fruits are achenes, 0.08 to 0.1 in (2 to 2.5 mm) long and about 0.03 in (0.7 to 0.9 mm) wide when fertile, and are topped with white bristles 0.1 to 0.2 in (2.5 to 4

mm) long. This species differs from others of the genus by its growth habit, its hairy and glandular surfaces, its spatulate leaf shape, and its yellow disk florets (Degener and Degener 1965; Lowrey 1981, 1986, 1990; Sohmer and Gustafson 1987).

Of the two recognized varieties of *Tetramolopium rockii*, variety *rockii* was first discovered at Moomomi about 80 years ago. Still found there, *T. rockii* var. *rockii* remains in two areas: From Kapalauoa to Kahinaakalani on West Molokai (HHP 1990o3; HPCC 1990e; Lowrey 1990), and north of Kalawao on Kalaupapa Peninsula on East Molokai (HHP 1990o4; Canfield, in press; J. Lau, pers. comm., 1990). Variety *calcisabulorum* is only reported west of Moomomi, from west of Manalo Gulch to Kalani, intergrading with variety *rockii* where their ranges overlap (HHP 1990o1, 1990o2; HPCC 1990d). The only known population of *T. rockii* var. *calcisabulorum* and the scattered West Molokai population of *T. rockii* var. *rockii* extend over a distance of about 4.5 mi (7 km) along the northern coast, sometimes dominating the vegetation (HHP 1990o1, 1990o3). Twelve mi (19 km) to the east, the Kalawao population of variety *rockii* encompasses approximately 95 ac (35 ha) (HHP 1990o4). The species is estimated to number 174,000 individuals (HHP 1990o1 to 1990o4). *Tetramolopium rockii* is restricted to hardened calcareous sand dunes or ash-covered basalt in the coastal spray zone or Coastal Dry Shrublands and Grasslands between 30 and 650 ft (10 and 200 m) in elevation (Lowrey 1990). Native plant species associated with this species include *Fimbristylis cymosa*, *Heliotropium anomalum* (hinahina), *Lipochaeta integrifolia* (nehe), *Sida fallas* ('ilima), and *Sporobolus virginicus* ('aki'aki) (Canfield, in press; HHP 1990o1 to 1990o4). The major threats to *Tetramolopium rockii* are ungulate (asix deer and cattle) activity, competition with the alien plant *Prosopis pallida* (kiawe), human recreational impacts, and fire. Predation by deer and cattle are potential threats. Although the threat to this species is limited because of the large number of existing individuals, *T. rockii* is likely to become endangered in the foreseeable future if the threats are not curbed.

#### Previous Federal Action

Federal action on these plants began as a result of section 12 of the Act, which directed the Secretary of the Smithsonian Institution to prepare a report on plants considered to be endangered, threatened, or extinct in the United States. This report, designated as

House Document No. 94-51, was presented to Congress on January 9, 1975. In that document, *Bidens wiebkei*, *Brighamia rockii*, *Canavalia molokaiensis*, *Hedyotis mannii* (as *H. thyrsoides* var. *thyrsoides*), *Hibiscus arnotianus* ssp. *immaculatus* (as *H. immaculatus*), *Melicope reflexa* (as *Pelea reflexa*), *Pritchardia munroi* (as *P. munroi*), *Silene alexandri*, and one of the varieties of *Silene lanceolata* accepted at that time were considered to be endangered. Three of the four varieties of *Hedyotis mannii* accepted in 1975 and three of the varieties of *Silene lanceolata* then accepted were considered to be threatened, and *Tetramolopium rockii* was considered to be extinct. On July 1, 1975, the Service published a notice in the *Federal Register* (40 FR 27823) of its acceptance of the Smithsonian report as a petition within the context of section 4(c)(2) (now section 4(b)(3)) of the Act, and giving notice of its intention to review the status of the plant taxa named therein. As a result of that review, on June 16, 1976, the Service published a proposed rule in the *Federal Register* (41 FR 24523) to determine endangered status pursuant to section 4 of the Act for approximately 1,700 vascular plant species, including all of the above taxa considered to be endangered or thought to be extinct. The list of 1,700 plant taxa was assembled on the basis of comments and data received by the Smithsonian Institution and the Service in response to House Document No. 94-51 and the July 1, 1975, *Federal Register* publication.

General comments received in response to the 1976 proposal are summarized in an April 26, 1978, *Federal Register* publication (43 FR 17909). In 1978, amendments to the Act required that all proposals over 2 years old be withdrawn. A 1-year grace period was given to proposals already over 2 years old. On December 10, 1979, the Service published a notice in the *Federal Register* (44 FR 70796) withdrawing the portion of the June 16, 1976, proposal that had not been made final, along with for other proposals that had expired.

The Service published updated notices of review for plants on December 15, 1980 (45 FR 82479), September 27, 1985 (50 FR 39525), and February 21, 1990 (55 FR 6183). In these notices, nine of the taxa that had been in the 1976 proposed rule were treated as category 1 candidates for Federal listing. Category 1 taxa are those for which the Service has on file substantial information on biological vulnerability and threats to support preparation of listing proposals. Other than *Hedyotis*

*mannii*, all the aforementioned taxa that were either proposed as endangered or considered possibly extinct in the June 16, 1976, proposed rule were considered category 1 candidates on all three of the notices of review. *Hedyotis mannii* (as *H. thyrsoides*) was considered as a category 1\* species on the 1980 and 1985 notices, but *H. thyrsoides* is now regarded as synonymous with *H. mannii* (Wagner et al. 1990) *Hedyotis mannii* (as *H. mannii*) was considered a category 2 species on the 1980 and 1985 notices and was included as a category 1 candidate on the 1990 notice. Category 1\* taxa are those which are possibly extinct; category 2 taxa are those for which there is some evidence of vulnerability, but for which there are not enough data to support listing proposals at the time. *Schiedea lydgatei* first appeared on the 1985 notice as a category 1 species and remained so on the 1990 notice. *Clermontia oblongifolia* ssp. *mauiensis*, *cyanea mannii*, *Phyllostegia mannii*, and *Stenogyne bifida* first appeared on the 1990 notice as category 1 taxa. *Cyanea procera* first appeared on the 1990 notice as a category 1\* taxon, but information regarding the current existence of individuals of this species became available in 1991.

Section 4(b)(3)(B) of the Act requires the Secretary to make findings on certain pending petitions within 12 months of their receipt. Section 2(b)(1) of the 1982 amendments further requires all petitions pending on October 13, 1982, be treated as having been newly submitted on that date. On October 13, 1983, the Service found that the petitioned listing of these taxa was warranted but precluded by other pending listing actions, in accordance with section 4(b)(3)(B)(iii) of the Act; notification of this finding was published on January 20, 1984 (49 FR 2485). Such a finding requires the petition to be recycled, pursuant to section 4(b)(3)(C)(i) of the Act. The finding was reviewed in October of 1984, 1985, 1986, 1987, 1988, 1989, and 1990. Publication of the present proposal constitutes the final 1-year finding for these taxa.

#### Summary of Factors Affecting the Species

Section 4 of the Endangered Species Act (16 U.S.C. 1533) and regulations (50 CFR part 424) promulgated to implement the Act set forth the procedures for adding species to the Federal Lists. A species may be determined to be an endangered or threatened species due to one or more of the five factors described in section 4(a)(1). The threats facing these 16 taxa are summarized in Table 1.

TABLE 1.—SUMMARY OF THREATS

Species	Feral animal activity					Alien plants	Fire	Human impacts	Rodents	Limited numbers <sup>1</sup>
	Deer	Goats	Pigs	Sheep	Cattle					
<i>Bidens weibkei</i> .....	X	X				X	X	X		X
<i>Brighamia rockii</i> .....	X	X				P			P	
<i>Canavalia molokaiensis</i> .....		X	X			X				X
<i>Clermontia oblongifolia</i> ssp. <i>brevipes</i> .....			X						P	X
<i>Cyanea mannii</i> .....			X						P	X
<i>Cyanea procera</i> .....			P						P	X
<i>Hedyotis mannii</i> .....			X			X				X
<i>Hibiscus arnotianus</i> ssp. <i>immaculatus</i> .....		X								X
<i>Melicope reflexa</i> .....	X		X			X				X
<i>Phyllostegia mannii</i> .....			X							X
<i>Pritchardia munroi</i> .....	X	X	P						X	X
<i>Schiedea lydgatei</i> .....						X	X			
<i>Silene alexandri</i> .....		X					X			X
<i>Silene lanceolata</i> .....		X	X	X		X	X	X		X
<i>Stenogyne bifida</i> .....	X	X	X						X	X
<i>Tetramolopium rockii</i> .....	X				X	X	P	X		

X=Immediate and significant threat

P=Potential threat

<sup>1</sup> No more than 100 individuals.

These factors and their application to *Bidens weibkei* Sherff (ko'oko'olau), *Brighamia rockii* St. John (pua 'ala), *Canavalia molokaiensis* Degener, I. Degener & J. Sauer ('awikiwiki), *Clermontia oblongifolia* Gaud. ssp. *brevipes* (F. Wimmer) Lammers ('oha wai), *Cyanea mannii* (Brigham) Hillebr. (haha), *Cyanea procera* Hillebr. (haha), *Hedyotis mannii* Fosb. (pilo), *Hibiscus arnotianus* A. Gray ssp. *immaculatus* (M. Roe) D. Bates (koki'o ke'oke'o), *Melicope reflexa* (St. John) T. Hartley and B. Stone (alani), *Phyllostegia mannii* Sherff (NCN), *Pritchardia munroi* Rock (loulu), *Schiedea lydgatei* Hillebr. (NCN), *Silene alexandri* Hillebr. (NCN), *Silene lanceolata* A. Gray (NCN), *Stenogyne bifida* Hillebr. (NCN), and *Tetramolopium rockii* Sherff (NCN) are as follows:

#### A. The present or Threatened Destruction, Modification, or Curtailment of its Habitat or Range.

Native vegetation on the islands of Molokai and Hawaii has undergone extreme alterations because of past and present land management practices including ranching activities, deliberate animal and alien plant introductions, and agricultural development (Cuddihy and Stone 1990, Wagner *et al.* 1985). Ongoing and threatened destruction and adverse modification of habitat by feral animals and competition with alien plants are the primary threats facing the 16 taxa being proposed.

Fifteen of the 16 proposed taxa are variously threatened by feral animals. Of the ungulates that have become established on Molokai during the past 150 years, the axis deer (*Cervus axis*) has probably had the greatest impact on

the native vegetation. Eight axis deer, introduced to Molokai in 1888 (Culliney 1988, Tomich 1986), increased to thousands of animals by the 1960s (Graf and Nichols 1966). By the turn of the century, the deer had occupied much of the dry to mesic lowland areas and were also found in the wet forests of East Molokai (Graf and Nichols 1966, van Riper and van Riper 1982), where herds so damaged the vegetation that professional hunters were hired to control their numbers (Culliney 1988). The native vegetation has suffered irreparable damage from overgrazing by these animals. Deer degrade the habitat by trampling, consuming, and overgrazing vegetation, which removes ground cover, exposing the soil to erosional actions (J. Lau, pers. comm., 1990). Alien plant species are then able to exploit the newly disturbed areas.

A large portion of the axis deer population on Molokai has been actively managed for recreational hunting by the Division of Forestry and Wildlife since 1959. The maximum allowable limit is only one male deer per hunting trip; the remainder are managed to provide a sustainable yield (Hawaii Department of Land and Natural Resources (DLNR) 1988). Its future as a game species is assured because of its popularity among hunting organizations and its adaptability to the environment of Molokai (Tomich 1986). At present, five of the seven managed hunting areas on Molokai are within the Molokai Forest Reserve. Many areas lack maintained boundary fences that would prevent deer from entering more fragile habitats to the north (Cuddihy *et al.* 1982) and non-game areas to the east. Recently axis deer have begun to enter the windward valleys and northern

coastline of East Molokai where they were not previously observed (J. Lau, pers. comm., 1990). Axis deer are threatening the coastal habitats of *Brighamia rockii* and *Tetramolopium rockii* and the montane habitats of *Melicope reflexa*, *Pritchardia munroi*, and *Stenogyne bifida* (Bruegmann 1990; HHP 1990h2, 1990o1; J. Lau, pers. comm., 1990). The lowland habitat of *Bidens weibkei* is also threatened by axis deer (CPC 1991).

Introduced to Molokai in the early 1800s, the goat (*Capra hircus*) population flourished despite losses to the goatskin trade that spanned most of that century (Cuddihy and Stone 1990). Currently feral goats, unlike axis deer, degrade Molokai's higher elevation dry forests (Stone 1985) and are now invading the wetter regions along the northern coast of East Molokai (J. Lau, pers. comm., 1990). The impact of feral goats on native vegetation is similar to that described for deer (Cuddihy *et al.* 1982, Scott *et al.* 1986). Although northeastern Molokai is considered one of the most remote and inaccessible places in the main Hawaiian islands, the vegetation there is predominantly exotic (Culliney 1988). The replacement of native vegetation is attributed to the large number of goats. Due to their agility, goats are able to reach vegetation not usually accessible to other animals (Culliney 1988). As a result, various native plants are confined to areas inaccessible to goats. For example, *Brighamia rockii* persists on steep ledges out of the reach of goats and is unlikely to reestablish in any place accessible to them (Culliney 1988, HHP 1990b3). The sole populations of *Silene alexandri* and *Silene lanceolata* at Makolelau, the *Bidens weibkei*

population at Makakupaia, populations of *Canavalia molokaiensis*, *Hibiscus arnottianus* ssp. *immaculatus*, and *Stenogyne bifida* along the northern shore of East Molokai, and the only known wild *Pritchardia munroi* palm are threatened by goats (Brueggemann 1990; CPC 1991; Garnett 1989; Gerum 1989; HHP 1990g5, 1990j1, 1990L1, J. Lau, pers. comm., 1990). The Hawaii Island populations of *Silene lanceolata* located at Pohakuloa Training Area are also threatened by feral goats found throughout the region. Because goats are managed by the State as a game animal, hunting is encouraged. This activity increases the potential of vegetation being trampled by hunters and increases the threat of hunting-related fires.

Unlike axis deer and goats, pigs (*Sus scrofa*) are generally restricted to the wetter forested regions of Molokai, predominantly in the Molokai Forest Reserve where the majority of the proposed plants are located. Well known as a major destroyer of these forest habitats, feral pigs root extensively, trample native vegetation cover, and generally degrade native habitat (Cuddihy and Stone 1990, Stone 1985, van Riper and van Riper 1982). Not only are feral pigs major disseminators of alien plant seeds by carrying them internally or on their bodies, but they often carry the seeds into more pristine forests, further degrading the native ecosystem. In East Molokai's wet upland forests, pigs are destroying the habitat of most populations of *Canavalia molokaiensis*, *Cyanea mannii*, and *Melicope reflexa*, both populations of *Clermontia oblongifolia* ssp. *brevipes*, the only known population of *Phyllostegia mannii*, and the single remaining individual of *Hedyotis mannii* (CPC 1991; Dalton 1984; J. Lau, pers. comm., 1990). Pigs also threaten the Kawela gulch population of *Stenogyne bifida* on Molokai and locally degrade the habitat of *Silene lanceolata* on the island of Hawaii (Aplet *et al.* n.d., HPCC 1990c). The only surviving plant of *Pritchardia munroi* in the wild was recently fenced to protect it from pigs and other ungulates (CPC 1991). Therefore, feral pigs are no longer a direct threat to this plant, although they continue to degrade the habitat outside the fenced enclosure, making it unlikely that seedlings will become established there. Eradication efforts in The Nature Conservancy (TNCH) preserves include public hunting; many other areas of East Molokai also have public hunting programs (E. Misaki, pers. comm., 1990). However, feral pigs are invasive animals and often inhabit gulches and areas not frequented by hunters or

management personnel, hiding the control of these animals in remote sites.

Feral sheep (*Ovis aries*) have become firmly established on the island of Hawaii (Tomich 1986) since their introduction almost 200 years ago (Cuddihy and Stone 1990). Like feral goats, sheep roam the upper elevation dry forests of Mauna Kea (above 3,300 ft (1,000 m)), including Pohakuloa Training Area, causing damage similar to that of goats (Stone 1985). Sheep have decimated vast areas of native forest and shrubland on Mauna Kea and continue to do so as a managed game species. Sheep threaten the habitat of *Silene lanceolata* and at least two listed endangered plant species (Cuddihy and Stone 1990, Shaw *et al.* 1990, Stone 1985).

Although not a direct threat to the proposed plant taxa at present, cattle (*Bos taurus*) ranching on Molokai has played a significant role over most of the past 150 years in reducing areas of native vegetation to vast pastures of alien grasses (Cuddihy and Stone 1990, Pekelo 1973, Stone 1985). In 1960 approximately 61 percent of Molokai's land area was devoted to grazing, primarily the lower elevation dry to mesic forests, shrublands, and grasslands of West and central Molokai (Baker 1961). Cattle degraded the habitat by trampling and feeding on vegetation, eventually opening up the ground cover, exposing the soil, and increasing its vulnerability to erosion (Cuddihy and Stone 1990, Lindgren 1908, Pekelo 1973). Red erosional scars resulting from decades of cattle disturbance, exacerbated by other feral ungulate activities, are still evident on West Molokai and upper elevation ridges of East Molokai. Cattle have also facilitated the spread of alien grasses and other plants (Cuddihy and Stone 1990). Because of this alteration of vegetation, natural areas became limited to the upper elevation mesic to wet forests of East Molokai, where the State designated a single protected area: The Molokai Forest Reserve. Most of the proposed taxa are restricted to this forest reserve, which occupies about 30 percent of Molokai's land area (Baker 1961). As the fences separating cattle ranches from the forest reserve began to deteriorate over time, cattle from low elevation pastures were free to enter the forest reserve, further degrading the native forest (Cuddihy and Stone 1990, Pekelo 1973, Pratt 1973).

In the early 1970s, in an effort to keep bovine tuberculosis from entering domestic stock, a total of 375 wild cattle were eradicated from the forest reserve (Pekelo 1973). Because this did not

eliminate tuberculosis, domestic cattle were eradicated from the island between 1985 and 1986. After a mandatory 1-year hiatus, ranches were allowed to reintroduce non-breeding and later breeding animals, such that the cattle population on Molokai is now growing (Molokai Ranch, Ltd. 1988a; J. Lau, pers. comm., 1990). At present, cattle are limited to a large private ranch on West Molokai with over 1,800 animals and small private ranches on East Molokai (Molokai Ranch, Ltd. 1988a to 1988c; E. Misaki, pers. comm., 1990). Cattle are not known to have entered the Molokai Forest Reserve since their reintroduction to the island in 1987 (William Falconer, Maui Department of Agriculture, pers. comm., 1991). However, on West Molokai there are reports of cattle in Moomomi Preserve (HPCC 1990e), where a protective fence is to be erected shortly to protect *Tetramolopium rockii* and other unique native plants (E. Misaki, pers. comm., 1990). Until the fencing is completed, cattle will continue to degrade the habitat of *T. rockii*. The future of cattle and their impact on the native vegetation of Molokai, including the 16 proposed taxa, is uncertain. However, as cattle ranching becomes a more important economic activity on the island, the impact of cattle will likely be increasingly deleterious.

Cattle ranching was the island's primary industry until the 1920, when pineapple cultivation was introduced to boost the then failing economy (Bottenfield 1958). Most of the land used for this form of agriculture had already been altered through decades of extensive ranching activities. However, until the pineapple industry's decline in the 1970's, pineapple cultivation contributed significantly to the high degree of erosion (Cuddihy and Stone 1990, Wagner *et al.* 1985). More recently, economic growth has been based largely on tourism (Plasch 1985). Hotels are being proposed in conjunction with an anticipated increase in the tourist industry. Although development is limited at present to the primary tourist destination of Kaluakoi on Molokai's western end, it is inevitable that development will affect the native vegetation elsewhere on the island. For example, a water diversion plan currently under discussion proposes the extension of a tunnel eastward from Waikolu Stream, now being tapped, to other potential watershed sources such as Pelekunu Valley. Under current methods of tunnel development, construction at the surface level is likely to favor the spread of alien plant species (Alan Holt, TNCH, pers. comm., 1990).

Seven of the 16 taxa being proposed for listing are threatened by competition with 1 or more alien plant species (see Table 1). Noxious alien plants such as *Schinus terebinthifolius* (Christmas berry) have invaded the dry to mesic lowland areas. Introduced to Hawaii before 1911, Christmas berry has had particularly detrimental impacts (Cuddihy and Stone 1990). Its spread is facilitated by the opening of the ground cover and canopy by feral ungulates. This fast-growing tree is considered one of the major alien plant problems affecting the native vegetation of Molokai because it is able to form dense thickets that displace other plants (Cuddihy and Stone 1990; Smith 1985; J. Lau, pers. comm., 1990). It is spreading in Kalaupapa, Waikolu, and throughout Halawa (Kirch and Kelly 1975; Linney, in press; J. Lau, pers. comm., 1990), where it presently threatens the habitat of four of the five populations of *Bidens wiebkei* and may threaten populations of *Brighamia rockii* (HHP 1990b3).

With the introduction of cattle, goats, and deer and the development of organized ranching, the native forests in many parts of the State were converted to vast pastures of alien grasses. Of the alien grasses that have become established on Molokai, *Melinis minutiflora* (molasses grass) is probably the most disruptive to its native dry forests. First introduced as cattle fodder (Bottenfield 1958), then planted for erosion control (Cuddihy and Stone 1990), this alien species quickly spread to dry and mesic forests previously disturbed by ungulates. Molasses grass produces a dense mat capable of smothering plants (Smith 1985), essentially preventing seedling growth and native plant reproduction (Cuddihy and Stone 1990). As a fuel for fire, molasses grass intensifies its heat and carries fire into areas with woody plants (Cuddihy and Stone 1990, Smith 1985). It is able to spread prolifically after a fire and effectively compete with less fire-adapted native plant species, creating a dense stand of alien grass where forests once stood. Molasses grass is becoming a major problem in dry sites along the many leeward ridges of East Molokai. Also affected are the lower portions of Kamakou Preserve and outlying areas to the south (J. Lau, pers. comm. 1990). Here all five populations of *Schiedea lydgatei*, populations of *Canavalia molokaiensis*, and the single known plant of *Hedyotis mannii* are threatened by invading molasses grass (HHP 1990f1, 1990c4; J. Lau, pers. comm., 1990). The southern section of Halawa, containing a population of *Bidens wiebkei*, is also infested (HHP 1990a3).

Other proposed plant taxa found near molasses grass are not presently threatened, because they grow in gulches and wetter areas where the intact ground cover makes invasion by molasses grass difficult.

*Prosopis pallida* (kiawe), a common deciduous tree found in arid, low-elevation, disturbed sites on Molokai (Smith 1985, Wagner *et al.* 1990), has invaded areas adjacent to the hardened sand dunes of Moomomi Preserve where *Tetramolopium rockii* grows (HHP 1990a1; J. Lau, pers. comm., 1990). Kiawe shades the ground cover and its vast root system dries the substrate by utilizing all available water (Smith 1985). It thus competes with *Tetramolopium rockii* for light, space, and moisture (E. Misaki, pers. comm., 1990).

Of the naturalized species in the melastome family, *Clidemia hirta* (Koster's curse) has become one of the most disruptive invaders of Hawaii's ecosystems (Cuddihy and Stone 1990). First reported from the island of Oahu in 1941, Koster's curse quickly invaded the other Hawaiian islands and now occupies more than 23 sq mi (60 sq km) on East Molokai, primarily in Pelekunu and Wailau valleys (Cuddihy and Stone 1990). This noxious shrub forms a dense understory up to 6 ft (2 m) tall, shading other plants and hindering plant regeneration (Smith 1985). Koster's curse threatens to replace the Wailau-Mapulehu summit ridge population of *Melicope reflexa* (HHP 1990h2; J. Lau, pers. comm., 1991).

*Pennisetum setaceum* (fountain grass) is a fire-adapted bunch grass that has spread rapidly over bare lava flows and open areas on the island of Hawaii since its introduction in the early 1900s. Fountain grass is particularly detrimental to Hawaii's dry forests because it is able to invade areas once dominated by native plants, where it interferes with plant regeneration, carries fires into areas not usually prone to fires, and increases the likelihood of fires (Cuddihy and Stone 1990, Smith 1985). The *Chamaesyce olowaluana* ('akoko) forests on the island of Hawaii, apparently former habitat of *Silene lanceolata*, have burned repeatedly and are now largely replaced by fountain grass (R. Shaw, pers. comm., 1991). This alien plant is present in the habitat of another population of *Silene lanceolata* on the island of Hawaii, where it is likely to become a more serious problem.

Fire is a major threat to the proposed plant species found in dry to mesic habitats, especially in the lower portions of Kamakou Preserve and adjacent

areas to the south, where populations of *Schiedea lydgatei*, *Silene alexandri*, and *Silene lanceolata* are located (Cuddihy *et al.* 1982; J. Lau, pers. comm., 1990; E. Misaki, pers. comm., 1991). Populations of *Bidens wiebkei* at Halawa and *Tetramolopium rockii* at Moomomi are also threatened by fire (CPC 1991; HHP 1990ol). For reasons previously discussed, the presence of molasses grass greatly enhances the potential and destructiveness of fires. For example, in 1988 a human-caused fire consumed roughly 15 sq mi (38 sq km) of shrubland and forest from the southern coastline of East Molokai to the southwest corner of Kamakou Preserve, about 3.5 mi (5.5 km) inland (E. Misaki, pers. comm., 1990), and may possibly have destroyed four of the five populations of *Schiedea lydgatei*. Molasses grass was the main carrier of that fire (E. Misaki, pers. comm., 1991). Although fires are not frequent at Moomomi, a single fire could burn extensively through dry shrub and grassland and destroy portions of the *Tetramolopium rockii* populations that grow there (E. Misaki, pers. comm., 1990). The dry to mesic habitat of *Pritchardia munroi* is also threatened by fire (CPC 1991, HHP 1990j1).

Natural fires and fires accidentally set by hunters or military ordnance or personnel within Pohakuloa Training Area (PTA) on the island of Hawaii threaten native vegetation on the leeward side of Mauna Kea (Herbst and Fay 1979), including the habitat of three populations of *Silene lanceolata*. Although the habitat of Hawaii Island populations of *S. lanceolata* at Kipuka Alala and Kipuka Kalawamauna has apparently been burned repeatedly, those populations are still present (R. Shaw, pers. comm., 1991). This suggests the possibility that this species may be tolerant to fire. However, fire-adapted grasses already at these sites can exploit newly burned areas more rapidly than woody species (Cuddihy and Stone 1990) (presumably including *S. lanceolata*), resulting in the conversion of native shrubland to land dominated by alien grasses. Fire is therefore at least an indirect and serious threat to this species. In order to protect the Kipuka Kalawamauna population from fires, the U.S. Army has installed firebreaks and now redirects ordnance firing away from that Kipuka. The Army is also developing plans to protect the newly discovered Kipuka Alala population.

Habitat disturbance caused by human activities threatens four of the proposed taxa. Military exercises at PTA on the island of Hawaii may have threatened *Silene lanceolata* in the past. Planned

military maneuvers are now being reevaluated in light of the recent discovery of the Kipuka Alala and Kipuka Kalawamauna populations of that species. Recreational activities such as fishing and camping have drawn people to Moomomi Preserve and the adjacent coastline. The population of *Tetramolopium rockii* on State-owned Hawaiian Home Lands east of Moomomi Preserve is subject to disturbance by vehicles passing along two jeep roads that run through that population (HPCC 1990e; E. Misaki, pers. comm., 1990), which represents almost 25 percent of the individuals of that species. Although the human impact on the spray zone population of *T. rockii* on Kalaupapa Peninsula is now minimal, greater impacts may result from the expected increase in visitor use after the residents of Kalaupapa's Hansen's disease settlement live out their lives (Canfield, in press; Greene 1985; United States, National Park Service (NPS) 1986). A population of *Bidens wiebkei* at Makakupaia, representing approximately half the total individuals of that species, grows along a jeep road. Off-road activity would damage a significant portion of that population. One of the three populations of *Stenogyne bifida* is located near a hiking trail at Kawela and has the potential of being trampled or collected (S. Anderson, pers. comm., 1990).

#### B. Overutilization for Commercial, Recreational, Scientific, or Educational Purposes

Overutilization is not known to be a factor, but unrestricted collecting for scientific or horticultural purposes or excessive visits by individuals interested in seeing rare plants could result from increased publicity and would seriously impact the 11 taxa whose low numbers make them especially vulnerable to disturbances. Such disturbance could promote erosion and greater ingression of alien plant species.

#### C. Disease or Predation

No evidence of disease has been reported for the 16 proposed taxa. Rats (*Rattus* spp.) are known to eat the fruits of *Pritchardia munroi* (CPC 1991). Although the incidence of rats in the vicinity of the last remaining wild plant appears to be low, the fence that was erected to protect that plant from foraging animals does not prevent rats from continuing to feed on the fruit (Garnett 1989, HHP 1990j1). A more important threat is that of foraging by goats and other ungulates in the area, which has resulted in there being no successful regeneration of the palm

(CPC 1991, Gerum 1989). There is no direct evidence that rats feed on *Brighamia rockii*, *Clermontia oblongifolia* ssp. *brevipes*, *Cyanea mannii*, or *Cyanea procera*. However, such evidence does exist for related *Clermontia* and *Cyanea* species in similar habitat on other islands (J. Lau, pers. comm., 1990). Because rats are found in remote areas on Molokai, it is likely that predation occurs on these four proposed taxa as well (CPC 1991; HPCC 1990a; J. Lau, pers. comm., 1990).

A goat enclosure experiment on the island of Hawaii demonstrated that *Canavalia hawaiiensis*, a relative of the proposed *Canavalia molokaiensis*, is consumed by goats (St. John 1972). It is possible that goats also eat *C. molokaiensis*. At Moomomi, axis deer graze primarily on introduced plants inland of the dunes (Bruegmann 1986), but they are also likely to consume *Tetramolopium rockii* where it is the dominant ground cover. While there is no direct evidence of predation by ungulates on any of the proposed taxa, they are not known to be unpalatable to goats, deer, or cattle. Predation is therefore a probable threat at sites where those animals have been reported potentially affecting 10 of the taxa: *Bidens wiebkei*, *Brighamia rockii*, *Canavalia molokaiensis*, *Hibiscus arnottianus* ssp. *immaculatus*, *Melicope reflexa*, *Pritchardia munroi*, *Silene alexandri*, *Silene lanceolata*, *Stenogyne bifida*, and *Tetramolopium rockii*.

#### D. The Inadequacy of Existing Regulatory Mechanisms

All 16 proposed taxa have populations located on privately-owned land. Nine taxa are found exclusively on private land. Of the remaining taxa, six also occur on State land (including one species located on the boundary between State and private land) and one occurs on Federal land. There are no State laws or existing regulatory mechanisms at the present time to protect or prevent further decline of these plants on private land. However, Federal listing would automatically invoke listing under Hawaii State law, which prohibits taking and encourages conservation by State Government agencies. State regulations prohibit the removal, destruction, or damage of plants found on State lands. However, the regulations are difficult to enforce because of limited personnel.

Hawaii's Endangered Species Act (HRS, Sect. 195D-4(a)) states, "Any species of aquatic life, wildlife, or land plant that has been determined to be an endangered species pursuant to the Endangered Species Act (of 1973) shall be deemed to be an endangered species

under the provisions of this chapter and any indigenous species of aquatic life, wildlife, or land plant that has been determined to be a threatened species pursuant to the Endangered Species Act shall be deemed to be a threatened species under the provisions of this chapter." Further, the State may enter into agreements with Federal agencies to administer and manage any area required for the conservation, management, enhancement, or protection of endangered species (HRS, Section 195D-5(c)). Funds for these activities could be made available under section 6 of the Federal Act (State Cooperative Agreements). Listing of these 16 plant taxa would therefore reinforce and supplement the protection available under State law. The Act would also offer additional protection to these 16 taxa because if they were to be listed as endangered or threatened, it would be a violation of the Act for any person to remove, cut, dig up, damage, or destroy any such plant in an area not under Federal jurisdiction in knowing violation of State law or regulation or in the course of any violation of a State criminal trespass law.

#### E. Other Natural or Manmade Factors Affecting its Continued Existence

The small number of populations and of individual plants of many of these taxa increases the potential for extinction from stochastic events. The limited gene pool may depress reproductive vigor, or a single human-caused or natural environmental disturbance could destroy a significant percentage of the individuals or the only known extant population. For example, 6 of the taxa are known from a single population: *Clermontia oblongifolia* ssp. *brevipes* and *Pritchardia munroi* (each reduced to a single remaining plant); *Cyanea procera* and *Hedyotis mannii* (each numbering only 2 plants); *Phyllostegia mannii* (4 plants); and *Silene alexandri* (fewer than 10 plants). All of the 16 proposed taxa are known from 7 or fewer populations, 11 of them from fewer than 5 populations. Eleven of the proposed taxa are estimated to number no more than 100 known individuals (see Table 1.). Approximately 22 plants of *Pritchardia munroi* are in cultivation in various arboreta and institutions throughout the world (Gerum 1989). However, little is known about the genetics of this species and it is unclear whether hybridization with other species occurs, resulting in the questionable species integrity of the cultivated plants. It is not clear whether selfing or outcrossing (outbreeding) occurs or whether the second generation

seeds are viable (Derral Herbst, U.S. Fish and Wildlife Service, pers. comm., 1990).

The Service has carefully assessed the best scientific and commercial information available regarding the past, present, and future threats faced by these taxa in determining to propose this rule. Based on this evaluation, the preferred action is to list 15 taxa, *Bidens weibkei*, *Brighamia rockii*, *Canavalia Molokaiensis*, *Clermontia oblongifolia* ssp. *brevipes*, *Cyanea mannii*, *Cyanea procera*, *Hedyotis mannii*, *Hibiscus arnotianus* ssp. *immaculatus*, *Melicope reflexa*, *Phyllostegia mannii*, *Pritchardia munroi*, *Schiedea lydgatei*, *Silene alexandri*, *Silene lanceolata*, and *Stenogyne bifida*, as endangered and the species *Tetramolopium rockii* as threatened.

All of the taxa proposed for listing as endangered are known from 7 or fewer populations, and 11 taxa are estimated to number fewer than 100 individuals. The 15 taxa are threatened by 1 or more of the following: Habitat degradation and/or predation by deer, feral goats, pigs, sheep, and cattle; competition from alien plants; fire; recreational activities; and military training exercises. Small population size makes these taxa particularly vulnerable to extinction from stochastic events. Because these 15 taxa are in danger of extinction throughout all or a significant portion of their ranges, they fit the definition of endangered as defined in the Act.

Although all populations of *Tetramolopium rockii* are threatened to some degree by competition with alien plants, habitat destruction and predation by feral animals, fire, and/or human activities, the relatively large number of existing individuals of *T. rockii* reduces the likelihood that this species will become extinct in the near future. Because the threats facing *T. rockii* are limited at present, this species is not now in immediate danger of extinction throughout all or a significant portion of its range. However, *T. rockii* is likely to become endangered in the foreseeable future if the threats are not curbed. As a result, *Tetramolopium rockii* fits the definition of a threatened species as defined in the Act.

Critical habitat is not being proposed for the 16 taxa included in this rule, for reasons discussed in the "Critical Habitat" section of this proposal.

#### Critical Habitat

Section 4(a)(3) of the Act, as amended, requires that to the maximum extent prudent and determinable, the Secretary designate critical habitat at the time a species is determined to be endangered or threatened. The Service finds that

designation of critical habitat is not presently prudent for these taxa. Such a determination would result in no known benefit to the taxa. Eleven of the taxa have extremely low total populations and face anthropogenic threats (see Factor B in "Summary of Factors Affecting the Species"). The publication of precise maps and descriptions of critical habitat in the *Federal Register* and local newspapers as required in a proposal for critical habitat would increase the degree of threat to these plants from take or vandalism and, therefore, could contribute to their decline and increase enforcement problems. The listing of these taxa as either endangered or threatened publicizes the rarity of the plants and, thus, can make these plants attractive to researchers, curiosity seekers, or collectors of rare plants. All involved parties and the major landowners have been notified of the general location and importance of protecting the habitat of these taxa. Protection of the habitat of the taxa will be addressed through the recovery process and through the section 7 consultation process.

There are two known Federal activities within the currently known habitats of these plants. Three populations of *Silene lanceolata* are known from the Pohakuloa Training Area (PTA) on the Island of Hawaii: One population, which has not been seen for over 40 years, was located in the northern part of PTA; another population is in the Kipuka Kalawamauna Endangered Plants Habitat, an area of PTA cooperatively designated by the U.S. Army, the U.S. Fish and Wildlife Service, the Hawaii Department of Fish and Wildlife, and the Hawaii Department of Land and Natural Resources; and the third population is in Kipuka Alaka. Existing firebreaks and redirection of ordnance firing away from Kipuka Kalawamauna will help protect that population, and the Army is now developing plans to protect the newly discovered Kipuka Alaka population. Three of the seven populations of *Canavalia molokaiensis* and one of the four populations of *Tetramolopium rockii* are found in Kalaupapa National Historical Park. Although the State of Hawaii owns the land where these populations are found, the National Park Service leases and manages the area. Federal laws protect all plants in the park from damage or removal. The involved Federal agencies are aware of the presence and location of these species, and any Federal activities that may affect the continued existence of these plants will be addressed through the section 7 consultation process. Therefore, the

Service finds that designation of critical habitat for these taxa is not prudent at this time, because such designation would increase the degree of threat from vandalism, collecting, or other human activities and because it would be unlikely to aid in the conservation of these taxa.

#### Available Conservation Measures

Conservation measures provided to species listed as endangered or threatened under the Endangered Species Act include recognition, recovery actions, requirements for Federal protection, and prohibitions against certain activities. Recognition through listing encourages and results in conservation actions by Federal, State, and private agencies, groups, and individuals. The Endangered Species Act provides for possible land acquisition and cooperation with the State and requires that recovery actions be carried out for all listed species. The protection required of Federal agencies and the prohibitions against certain activities involving listed plants are discussed, in part, below.

Section 7(a) of the Act, as amended, requires Federal agencies to evaluate their actions with respect to any species that is proposed or listed as endangered or threatened and with respect to its critical habitat, if any is being designated. Regulations implementing this interagency cooperation provision of the Act are codified at 50 CFR part 402. Section 7(a)(4) of the Act requires Federal agencies to confer informally with the Service on any action that is likely to jeopardize the continued existence of a proposed species or result in destruction or adverse modification of proposed critical habitat. If a species is listed subsequently, section 7(a)(2) requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of such a species or to destroy or adversely modify its critical habitat. If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency must enter into formal consultation with the Service.

Some populations of two species, *Canavalia molokaiensis* and *Tetramolopium rockii*, are located in Kalaupapa National Historical Park. Laws relating to national parks prohibit damage or removal of any plants growing in the parks. Most of the known individuals of *Silene lanceolata* are located within Pohakuloa Training Area on the Island of Hawaii. Firebreaks and redirection of firing exercises away from the listed plant species at Kipuka

Kalawamauna will help protect the population of *Silene lanceolata* at that kipuka. Military activities planned near the Kipuka Alala population are now being reevaluated in the light of that population's discovery. There are no other known Federal activities that occur within the present known habitat of these 16 plant taxa.

The Act and its implementing regulations found at 50 CFR 17.61, 17.62, and 17.63 for endangered species and 17.71 and 17.72 for threatened species set forth a series of general trade prohibitions and exceptions that apply to all endangered and threatened plant species. With respect to the 16 plant taxa from the island of Molokai, all trade prohibitions of section 9(a)(2) of the Act, implemented by 50 CFR 17.61 and 17.71, would apply. These prohibitions, in part, make it illegal with respect to any endangered or threatened plant for any person subject to the jurisdiction of the United States to import or export; transport in interstate or foreign commerce in the course of a commercial activity; sell or offer for sale these species in interstate or foreign commerce; or to remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any area under Federal jurisdiction; or remove, cut, dig up, damage, or destroy any such species on any other area in knowing violation of any State law or regulation or in the course of any violation of a State criminal trespass law. Seeds from cultivated specimens of threatened plant species are exempt from these prohibitions provided that a statement of "cultivated origin" appears on their containers. Certain exceptions apply to agents of the Service and State conservation agencies. The Act and 50 CFR 17.62, 17.63, and 17.72 also provide for the issuance of permits to carry out otherwise prohibited activities involving endangered and threatened plant species under certain circumstances.

It is anticipated that few trade permits would ever be sought or issued because the species are not common in cultivation nor in the wild. Requests for copies of the regulations on plants and

inquiries regarding them may be addressed to the Office of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, room 432, Arlington, Virginia 22203-3507 (703/358-2104 or FTS 921-2104; FAX 703/358-2281).

**Public Comments Solicited**

The Service intends that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, comments or suggestions from the public, other concerned governmental agencies, the scientific community, industry, or any other interested party concerning this proposed rule are hereby solicited. Comments particularly are sought concerning:

- (1) Biological, commercial trade, or other relevant data concerning any threat (or lack thereof) to these species;
- (2) The location of any additional populations of these species and the reasons why any habitat should or should not be determined to be critical habitat as provided by section 4 of the Act;
- (3) Additional information concerning the range, distribution, and population size of these species; and
- (4) Current or planned activities in the subject area and their possible impacts on these species.

The final decision on this proposal will take into consideration the comments and any additional information received by the Service, and such communications may lead to a final regulation that differs from this proposal.

The Endangered Species Act provides for one or more public hearings on this proposal, if requested. Requests must be received within 45 days of the date of publication of the proposal. Such requests must be made in writing and addressed to the Field Supervisor (see ADDRESSES section).

**National Environmental Policy Act**

The Fish and Wildlife Service has determined that an Environmental Assessment or Environmental Impact Statement, as defined under the authority of the National Environmental

Policy Act of 1969, need not be prepared in connection with regulations adopted pursuant to section 4(a) of the Endangered Species Act of 1973, as amended. A notice outlining the Service's reasons for this determination was published in the Federal Register on October 25, 1983 (48 FR 49244).

**References Cited**

A complete list of all references cited herein is available upon request from the Pacific Islands Office (see ADDRESSES section).

**Author**

The primary authors of this proposed rule are Joan M. Yoshioka, Z.E. Ellshoff, Joan E. Canfield, and Derral R. Herbst, Fish and Wildlife Enhancement, Pacific Islands Office, U.S. Fish and Wildlife Service, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (808/541-2749 or FTS 551-2749). Substantial data were also generously contributed by Joel Q.C. Lau of the Hawaii Heritage Program.

**List of Subjects in 50 CFR Part 17**

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

**Proposed Regulations Promulgation**

**PART 17—[AMENDED]**

Accordingly, it is hereby proposed to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361-1407; 16 U.S.C. 1531-1544; 16 U.S.C. 4201-4245; Pub. L. 99-625, 100 Stat. 3500; unless otherwise noted.

2. It is proposed to amend § 17.12(h) by adding the following, in alphabetical order under the families indicated, to the List of Endangered and Threatened Plants:

- § 17.12 Endangered and threatened plants.  
 \* \* \* \* \*  
 (h) \* \* \*

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
Arecaceae—Palm family:						
<i>Pritchardia munroi</i>	loulu	U.S.A. (HI)	E		NA	NA
Asteraceae—Aster family:						
<i>Bidens wiebkei</i>	ko'oko'olau	U.S.A. (HI)	E		NA	NA

Species		Historic range	Status	When listed	Critical habitat	Special rules
Scientific name	Common name					
<i>Tetramolopium rockii</i>	None	U.S.A. (HI)	T		NA	NA
Campanulaceae—Bellflower family:						
<i>Brighamia rockii</i>	pua 'ala	U.S.A. (HI)	E		NA	NA
<i>Clermontia oblongifolia</i>	'oha wai	U.S.A. (HI)	E		NA	NA
<i>Cyanea mannii</i>	haha	U.S.A. (HI)	E		NA	NA
<i>Cyanea procera</i>	haha	U.S.A. (HI)	E		NA	NA
Caryophyllaceae—Pink family:						
<i>Schiedea tydgatei</i>	None	U.S.A. (HI)	E		NA	NA
<i>Silene alexandri</i>	None	U.S.A. (HI)	E		NA	NA
<i>Silene lanceolata</i>	None	U.S.A. (HI)	E		NA	NA
Fabaceae—Pea family:						
<i>Canavalia molokaiensis</i>	'awikwik	U.S.A. (HI)	E		NA	NA
Lamiaceae—Mint family:						
<i>Phyllostegia mannii</i>	None	U.S.A. (HI)	E		NA	NA
<i>Stenogyne bifida</i>	None	U.S.A. (HI)	E		NA	NA
Malvaceae—Mallow family:						
<i>Hibiscus amottianus</i> ssp. <i>immaculatus</i>	koki'o ke'oke'o	U.S.A. (HI)	E		NA	NA
Rubiaceae—Coffee family:						
<i>Hedyotis mannii</i>	pilo	U.S.A. (HI)	E		NA	NA
Rutaceae—Citrus family:						
<i>Melicope reflexa</i>	alani	U.S.A. (HI)	E		NA	NA

Dated: August 26, 1991.

Richard N. Smith.

Acting Director, Fish and Wildlife Service.

[FR Doc. 91-22695 Filed 9-19-91; 8:45 am]

BILLING CODE 4310-55-M

## 50 CFR Part 17

### RIN 1018-AB42

#### Endangered and Threatened Wildlife and Plants; Extension of Proposed Rule To List the Louisiana Black Bear as Threatened

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Proposed rule: Notice of extension of deadline and reopening of the comment period.

**SUMMARY:** The U.S. Fish and Wildlife Service (Service) announces that the

deadline for taking final action on a proposal to list the Louisiana black bear (*Ursus americanus luteolus*) as threatened is extended until December 21, 1991, in order to examine questions regarding the taxonomy of the subspecies. During the extended period the Service will take actions to initiate a scientific study of the taxonomy. The public comment period on this proposal is reopened until November 20, 1991.

**DATES:** The deadline for final action on the proposal is now December 21, 1991. The public comment period is reopened until November 20, 1991.

**ADDRESSES:** Comments and other materials concerning the taxonomic status of the Louisiana black bear or any other information regarding biological status or threats should be sent to the U.S. Fish and Wildlife Service, Jackson Field Office, 6578 Dogwood View Parkway, Jackson, Mississippi 39213. The complete administrative record for

this proposed rule, including all comments received to date, is available for inspection, by appointment, during normal business hours at the above address.

**FOR FURTHER INFORMATION CONTACT:** Wendell A. Neal (See **ADDRESSES** section), telephone 601/965-4900, FTS 490-4900.

#### SUPPLEMENTARY INFORMATION:

##### Background

On March 6, 1987, the Fish and Wildlife Service (Service) was petitioned to list the Louisiana black bear under the Endangered Species Act. Warranted but precluded findings were made in 1988 and 1989. A taxonomic question existed with regard to the Louisiana black bear because of the introduction of approximately 163 Minnesota black bears (*U. a. americanus*) into the Louisiana bear's

range in the 1960's. Therefore, a study was conducted in cooperation with the Louisiana Department of Wildlife and Fisheries to determine what influence the introduction of the Minnesota bears might have had on the genetics of the Louisiana subspecies. The study considered morphological, electrophoretic, and mitochondrial DNA characters. The study concluded that a morphological distinctiveness remains and that the available evidence, while not overwhelming, did not invalidate the taxon. However, some reviewers noted that there appeared to be little difference between the Louisiana black bears and the Florida black bears (*U. americanus floridanus*). Both *floridanus* and *luteolus* were described as full species in the nineteenth century, but were subsequently reduced to subspecific rank. No modern review of the taxonomy of *Ursus americanus* has been done to confirm the validity of the 16 described subspecies. On the other hand, no analysis or hard data have been developed to invalidate *floridanus* or *luteolus* and these subspecies remain recognized in standard taxonomic treatments.

Since there were demonstrable threats to the Louisiana black bear, the Service, on June 21, 1990, published a proposed rule in the *Federal Register* (55 FR 25341) to list the bear as a threatened species and to designate by similarity of appearance all other bears of the species *Ursus americanus* within the historical range of *U. a. luteolus*. Two comment periods were opened (June 21–August 20; September 13–October 21, 1990), and a public hearing was held on October 11, 1990. During the comment periods and public hearing, 86 comments

were received, several noting the taxonomic question. The Regional Director, Region 4, recommended that the Louisiana black bear be listed on the basis of the available information. A review of the biological data and administrative record by a group of Service black bear experts concurred with the Regional Director's recommendation, but raised the overriding question of taxonomic validity, noting that more rigorous taxonomic examination might invalidate the subspecies or combine it with *floridanus* or another subspecies. Any entity that does not meet the species definition under the Act (i.e., species, subspecies, distinct vertebrate population, varieties of plants and higher taxa) is not eligible for listing. Therefore, clarification of the taxonomic validity of the subspecies as described in the proposed rule is being sought.

In light of the taxonomic uncertainty described above, the Service finds that there is a substantial scientific disagreement regarding the validity of the taxonomy of the Louisiana black bear. When such a scientific disagreement exists, the Service may, in accordance with section 4(b)(B)(i) of the Endangered Species Act (Act), extend the period for acting on a listing proposal for up to 6 months beyond the 12-month deadline for a final decision. The 12-month deadline for the final decision on the Louisiana black bear proposal was June 21, 1991. The Service hereby announces its decision to extend the period for consideration of a final decision until December 21, 1991. The public comment period is reopened until November 20, 1991. Comments and other materials concerning the taxonomic

status of the Louisiana black bear, or any other information regarding biological status or threats are requested.

In the near future, the Service will take actions to initiate a taxonomic review of the black bears of the southeastern United States in general and the southeastern coastal plain in particular. The study likely will include the analysis of three types of data; morphometric, mitochondrial DNA, and proteins (through electrophoresis). Although it is not likely that a full analysis can be completed by December 21, 1991, the Service expects that sufficient preliminary data may be obtained to assist the Service in making a more informed decision on the listing proposal.

#### Author

The primary author of this notice is Susan Lawrence, Division of Endangered Species, U.S. Fish and Wildlife Service, ARLSQ-452, Washington, DC 20240 (703-358-2171 or FTS 921-2171).

**Authority:** The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531-1544).

#### List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, and Transportation.

Dated: September 16, 1991.

**Richard N. Smith.**

*Director, Fish and Wildlife Service.*

[FR Doc. 91-22748 Filed 9-19-91; 8:45 am]

BILLING CODE 4310-55-M

# Notices

Federal Register

Vol. 56, No. 183

Friday, September 20, 1991

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

## DEPARTMENT OF AGRICULTURE

### Animal and Plant Health Inspection Service

[Docket No. 91-131]

#### Animal Damage Control Program Environmental Impact Statement

**AGENCY:** Animal and Plant Health Inspection Service, USDA.

**ACTION:** Notice.

**SUMMARY:** We are advising the public that the notice of intent to prepare an environmental impact statement for the Animal Damage Control program is being amended to include the Bureau of Land Management of the U.S. Department of Interior, and the Forest Service of the U.S. Department of Agriculture, as cooperating agencies with the Animal and Plant Health Inspection Service, U.S. Department of Agriculture.

**FOR FURTHER INFORMATION CONTACT:** Richard L. Wadleigh, Staff Officer, Operational Support Staff, Animal Damage Control, APHIS, USDA, room 820, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, (301) 436-8281.

#### SUPPLEMENTARY INFORMATION:

##### Background

The Federal Government's involvement in wildlife damage control began in the late 1800's. In 1985, Congress transferred the Animal Damage Control (ADC) program from the United States Fish and Wildlife Service (FWS) of the U.S. Department of Interior, to the Animal and Plant Health Inspection Service (APHIS) of the U.S. Department of Agriculture. APHIS assumed management of this program, and on February 21, 1986 (51 FR 6290, Docket No. 86-402), we gave notice of the adoption of the environmental impact statement (EIS) that had been prepared by FWS in 1979.

On November 18, 1987 (52 43778-43779, Docket No. 87-151), we gave notice of our intent to prepare an EIS for the ADC program. As part of this process, the Bureau of Land Management (BLM) and the Forest Service (FS) were asked to be cooperating agencies (title 40, Code of Federal Regulations (CFR) § 1508.5) on the basis of their Federal land management responsibilities, jurisdictions by law, and special expertise with respect to the environmental issues. BLM and FS have accepted the invitation by APHIS and are now designated cooperating agencies in accordance with 40 CFR 1501.6.

On June 18, 1990 (55 FR 24597-24598, Docket No. 90-099), we gave notice of the availability of the draft EIS. The comment period closed on October 1, 1990. APHIS, in cooperation with BLM and FS, is continuing the preparation of the EIS for the Federal cooperative Animal Damage Control Program.

Done in Washington, DC, this 18 day of September 1991.

Robert Melland,

*Acting Administrator, Animal and Plant Health Inspection Service.*

[FR Doc. 91-22725 Filed 9-19-91; 8:45 am]

BILLING CODE 3410-34-M

## Forest Service

### Trail Creek Timber Sale (FY 93); Salmon National Forest, Lemhi County, Idaho

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of intent to prepare environmental impact statement.

**SUMMARY:** The Forest Service will prepare an Environmental Impact Statement (EIS) to document the analysis and disclose the environmental impacts of proposed actions to harvest timber, build roads, and regenerate new stands of trees in portions of the Big Jureano, Little Jureano, and Trail Creek Drainages. The project area is located approximately 15 air miles west of Salmon, Idaho. The proposed actions are located entirely within the 25,506 acre Jureano Roadless Area. This area is now listed as No. 13506 on the Salmon National Forest. The area was formerly listed as RARE II No. 04506. Approximately 960 acres of the roadless area have been intruded by past mining

activities and will be more fully developed by the Missouri Gulch Timber Sale.

The remaining 24,546 acres of the roadless area have supported no previous timber management other than limited harvest for mining and firewood purposes. The need for the proposal is established by the silvicultural condition of the affected timber stands and forest harvest goals as outlined in the Salmon National Forest Land and Resource Management Plan.

The proposed sale includes 28 harvest units varying in size from approximately 6 acres to 62 acres. An estimated 6.0-7.0 mmbf will be harvested from approximately 803 acres in the Big Jureano, Little Jureano, and Trail Creek drainages. Harvest systems include both tractor and cable logging. Silvicultural prescriptions include shelterwood and clearcut systems. Approximately 13 miles of new specified road would be required.

**DATES:** Written comments concerning the scope of the analysis described in this Notice should be received on or before November 4, 1991.

**ADDRESSES:** Send written comments to Salmon National Forest, Cobalt Ranger District, P.O. Box 729, Salmon, Idaho 83467.

**FOR FURTHER INFORMATION CONTACT:** Questions concerning the proposed action and EIS should be directed to Russ Bjorklund, Timber Management Assistant, Salmon National Forest, Cobalt Ranger District, phone: (208) 756-2240.

**SUPPLEMENTARY INFORMATION:** This EIS will tier to the final EIS for the Salmon National Forest Land and Resource Management Plan (Forest Plan). The Salmon Forest Plan provides the overall guidance (Goals, Objectives, Standards, and Management Area direction) to achieve the Desired Future Condition for the area being analyzed, and contains specific management area prescriptions for the entire Forest. The analysis area is covered by three management prescriptions:

- 4A—Emphasis is on managing key big game winter range.
- 5B—Emphasis is on producing long term timber outputs through a moderate level of investment in regeneration and thinning.
- 5C—Emphasis is on producing long term timber outputs through a low level of investment in regeneration and thinning.

The areas being considered for timber harvest and subsequent silvicultural treatments under this proposal are located in the 5B prescription area.

For a detailed description of the 4A, 5B, and 5C management prescription refer to the Salmon National Forest Land and Resource Management Plan pages IV-96 and IV-110 through IV-112, and IV-129 through IV-139.

An environmental analysis for this proposal was completed in 1983. As a result of that analysis and additional scoping the Salmon National Forest concluded the proposal may have a significant effect on the roadless resource and decided to prepare this EIS. The previous scoping and analysis also identified the following potential issues related to the proposed action:

- What will be the effects of the proposal on big game habitat and populations?
- What will be the effects of the proposal on small game, non-game and old growth dependent species?
- What will be the impacts on water quality, fisheries, and the riparian habitat of Big Jureano, Little Jureano, and Trail Creek?
- How will the proposal contribute to a healthy, productive forest that will economically provide timber for the market place on a sustainable basis for the present and the future?
- How will the proposal affect the roadless character of the area?
- How will the proposal affect visual quality of the area?
- What will be the economics of the proposed action?
- What will be the effects of the proposal on cultural resources?
- Will the proposal provide an opportunity to coordinate timber management and potential mining activities on one transportation system?

The Forest Service is seeking information and comments from Federal, State and local agencies as well as individuals and organizations who may be interested in, or affected by, the proposed action. The Forest Service invites written comments and suggestions on the issues related to the proposal and the area being analyzed. Information received will be used in preparation of the Draft EIS and Final EIS. For most effective use, comments should be submitted to the Forest Service within 45 days from the date of publication of this Notice in the Federal Register. An open-house meeting will be held for the purpose of identifying issues. The date, time, and location of this meeting will be published in The Recorder-Herald (Salmon, Idaho).

Preparation of the EIS will include the following steps.

1. Define the purpose of and need for action.
2. Identify potential issues.
3. Eliminate issues of minor importance or those that have been covered by previous and relevant environmental analysis.
4. Select issues to be analyzed in depth.
5. Identify reasonable alternatives to the proposed action.
6. Describe the affected environment.
7. Identify the potential environmental effects of the alternatives.

Steps 2, 3, and 4 will be completed through the scoping process.

Step 5 will consider a range of alternatives developed from the key issues. One of these will be the "No Action" alternative, in which the roadless character of the Jureano Roadless Area would be maintained. Other alternatives will consider various levels and locations of harvest and regeneration and related road construction in response to issues and non-timber objectives.

Step 6 will describe the physical attributes of the area to be affected by this proposal, with special attention to the environmental factors that could be adversely affected.

Step 7 will analyze the environmental effects of each alternative. This analysis will be consistent with management direction outlined in the Forest Plan. The direct, indirect, and cumulative effects of each alternative will be analyzed and documented. In addition, the site specific mitigation measures for each alternative will be identified and the effectiveness of these mitigation measures will be disclosed.

The approximate boundary of the area used for this analysis will be that portion of the Jureano Roadless Area south of the Trail Creek and Bridge Creek drainages. The Jureano Roadless Area is bounded on the north by Beaver Creek, on the west by Panther Creek, on the south by White Horse Basin, and on the east by Jureano Ridge. For a map of the Jureano Roadless Area please refer to the Salmon National Forest Land and Resource Management Plan, appendix C, page C-182.

The proposed management activities would be administered by the Cobalt Ranger District of the Salmon National Forest in Lemhi County, Idaho.

Agency representatives and other interested people are invited to visit with Forest Service officials at any time during the EIS process. Two specific time periods are identified for the receipt of formal comments on the analysis. The two comment periods are, (1) during the scoping process and, (2)

during the formal review period of the Draft EIS.

The Draft EIS is estimated to be filed with the Environmental Protection Agency (EPA) and available for public review in March, 1992. At that time the EPA will publish an availability notice of the Draft EIS in the Federal Register.

The comment period on the Draft EIS will be 45 days from the date the Environmental Protection Agency's notice of availability appears in the Federal Register. It is very important that those interested in this proposed action participate at that time. To be the most helpful, comments on the Draft EIS should be as specific as possible and may address the adequacy of the statement or the merits of the alternatives discussed (See The Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3).

In addition, Federal court decisions have established that reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewers' position and contentions. *Vermont Yankee Nuclear Power Corp. v. NRDC*, 435 U.S. 519, 553 (1978). Environmental objections that could have been raised at the draft stage may be waived if not raised until after completion of the final environmental impact statement. *City of Angoon v. Hodel*, (9th Circuit, 1986) and *Wisconsin Heritages, Inc. v. Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). The reason for this is to ensure that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final.

To assist the Forest Service in identifying and considering issues and concerns related to the proposed action, comments on the Draft EIS should be as specific as possible. Referring to specific pages or chapters of the Draft EIS is most helpful. Comments may also address the adequacy of the Draft EIS 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, 40 CFR 1503.3, in addressing these points.)

The final EIS is expected to be released August 1, 1992.

The Forest Supervisor for the Salmon National Forest, who is the responsible official for the EIS, will then make a

decision regarding this proposal, after considering the comments, responses, and environmental consequences discussed in the Final Environmental Impact Statement, and applicable laws, regulations, and policies. The reasons for the decision will be documented in a Record of Decision.

Dated: September 13, 1991.

John E. Burns,

Forest Supervisor, Salmon National Forest.

[FR Doc. 91-22661 Filed 9-19-91; 8:45 am]

BILLING CODE 3410-11-M

## DEPARTMENT OF COMMERCE

### Agency Information Collection Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

*Agency:* Bureau of Export Administration.

*Title:* General License G-TEMP: Special Requirements.

*Form Number:* Agency—EAR 771.22 (b)(8)(ii) & (d)(4); OMB No. 0694-0029.

*Type of Request:* Extension of a currently approved collection.

*Burden:* 8 respondents; 3 reporting hrs. Average time per respondent is 25 minutes.

*Needs and Uses:* If commodities shipped under General License G-TEMP are for news-gathering purposes, the exporter must send a copy of the packing list. This information is spot checked by Export Enforcement to assure that G-TEMP is being used properly. If the exporter wishes to retain a commodity abroad beyond the 12 months authorized by G-TEMP, the exporter must send in a justification for the extension that will be the basis for a licensing decision.

*Affected Public:* Businesses or other for-profit institutions; small businesses or organizations.

*Frequency:* On occasion.

*Respondent's Obligation:* Required to obtain or retain a benefit.

*OMB Desk Officer:* Gary Waxman, (202) 395-7340.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, room 5327, 14th and Constitution Avenue, NW., Washington DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Gary Waxman, OMB Desk Officer, room

3208, New Executive Office Building, Washington, DC 20503.

Dated: September 16, 1991.

Edward Michals,

Departmental Clearance Officer, Office of Management and Organization.

[FR Doc. 91-22742 Filed 9-19-91; 8:45 am]

BILLING CODE 3510-CW-M

### International Trade Administration (A-570-808)

#### Antidumping Duty Order: Chrome-Plated Lug Nuts From the People's Republic of China

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** September 20, 1991.

**FOR FURTHER INFORMATION CONTACT:** Gary Bettger or Julie Anne Osgood, Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-2239 and 377-0167, respectively.

#### Scope of Investigation

The products covered by this investigation are one-piece and two-piece chrome-plated lug nuts, finished or unfinished. The subject merchandise includes chrome-plated lug nuts, finished or unfinished, which are more than 1 1/8 inches (17.45 millimeters) in height and which have a hexagonal (hex) size of at least 3/4 inches (19.05 millimeters) but not over one inch (25.4 millimeters). The term "unfinished" refers to unplated and/or unassembled chrome-plated lug nuts. The subject merchandise is used for securing wheels to cars, vans, trucks, utility vehicles, and trailers. Zinc-plated lug nuts, finished or unfinished, and stainless-steel capped lug nuts are not included in the scope of this investigation. Chrome-plated lock nuts are also not subject to this investigation. Chrome-plated lug nuts are currently classified under subheading 7318.16.00.00 of the Harmonize Tariff Schedule (HTS). Although the HTS subheading is providing for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

#### Order

In accordance with section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673(a)) ("the Act"), on September 10, 1991, the U.S. Department of Commerce ("the Department") made its final determination that chrome-

plated lug nuts from the People's Republic of China ("PRC") are being sold at less than fair value (56 FR 46153, September 10, 1991). On September 13, 1991, in accordance with section 735(d) of the Act, the International Trade Commission ("ITC") notified the Department that such imports materially injure a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act, the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which the foreign market value of the merchandise exceeds the United States price for all entries of chrome-plated lug nuts from the PRC. These antidumping duties will be assessed on all unliquidated entries of chrome-plated lug nuts from the PRC entered, or withdrawn from warehouse, for consumption on or after April 18, 1991, the date on which the Department published its preliminary determination notice in the *Federal Register* (56 FR 15857).

#### Suspension of Liquidation

On or after the date of publication of this notice in the *Federal Register*, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties, the following cash deposit for the subject merchandise.

Manufacturers/producers/exporters	Deposit rate
China National Machinery and Equipment Import and Export Corporation, Jiangsu Company Ltd. ("CMEC Jiangsu") and all Other Manufacturers/Producers/Exporters .....	4.24%

This notice constitutes the antidumping duty order with respect to chrome-plated lug nuts from the PRC, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: September 17, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 91-22737 Filed 9-19-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-703]

**Internal-Combustion, Industrial Forklift Trucks From Japan; Termination of Antidumping Duty Administrative Review**

**AGENCY:** International Trade Administration/Import Administration, Department of Commerce.

**ACTION:** Notice of termination of antidumping duty administrative review.

**SUMMARY:** On July 19, 1991, the Department of Commerce initiated an administrative review of the antidumping duty order on internal-combustion, industrial forklift trucks from Japan. The Department has now determined to terminate this review.

**EFFECTIVE DATE:** September 20, 1991.

**FOR FURTHER INFORMATION CONTACT:** Marissa Rauch or Linda L. Pasden, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-3793.

**SUPPLEMENTARY INFORMATION:**

**Background**

On July 19, 1991, the Department of Commerce published a notice of initiation of an administrative review of the antidumping duty order on internal-combustion, industrial forklift trucks from Japan. This notice stated that we would review entries for one exporter during the period from June 1, 1990 through May 31, 1991. Toyota Motor Corporation (TMC) and Toyota Motor Sales, U.S.A., Inc., the respondent, subsequently withdrew its request for review.

Accordingly, the Department has determined to terminate this review. This notice is in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and § 353.22(a)(5) of the Department's regulations (19 CFR 353.22(a)(5)).

Dated: September 10, 1991.

**Roland L. MacDonald,**  
*Acting Deputy Assistant Secretary for Compliance.*

[FR Doc. 91-22739 Filed 9-19-91; 8:45 am]

BILLING CODE 3510-25-M

[A-583-810]

**Antidumping Duty Order and Amendment to the Final Determination of Sales at Less Than Fair Value: Chrome-Plated Lug Nuts From Taiwan**

**AGENCY:** Import Administration, International Trade Administration, Department of Commerce.

**EFFECTIVE DATE:** September 20, 1991.

**FOR FURTHER INFORMATION CONTACT:**

Rick Herring or Roy Malmrose, Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-3530 and 377-5414, respectively.

**Scope of Investigation**

The products covered by this investigation are one-piece and two-piece chrome-plated lug nuts, finished and unfinished. The subject merchandise includes chrome-plated lug nuts, finished or unfinished, which are more than 1 1/8 inches (17.45 millimeters) in height and which have a hexagonal (hex) size of at least 3/4 inches (19.05 millimeters) but not over one inch (25.4 millimeters). The term "unfinished" refers to unplated and/or unassembled chrome-plated lug nuts. The subject merchandise is used for securing wheels to cars, vans, trucks, utility vehicles, and trailers. Zinc-plated lug nuts, finished or unfinished, and stainless-steel capped lug nuts are not included in the scope of this investigation. Chrome-plated lock nuts are also not subject to this investigation. Chrome-plated lug nuts are currently classified under subheading 7318.16.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

**Order**

In accordance with section 735(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1673d(a)) ("the Act"), on July 25, 1991, the U.S. Department of Commerce (the Department) made its final determination that chrome-plated lug nuts from Taiwan are being sold at less than fair value (56 FR 36130). On September 13, 1991, in accordance with section 735(d) of the Act, the International Trade Commission notified the Department that such imports materially injure a U.S. industry.

Therefore, in accordance with sections 736 and 751 of the Act, the Department will direct U.S. Customs officers to assess, upon further advice by the administering authority pursuant to section 736(a)(1) of the Act, antidumping duties equal to the amount by which foreign market value of the merchandise exceeds the United States price for all entries of chrome-plated lug nuts from Taiwan. These antidumping duties will be assessed on all unliquidated entries of chrome-plated lug nuts from Taiwan entered, or withdrawn from warehouse, for

consumption or after April 18, 1991, the date on which the Department published its preliminary determination notice in the Federal Register.

**Allegation of Clerical Errors**

Subsequent to the Department's final determination, the petitioner and both of the respondents, Gourmet Equipment (Taiwan) Corp. (Gourmet) and San Shing Hardware Works Co., Ltd. (San Shing), alleged that certain clerical errors had been made with respect to the calculation of margins reported in our final determination. The Department conducted a review based on these comments and hereby amends its final determination to correct clerical errors. In addition, the Department discovered a clerical error in the calculation of Gourmet's margin which had not been raised by any party. This error has also been corrected. The corrections changed Gourmet's weighted-average dumping margin from 6.57 percent to 6.47 percent. The corrections changed San Shing's weighted-average dumping margin from 11.57 percent to 10.67 percent. The all other rate changed from 7.12 percent to 6.93 percent. We have placed a memorandum in the public file detailing each of the alleged clerical errors made by petitioner and respondents and our specific determination with regard to each allegation. This memorandum is dated September 17, 1991.

**Suspension of Liquidation**

On or after the date of publication of this notice in the Federal Register, U.S. Customs officers must require, at the same time as importers would normally deposit estimated duties, the following cash deposits of the subject merchandise.

Manufacturers/producers/exporters	Deposit rate
Gourmet Equipment (Taiwan) Corp.....	6.47%
San Shing Hardware Works Co., Ltd. ....	10.67%
All other Producers/Manufacturers/Exporters .....	6.93%

This notice constitutes the antidumping duty order with respect to chrome-plated lug nuts from Taiwan, pursuant to section 736(a) of the Act. Interested parties may contact the Central Records Unit, room B-099 of the Main Commerce Building, for copies of an updated list of antidumping duty orders currently in effect.

This order is published in accordance with section 736(a) of the Act and 19 CFR 353.21.

Dated: September 17, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import Administrator.

[FR Doc. 91-22738 Filed 9-19-91; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-811]

**Final Determination of Sales at Less Than Fair Value: Tungsten Ore Concentrates From the People's Republic of China**

**AGENCY:** International Trade Administration, Import Administration, Department of Commerce.

**EFFECTIVE DATE:** September 20, 1991.

**FOR FURTHER INFORMATION CONTACT:** Tracey Oakes, Office of Countervailing Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone (202) 377-3174.

*Final Determination*

The Department of Commerce (the Department) determines that imports of tungsten ore concentrates from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value, as provided in section 735(a) of the Tariff Act of 1930, as amended (the Act). The estimated weighted-average margin is shown in the "Suspension of Liquidation" section of this notice.

**Case History**

We published an affirmative preliminary determination on July 10, 1991 (56 FR 31387). Our preliminary determination was based on the best information available (BIA) because respondents, China National Metals and Minerals Import and Export Corporation (CNIEC) and China National Nonferrous Metals Import and Export Corporation (MinMetals), provided materially deficient responses. Since the preliminary determination, no new factual information has been added to the case record. We received respondent's case brief on August 28, 1991 and petitioner's (U.S. Tungsten Corporation's (USTC)) rebuttal brief on September 4, 1991.

**Standing**

During the investigation, GTE Products Corporation (GTE), which produces tungsten intermediate products, and respondents contested petitioner's standing to file a petition on behalf of the U.S. tungsten industry. Those parties in opposition to the petition argued that the like product should include tungsten intermediate products and that the petitioner does not

account for a majority of the domestic production of tungsten concentrates and tungsten intermediate products.

As we stated in the notice of initiation and the preliminary determination, we find that tungsten intermediate products are not like the imported product, tungsten ore concentrates. At the initiation, we requested the parties opposing the petition to provide further information on this issue. No party submitted any new factual information or argumentation disputing petitioner's standing. Consequently, nothing on the record of this investigation contradicts our preliminary decision on this issue. Therefore, the Department will not dismiss the petition for lack of standing. (See Department response to Comment 3.)

**Scope of Investigation**

The merchandise covered by this investigation is tungsten ore concentrates. This includes any concentrated or upgraded form of raw tungsten ore, whether high- or low-grade. High-grade tungsten ore concentrates are defined as a concentrated form of tungsten ore containing 65 percent or more by weight of tungsten trioxide. Low-grade tungsten ore concentrates are defined as a concentrated form of tungsten ore containing less than 65 percent by weight of tungsten trioxide. Low-grade tungsten ore concentrates include tungsten slime, which has a concentration of less than 35 percent by weight of tungsten trioxide. Tungsten ore concentrates are used in the production of intermediate tungsten products such as APT, tungstic oxide, and tungstic acid. These intermediate products have end uses in the metalworking, mining, construction, transportation, and oil- and gas-drilling industries. Tungsten ore concentrates are currently classifiable under item 2611.00.00.00 of the Harmonized Tariff Schedule (HTS). Although the HTS subheading is provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

**Period of Investigation**

The period of investigation is July 1, 1990 through January 31, 1991.

**Best Information Available**

We have determined, in accordance with section 776(c) of the Act, that the use of BIA is appropriate in this investigation. In deciding whether to use BIA, section 776(c) provides that the Department may take into account whether the respondent provided the

information requested in a timely manner and in the form required.

As we stated at the preliminary determination, while respondents submitted certain information as to U.S. price, they completely failed to report information in the factors of production section of the antidumping questionnaire such as the types, quantity, and characteristics of (1) material inputs, (2) labor inputs, and (3) overhead inputs. The absence of the information necessary to establish FMV rendered the responses materially deficient. Therefore, we were unable to analyze the responses in a meaningful manner. Moreover, lacking usable responses, we determined that verification was inappropriate. Therefore, we have used the information submitted in the petition as the best information available for the final determination.

**Fair Value Comparisons**

To determine whether sales of tungsten ore concentrates from the PRC to the United States were made at less than fair value, we compared the United States price (USP) to the foreign market value (FMV), as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

**United States Price**

Petitioner's estimate of USP is based on U.S. Bureau of Census data on imports of high- and low-grade tungsten ore from the PRC. Petitioner's calculation is adjusted for foreign inland freight.

**Foreign Market Value**

Petitioner alleges that the PRC is a nonmarket economy country within the meaning of section 773(c) of the Act. Accordingly, petitioner based FMV on factors of production valued in the market economy countries of India and Peru. Petitioner also added the statutory minimums of ten percent for selling, general and administrative expenses (SG&A) and eight percent for profit, in accordance with section 773(e)(1)(B) of the Act.

**Interested Party Comments**

*Comment 1*

Respondents contend that the Department erred in using as BIA the antidumping duty rates contained in the petition. Rather, respondents argue that the Department should use the prices of imports of tungsten ore concentrate from Peru as the foreign market value and the U.S. sales information submitted by respondents to calculate the final dumping margins.

Respondents contend that the Department's choice of best information available is severely circumscribed in nonmarket economy cases because the antidumping law requires the Department to use pricing data from third countries in the absence of adequate factors of production data. Specifically, respondents state that 19 U.S.C. 1677b(c) (section 773(c) of the Act) requires the Department to calculate FMV for nonmarket economy cases on the basis of the factors of production used to produce the merchandise. Furthermore, respondents interpret section 773(c)(2) as directing the Department to base FMV for nonmarket economy cases on pricing data of a surrogate country at the same level of economic development as the nonmarket economy if factors of production data is unavailable to the Department.

Respondents insist that the directive of 773(c)(2) applies to the circumstances in this case. First, respondents state that the Department's preliminary determination described the respondents' data as inadequate for the purpose of determining the FMV of the subject merchandise. Second, respondents argue the Department should use Peruvian import statistics as the FMV for tungsten ore concentrates. Last, respondents maintain that their July 1, 1991 submission cured all outstanding deficiencies in their U.S. price data. Therefore, respondents contend that the Department must use Peruvian price statistics and the U.S. price data they submitted to calculate the final antidumping margin.

Petitioner disagrees with respondents' assertion that the Department's discretion in selecting the appropriate BIA is circumscribed in nonmarket economy cases and cites the Department's application of BIA in previous nonmarket economy cases which contradicts respondents' argument. Furthermore, petitioner points out that in past cases the PRC has repeatedly refused to furnish information to enable the Department to calculate margins based on the respondents' information.

In addition, petitioner asserts that the exception provided for in section 773(c)(2) does not apply in this case because the petition contained adequate factors of production information to calculate FMV. Therefore, respondents' claim that no adequate FMV information exists on the record is incorrect because it wholly ignores the FMV information submitted in the petition.

Petitioner also asserts that respondents' proposal to use third country prices would produce an absurd

outcome and contravene the fundamental purpose of the antidumping law. Petitioner contends that world prices are already suppressed by illegal dumping activities. Petitioner argues that use of those "dumped" prices to calculate FMV would serve only to reduce the actual dumping margins and allow further suppression of world prices for tungsten ore concentrates.

#### *Department Position*

Respondents in this investigation failed to provide factors of production data, such as the types and quantities of raw materials employed, the skill level and number of hours of labor required, and types and amounts of energy consumed. This type of data is necessary for the Department to calculate FMV using the factors of production methodology, which is preferred under the statute. The alternative contained in section 773(c)(2), third country prices, is to be used only when available information is inadequate to use the factors methodology.

We do not agree with respondents that the third country price alternative is appropriate in this case. If we were to accept their interpretation, we would effectively be allowing respondents to choose the method for calculating FMV simply by their decision of whether or not to submit a factors response. We do not believe that this is the purpose of the alternative provide by section 773(c)(2).

While there is no legislative history on this point, we believe that generally third country prices should be used only when the Department lacks information to value the nonmarket economy producer's factors of production in a comparable market economy which is a significant producer of comparable merchandise. In other words, we would only turn to the third country price alternative if we were unable to develop market economy values to assign to the nonmarket economy producers' factors of production. Thus, in our view, the alternative FMV methodology provided by section 773(c)(2) is there for the Department to use when we are unable to obtain valuation information, not factors information which is solely within the power of respondents to provide.

In addition, because of the materially deficient nature of the questionnaire responses, we did not conduct a verification of the information submitted by respondents. Therefore, we are unable to guarantee with certainty the completeness and accuracy of the respondent's U.S. sales listing. The lack of verification is particularly disconcerting in this case because

petitioner has continually averred that respondents have not reported all U.S. sales of the subject merchandise during the POI. (See Petitioner's June 14, 1991 submission with supporting documentation.) Therefore, for the foregoing reasons, as best information available we have used the information contained in the petition to determine the final antidumping duty margins.

#### *Comment 2*

Respondents contend that, if the Department does not use third country prices to calculate FMV, then it should apply a simple average of the highest margins alleged in the petition for each such or similar category as best information available. Respondents claim that such approach is reasonable and warranted because only three of respondents' sales during the POI are of low-grade concentrate with an estimated margin of 151%, while the remainder of sales are of high-grade concentrate with an estimated margin of 122%.

To support the Department's use of the highest rate contained in the petition, petitioner relies on the rationale set forth in *Rhone Poulenc, Inc. v. United States*, 899 F.2d 1185, 1190 (Fed. Cir. 1990). In *Rhone Poulenc*, the Court of Appeals for the Federal Circuit agreed that a reasonable inference that the withheld data is less favorable to the respondent that the data on the record is justified upon a respondents' refusal to submit information requested by the Department. Petitioner contends that based on this reasoning, the Department should continue to use the highest margin alleged in the petition as the best information available.

#### *Department Position*

Section 353.37 of the Department's regulations permits the Department to take into account the extent of the respondents' failure to cooperate to determine the appropriate BIA rate. In this case, respondents refused to provide the Department with factors of production information despite our grant of a seven-week time extension.

Furthermore, we did not make a distinction between the categories of merchandise in determining the BIA rate because we did not have occasion to consider development of such or similar categories in that this was a nonmarket-economy case where such or similar categories are not defined. Moreover, even if separate such or similar categories were justified in this case for BIA purposes, respondents have not submitted any information to support a finding that low-grade and high-grade

concentrates comprise separate such or similar categories.

Therefore, because of respondents' complete failure to provide information on the factors of production and the lack of information on such or similar categories, we have applied the highest rate alleged in the petition as BIA.

#### *Comment 3*

Respondents contend that the Department must dismiss the petition because the petitioner lacks standing to file the petition in that it does not represent the domestic tungsten industry. Respondents argue that the like product in this investigation is not limited to tungsten ore concentrates but includes intermediate tungsten ore products as well. The basis for respondents' argument is contained in a February 1, 1991 letter submitted on behalf of GTE. In short, GTE opposes the petition and argues that in other mining cases filed under section 406 and section 201 investigations of the Tariff Act of 1974, the Commission has treated mining material produced from mining through refineries as a single like product. In addition, GTE asserts that under the ITC's like product analysis, the like product includes tungsten intermediate products. Therefore, because the like product includes tungsten ore concentrates and tungsten intermediate products; petitioner accounts for only 5.1% of the production of the like product; and a majority of the domestic tungsten industry, including intermediate tungsten product producers, opposes the petition; the petitioner has not brought this petition on behalf of the U.S. tungsten industry.

Petitioner argues that respondents' argument has already been rejected in the preliminary determinations of the ITC and the Department. Furthermore, petitioner points out that respondents offer no new information that would cause either agency to reverse their preliminary decision.

#### *Department Position*

For the reasons stated in the notice of initiation and the preliminary determination, we continue to find that tungsten intermediate products are not like the imported product tungsten ore concentrates. The only new evidence offered since the initiation is the ITC preliminary determination itself. Based on our analysis of the ITC determination we see no reason for reaching a conclusion different from that of the ITC.

The ITC found that intermediate tungsten products are not like the imported product, tungsten ore concentrates. Specifically, the ITC

stated that concentrates and intermediates are physically different, are not interchangeable, have different chemical compositions, do not share common manufacturing facilities, and are received by customers as discrete products. Moreover, the ITC noted that their practice is to broaden the like product definition horizontally to include other similar products rather than to include downstream products which are further processed. In addition, the ITC characterized GTE's reliance on sections 406 and 201 of the Tariff Act of 1974 as "misplaced." The ITC noted that not only were sections 201 and 406 "part of a different statute with different purposes and different legislative histories", but also that the section 201 and 406 investigations relied on by GTE only allowed for the expansion of the definition of domestic industry to upstream products. Because tungsten intermediate products are considered downstream products, section 201 and 406 practices would not support GTE's argument. We have already rejected respondents' argument opposing petitioner's standing and nothing on the current record of this investigation indicates that we should reverse our decision. Therefore, the Department will not dismiss the petition for lack of standing.

#### **Continuation of Suspension of Liquidation**

In accordance with section 735(d)(1) of the Act, we are directing the U.S. Customs Service to continue to suspend liquidation of all entries of tungsten ore concentrates from the PRC, as defined in the "Scope of Investigation" section of this notice, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. The U.S. Customs Service shall continue to require a cash deposit or posting of a bond equal to 151.00 percent on all entries of tungsten ore concentrates from the PRC.

The 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 ITC of our determination. If the ITC determines that material injury, or threat of material injury does not exist with respect to tungsten ore concentrates, the proceeding will be terminated and all securities posted as a result of the suspension will be refunded or cancelled. However, if the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing

Customs officials to assess antidumping duties on all tungsten ore concentrates from the PRC, on or after the effective date of the suspension of liquidation, equal to the amount by which the FMV exceeds the USP.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)) and 19 CFR 353.20.

Dated: September 17, 1991.

Eric I. Garfinkel,

*Assistant Secretary for Import Administration.*

[FR Doc. 91-22740 Filed 9-19-91; 8:45 am]

BILLING CODE 3510-05-M

[C-122-504]

#### **Determination To Cancel Suspension Agreement and Resumption of Investigation on Certain Red Raspberries From Canada**

**AGENCY:** International Trade Administration/Import Administration Department of Commerce.

**ACTION:** Cancellation of Suspension Agreement; Resumption of Countervailing Duty Investigation.

**SUMMARY:** The Government of Canada has withdrawn from the suspension agreement on certain red raspberries from Canada. Therefore, the Department of Commerce ("the Department") is cancelling the suspension agreement and resuming the investigation.

**EFFECTIVE DATE:** September 20, 1991.

**FOR FURTHER INFORMATION CONTACT:** Kathy McNamara or Barbara Williams, Office of Agreements Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-3793.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

On January 9, 1986, the Department suspended the countervailing duty investigation involving certain red raspberries from Canada.

The basis for the suspension was an agreement by the Government of Canada to offset or eliminate completely the net subsidy with respect to the merchandise.

On June 10, 1991, the Department received a letter from the Government of Canada notifying the Department that the Canadian government was withdrawing from the suspension agreement on certain red raspberries from Canada. Subsequently, on July 15, 1991, the Government of Canada submitted an additional letter to the Department confirming its intention to withdraw from the Agreement.

### Scope of the Agreement

Imports covered by this review are fresh and frozen red raspberries packed in bulk and suitable for further processing. At the time this suspension agreement was signed, such merchandise was classifiable under item numbers 146.5400, 146.5600, and 146.7400 of the Tariff Schedules of the United States Annotated (TSUSA). This merchandise is currently classifiable under Harmonized Tariff System (HTS) item numbers 810.20.10.20, 810.20.90.20, 811.20.20.20. TSUSA and HTS item numbers are provided for convenience, only. The written product description remains dispositive.

### Cancellation of Suspension Agreement

As a result of the Canadian government withdrawing from the suspension agreement, the Department has determined that there is no longer a basis for suspending the countervailing duty investigation on certain red raspberries from Canada.

### Resumption of Investigation

The Department is resuming the investigation as if the Department's affirmative preliminary determination under section 703(b) of the Tariff Act as amended ("the Act") had been published on the date of publication of this notice.

In making its final determination in this investigation, the Department intends to use information from the period April 1, 1984, through March 31, 1985, the period of review for the original investigation. (See Preliminary Affirmative Countervailing Duty Determination: Certain Red Raspberries From Canada (50 FR 42574, October 11, 1985).)

We intend to calculate the subsidy rate for the final determination based on the benefits received from the following programs during the review period: the British Columbia Raspberry Growers' Farm Income Plan, the Industrial and Regional Development Program (IRDP), and the financial assistance provided by the Ministry of Agriculture to the East Chilliwack Cooperative.

For the Farm Income Plan we intend to adopt the same methodology used in our preliminary determination. For the final determination, we intend to calculate the rate by dividing the verified total value of support payments received during the review period, less the value of premium payments by growers, by the total value of the sales of certain red raspberries during the same period. On this basis, the

estimated net subsidy would be 1.00 percent *ad valorem*.

For the IRDP grant, because it was less than 0.5 percent of total sales, we intend to expense the grant in the year of receipt, by dividing the value of the grant by the value of total sales of certain red raspberries during the period. On this basis, the estimated net subsidy would be 0.25 percent *ad valorem*.

Finally, for the financial assistance to the East Chilliwack Cooperative from the Ministry of Agriculture, we intend to treat the assistance as a short-term loan with a zero rate of interest and calculate the subsidy by dividing the interest savings on the zero-rate loan by the value of total sales of certain red raspberries during the period. On this basis, the estimated net subsidy for the financial assistance would be 3.35 percent *ad valorem*.

The Department would prefer to use more recent information in making its final determination in this investigation. However, a period such as calendar year 1990, when the suspension agreement was still in effect, would not appear to be appropriate. The 1990 period would not provide a true measure of the level of subsidy respondents would be expected to receive as stipulated in section 704(j) of the Act because the suspension agreement eliminated the provision of subsidies by Canada on the production or shipment of certain red raspberries exported to the United States as of January 9, 1986. For this reason, the Department intends to use information from the original review period as a more accurate measure of the subsidy level for the programs under investigation, absent the suspension agreement.

Interested parties are invited to comment within seven days of the publication of this notice on the Department's use of information from the original review period and to suggest approaches or methodologies that would allow the Department to use a more recent period and, at the same time, adjust for the fact that the suspension agreement would necessarily have eliminated subsidies during that period for raspberry growers. All comments should be submitted in accordance with § 355.31(e) of the Department's regulations to the Assistant Secretary for Import Administration.

### Suspension of Liquidation

As provided by section 703(d)(1) of the Act, the Department is instructing the Customs Service to suspend liquidation on shipments of red raspberries exported directly or indirectly to the United States from

Canada and entered, or withdrawn from warehouse, for consumption on or after July 15, 1991. The Department will also instruct the Customs Service, in accordance with section 703(d)(2) of the Act, to require a cash deposit or bond for each such entry of the merchandise in the amount of 0.99 percent *ad valorem*, based upon the calculations described in the preliminary determination (50 FR 42574).

### Public Comment

In accordance with 19 CFR 355.38 of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this action on November 20, 1991 at 10 a.m., at the U.S.

Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Parties should confirm by telephone, the time, date, and place of the hearing 48 hours before the scheduled time. Individuals who wish to request a hearing must submit such a request within ten days of the publication of this notice in the **Federal Register** to the Assistant Secretary for Import Administration, U.S. Department of Commerce, room B-099, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, ten copies of the business proprietary version and five copies of the nonproprietary version of case briefs or other written comments must be submitted to the Assistant Secretary no later than November 12, 1991. Ten copies of the business proprietary version and five copies of the nonproprietary version of the rebuttal briefs must be submitted to the Assistant Secretary no later than November 18, 1991. An interested party may make a presentation only on arguments included in that party's briefs. If no hearing is requested, interested parties still may comment on these preliminary results in the form of case and rebuttal briefs. Written arguments should be submitted in accordance with § 355.38 of the Commerce Department's regulations and will be considered if received within the time limits specified in this notice.

This determination is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: September 13, 1991.

Eric I. Garfinkel,

Assistant Secretary for Import  
Administration.

[FR Doc. 91-22741 Filed 9-19-91; 8:45 am]

BILLING CODE 3510-DS-M

### National Oceanic and Atmospheric Administration

#### Taking Marine Mammals Incidental to Energy Exploration in Alaska

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

**ACTION:** Notice.

Notice is being given that NMFS has issued five Letters of Authorization under the authority of section 101(a)(5) of the Marine Mammal Protection Act and 50 CFR 228, subpart D—Taking of Marine Mammals Incidental to Oil and Gas Exploration Activities in Alaska. These authorizations are valid for the 1991/92 exploration season and are subject to the provisions of the MMPA and the regulations governing small takes of marine mammals incidental to specified activities. Issuance of the letters is based on findings by NMFS that the total takings will have a negligible impact on the species of stocks of marine mammals and will not have an unmitigable adverse impact on the availability of the species or stocks for subsistence uses by Alaska natives.

Letters of Authorization were issued to the following: Amerada Hess Corporation, Houston, Texas; Amoco Production Company, Denver, Colorado; ARCO Alaska, Inc., Anchorage, Alaska; Chevron U.S.A. Inc., Anchorage, Alaska; and Shell Western E&P Inc., Anchorage, Alaska.

The Letters of Authorization are available for review in the following offices: Office of Protected Resources, NMFS, 1335 East-West Highway, Silver Spring, MD 20910, (301) 427-2322 and Western Alaska Field Office, NMFS, 701 C Street, Anchorage, Alaska, 99513, (907) 271-5006.

Dated: September 17, 1991.

Nancy Foster,

Director, Office of Protected Resources,  
National Marine Fisheries Service.

[FR Doc. 91-22747 Filed 9-19-91; 8:45 am]

BILLING CODE 3510-22-M

### COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

#### Procurement List Additions

**AGENCY:** Committee for Purchase from  
the Blind and Other Severely  
Handicapped.

**ACTION:** Additions to Procurement List.

**SUMMARY:** This action adds to the  
Procurement List a commodity and  
services to be furnished by nonprofit  
agencies employing the blind or other  
severely handicapped.

**EFFECTIVE DATE:** October 21, 1991.

**ADDRESSES:** Committee for Purchase  
from the Blind and Other Severely  
handicapped, Crystal Square 5, suite  
1107, 1755 Jefferson Davis Highway,  
Arlington, Virginia 22202-3509.

**FOR FURTHER INFORMATION CONTACT:**  
Beverly Milkman (703) 557-1145.

**SUPPLEMENTARY INFORMATION:** On July 8  
and August 2, 1991, the Committee for  
Purchase from the Blind and Other  
Severely Handicapped published  
notices (56 FR 30905 and 37088) of  
proposed additions to the Procurement  
List. After consideration of the material  
presented to it concerning capability of  
qualified nonprofit agencies to produce  
the commodity and provide the services  
at a fair market price and impact of the  
addition on the current or most recent  
contractors, the Committee has  
determined that the commodity and  
services listed below are suitable for  
procurement by the Federal Government  
under 41 U.S.C. 46-48c and 41 CFR 51-  
2.6

I certify that the following actions will  
not have a significant impact on a  
substantial number of small entities. The  
major factors considered for this  
certification were:

- The actions will not result in any  
additional reporting, recordkeeping or  
other compliance requirements.
- The actions will not have a serious  
economic impact on any contractors for  
the commodity and services listed.
- The actions will result in  
authorizing small entities to produce the  
commodity and provide the services  
procured by the Government.

Accordingly, the following commodity  
and services are hereby added to the  
Procurement List:

#### Commodity

Chest, Lighting Equipment  
6210-00-382-9173

#### Services

Janitorial/Custodial.

Martin Luther King Federal Building,  
Newark, New Jersey

Janitorial/Custodial, for the following GSA  
Warehouse in Auburn, Washington:

WA0815KA	WA0824KA
WA0816KA	WA0825KA
WA0817KA	WA0831KA
WA0821KA	WA0832KA
WA0822KA	WA0833KA
WA0823KA	WA0834KA

This action does not affect contracts  
awarded prior to the effective date of  
this addition or options exercised under  
those contracts.

Beverly L. Milkman,

Executive Director

[FR Doc. 91-22728 Filed 9-19-91; 8:45 am]

BILLING CODE 6820-33-M

#### Procurement List Proposed Additions

**AGENCY:** Committee for Purchase from  
the Blind and Other Severely  
Handicapped.

**ACTION:** Proposed additions to  
Procurement List.

**SUMMARY:** The Committee has received  
proposals to add to the Procurement List  
a commodity and services to be  
furnished by nonprofit agencies  
employing the blind or other severely  
handicapped.

**COMMENTS MUST BE RECEIVED ON OR  
BEFORE:** October 21, 1991.

**ADDRESSES:** Committee for Purchase  
from the Blind and Other Severely  
Handicapped, Crystal Square 5, suite  
1107, 1755 Jefferson Davis Highway,  
Arlington, Virginia 22202-3509.

**FOR FURTHER INFORMATION CONTACT:**  
Beverly Milkman (703) 557-1145.

**SUPPLEMENTARY INFORMATION:** This  
notice is published pursuant to 41 U.S.C.  
47 (a)(2) and 41 CFR 51-2.6. Its purpose  
is to provide interested persons an  
opportunity to submit comments on the  
possible impact of the proposed actions.

If the Committee approves the  
proposed additions, all entities of the  
Federal Government (except as  
otherwise indicated) will be required to  
procure the commodity and services  
listed below from nonprofit agencies  
employing the blind or other severely  
handicapped.

It is proposed to add the following  
commodity and services to the  
Procurement List:

#### Commodity

Cover, Shipping, Blade  
1615-01-160-3748

**Services**

Grounds Maintenance, Marine Corps Reserve Center, 75th and Warwick Boulevard, Newport News, Virginia.

Janitorial/Custodial Maintenance Overhaul and Technical Service Center, 10750 West Grand Avenue, Franklin Park, Illinois.

Janitorial/Custodial, Buildings 928, 1002 and 1029, Kirtland Air Force Base, New Mexico.

Janitorial/Custodial, Naval and Marine Corps Reserve Center, Akron, Ohio.

Laundry Service, Youngstown Municipal Airport, Vienna, Ohio.

Beverly L. Milkman,

*Executive Director.*

[FR Doc. 91-22729 Filed 9-19-91; 8:45 am]

BILLING CODE 6820-33-M

**DEPARTMENT OF EDUCATION****Proposed Information Collection Requests**

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Director, Office of Information Resources management, invites comments on proposed information collection requests as required by the Paperwork Reduction Act of 1980.

**DATES:** An expedited review has been requested in accordance with the Act, since allowing for the normal review period would adversely affect the public interest. Approval By the Office of Management and Budget (OMB) has been requested by October 7, 1991.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection request should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Mary P. Liggett, (202) 708-5174.

**SUPPLEMENTARY INFORMATION:** Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 3517) requires that the Director of OMB provide interested Federal agencies and persons an early opportunity to comment on information collection requests. OMB may amend or waive the requirement

for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Office of Information Resources Management, publishes this notice with the attached proposed information collection request prior to submission of this request to OMB. This notice contains the following information: (1) Type of review requested, e.g., expedited; (2) Title; (3) Abstract; (4) Additional Information; (5) Frequency of collection; (6) Affected public; and (7) Reporting and/or Recordkeeping burden. Because an expedited review is requested, a description of the information to be collected is also included as an attachment to this notice.

Dated: September 16, 1991.

Mary P. Liggett,

*Acting Director Office of Information Resources Management.*

**Office of Bilingual Education and Minority Languages Affairs**

*Type of Review:* Expedited.

*Title:* Annual Survey of Bilingual Education.

*Frequency:* Annual.

*Affected Public:* State or local governments.

**Reporting Burden:**

*Responses:* 57.

*Burden Hours:* 1,710.

**Recordkeeping Burden:**

*Recordkeepers:* 0.

*Burden Hours:* 0.

*Abstract:* State educational agencies will collect, aggregate, analyze and publish data regarding limited English proficient persons in their States. The Department will use the information to prepare an annual report to Congress and a report on the condition of bilingual education in the nation.

*Additional Information:* An expedited review is requested in order to allow States to submit data in a timely manner. Failure to collect this information would result in discontinued funding for the States. A form is being developed and will be cleared by the Office of Management and Budget.

[FR Doc. 91-22683 Filed 9-19-91; 8:45 am]

BILLING CODE 4000-01-M

**Proposed Information Collection Requests**

**AGENCY:** Department of Education.

**ACTION:** Notice of proposed information collection requests.

**SUMMARY:** The Director, Office of Information Resources Management, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

**DATES:** Interested persons are invited to submit comments on or before October 21, 1991.

**ADDRESSES:** Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Mary P. Liggett, Department of Education, 400 Maryland Avenue, SW., room 5624, Regional Office Building 3, Washington, DC 20202.

**FOR FURTHER INFORMATION CONTACT:** Mary P. Liggett (202) 708-5174.

**SUPPLEMENTARY INFORMATION:** Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Acting Director, Office of Information Resources Management, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following:

(1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Frequency of collection; (4) The affected public; (5) Reporting burden; and/or (6) Recordkeeping burden; and (7) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Mary P. Liggett at the address specified above.

Dated: September 16, 1991.

Mary P. Liggett,

Acting Director, Office of Information Resources Management.

**Office of Bilingual Education and Minority Languages Affairs**

*Type of Review:* New.

*Title:* Title VII Bilingual Education Fellowship Program Study.

*Frequency:* One time only.

*Affected Public:* Individuals or households; state or local governments; businesses or other for-profit; federal agencies or employees; non-profit institutions; small businesses or organizations.

*Reporting Burden:*

*Responses:* 659.

*Burden Hours:* 304.

*Recordkeeping Burden:*

*Recordkeepers:* 0.

*Burden Hours:* 0.

*Abstract:* This study will gather Bilingual Education Fellowship program data. The Department will use this information to assess the impact of the Bilingual Education Fellowship Program on the field of bilingual education.

**Office of Elementary and Secondary Education**

*Type of Review:* Extension.

*Title:* Application for Grants under the Migrant Education Program—Chapter 1.

*Frequency:* Annually.

*Affected Public:* State or local governments.

*Reporting Burden:*

*Responses:* 51.

*Burden Hours:* 6,120.

*Recordkeeping Burden:*

*Recordkeepers:* 0.

*Burden Hours:* 0.

*Abstract:* This form will be used by applicants to apply for funding under the Chapter 1—Migrant Education Program. The Department uses the information to make grant awards.

**Office of Special Education and Rehabilitative Services**

*Type of Review:* Reinstatement.

*Title:* Surveys of Personnel Shortages and Training Needs.

*Frequency:* One time.

*Affected Public:* State or local governments; non-profit institutions.

*Reporting Burden:*

*Responses:* 886.

*Burden Hours:* 488.

*Recordkeeping Burden:*

*Recordkeepers:* 0.

*Burden Hours:* 0.

*Abstract:* Information on existing staffing and personnel shortages is needed from State vocational rehabilitation agencies and non-profit facilities providing services to State

agency clients. The Department will use this information to direct Rehabilitation Training Program funds to areas of identified personnel shortage.

**Office of Educational Research and Improvement**

*Type of Review:* Extension.

*Title:* Continuation Application—LEAD (Leadership in Education Administration Development).

*Frequency:* Annually.

*Affected Public:* State and local governments; non-profit institutions.

*Reporting Burden:*

*Responses:* 57.

*Burden Hours:* 228.

*Recordkeeping Burden:*

*Recordkeepers:* 0.

*Burden Hours:* 0.

*Abstract:* This form will be used by applicants to apply for funding under the Leadership in Educational Administration Development program. The Department uses the information to make grant awards.

**Office of Educational Research and Improvement**

*Type of Review:* Revision

*Title:* Final Performance Report for the Library Services and Construction Act (LSCA), Title VI.

*Frequency:* Annually.

*Affected Public:* State and local governments.

*Reporting Burden:*

*Responses:* 250.

*Burden Hours:* 1,000.

*Recordkeeping Burden:*

*Recordkeepers:* 250.

*Burden Hours:* 250.

*Abstract:* This report will be completed by projects funded under LSCA Title VI. The Department will use this information to determine the use of grant funds and to evaluate project performance.

**Office of Educational Research and Improvement**

*Type of Review:* Extension.

*Title:* Application for Grants under the Fund for the Improvement and Reform of Schools and Teaching: Schools and Teachers Program/Family-School Partnership Programs.

*Frequency:* Annually.

*Affected Public:* State and local governments; non-profit institutions.

*Reporting Burden:*

*Responses:* 700.

*Burden Hours:* 16,800.

*Recordkeeping Burden:*

*Recordkeepers:* 0.

*Burden Hours:* 0.

*Abstract:* This form will be used by applicants to apply for funding under the Fund for the Improvement and Reform

of Schools and Teaching program. The Department uses this information to make grant awards.

**Office of Postsecondary Education**

*Type of Review:* New.

*Title:* Performance Report for the Jacob K. Javits Fellows Programs.

*Frequency:* Annually.

*Affected Public:* Individuals or households; non-profit institutions.

*Reporting Burden:*

*Responses:* 500.

*Burden Hours:* 2,500.

*Recordkeeping Burden:*

*Recordkeepers:* 0

*Burden Hours:* 0.

*Abstract:* Students that have participated in the Jacob K. Javits Fellows Program are to submit this report to the Department. The Department uses the information to assess the accomplishments of project goals and effective program management.

**Office of Postsecondary Education**

*Type of Review:* Extension.

*Title:* State Participation Agreements for the Robert C. Byrd Honors Scholarship Program.

*Frequency:* One time.

*Affected Public:* State or local governments.

*Reporting Burden:*

*Responses:* 52.

*Burden Hours:* 52.

*Recordkeeping Burden:*

*Recordkeepers:* 0.

*Burden Hours:* 0.

*Abstract:* States that desire to make changes to their previously approved State participation agreement must submit such changes to the Department. The Department uses the information to determine state eligibility and compliance with program requirements.

**Office of Postsecondary Education**

*Type of Review:* Reinstatement.

*Title:* Performance Report for the Grants to Institutions to Encourage Minority Participation in Graduate Education.

*Frequency:* Annually.

*Affected Public:* Non-profit institutions.

*Reporting Burden:*

*Responses:* 72.

*Burden Hours:* 144.

*Recordkeeping Burden:*

*Recordkeepers:* 0.

*Burden Hours:* 0.

*Abstract:* This report is used by State agencies to provide caseload data. The Department uses the information

collected to assess the accomplishments and for program management.

[FR Doc. 91-22684 Filed 9-19-91; 8:45 am]

BILLING CODE 4000-01-M

[CFDA 84.060A]

**Formula Grant Program Under the Indian Education Act of 1988, Subpart 1 Notice Inviting Applications for new Awards for Fiscal Year (FY) 1992**

*Purpose:* Provides grants for supplementary projects that meet the special needs of Indian children. This program should be seen as an opportunity for local educational agencies to support those elements of the national Education Goals and the AMERICA 2000 education strategy that are relevant to their unique missions.

*Eligible Applicants:* Local educational agencies (LEAs) and certain schools operated by Indian tribes and organizations (Tribal schools) that received funds under this program in fiscal year 1988, and, if sufficient funds are available, as determined under the Act, to schools operated by the Bureau of Indian Affairs (BIA) and LEAs and Tribal schools that were not grantees in fiscal year 1988.

*Deadline for Transmittal of Applications:* December 3, 1991. Applications not meeting the deadline will not be considered for funding in the initial allocation of awards.

Applications not meeting the deadline may be considered for funding if the Secretary determines, under section 5316(b) of the Indian Education Act, that funds are available and that relocation of those funds to such applications would best assist in advancing the purposes of the program. However, the amount and date of an individual award, if any, made under section 5316(b) of the Act may not be the same to which the applicant would have been entitled if the application had been submitted on time.

*Deadline for Intergovernmental Review:* February 1, 1992.

*Applications Available:* September 27, 1991.

*Available Funds:* The appropriation for this program for fiscal year 1992 is expected to be \$54,692,000, which should be sufficient to fund all eligible applicants. Therefore, the Department encourages all eligible applicants to apply, including those entities that were not grantees under the program in fiscal year 1988.

*Estimated Range of Awards:* \$1,000 to \$1,467,500.

*Estimated Average Size of Awards:* \$46,825.

*Estimated Number of Awards:* 1,168.

*Note:* The Department is not bound by any estimates in this notice.

*Project Period:* Up to 36 months.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 250 and 251.

*For Applications or Information Contact:* Sandra Spaulding, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202-6335. Telephone (202) 401-1907 (FTS 441-1907). Deaf and hearing impaired individuals may call the Federal Dual Party Relay Service at 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time. *Program Authority:* 25 U.S.C. 2601-2606, 2651.

Dated: September 16, 1991.

John T. MacDonald,

Assistant Secretary, Elementary and Secondary Education.

[FR Doc. 91-22743 Filed 9-19-91; 8:45 am]

BILLING CODE 4000-01-M

[CFDA No. 84.129]

**Rehabilitation Training: Rehabilitation Long-Term Training Notice Inviting Applications for New Awards for Fiscal Year (FY) 1992**

*Purpose of Program:* The purpose of this program is to provide grants to increase the supply of qualified personnel available for employment in public and private agencies and institutions involved in the vocational rehabilitation and independent living rehabilitation of individuals with handicaps, especially those individuals with the most severe handicaps, and to maintain and upgrade the skills and knowledge of personnel employed as providers of vocational, social, or psychological rehabilitation services.

*Eligible Applicants:* State agencies and other public or nonprofit agencies and organizations, including institutions of higher education, are eligible for assistance under the Rehabilitation Training Program.

*Deadline for Transmittal of Applications:* November 22, 1991.

*Deadline for Intergovernmental Review:* January 22, 1992.

*Applications Available:* October 8, 1991.

*Available Funds:* \$4,970,000.

The Administration has requested a consolidated amount of \$1,976,040,000 for rehabilitation programs for FY 1992. Of this amount, it is expected that

\$4,970,000 will be available for new grants in the areas listed below. However, the actual level of funding is contingent upon final congressional action. A separate notice inviting applications for new awards in areas of rehabilitation long-term training, in addition to those listed below, will be published at a later date.

Specific information regarding the estimated range of available funds, range of awards, average size of awards, and number of awards appears on the chart in this notice.

*Note:* The Department is not bound by any estimates in this notice.

*Project Period:* Up to 36 months.

*Applicable Regulations:* (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86; and (b) The regulations for this program in 34 CFR parts 385 and 386.

**Absolute Priorities**

Under 34 CFR 75.105(c)(3) and 34 CFR 386.1, the Secretary gives an absolute preference to applications that meet one of the following priorities. The Secretary funds under this competition only applications that propose to provide training in one of the following areas of personnel shortages:

- Rehabilitation medicine.
- Rehabilitation nursing.
- Prosthetics and orthotics.
- Rehabilitation facility administration.
- Rehabilitation administration.
- Physical therapy.
- Occupational therapy.
- Rehabilitation engineering.
- Vocational evaluation and work adjustment.
- Rehabilitation workshop and facility personnel.
- Rehabilitation of the mentally ill.
- Rehabilitation psychology.
- Specialized personnel for supported employment.
- Undergraduate education in rehabilitation services.
- Independent living.
- Speech-language pathology and audiology.
- Rehabilitation of the blind.
- Rehabilitation of the deaf.
- Rehabilitation job development and job placement.

*For Applications or Information Contact:* Bruce Rose, U.S. Department of Education, 400 Maryland Avenue, SW., room 3332, Switzer Building, Washington, DC 20202-2649. To request an application, call (202) 732-1347; to receive further information, call (202) 732-1325; deaf and hearing impaired individuals may call the Federal Dual

Party Relay Service on 1-800-877-8339 (in the Washington, DC 202 area code, telephone 708-9300) between 8 a.m. and 7 p.m., Eastern time.

Program Authority: 29 U.S.C. 774.

Dated: September 16, 1991.

Robert R. Davila,  
Assistant Secretary, Office of Special  
Education and Rehabilitative Services.

Areas of personnel shortages	Estimated range of available funds	Estimated range of awards	Estimated average size of awards	Estimated No. of awards
Rehabilitation medicine .....	\$190,000-210,000	\$90,000-110,000	\$100,000	2
Rehabilitation nursing .....	190,000-210,000	90,000-110,000	100,000	2
Prosthetics and orthotics .....	165,000-185,000	165,000-185,000	175,000	1
Rehabilitation facility administration .....	365,000-385,000	115,000-135,000	125,000	3
Rehabilitation administration .....	240,000-260,000	115,000-135,000	125,000	2
Physical therapy .....	290,000-310,000	90,000-110,000	100,000	3
Occupational therapy .....	140,000-160,000	65,000-85,000	75,000	2
Rehabilitation engineering .....	240,000-260,000	115,000-135,000	125,000	2
Vocational evaluation and work adjustment .....	190,000-210,000	90,000-110,000	100,000	2
Rehabilitation workshop and facility personnel .....	190,000-210,000	90,000-110,000	100,000	2
Rehabilitation of the mentally ill .....	290,000-310,000	90,000-110,000	100,000	3
Rehabilitation psychology .....	190,000-210,000	90,000-110,000	100,000	2
Specialized personnel for supported employment .....	290,000-310,000	90,000-110,000	100,000	3
Undergraduate education in rehabilitation services .....	410,000-430,000	60,000-80,000	70,000	6
Independent living .....	90,000-110,000	90,000-110,000	100,000	1
Speech-language pathology and audiology .....	190,000-210,000	90,000-110,000	100,000	2
Rehabilitation of the blind .....	590,000-610,000	90,000-110,000	100,000	6
Rehabilitation of the deaf .....	390,000-410,000	90,000-110,000	100,000	4
Rehabilitation job development and job placement .....	140,000-160,000	65,000-85,000	75,000	2

[FR Doc. 91-22744 Filed 9-19-91; 8:45 am]  
BILLING CODE 4000-01-M

## DEPARTMENT OF ENERGY

### Trespassing on Department of Energy; Pantex Plant, TX

**AGENCY:** Department of Energy.

**ACTION:** Notice of amendment of legal description of Pantex Plant site.

**SUMMARY:** The Department of Energy, successor agency to the Atomic Energy Commission, is authorized pursuant to section 229 of the Atomic Energy Act of 1954, as implemented by 10 CFR part 860, section 104 of the Energy Reorganization Act of 1974, and section 301 of the Department of Energy Organization Act, to prohibit unauthorized entry and the unauthorized introduction of weapons or dangerous materials into and upon its nuclear sites. By Notice dated October 12, 1965, appearing at pages 13287-13288 of the Federal Register of October 19, 1965, the Atomic Energy Commission prohibited unauthorized entry into and upon certain portions of the Pantex Plant site located in the State of Texas. By notice dated July 23, 1985, appearing at pages 31004-31005 of the Federal Register of July 31, 1985, the Department of Energy amended the site description of the Pantex Plant to add 3,068 acres, more or less, to the 9,100 acres to which unauthorized access was prohibited by the 1965 Notice. This notice further amends the site description of the Pantex Plant to add 2,685 acres, more or

less, to the 12,168 acres to which access was prohibited by the 1965 and 1985 notices. Notices stating the pertinent prohibition of 10 CFR part 860.5 will be posted at all entrances of said tract and at intervals along its perimeters as provided in 10 CFR part 860.6.

The site description of the Pantex Plant site is hereby amended to read as follows:

A 14,852.85 Acre tract of land situated in the western portion of Carson County, Texas, approximately 9 miles west of the City of Panhandle, said tract is bordered on the west by State F.M. Hwy. 683, and an irregular shaped tract of land used by Texas Tech University, on the north by State F.M. Hwy. 293, on the east by State F.M. Hwy. 2373 and on the south by A.T. & S.F. Ry. said tract of land being a portion of the W.R. Snodgrass (strip) Survey, a portion of sections 6 and 6½, Lyman Brewer (strip) Survey, Section 7, M.F. Wright (strip) Survey, a portion of Sections 30, 31, 32, 33, 34, 36, 40, 41, 46, 51, 54, 59 and all of Sections 37, 38, 39, 47, 48, 49, 50, 55, 56, 57, and 58, block M4, John H. Gibson Survey, Carson County, Texas; the perimeter of said tract of land is described by metes and bounds to-wit;

Commencing at the southeast corner of section 3 and the northeast corner of section 4, block 2, Adams, Beaty & Moulton Survey, said point being in the west line of the W.R. Snodgrass Survey;

Thence north 89°54'52" east, 50.04 Ft. to a point;

Thence south 00°05'08" east, 652.31 Ft. to a ½ inch iron rod with a red plastic cap stamped "KELLEY" (K-CAP)

marking the intersection of the east R.O.W. line of State F.M. Hwy. 683 and the northerly R.O.W. line of A.T. & S.F. Ry., said point of intersection being the southwest corner and the true place of beginning of the tract of land herein described;

Thence north 00°05'08" west, 4,889.35 Ft., along the east R.O.W. line of State F.M. Hwy. 683 as described in Volume 8, pages 592 and 593 of the Carson County Commissioners Court Minutes, to a K-CAP marking the southwesterly corner of a tract of land used by Texas Tech University;

Thence along the perimeter and common line with said Texas Tech University tract of land the following calls;

north 88°41'59" east, 330.25 Ft. to a K-CAP;

north 81°01'01" east, 144.55 Ft. to a K-CAP;

north 72°21'14" east, 229.80 Ft. to a K-CAP;

south 75°48'18" east, 127.76 Ft. to a K-CAP;

south 71°07'18" east, 261.84 Ft. to a K-CAP;

north 12°51'38" west, 270.94 Ft. to a K-CAP;

south 89°00'58" west, 46.78 Ft. to a K-CAP;

north 68°30'44" west, 94.58 Ft. to a K-CAP;

north 24°44'38" west, 90.96 Ft. to a K-CAP;

north 08°05'42" east, 161.63 Ft. to a K-CAP;

north 67°20'37" west, 247.72 Ft. to a K-CAP;

south 06°28'31" west, 305.04 Ft. to a K-CAP;

south 25°10'42" east, 203.96 Ft. to a K-CAP;

south 72°43'55" west, 222.15 Ft. to a K-CAP;

south 80°33'00" west, 139.06 Ft. to a K-CAP;

south 89°03'35" west, 327.71 Ft. to a K-CAP in the east R.O.W. line of State F.M. Hwy. 683 Marking the northwesterly corner of said Texas Tech University tract of land;

Thence north 00°05'08" west, 12,894.01 Ft., along the east R.O.W. line of State F.M. Hwy. 683, as described in said Volume 8, pages 592 and 593, to a ½ inch iron rod with yellow plastic cap stamped "THOMAS" (T-CAP) marking a P.I.;

Thence north 00°06'11" west 4,066.85 Ft., along said east R.O.W. line of State F.M. Hwy 683, to an aluminum cap set in concrete marking a P.I.; said point being the northerly limit of the highway R.O.W. described in said Volume 8 pages 592 and 593;

Thence north 89°49'30" east, 30.00 Ft., along the easterly R.O.W. line of State F.M. Hwy. 683, as described in Volume 10, page 22 of the Carson County Commissioners Court Minutes, to an aluminum cap set in concrete marking a P.I.;

Thence north 00°05'10" east 10,270.32 Ft., along said east R.O.W. as described in said Volume 10, page 22, to an aluminum cap set in concrete marking the beginning of a curve in said R.O.W. line whose radius point bears south 89°54'50" east a distance of 236.00 Ft.;

Thence northeasterly along said R.O.W. line curve in a clockwise direction thru a central angle of 89°09'07" and an arc distance of 367.21 Ft. to aluminum cap set in concrete marking a point of tangency in the southerly R.O.W. line of State F.M. Hwy. 293 and the northwesterly corner of this tract;

Thence north 89°14'17" east, along the southerly R.O.W. line of State F.M. Hwy. 293, as described in Volume 10 page 22 of the Carson County Commissioners Court Minutes, 22, 443.06 Ft. to a T-CAP marking the northeasterly corner of this tract;

Thence south 45°27'45" east, 140.68 Ft., along the westerly R.O.W. line of State F.M. Hwy. 2373 as described in the R.O.W. deed recorded in Volume 10, page 210 of the Deed Records of Carson County, Texas, to a T-CAP marking a P.I.;

Thence south 00°09'51" east, 5,099.45 Ft., along the westerly R.O.W. line of

State F.M. Hwy. 2373, as described in said recorded deed (Volume 10, page 210), to a T-CAP marking a P.I.;

Thence south 00°22'01" east, 10,502.67 Ft., along the westerly R.O.W. line of State F.M. Hwy. 2373, to a T-CAP marking a P.I.;

Thence south 00°17'37" east, 2,731.95 Ft., along the westerly R.O.W. line of State F.M. Hwy. 2373, to a T-CAP marking a P.I.;

Thence south 00°14'05" east, 2,633.88 Ft.; along the westerly R.O.W. line of State F.M. Hwy. 2373, to a concrete Texas Highway Department R.O.W. monument marking a P.I.;

Thence south 00°06'38" east, 3,091.78 Ft., along the westerly R.O.W. line of State F.M. Hwy. 2372 to an aluminum cap set in concrete marking the intersection of said highway R.O.W. line and the northerly R.O.W. line of A.T. & S.F. Ry., said point being the southeasterly corner of this tract;

Thence south 69°23'00" west, 1,518.79 Ft., along the northerly R.O.W. line of A.T. & S.F. Ry., to a point marking a point of change in R.O.W. width, said point is witnessed by an aluminum cap set in concrete bearing north 20°37'00" west, 1.00 Ft.;

Thence north 20°37'00" west, 25.00 Ft., along said R.R. R.O.W., to a point marking a point of change in R.O.W. width, said point is witnessed by an aluminum cap set in concrete bearing north 20°37'00", 1.00 Ft.;

Thence south 69°23'00" west, 1,232.00 Ft., along said R.R. R.O.W., to a point marking a change in R.O.W. width, said point is witnessed by an aluminum cap set in concrete bearing north 20°37'00" west, 1.00 Ft.;

Thence south 20°37'00" east, 20.00 Ft., along said R.R. R.O.W., to a point marking a change in R.O.W. width, said point is witnessed by an aluminum cap set in concrete bearing north 20°37'00" west, 1.00 Ft.;

Thence south 69°23'00" west, 3,791.55 Ft., along said R.R. R.O.W., to a point marking a change in R.O.W. width, said point is witnessed by an aluminum cap set in concrete bearing north 20°37'00" west, 1.00 Ft.;

Thence north 89°15'00" east, 13.48 Ft., along said R.R. R.O.W., to a point marking a change in R.O.W. width, said point is witnessed by an aluminum cap set in concrete bearing north 20°37'00", 1.00 Ft.;

Thence north 69°23'00" west, 6088.01 Ft., along said R.R. R.O.W., to an aluminum cap set in concrete marking a point of change in R.O.W. width;

Thence south 20°37'00" east, 25.00 Ft., along said R.R. R.O.W., to an aluminum cap set in concrete marking a point of change in R.O.W. width;

Thence south 69°23'00" west, 4,249.06 Ft., along said R.R. R.O.W., to an aluminum cap set in concrete marking a point of change in R.O.W. width;

Thence north 00°17'00" west, 52.35 Ft., along said R.R. R.O.W., to an aluminum cap set in concrete marking a point of change in R.O.W. width;

Thence south 69°23'00" west, 1,470.14 Ft., along said R.R. R.O.W., to an aluminum cap set in concrete marking a point of change in R.O.W. width;

Thence north 20°37'00" west, 25.00 Ft., along said R.R. R.O.W., to a K-CAP marking a point of change in R.O.W. width;

Thence south 69°23'00" west, 1,692.36 Ft., along said R.R. R.O.W., to a K-CAP marking a point of change in R.O.W. width;

Thence north 20°37'00" west, 50.00 Ft., along said R.R. R.O.W., to a K-CAP marking a point of change in R.O.W. width;

Thence south 69°23'00" west, 150.00 Ft., along said R.R. R.O.W., to a K-CAP marking a point of change in R.O.W. width;

Thence south 20°37'00" east, 50.00 Ft., along said R.R. R.O.W., to a K-CAP marking a point of change in R.O.W. width;

Thence south 69°23'00" west, 1,157.03 Ft., along said R.R. R.O.W., to a K-CAP marking a point of change in R.O.W. width;

Thence south 20°37'00" east, 25.00 Ft., along said R.R. R.O.W., to a K-CAP marking a point of change in R.O.W. width;

Thence south 69°23'00" west, 834.56 Ft., along said R.R. R.O.W., to a K-CAP marking a point of change in R.O.W. width;

Thence north 89°14' east, 72.16 Ft., along said R.R. R.O.W., to a K-CAP marking a point of change in R.O.W. width;

Thence south 69°23'00" west, 2,032.19 Ft., along said R.R. R.O.W., to a K-CAP marking a point of change in R.O.W. width;

Thence north 20°37'00" west, 75.00 Ft., along said R.R. R.O.W., to a K-CAP marking a point of change in R.O.W. width;

Thence south 69°23'00" west, 320.23 Ft., along said R.R. R.O.W., to the place of beginning and containing an area of 14,852.85 Acres of land.

Issued in Washington, DC this 18th day of September, 1991.

Richard A. Claytor,

Assistant Secretary for Defense Programs.

[FR Doc. 91-22735 Filed 9-19-91; 8:45 am]

BILLING CODE 6450-01-M

**Energy Information Administration****American Statistical Association  
Committee on Energy Statistics; Open  
Meeting**

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770) notice is hereby given of the following meeting:

*Name:* American Statistical Association Committee on Energy Statistics, a utilized Federal Advisory Committee.

*Date and Time:* Thursday, October 24, 9 a.m.-5:30 p.m. Friday, October 25, 9 a.m.-12 p.m.

*Place:* Holiday Inn-Capitol, 550 C Street, SW., Washington, DC.

*Contact:* Ms. Renee Miller, EIA Committee Liaison, U.S. Department of Energy, Energy Information Administration, EI-72, Washington, DC 20585, Telephone: (202) 586-2088.

*Purpose of Committee:* To advise the Department of Energy, Energy Information Administration (EIA), on EIA technical statistical issues and to enable the EIA to benefit from the Committee's expertise concerning other energy statistical matters.

**Tentative Agenda**

*Thursday, October 24, 1991*

**A. Opening Remarks.****B. Major Topics.**

1. EIA's Initial Nonutility Survey: Experience Gained.
2. An Assessment of the Use of Videotape Interviewer Training for the Residential Energy Consumption Survey.
3. Estimating Petroleum Exports.
4. Sampling Issues: Best Use of Available Data.

*Friday, October 25, 1991*

## 5. Data Needs.

## 6. Followup on Sampling Issues.

## 7. Experimental Economics, (Public Comments).

**C. Topics for Future Meetings.**

*Public Participation:* The meeting is open to the public. The chairperson of the committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Written statements may be filed with the committee either before or after the meeting. If there are any questions, please contact Ms. Renee Miller, EIA Committee Liaison, at the address or telephone number listed above or Ms. April Young at (202) 586-2315.

*Transcripts:* Available for public review and copying at the Public Reading Room, (room 1E-290), 1000 Independence Avenue, SW.,

Washington, DC 20585, (202) 586-6025, between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Issued at Washington, DC on September 16, 1991.

Marcia L. Morris,

*Deputy Advisory Committee Management Officer.*

[FR Doc. 91-22736 Filed 9-19-91; 8:45 am]

BILLING CODE 6450-01-M

**Federal Energy Regulatory  
Commission**

[Project No. 8221-022 Alaska]

**Alaska Energy Authority; Availability  
of Environmental Assessment**

September 13, 1991.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's regulations, 18 CFR part 380 (Order No. 486, 52 FR 47910), the Office of Hydropower Licensing (OHL) has reviewed the application to construct a new diversion on Upper Battle Creek. The water would be diverted to Bradley Lake in Kenai Peninsula Borough, Alaska. The staff of OHL's Division of Project Compliance and Administration has prepared an Environmental Assessment (EA) for the proposed action. In the EA, staff concludes that approval of the amendment of license would not constitute a major federal action significantly affecting the quality of the human environment.

Copies of the EA are available for review in the Reference and Information Center, room 3308, of the Commission's Offices at 941 North Capitol Street, NE., Washington, DC 20426.

Linwood A. Watson, Jr.,

*Acting Secretary.*

[FR Doc. 91-22876 Filed 9-19-91; 8:45 am]

BILLING CODE 6717-01-M

**ENVIRONMENTAL PROTECTION  
AGENCY**

[ER-FRL-4011-2]

**Environmental Impact Statements;  
Availability****Responsible Agency:**

Office of Federal Activities, General Information (202) 260-5073 or (202) 260-5076.

Availability of Environmental Impact Statements Filed September 09, 1991 Through September 13, 1991 Pursuant to 40 CFR 1506.9:

*EIS No. 910322, Final Supplement, FHW, NC, Smith Creek Parkway and*

*Downtown Spur Construction, from NC-133 at Northeast Cape Fear River to US-74/Eastwood Road and US-117/Castle Hayne Road at Smith Creek to 3rd Street, Updated and Additional Information, Funding, Wilmington, New Hanover County, NC, Due: October 21, 1991, Contact: Nicholas L. Graf (919) 856-4330.*

*3EIS No. 910323, Final EIS, AFS, MT, Harvey-Eightymile Project Area, Timber Sale and Road Construction, Implementation, Deerlodge National Forest, Silver King Roadless Area, Philipsburg Ranger District, Granite County, MT, Due: October 21, 1991, Contact: Thomas W. Heintz (406) 859-3211.*

*EIS No. 910324, Final EIS, FHW, FL, Roosevelt Bridge Replacement carrying US 1/FL-5 across the St. Lucie River, South of FL-76 to North of Wright Boulevard, Funding, Coast Guard Permit and COE Section 404 Permit, City of Stuart, Martin County, FL, Due: October 21, 1991, Contact: J.R. Skinner (904) 681-7223.*

*EIS No. 910325, Draft Supplement, COE, AR, Lakes Greeson, Ouachita, and DeGray Operation and Maintenance, Updated Information, Lake Greeson/Little Missouri River Water Quality Improvement and Fishery Enhancements, Pike County, AR, Due: November 04, 1991, Contact: Julie B. Marcy (601) 631-5302.*

*EIS No. 910326, Final EIS, EPA, OR, Chetco Ocean Dredged Material Disposal Site (ODMDS), Designation, Chetco River, OR, Due: October 21, 1991, Contact: John Malek (206) 553-1286.*

*EIS No. 910327, Draft EIS, FHW, IL, FAP-322/US 51 Improvement, from US 51 south of Pana to FAP-322 near Elwin, Funding, Section 404 Permit and Possible NPDES Permit, Christian, Shelby, and Macon Counties, IL, Due: November 30, 1991, Contact: Jay W. Miller (217) 492-4600.*

*EIS No. 910328, Draft EIS, FHW, WV, New River Parkway Construction, from Intersection Raleigh Co., 26 and WV 20 near Hinton, north to I-64, Funding, Section 404 Permit, and Possible NPDES Permit, Raleigh and Summers Counties, WV, Due: December 02, 1991, Contact: Billy R. Higginbotham (304) 348-3093.*

*EIS No. 910329, Draft EIS, NOAA, WA, Olympic Coast National Marine Sanctuary Management Plan, Site Designation, NPDES Permit and COE Permit, Olympic Peninsula, WA, Due: November 27, 1991, Contact: Rafael V. Lopez (202) 606-4126.*

*EIS No. 910330, Draft Supplement, UMT, DC, Metropolitan Washington Regional Rapid Rail Transit System, Updated Information, Green Line E*

Route Mid City Segment (Sections E-2c, E-3, E-4), from 14th and V Streets Northwest to Fort Totten Drive Northeast, Funding, District of Columbia, Due: November 07, 1991, Contact: A. Joseph Ossi (202) 366-0096.

3EIS No. 910331, Final EIS, USN, WA, CA, US West Coast Homeporting Program for Fast Combat Support Ships (AOE-6 Class), Implementation, Long Beach Naval Station, North Island Naval Air Station and San Diego Naval Station, CA and Puget Sound Naval Shipyard, Bremerton, WA, Due: October 21, 1991, Contact: Robert Schwarz (202) 433-3387.

#### Amended Notices

EIS No. 890244, Draft EIS, EPA, NY, NJ, New York Bight Ocean Woodburning Disposal Site Designation, for wood removed from the waters and shorelines of the New York/New Jersey Harbor Complex and its Environs, Offshore NY and NJ, Due: October 23, 1989, Contact: Robert Hargrove (212) 264-1840. Published FR 9-08-89—Officially Withdrawn by Preparing Agency.

Dated: September 17, 1991.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 91-22751 Filed 9-19-91; 8:45 am]

BILLING CODE 6560-50-M

[ER-FRL-4011-3]

#### Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared September 2, 1991 through September 6, 1991 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260-5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 05, 1991 (56 FR 14096).

#### Draft EISs

ERP No. D-AFS-L65150-ID Rating EC2, Accelerated Engelmann Spruce Harvest and Reforestation in Brush Creek, Hendricks Creek, and Copet Creek Salvage Timber Sales, Implementation, McCall Ranger District, Payette National Forest, Adams and Idaho Counties, ID.

#### Summary

EPA expressed concerns that increased sediment caused by the project may adversely affect fish habitat. EPA believes these concerns can be addressed during project implementation.

#### Final EISs

ERP No. F-AFS-L61192-AK, Crystal Mountain or Sumner Mountain Communication Site, Designation/Nondesignation, New and Additional Information, Tongass National Forest, Sitikine Area, AK.

#### Summary

Review of the final EIS has been completed and the project found to be satisfactory. No formal letter was sent to the agency.

ERP No. F-UAF-B11012-NH, Pease Air Force Base (AFB) Disposal and Reuse, Implementation, Portsmouth, Newington, Greenland, Rye, Dover Durham, Madburg, Rochester, NH and Kittery, Eliot and Berwick, ME.

#### Summary

EPA commented that the final EIS does not adequately address significant air quality issues associated with the proposed development of Pease, but stated that a MOU entered into between EPA, the Pease Development Authority and the New Hampshire Department of Environmental Services provides reasonable assurance that the proposed development can proceed in compliance with the Clean Air Act. EPA continued to express concerns about potentially significant wetland impacts, stating the alternatives analysis and options to prevent indirect impacts to the aquatic environment remain inadequately addressed in the final EIS. EPA also expressed continued concern over the projected increased noise levels from the proposed airport operations and the increased traffic that the airport would generate.

ERP No. F-UAF-F11018-IL, Chanute Air Force Base (AFB) Disposal and Reuse, Implementation, Champaign County, IL.

#### Summary

EPA looks forward to reviewing the results of the asbestos survey along with any other reports relating to the IRP and the environmental impacts mentioned in both the draft and final EISs. Mitigation measures discussed in both the draft and final EISs pertaining to airport noise, air, soil, and water quality should be implemented.

ERP No. F-UAF-F11019-IL, Scott Air Force Base Joint Military-Civilian use, Civil Runway and Associated Airport

Facilities Construction, Plan Approval, St. Clair County, IL.

#### Summary

EPA notes that the final EIS appears to indicate that enhancement may be suggested as part of the project's wetlands mitigation approach. EPA does not generally accept enhancement as satisfactory wetlands compensation, because it merely substitutes one form of wetland for another. Also, compensation for the loss of bottomland hardwood wetlands will undoubtedly require a mitigation ratio greater than 1.5 to 1.

Dated: September 17, 1991.

William D. Dickerson,

Deputy Director, Office of Federal Activities.

[FR Doc. 91-22752 Filed 9-19-91; 8:45 am]

BILLING CODE 6560-50-M

[FRL-4011-1]

#### National Advisory Council for Environmental Policy and Technology (NACEPT); Open Meeting

Under Public Law 92463 (The Federal Advisory Committee Act), EPA gives notice of the meeting of the Pollution Prevention Measurements Subcommittee of the Environmental Measurements and Chemical Accident Prevention (EEMCAP) Committee. The EMCAP committee is a new standing committee on the National Advisory Council for Environmental Policy and Technology (NACEPT), an advisory committee to the Administrator of the EPA. The meeting will convene October 8, 1991, from 9 a.m. to 5 p.m., at the Holiday Inn Crowne Plaza National Airport, 300 Army Navy Drive, Arlington, Virginia 22202.

The Pollution Prevention Measurements (PPM) Subcommittee will be looking at ways to measure progress in pollution prevention efforts. This will be the initial meeting of the PPM Subcommittee and will be a planning session that will establish the committee's goals and projects for the upcoming year.

The October 8 meeting will be open to the public. Additional information may be obtained from David Graham by calling (202) 260-9743, or by written request sent by fax (202) 260-6882.

Dated: September 12, 1991.

Abby J. Pirnie,

NACEPT Designated Federal Official.

[FR Doc. 91-22720 Filed 9-19-91; 8:45 am]

BILLING CODE 6560-50-M

## EXPORT-IMPORT BANK OF THE UNITED STATES

### Open Meeting of the Advisory Committee of the Export-Import Bank of the United States

**SUMMARY:** The Advisory Committee was established by Public law 98-181, November 30, 1983, to advise the Export-Import Bank on its programs and to provide comments for inclusion in the reports of the Export-Import Bank to the United States Congress.

**TIME AND PLACE:** Tuesday, October 1, 1991, from 9:30 a.m. to 12 noon. The meeting will be held at Eximbank in Room 1143, 811 Vermont Avenue, NW., Washington, DC 20571.

**AGENDA:** The meeting agenda will include a discussion of the following topics: Credit Reform Programs—Program Changes—Banking Subcommittee Comments; Congressional Report; Charter Renewal; Emerging Trade Finance—Foreign Content/Local Cost—Latin America; Small Business; Next Steps; and other topics.

**PUBLIC PARTICIPATION:** The meeting will be open to public participation; and the last 15 minutes will be set aside for oral questions or comments. Members of the public may also file written statement(s) before or after the meeting. In order to permit the Export-Import Bank to arrange suitable accommodations, members of the public who plan to attend the meeting should notify Joan P. Harris, room 935, 811 Vermont Avenue, NW., Washington, DC 20571, (202) 566-8871, not later than September 30, 1991. If any person wishes auxiliary aids (such as a sign language interpreter) or other special accommodations, please contact, prior to September 26, 1991, the Office of the Secretary, Room 935, 811 Vermont Avenue, NW., Washington, DC 20571, Voice: (202) 566-8871 or TDD: (202) 535-3913.

**FURTHER INFORMATION:** For further information, contact Joan P. Harris, room 935, 811 Vermont Avenue, NW., Washington, D.C. 20571, (202) 566-8871. Joan P. Harris,

Corporate Secretary.

[FR Doc. 91-22726 Filed 9-19-91; 8:45 am]

BILLING CODE 6690-01-M

## FEDERAL COMMUNICATIONS COMMISSION

### Public Information Collection Requirement Submitted to Office of Management and Budget for Review

September 12, 1991.

The Federal Communications Commission has submitted the following

information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of this submission may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on this submission contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on this information collection should contact Jonas Neihardt, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

**OMB Number:** 3060-0182.

**Title:** Section 73.1620, Program tests.

**Action:** Revision.

**Respondents:** Non-profit institutions, and businesses or other for-profit (including small businesses).

**Frequency of Response:** On occasion reporting and Other: Upon completion of the construction of a new broadcast station and one year thereafter.

**Estimated Annual Burden:** 265 responses; 1.15 hours average burden per response; 305 hours total annual burden.

**Needs and Uses:** This revised information collection combines § 73.1620 (3060-1082) and § 73.1620(g) (3060-0471) into one submission for OMB review and approval. There are reporting requirements contained in § 73.1620(a)(1), (a)(2), (f), and (g). The notification in 73.1620(a)(1) alerts the Commission that construction of a station has been completed and that the station is broadcasting program material. Section 73.1620(a)(2) requires a permittee of an AM or FM station with a directional antenna to file a request for program test authority 10 days prior to the date on which it desires to begin program tests. This is filed in conjunction with an application for license. Section 73.1620(f) requires licensees of UHF TV stations, assigned to the same allocated channel which a 1000 watt UHF translator station is authorized to use, to notify the licensee of the translator station at least 10 days prior to commencing or resuming operation and certify to the FCC that such advance notice has been given. Section 73.1620(g) requires permittees to report any deviations from their promises, if any, in their application for license to cover their construction permit (FCC Form 302) and on the first anniversary of their commencement of program tests.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-22703 filed 9-19-91; 8:45 am]

BILLING CODE 6712-01-M

### Public Information Collection Requirements Submitted to Office of Management and Budget for Review

September 12, 1991.

The Federal Communications Commission has submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1980 (44 U.S.C. 3507).

Copies of these submissions may be purchased from the Commission's copy contractor, Downtown Copy Center, 1114 21st Street, NW., Washington, DC 20036, (202) 452-1422. For further information on these submissions contact Judy Boley, Federal Communications Commission, (202) 632-7513. Persons wishing to comment on these information collections should contact Jonas Neihardt, Office of Management and Budget, room 3235 NEOB, Washington, DC 20503, (202) 395-4814.

**OMB Number:** 3060-0197.

**Title:** Section 87.31, Changes during license term.

**Action:** Extension.

**Respondents:** Individuals, and businesses or other for-profit (including small businesses).

**Frequency of Response:** On occasion reporting.

**Estimated Annual Burden:** 100 responses; 1 hour average burden per response; 100 hours total annual burden.

**Needs and Uses:** Section 87.31 requires that when the name or mailing address of a licensee in the Aviation Service is changed during the license term, the FCC must be notified in order that the license files and data base remain accurate as to who the licensees are and where they can be located. The information is used by FCC personnel to maintain accurate files and data base information.

**OMB Number:** 3060-0202.

**Title:** Section 87.37, Developmental license.

**Action:** Extension.

**Respondents:** Individuals or households, State or local governments, non-profit institutions, and businesses or other for-profit (including small businesses).

**Frequency of Response:** Annually.

**Estimated Annual Burden:** 12 responses; 8 hours average burden per response; 96 hours total annual burden.

**Needs and Uses:** The requirement contained in § 87.37 is necessary to enable the FCC to gather data on the results of developmental programs conducted in the Aviation Service for which developmental authorizations have been issued. The data is required to determine whether such developmental authorizations should be renewed and/or whether rulemaking proceedings should be initiated to provide generally for such operations in the Aviation Service. The information is used by FCC staff to determine the merits of the program for which a developmental authorization was granted. If such information was not collected, the value of developmental programs in the Aviation Service would be severely limited. The Commission would have little, if any information available regarding the advantages and disadvantages of the subject developmental operations, and therefore, would be handicapped in determining whether developmental authorizations should be renewed or rulemaking initiated to accommodate new operations in this radio service.

**OMB Number:** 3060-0192.

**Title:** Section 87.103, Posting station license.

**Action:** Extension.

**Respondents:** Individuals or households, State or local governments, non-profit institutions, and businesses or other for-profit (including small businesses).

**Frequency of Response:** Recordkeeping requirement.

**Estimated Annual Burden:** 47,800 recordkeepers, .25 hours average burden per response; 11,950 hours total annual burden.

**Needs and Uses:** The recordkeeping requirement contained in § 87.103 is necessary to demonstrate that all transmitters in the Aviation Service are properly licensed in accordance with the requirements in the Communications Act of 1934, as amended, the international Radio Regulation, and Article 30 of the Convention on International Civil Aviation. The information is used by FCC staff during inspections and investigations to ensure the particular station is licensed and operated in compliance with applicable rules, statutes, and treaties. In the case of aircraft stations, the information may be utilized for similar purposes by appropriate representatives of foreign governments when the aircraft is operated in foreign nations.

Federal Communications Commission.

Donna R. Searcy,

Secretary.

[FR Doc. 91-22704 Filed 9-19-91; 8:45 am]

BILLING CODE 6712-01-M

## GENERAL SERVICES ADMINISTRATION

### Proposed Juarez/Lincoln Border Station Expansion

In 1990, an expansion of the existing Juarez/Lincoln Border Station was proposed to provide additional import lot and dock facilities in Laredo, Texas. The General Services Administration determined that the proposed construction of an expanded import lot facility in the Azteca residential neighborhood would constitute a major Federal action, and therefore determined that an Environmental Impact Statement (EIS) would be required. On June 12, 1990, a public scoping meeting was held in Laredo to determine the scope of the EIS.

During the last year (June 1990 to present), the General Services Administration (GSA), the U.S. Customs Service (Customs) and the U.S. Army Corps of Engineers (USCOE) have evaluated existing and alternative import lot and dock facilities which would be needed in the Laredo area for the next thirty years (i.e., years 1990 to 2020). A complex computer model prepared by GSA and Customs was utilized to help determine facility needs. The results of the computer modeling indicated that the existing Juarez/Lincoln import lot should be adequate in its present condition until year 2002. The new Colombia import lot and dock facility currently under construction should be adequate until year 2010. In addition, a Presidential Permit application is now being prepared for authorization to design and construct a third international bridge and import facility in Laredo. Therefore, there does not appear to be a need or requirement for the immediate expansion of the Juarez/Lincoln import lot and dock facility in Laredo, Texas. Based upon this finding, the proposed expansion of the Juarez/Lincoln import lot and dock facility into the Azteca residential neighborhood has been held in abeyance. The associated EIS has been canceled. Traffic flow will continue to be monitored closely at all existing facilities in Laredo in order to verify current and future import facility needs in the Laredo area. If and when new import facilities are needed, GSA once again will implement the requirements of the National Environmental Policy

Act (NEPA) into the import facility planning process.

The General Services Administration greatly appreciates the time and efforts of the general public, the City of Laredo and numerous Federal agencies in attending the scoping meeting, providing information and assisting in the evaluation of the proposed project. Questions concerning this project should be directed to Mr. George Prochaska, Director of Planning (7PL), General Services Administration, 819 Taylor Street, Fort Worth, Texas 76102, (817) 334-2531.

Hollis V. Rutledge,

Regional Administrator.

[FR Doc. 91-22750 Filed 9-19-91; 8:45 am]

BILLING CODE 6820-96-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

#### Forms Submitted to the Office of Management and Budget for Clearance

The Administration for Children and Families will publish on Fridays information collection packages submitted to the Office of Management and Budget (OMB) for clearance, in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). Following is the package submitted on OMB since the last publication.

(For a copy of the package, call the FSA, Report Clearance Officer 202-401-5602.)

**Quarterly Report of Expenditures and Estimates—ACF-231 (0970-0032).** The data is needed for the AFDC program to make quarterly grant awards, review State expenditures, prepare adjustment to grant awards and to establish budget estimates. **Number of Respondents:** 54; **Frequency of Response:** Parts 1—3 Quarterly and Part 4 Semi-annually; **Estimated Average Burden per Response:** 3.66 hours; **Estimated Annual Burden:** 1,188.

**OMB Desk Officer:** Laura Oliven.

Written comments and recommendations for the proposed information collection should be sent directly to the OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, room 3201, 725 17th Street, NW., Washington, DC 20503.

Dated: September 9, 1991.

Naomi B. Marr,

Director, Office of Information Systems Management.

[FR Doc. 91-22381 Filed 9-19-91; 8:45 am]

BILLING CODE 4150-04-M

### Agency Information Collection Under OMB Review

**AGENCY:** Administration for Children and Families HHS.

**ACTION:** Notice.

Under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35), we have submitted to the Office of Management and Budget (OMB) for approval of an existing information collection for the Administration for Children, Youth, and Families' (ACYF) Head Start Program Information Report (PIR).

**ADDRESSES:** Copies of the information collection request may be obtained from Larry Guerrero, Reports Clearance Officer, by calling (202) 245-6275.

Written comments and questions regarding the requested approval for information collection should be sent directly to: Christina Emanuels, OMB Desk Officer for ACF, OMB Reports Management Branch, New Executive Office Building, room 3002, 725 17th Street, NW., Washington, DC., 20503, (202) 395-7316.

#### Information on Document

*Title:* Head Start Program Information Report.

*OMB No.:* 0980-0017.

*Description:* The Head Start program's Fiscal Year (FY) 1991 appropriation is \$1,951,800,000. There are approximately 1,900 grantees and delegate agencies that supply services to about 590,000 children. The Program Information Report (PIR) is used to collect data in order to ascertain the status of the delivery of services to these children and their families.

Data gathered through the PIR provide a descriptive profile of program operations used by Head Start programs as part of their year-to-year planning and monitoring cycle, and as a supplement to their self-assessment process. The PIR is a major source of such public information efforts as the Project Head Start Statistical Fact Sheet, which is updated annually. The PIR is also a major source of information for the legislatively-mandated biennial report to the Congress on Head Start.

*Annual Number of Respondents:* 1,907

*Annual Frequency:* 1

*Average Burden Hours Per Response:*

3.5

*Total Burden Hours:* 6,675

Dated: September 11, 1991.

Donna N. Givens,

Deputy Assistant Secretary for Children and Families.

[FR Doc. 91-22713 Filed 9-19-91; 8:45 am]

BILLING CODE 4130-01-M

### Centers for Disease Control

[Announcement Number 174]

#### Cooperative Agreement To Provide a Management Teleconference Training Program for Public Health Officials

##### Introduction

The Centers for Disease Control (CDC) announces the availability of funds in Fiscal Year 1991 for a cooperative agreement with the Public Health Foundation (PHF) to present teleconference-based training for state health officials.

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 areas of Educational and Community-Based Programs, Clinical Preventive Services, and Surveillance and Data Systems. (For ordering a copy of Healthy People 2000, see Section Where to Obtain Additional Information.)

##### Authority

This project is authorized under Section 301(a) of the Public Health Service Act [42 U.S.C. 241(a)], as amended.

##### Eligible Applicants

Assistance for this project will be provided only to the Public Health Foundation (PHF) of the parent organization the Association of State and Territorial Health Officials (ASTHO). No other applications will be solicited. ASTHO is an organization that represents the chief public health official of each state and territory. Through its own membership, the PHF has developed a unique knowledge and understanding of the needs and operations of state health agencies. The PHF has already gained an enormous wealth of experience in identifying managerial needs as well as experience in alternative methods in delivering traditional management training programs such as Teleconference Training. The PHF has established expertise in managerial training at the state level, and has the breadth and

variety of training resources needed to successfully expand that knowledge, information, and expertise on a national basis.

The PHF is the repository for the information and data obtained from the Training Needs Assessment of Public Health Officials and other surveys that focused on leadership and managerial skills for state health officials. No other organization has the established relationship with state health departments and the existing staff capability and expertise which is necessary to carry out the project.

##### Availability of Funds

It is anticipated that approximately \$100,000 will be available in fiscal year 1991 to fund the cooperative agreement award. It is expected that the award will begin on or about September 26, 1991 and will be made for twelve month budget periods within a project period of up to five years. Continuation awards within the project period will be made on the basis of performance and availability of funds.

##### Purpose

The cooperative agreement is intended to address the need to increase the managerial capacity of the state health officials by providing low cost, short-term public health training programs that can be accessed from the participant's office. Specific activities include but are not limited to: Expanding the teleconference management training program, development of teleconference training programs on "Hot Issues," and development of "Video Synchronous Teleconferencing" (VST) training. The proposed project would be conducted over a five year period.

##### Program Requirements

In conducting activities to achieve the purpose of the program, the recipient shall be responsible for conducting activities under A., below, and CDC will be responsible for conducting activities under B., below.

##### A. Public Health Foundation Activities

1. Establish a Steering Committee composed of representatives from ASTHO (Association of State and Territorial Health Officials), NACHO (National Association of County Health Officials), USCLHO (United States Conference of Local Health Officials), ASPH (Association of Schools of Public Health), and CDC, to identify training topics for the teleconferences and the VST training programs. In addition, the Steering Committee will also serve as a focus group for the VST training

program. Steering Committee members will review existing training materials to make recommendations about the extent to which the training materials address the needs of health officials as identified in the needs assessment.

#### 2. Expand Management Teleconference Training Programs.

- During the first year of the project, the PHF will offer six teleconferences on management issues. In order to meet the immediate need for training, each of the three management training teleconferences offered through PHF's previous cooperative agreement with CDC will be repeated twice. Topics of these three teleconferences are: Working with the Legislature; Implementing Difficult Legislative Mandates; and Coping with Fiscal Shortfalls.

- Develop four new management-focused teleconferences each succeeding year. Combining the new teleconferences with the existing teleconferences PHF will offer a minimum of seven teleconferences on a variety of management topics each year. Topics for these management conferences will be identified from the Training Needs Assessment of Public Health Officials conducted in 1988, evaluations of preceding teleconferences, and from CDC's Public Health Leadership Institute.

- Provide each participant, in advance of the session, a Program Guide which would include a brief description of the session, an agenda, a curriculum vitae of panelists, and an evaluation form which focuses on both content and the technology used for training.

- Provide CDC a minimum of eight (8) weeks advance notice of upcoming teleconferences so that CDC teleconference bridge can be secured.

#### 3. Develop "Hot Issues" Teleconferences.

- Provide CDC with a minimum of eight (8) weeks advance notice so it will be possible to secure the teleconference bridge for "Hot Issues," however, it must be noted that the program can be scheduled based only on the availability of the bridge.

- Work closely with CDC and the Steering Committee to identify topics for the "Hot Issues" teleconferences and to gather background information.

- Work with the network of state health department governmental affairs officers developed by the ASTHO to provide PHF with information on state activities, and the Association of State and Territorial Local Health Liaison Officials to obtain information on local efforts.

- Present two "Hot Issues" teleconferences during the first year of

the project. After the first year, the "Hot Issues" teleconferences will be presented on an as needed basis with a maximum of four per year as determined by the Steering Committee. Panelists for management training and Hot Issue teleconferences will include state and local health officers, federal health officials, representatives from professional and voluntary organizations, representatives from private industry, and legislative representatives.

- Provide each participant, in advance of the session, a Program Guide which will include a brief description of the session, an agenda, a curriculum vitae of panelists, and an evaluation form which focuses on both content and the technology used for training.

#### 4. Establish Video Synchronous Teleconferencing (VST).

PHF will provide a detailed Production Plan for the VST which will contain as a minimum the following components:

- How program topics will be selected.
- An explanation or protocol of design components to include development of concepts, script, audio, and video. This explanation will include who will develop the product and at what costs as well as how the products will be produced.

- Formative and summative evaluation strategies for production and programs, including the cost effectiveness of the design and production approaches chosen will be addressed.

- A pilot VST focused on one topic which is selected from existing training programs such as CDC's Public Health Leadership Institute and PHF's management training program to be conducted during year one. The pilot program is required to have both evaluation and market analysis components.

- A plan for VST activities for years 2-5.

#### 5. Develop an evaluation plan in coordination with CDC to assess the effectiveness of the teleconference training, "Hot Issues," and VST aspects of the project.

#### 6. Develop a strategy to promote the use of the management teleconferences, Hot Issues, and VST.

#### B. CDC Activities

#### 1. Actively participate on the Steering Committee.

#### 2. Collaborate in the development of the curriculum for the teleconference training project through the identification of training needs. This includes all training methods, expanded teleconferences, Hot Issues, and VST.

#### 3. Provide telephone bridge through CDC for the various types of teleconference training. An advance notice of eight (8) weeks is desirable to secure the bridge. Less advance notice may be possible for "Hot Issue" topics based on teleconference bridge availability.

#### 4. Collaborate in the VST pilot. This collaborative input includes both evaluation and market analysis components of the new project.

#### 5. Participate as panelist, if appropriate, on the teleconference training programs.

#### 6. Collaborate in the development of the performance-based evaluation plan for the project. Assist in the identification and development of both a short-term evaluation mechanism; i.e., evaluation dealing with the presentation of the teleconference training, and a long-term evaluation mechanism; evaluation dealing with the changes in identified training needs as a result of the cooperative agreement.

#### Review and Evaluation Criteria

The application will be reviewed and evaluated on the following criteria:

A. Extent to which the applicant understands the requirements, problems, objectives, complexities, and interactions required of this cooperative agreement;

B. Degree to which proposed objectives are clearly stated, realistic, measurable, time-phased, and related to the purpose of the project;

C. Degree to which the applicant provides evidence of an ability to carry out the proposed project and the extent to which the applicant institution documents demonstrated capability to achieve objectives similar to those of this project;

D. Extent to which professional personnel involved in this project are qualified, including evidence of past achievements appropriate to this project;

E. Adequacy of plans for administering the project; and

F. Adequacy of an evaluation plan to document the impact and cost effectiveness of the project activities.

#### Executive Order 12372

The application is not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs (45 CFR 100).

#### Catalogue of Federal Domestic Assistance Number

The Catalog of Federal Domestic Assistance Number is 93.283.

**Application Submission and Deadline**

The original and two copies of the application shall be submitted on Form PHS-5161-1 to Henry S. Cassell, III, Grants Management Officer, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Rd., NE., room 415, Mail Stop E-14, Atlanta, Georgia, 30305, on or before September 24, 1991.

**Where to Obtain Additional Information**

If you are interested in obtaining additional information regarding this project, please reference Announcement Number 174 and contact the following: Business Management Technical Assistance: Van Malone, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 East Paces Ferry Rd., NE., room 300, Mail Stop E-14, Atlanta, GA 30305, or by calling (404) 842-6630 or FTS 236-6630.

Programmatic Technical Assistance: Paul Renard, Public Health Advisor, Public Health Practice Program Office, Centers for Disease Control, 1600 Clifton Rd., NE., Mail Stop E-20, Atlanta, GA 30333. Telephone (404) 639-1993 or FTS 236-1993.

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 may be obtained through the Superintendent of Documents, Government Printing Office, Washington, DC. 20402-9325 (Telephone (202) 783-3238).

Dated: September 16, 1991.

Robert L. Foster,

Acting Director, Office of Program Support,  
Centers for Disease Control.

[FR Doc. 91-22697 Filed 9-19-91; 8:45 am]

BILLING CODE 4160-18-M

**Food and Drug Administration**

[Docket No. 91N-0370]

**Drug Export; Vasocidin®  
(Sulfacetamide Sodium 10%—  
Prednisolone Sodium Phosphate  
0.25%) Ophthalmic Solution**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing that IOLAB Corporation has filed an application requesting approval for the export of the human drug Vasocidin® (sulfacetamide sodium 10%—

prednisolone sodium phosphate 0.25%) Ophthalmic Solution to Canada.

**ADDRESSES:** Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, rm. 1-23, 12420 Parklawn Dr., Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

**FOR FURTHER INFORMATION CONTACT:** Frank R. Fazzari, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8073.

**SUPPLEMENTARY INFORMATION:** The drug export provisions in section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382) provide that FDA may approve applications for the export of drugs that are not currently approved in the United States. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the *Federal Register* within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that IOLAB Corporation, 500 Iolab Dr., Claremont, CA 91711, has filed an application requesting approval for the export of the drug Vasocidin® (sulfacetamide sodium 10%—prednisolone sodium phosphate 0.25%) Ophthalmic Solution to Canada. This product is indicated for the treatment of steroid responsive inflammatory conditions of the eye. The application was received and filed in the Center for Drug Evaluation and Research on August 12, 1991, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by September 30, 1991, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: September 11, 1991:

Daniel L. Michels,

Director Office of Compliance, Center for  
Drug Evaluation and Research.

[FR Doc. 91-22701 Filed 9-19-91; 8:45 am]

BILLING CODE 4160-01-M

**[FDA 225-91-4004]**

**Memorandum of Understanding on  
Quality Assurance for Medical Materiel  
for Military Application Between the  
Food and Drug Administration and the  
U.S. Army Medical Research and  
Development Command**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is providing notice of the renewals of a 1984 memorandum of understanding (MOU) between FDA and the U.S. Army Medical Research and Development Command (USAMRDC). This MOU defines the responsibilities of the FDA and the USAMRDC to each other during the research, development, and premarketing acquisition of medical material for military application.

**DATES:** The agreement became effective on July 22, 1991.

**FOR FURTHER INFORMATION CONTACT:** Mary Lyda, Office of Regulatory Affairs (HFC-10), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-2175.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 20.108(c), which states that all written agreements and memoranda of understanding between FDA and others shall be published in the *Federal Register*, the agency is publishing this memorandum of understanding.

Dated: September 12, 1991.

**Michael R. Taylor,**

*Deputy Commissioner for Policy.*

**SUBJECT: Quality Assurance Support for Medical Materiel Having Military Application**

1. Purpose. This Memorandum of Understanding (MOU) formalizes the relationship and defines the responsibilities of the U.S. Army Medical Research and Development Command (USAMRDC) and the Food and Drug Administration (FDA) to each other during the research, development and pre-marketing acquisition of medical materiel for military application.

2. Background. The USAMRDC mission of research, development, testing, and evaluation of medical materiel for military application, to include drugs, biological products, protective cosmetics and medical devices, requires significant interface with contractors to assure a reliable, safe product. The FDA mission of regulation, inspection, and oversight to insure that quality products are provided presents a unique opportunity for the FDA to assist USAMRDC in developing quality medical materiel.

3. Scope. The MOU is limited to quality assurance support by the FDA for USAMRDC Advanced Development (6.3b) and Engineering Development (6.4). Medical materiel, for the purpose of this MOU, includes drugs, biological products, protective cosmetics, and medical devices.

4. Responsibilities.

a. The U.S. Army Medical Research and Development Command will:

(1) Involve the FDA at the earliest practicable stages of materiel development.

(2) Provide the FDA with an annual five year projected milestone schedule of developmental items.

(3) Seek FDA advice regarding contractor suitability prior to awarding contracts for development of prototypes and pre-production products under consideration for Department of Defense (DOD) application.

(4) Seek FDA advice in the review of draft product specifications and other documents to help identify and resolve at the earliest possible time potential regulatory and/or quality assurance issues.

(5) Retain final authority in selection of contractors for materiel development contracts.

(6) Provide advance notice when naming FDA as the Government Accepting Authority for materiel under a USAMRDC contract.

b. The Food and Drug Administration will:

(1) Upon request, provide preaward evaluations of prospective contractors for prototype development and preproduction product contracts.

(2) Upon request, provide review of draft product specifications and other documents.

(3) Upon request, act as the Government Accepting Authority for USAMRDC medical materiel contracts. This will include signatory authority for Materiel Inspection and Receiving Reports (DD Form 250).

(4) Use the applicable requirements of the Federal Food, Drug, and Cosmetic Act (FD&C Act) and regulations promulgated thereunder as the quality standard for determining contractor and product acceptability. Other

requirements deemed essential, due to the military uniqueness of an acquisition, will be specified by USAMRDC.

(5) Determine the amount and nature of work it will perform to fulfill its responsibilities under this MOU.

5. Administration.

a. This agreement will become effective upon final signature and will remain in effect for six (6) years.

b. The agreement will be reviewed every two (2) years on the last signature anniversary date, to ensure adequacy and currency; however, it may be amended by mutual consent at any time.

c. The agreement may be unilaterally terminated by providing the other party with 180 days written notice of intent.

d. Resources required to support this MOU, to include travel and per diem costs, will be provided by the performing party.

e. Points of contact.

(1) USAMRDC:

(a) Prior to contract award—Mailing Address: Commander, U.S. Army Medical Research and Development Command, ATTN: SGRD-ACQ, Ft. Detrick, Frederick, MD 21702-5012. Telephone: 301-663-2744.

(b) After contract award—Mailing Address: Commander, U.S. Army Medical Research and Development Command, ATTN: SGRD-HR, Ft. Detrick, Frederick, MD, 21702-5012. Telephone: 301-663-2165.

(2) FDA—Mailing Address: U.S. Food and Drug Administration, Medical Products Quality Assurance Staff (HFC-120) Room 1247, Rockville, MD 20857. Telephone: 301-443-3590.

Dated: July 22, 1991.

**Richard T. Travis,**

*Major General, MC, Commander, U.S. Army Medical Research and Development Command.*

Dated: July 28, 1991.

**Ronald G. Chesemore,**

*Associate Commissioner for Regulatory Affairs, Food and Drug Administration.*

[FR Doc. 91-22702 Filed 9-19-91; 8:45 am]

**BILLING CODE 4160-01-M**

**[FDA 225-91-4003]**

**Memorandum of Understanding on the Interface of Import Data Systems Between the Food and Drug Administration and the U.S. Customs Service**

**AGENCY:** Food and Drug Administration, HHS.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between FDA and the U.S. Customs Service. The purpose of this MOU is to recognize the importance the two agencies place on meeting the needs of the trading public in expediting the collection, processing, and use of import information, while

protecting the public health. The objective of this MOU is to establish a pilot program to collect, review, and process commercial import data on FDA regulated merchandise through the Automated Broker Interface.

**DATES:** The agreement became effective August 9, 1991.

**FOR FURTHER INFORMATION CONTACT:** Mary Lyda, Office of Regulatory Affairs (HFC-10), Food and Drug Administration, 5600 Fisher Lane, Rockville, MD 20857, 301-443-2175.

**SUPPLEMENTARY INFORMATION:** In accordance with 21 CFR 20.108(c), which states that all written agreements and memoranda of understanding between FDA and others shall be published in the Federal Register, the agency is publishing this memorandum of understanding.

Dated: September 12, 1991

**Michael R. Taylor,**

*Deputy Commissioner for Policy.*

The parties to this Memorandum of Understanding (MOU) are the U.S. Food and Drug Administration, hereinafter called FDA, and the U.S. Customs Service, hereinafter called Customs. These two agencies have a significant investment in interfacing their systems—in the case of Customs, the Automated Commercial System (ACS) and in the case of FDA, the Import Support and Information System (ISIS). The purpose of this MOU is to recognize the importance the two agencies place on meeting the needs of the trading public in expediting the collection, processing and use of import information, while protecting the public health.

The objective of this Memorandum is to establish a test to collect, review and process commercial import data on FDA-regulated merchandise through the Automated Broker Interface (ABI). The pilot program will include an automated function to allow FDA to select entries which may be released without any further, scrutiny. An FDA created and maintained screening file, resident on ACS, will be used to generate accurate and timely FDA response messages to the ABI filer and Customs. Screening file data elements consist of the FDA Product Code, FDA Actual Producer, FDA Actual Shipper, FDA Country of Production, and FDA Affirmation Of Compliance Code. All entries, including those designed as "FDA May Proceed" will be transmitted electronically to FDA's Import Support and Information System (ISIS) for FDA processing. This processing will enable FDA to make admissibility and follow-up decisions and transmit these decisions electronically back to ACS. The pilot program will identify entries subject to liquidation pending FDA admissibility decisions. The pilot will also provide information on FDA entries subject to Fines, Penalties and Forfeitures. Successful evaluation of this pilot will set the groundwork for nationwide, port-by-port implementation plus future enhancements to the system capabilities to

be addressed by amendment to this MOU. The functions and procedures developed for this pilot will result in better control for enforcement purposes and expedite admissibility decisions covering imported products under review by FDA utilizing electronic communication in lieu of paper documentation.

To accomplish these objectives, the two agencies will develop the capability to electronically collect, communicate and process data FDA currently receives through the submission of FDA paper notification (Form 701 and attachments). The FDA Form 701 is a requirement of entry (cargo release). FDA law enforcement functions fall within the Food, Drug and Cosmetic Act (21 U.S.C.) and other related acts. Entries subject to FDA review without the FDA notification (Form 701) are rejected by the Customs Inspector.

In pursuit of this goal, both parties have agreed to conduct a pilot test of the interface between ACS and ISIS system at the ports of Seattle, Tacoma, and SeaTac Airport, Washington, starting in the 1st quarter of calendar 1992. After 90 days, a preliminary assessment of the system will be performed prior to extending it to other ports. The pilot will then be extended to the port of El Paso. The pilot will include a formal evaluation after six months by each party of the operations successes, costs, problems, etc. These evaluations shall be presented to the entire USC/FDA Task Force within eight (8) months from the beginning of the pilot and carry recommendations either for continuing, modifying or expanding the pilot. This pilot can be extended for intervals of six months upon mutual agreement of both parties and an amendment to this MOU.

#### I. Customs Agrees To

1. Provide FDA headquarters and pilot port offices, as designated by FDA, functional access to Customs' Automated Commercial System (ACS) to review entry data for FDA and to initiate administrative and enforcement actions.

2. Bear the cost of software development necessary in Customs Automated Commercial System for the pilot.

3. Collect data elements via ABI as defined in the FDA functional specifications for all FDA-regulated commodities and provide this information to FDA in a special file to be accessed only by FDA and Customs.

4. Provide specifications to the ABI filer requesting additional information pertaining to merchandise identified by FDA for review to be included as part of the entry transmission. This additional information together with appropriate data collected as part of the Customs transactions will be made available to FDA.

5. Identify Harmonized Tariff System (HTS) numbers in ACS as designated by FDA using the following indicators on the tariff record.

FD2 FDA notification 701 required

FD1 FDA notification 701 may be required

FD0 FDA notification 701 not required

Provide FDA with technical guidance on HTS numbers and classification. Assess the impact on the enforcement and facilitation of imported cargo and advise FDA of the results of the analysis.

Assist FDA in proposing additional breakouts in the HTS to the "484E

Committee" (Section 484E of the Tariff Classification Act of 1962 administered by the International Trade Commission) to provide more precise identification of products subject to FDA review. None of the foregoing is intended to limit FDA's role in determining the scope of the products it regulates, nor Customs' role in determining proper classification of such products.

Provide FDA with access to the database and data listings to verify completeness and accuracy.

Inform FDA in a timely fashion of all new numbers and changes to the statistical suffixes so that identifiers can be placed or removed on new numbers as necessary.

6. Continue to require FDA notification (Form 701) for pilot entries. Electronic filing of FDA entries without accompanying paperwork will be allowed on a product by product basis at the discretion of FDA. FDA entries not transmitted through ABI will continue to follow current procedures.

7. Create, with the assistance of FDA, an automated initial screening file, resident on ACS, based on information that FDA needs. This criteria consisting of the FDA Product Code, FDA Actual Producer, FDA Actual Shipper, FDA Country of Production, and FDA Affirmation of Compliance Code will flag certain merchandise recommended for FDA action. Initially, this criteria will cover only food and food-related commodities and later will be expanded to the full range of FDA-regulated merchandise. This file will complement and not replace the FDA screening file resident on ISIS.

8. Make ABI FDA entries available through this interface for processing by FDA/ISIS once the entries have been processed in selectivity. Allow FDA/ISIS to place admissibility designations electronically on FDA entries and communicate those decisions to the ABI filer. Allow FDA/ISIS to place disposition codes on FDA entries. Allow FDA access to relevant support files resident in ACS.

9. Conduct a training and orientation program for authorized FDA and Customs personnel that will enable them to access relevant portions of the Automated Commercial System (ACS). Also conduct training/orientation program designed for the ABI filer.

10. Assign a working-level Customs systems representative to facilitate communications and interactions between Customs, FDA and the trade. Assign technical (e.g., programming) personnel to develop and maintain the FDA/ISIS interface with ACS.

11. Load the product code file, the affirmation of compliance code file and any other files deemed necessary, provided by FDA, into the ACS computer and validate entry data using this information. Make the aforementioned information in the database available to the ABI filers through the automated system.

12. Electronically mark FDA entries through ACS so that Customs personnel are aware that admissibility has not been determined and liquidation should not proceed to finalization. This mark will be removed in a timely manner when FDA releases the merchandise or Customs issues a

redelivery notice. Customs will maintain the responsibility for liquidation functions within ACS.

13. Develop an interface program for ISIS with Fines, Penalties and Forfeitures (FP&F) when the FP&F module has been redesigned and implemented. Until the FP&F module redesign is completed and the interface developed, make available FP&F case initiation information in the form of hard copy notices on FDA redelivery cases.

14. Transmit ABI FDA data for all FDA regulated entries to FDA for processing/storage in a timely manner.

15. Continue processing non-ABI FDA entries through ACS as they are currently processed, assuring that FDA is notified of all FDA-regulated products.

#### II. FDA Agrees To

1. Provide suitable communications capability between Parklawn Computer Center (PCC) and Customs Computer Center, Newington, Virginia. Install terminals at the processing site(s) (Seattle and El Paso) to process ABI transmitted FDA entries through ACS.

2. Reimburse Customs, if necessary, for communications and supporting hardware and software for the connection between the PCC and the Customs Computer Center and including each connection to the Consolidated Data Network (CDN). Transfer of funds will be by interagency agreement (Customs Form 236).

Install equipment in time to begin the pilot in the 1st quarter of calendar year 1992.

3. Provide Customs with a listing of the personnel authorized to access ACS to maintain FDA data. Ensure that only authorized personnel having NACI (National Agency Check and Inquiries) or BI (Background Investigation) checks are provided ACS security access codes. FDA personnel having access only to Food and Drug entries and related files (excluding FP&F cases) will be required to have successfully completed a favorable NACI according to Federal Personnel Manual (FPM) Chapter 736-13, Subchapter 3-3. FDA personnel accessing non-FDA entries and information must have successfully completed a favorable full field investigation according to the FPM Chapter 736-13, Subchapter 3-6.

Comply with Customs requirements regarding access to ACS information not included as part of the pilot.

4. Provide Customs with definitions of the additional data elements necessary for FDA entry review and admissibility decisions.

5. Provide Customs with a list of regulated HS tariff numbers identified with designator described in Part I, #5. Advise Customs, in writing in a timely manner, of any changes to this listing. This listing will be made available to both ABI and non-ABI filers.

6. Provide Customs with a tape or other means of creating a database consisting of product codes and affirmation of compliance codes. Provide Customs with an alphabetical index covering product codes. Make corrections and updates in a timely manner and transmit to Customs as soon as possible.

7. Establish and maintain in the FDA automated initial screening criteria file based

on FDA data elements for use during the pilot.

8. FDA understands and acknowledges that the information maintained in the Automated Commercial System is highly sensitive commercial, financial, and proprietary information; should be reviewed only by authorized FDA personnel on a need to know basis and should be kept secure. FDA agrees that the information obtained will be used only for the purpose of enforcing FDA laws and regulations.

Only ACS source information available from the FDA Form 701 process, and which is commonly and publicly releasable, can be passed on to third parties. This does not include that which is proprietary commercial information, and exempt from disclosure pursuant to the FOIA (5 U.S.C. 552) or prohibited from disclosure by the Trade Secrets Act (18 U.S.C. 1905).

Non-FDA Form 701 process information may not be released to third parties (i.e., Member of Congress, Foreign Government, Federal, State or local agency, or FOIA requester) except as required by law or regulation. Further, in the event that there is a request from an above-mentioned third party for non-FDA Form 701 data, FDA agrees to consult and discuss with Customs on the disclosure of such information. No such information may be released without Customs express written permission. In the event of any unauthorized release by FDA personnel, FDA will intercede on Customs behalf and assume responsibility for any and all expenses, costs or liabilities arising therefrom. Such unauthorized disclosure may result in denial of future access to such data.

9. The information described in this MOU is transferred to the FDA from the U.S. Customs Service with the understanding that the FDA is in compliance with the Computer Security Act of 1987, Trade Secrets Act (18 U.S.C. 1905) which carries personal liability, and OPM and OMB regulations concerning information security that are in effect at the time of transfer.

10. Assign a FDA systems representative to facilitate pilot communications and interactions between FDA, Customs, and the trade. Assign a technical representative to facilitate hardware, software and communication concerns.

11. Work with Customs personnel to conduct training and orientation of FDA, Customs, and trade participants.

### III. It Is Mutually Understood And Agreed That

1. The above provisions will be exercised to the extent authorized by law, Department of the Treasury and Department of Health and Human Services directives, statutes and regulations, and will be consistent with the respective agencies' missions.

2. All operational directives from either agency relative to the pilot will be jointly cleared by Customs and FDA within five (5) working days of receipt.

3. Changes to the ACS system required during the pilot test will be documented and agreed to by representatives of both agencies.

4. No transfer of Customs funds to FDA is required or contemplated under this MOU. If necessary, transfers of funds by FDA will be

in accordance with the Interagency Agreement (Customs Form-236).

5. This document is an internal government agreement and is not intended to confer any right or benefit on any private person or party.

6. This Memorandum of Understanding shall become effective upon the date of final signature and is intended to be in force until terminated by either party upon 90 days notice or amended by mutual agreement of the undersigned.

7. Both agencies agree to process FDA entries on a timely basis to prevent unnecessary backlog of merchandise.

8. Additional databases may be created as necessary after full agreement between FDA and Customs.

9. Nothing in this agreement shall be interpreted as limiting, superseding, or otherwise affecting either agency's normal operations or decisions in carrying out its regulatory or law enforcement duties. This agreement is not intended to replace, limit, supersede, or otherwise affect other MOU's between the two agencies except to the extent necessary for proper implementation of the pilot.

10. Customs will not accept responsibility for delays caused by FDA.

11. Customs will program the FDA interface specifications to process FDA entries on ACS by FDA personnel. FDA will use the FDA processing features on ACS when ISIS cannot be used.

Dated: August 9, 1991.

Carol Hallett,

Commissioner, U.S. Customs Service.

Dated: August 9, 1991.

David A. Kessler,

Commissioner, U.S. Food and Drug Administration.

[FR Doc. 91-22700 Filed 9-19-91; 8:45 am]

BILLING CODE 4160-01-M

## Health Care Financing Administration

### Public Information Collection Requirements Submitted to the Office of Management and Budget for Clearance

**AGENCY:** Health Care Financing Administration, HHS.

The Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposals for the collection of information in compliance with the Paperwork Reduction Act (Pub. L. 96-511).

1. *Type of Request:* Revision; *Title of Information Collection:* Medicare Uniform Institutional Provider Bill; *Form Number:* HCFA-1450; *Use:* This form is a claim from completed by institutional providers for inpatient and outpatient services. All intermediary-processed Medicare claims are billed on the Form

HCFA-1450; *Frequency:* On occasion; *Respondents:* Business/other for profit, nonprofit institutions, and small businesses/organizations; *Estimated Number of Responses:* 83,000,000; *Average Time per Response:* 9 minutes for hard copy and .5 minutes for electronically submitted claims; *Total Estimated Burden Hours:* 3,510,334.

2. *Type of Request:* New; *Title of Information Collection:* Access to and Adequacy of Paraprofessional Home Care, Home Care Quality Studies; *Form Number:* HCFA-R-11; *Use:* This information collection will develop and test guidelines for assessing access to and the adequacy of paraprofessional home care services for Medicare and elderly Medicaid beneficiaries; *Frequency:* One-time; *Respondents:* Individuals/households and non-profit institutions; *Estimated Number of Responses:* 1,200; *Average Hours per Response:* .396; *Total Estimated Burden Hours:* 475.

3. *Type of Request:* Extension; *Title of Information Collection:* Laboratory Personnel Qualification Appraisal; *Form Number:* HCFA-3083; *Use:* This form must be completed by personnel employed by independent laboratories certified by Medicare. It is submitted to the State survey agency which verifies that the laboratory personnel meet regulatory standards for education, training, and testing; *Frequency:* On occasion; *Respondents:* Individuals/households; *Estimated Number of Responses:* 3,000; *Average Hours per Response:* .33; *Total Estimated Burden Hours:* 1,000.

4. *Type of Request:* Reinstatement; *Title of Information Collection:* Disclosure of Ownership and Control Interest Statement; *Form Number:* HCFA-1513; *Use:* This information will be used by State agencies and HCFA regional offices to make eligibility determinations for provider participation in the Medicare/Medicaid programs and for grants under Titles V and XX; *Frequency:* Annually; *Respondents:* Small businesses/organizations; *Estimated Number of Responses:* 40,000; *Average Hours per Response:* .5; *Total Estimated Burden Hours:* 20,000.

5. *Type of Request:* New; *Title of Information Collection:* Cost Report Format for Peer Review Organizations; *Form Number:* HCFA-618, 619, 622, and 627; *Use:* The new cost report for Peer Review Organizations (PROs) marks a major refinement to the program's financial management and oversight. The new cost accounting requirements, which have been developed in concert with the PRO community, will foster the

identification, reporting, and analysis of uniform, meaningful financial information; *Frequency*: Quarterly; *Respondents*: Small businesses/ organizations, non-profit institutions, and businesses/other for profit; *Estimated Number of Responses*: 212; *Average Hours per Response*: 21.25; *Total Estimated Burden Hours*: 4,505 (reporting) and 8,904 (recordkeeping) for a total of 13,409.

**Additional Information or Comments:** Call the Reports Clearance Officer on 301-966-2088 for copies of the clearance request packages. Written comments and recommendations for the proposed information collections should be sent directly to the following address: OMB Reports Management Branch, Attention: Allison Eydt, New Executive Office Building, room 3208, Washington, DC, 20503.

Dated: August 21, 1991.

Gail R. Wilensky,

Administrator, Health Care Financing Administration.

[FR Doc. 91-22714 Filed 9-19-91; 8:45 am]

BILLING CODE 4120-03-M

#### [BPO-101-GNC]

### Medicare Program; Criteria and Standards for Evaluating Intermediary and Carrier Performance

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** General notice with comment period.

**SUMMARY:** This notice describes the criteria and standards to be used for evaluating the performance of fiscal intermediaries and carriers in the administration of the Medicare program beginning October 1, 1991. The results of these evaluations are considered whenever HCFA enters into, renews, or terminates an intermediary agreement or carrier contract or takes other contract actions (e.g., assigning or reassigning providers of services to an intermediary; or designating regional or national intermediaries, etc.).

This notice is published in accordance with sections 1816(f) and 1842(b)(2) of the Social Security Act, which require us to publish for public comment in the **Federal Register** those criteria and standards against which we evaluate intermediaries and carriers.

**DATES:** *Effective Date:* The criteria and standards are effective October 1, 1991.

*Comments:* We will consider revising the criteria and standards based on public comments. Comments will be considered if we receive them at the appropriate address as provided below

no later than 5 p.m. (e.d.t.) on October 21, 1991.

**ADDRESSES:** Mail comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: BPO-101-GNC, P.O. Box 26676, Baltimore, MD 21207.

If you prefer, you may deliver your comments to one of the following addresses:

Room 309-G Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201, or Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, MD 21207.

Due to staffing and resource limitations, we cannot accept audio or video comments or facsimile (FAX) copies of comments. In commenting, please refer to file code BPO-101-GNC. Written comments received timely will be available for public inspection as they are received, generally beginning three weeks after publication, in room 309-G of the Department's office at 200 Independence Avenue, SW., Washington DC 20201, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: 202-245-7890).

**FOR FURTHER INFORMATION CONTACT:** Larry Pratt, (301) 966-7403.

#### **SUPPLEMENTARY INFORMATION:**

##### **A. Background**

Under section 1816 of the Social Security Act (the Act), public or private organizations and agencies participate in the administration of Part A (Hospital Insurance) of the Medicare program under agreements with the Secretary of Health and Human Services. These agencies or organizations, known as fiscal intermediaries, determine whether medical services are covered under Medicare and determine correct payment amounts. The intermediaries then make payments to the providers on behalf of the beneficiaries.

Under section 1842 of the Act, we are authorized to enter into contracts with carriers to fulfill various functions in the administration of Part B (Supplementary Medical Insurance) of the Medicare program. Beneficiaries, physicians and suppliers of services submit claims to these carriers. The carriers determine whether the services are covered under Medicare and the payable amount for the services or supplies and then make payment to the appropriate party.

Section 1816(f) of the Act requires us to develop criteria, standards and procedures to evaluate an intermediary's performance of its functions under its agreement. We evaluate intermediary performance

through the Contractor Performance Evaluation Program (CPEP). In addition to the statutory requirement (discussed subsequently), our regulations at 42 CFR 421.120 and 421.122 provide for publication of a **Federal Register** notice to announce criteria and standards prior to implementation.

Under section 1842(b)(2) of the Act, we are required to develop criteria, standards, and procedures to evaluate a carrier's performance of its functions under its contract with us. Since 1981, we have evaluated carrier performance under CPEP using criteria and standards similar to those used for intermediaries.

Sections 1816 and 1842(b)(2) also require us to publish the criteria and standards in the **Federal Register** in order to allow the public an opportunity to comment before implementation. The current criteria and standards were published in the **Federal Register** on September 28, 1990 (55 FR 39730).

To the extent possible, we will make every effort to publish the criteria and standards prior to the beginning of the federal fiscal year; *i.e.*, October 1st. In general, the evaluation period which the criteria and standards measure is the Federal fiscal year.

If we do not publish a **Federal Register** notice before the new fiscal year begins, readers may presume that until and unless notified otherwise, the criteria and standards which were in effect for the previous fiscal year remain in effect.

In those instances where we are unable to meet our goal of publishing the subject **Federal Register** notice before the beginning of the fiscal year, we reserve the right to publish the criteria and standards notice at any subsequent time during the year. If we choose to publish a notice in this manner, the evaluation period for any such standards and criteria which are the subject of the notice will be revised to be effective on or after the first day of the first month following publication. Hence, any revised criteria and standards will measure performance prospectively; that is, we will not apply new measurements to assess performance on a retroactive basis.

Also, it is not our intention to revise the criteria and the standards which will be used during the evaluation period once this information has been published in a **Federal Register** notice. However, on occasion, either because of administrative mandate or Congressional action, there may be need for changes that have direct impact upon the criteria and standards previously published, or that require the addition of new criteria and standards.

or that cause the deletion of previously published criteria and standards. Should such changes be necessitated, we will issue a **Federal Register** notice prior to implementation of the changes.

In all instances, necessary manual issuances will be published each year to ensure that the criteria and standards are implemented uniformly and accurately. Also, as in previous years, the **Federal Register** notice will be republished and the effective date revised if changes are warranted as a result of the public comments received on the criteria and standards.

#### **B. Incentive Payments to Carriers**

In accordance with section 1842(c)(1)(B) of the Act, this notice also describes the methodology that will be used to award incentive payments to carriers that successfully increase the proportion of physicians in the carrier's service area who are participating physicians, or the proportion of payments to participating physicians.

We issue carrier incentive payments by September 30 following each annual enrollment period. The amount of these payments will be included in line 10 of the carrier's Notice of Budget Approval Form HCFA-1524.

Section 1842(h) of the Act sets forth the Medicare participating physician program. "Participating" means accepting assignment on all Medicare claims. "Accepting assignment" means physicians accept Medicare's approved charge as full payment, with the beneficiary responsible for only the Medicare deductible and coinsurance amounts. The main goal of the program is to reduce the financial impact of medical costs upon beneficiaries by establishing incentives for physicians to accept assignment on all Medicare claims. The provisions give all physicians an opportunity annually to enroll or disenroll as a Medicare participating physician.

Section 1842(b)(3)(H) of the Act requires Medicare carriers to implement programs to recruit and retain physicians as participating physicians. These programs include educational and outreach activities and the use of professional relations personnel to handle billing and other problems relating to payment of claims of participating physicians. These programs are also designed to familiarize beneficiaries with the participating physician program and to assist the beneficiaries in locating participating physicians.

We intend to pay incentive bonuses to any carrier that achieved an increase of at least one-tenth of one percent in the participating physicians' rate or

proportion of total payments for participating physicians' services in the carrier's total service area. Carriers that achieve an increase in physician's participation or payments for participating physician services of less than 2 percentage points will be paid a partial incentive payment. Carriers that achieve an increase of at least 2 percentage points will be paid the full incentive payment. Carriers that achieve an increase of more than 2 percentage points will be paid a bonus for each additional 2 percentage point increase.

As required by section 1842(c) of the Act, the amount of the total incentive payable to carriers is one percent of the total payments to carriers for claims processing costs for the fiscal year. The total incentive pool is calculated by summing the total claims processing costs for each carrier in the fiscal year and multiplying the total by one percent.

For the purpose of determining each carrier's eligibility for an incentive payment, we make two comparisons. We compare the carrier's physician participation rate after the latest enrollment period with its physician participation rate after the prior enrollment date. We make a similar comparison of the proportion of covered charges for services by participating physicians during the quarter following the enrollment period with those of the quarter following the prior enrollment period. We intend to use whichever difference yields the higher percentage increase to determine eligibility for award of the incentive payment.

#### **C. Criteria and Standards—General**

The basic tenet of the Medicare program is to pay claims promptly and accurately and to foster good beneficiary and provider relations. Keeping this key concept in mind, we have redesigned and simplified the fiscal year (FY) 1992 CPEP to provide contractors with greater flexibility to effectively and efficiently manage their Medicare operations. We completed an exhaustive effort to identify and develop outcome-oriented standards for the most critical and valued elements of contractor performance. This effort considered comments from HCFA components as well as the Medicare contractor community and beneficiary and provider groups which have commented on past CPEP **Federal Register** notifications.

In simplifying CPEP, we have also combined standards where such an evaluation will yield a more efficient outcome. Standards for ensuring that beneficiaries and providers are provided accurate, timely, and understandable information in regard to inquiries,

appeals, and Explanations of Medicare Benefits have been strengthened. The quality and timeliness requirements of performance have, in most instances, been combined, assuring that both are given equal consideration.

Another significant change is that standards have, in most instances, been restructured on a pass/fail basis. An intermediary or carrier will pass a standard if it meets the minimum requirements of the appropriate operational manual. It is hoped that this change will promote satisfactory performance in all areas measured by CPEP and, at the same time, provide contractors with greater flexibility to effectively manage and administer the Medicare program in areas not part of CPEP. We have also strengthened CPEP's emphasis on efficiency.

With the reduced number of standards, we reduced the number of functional criteria from 11 to four for intermediaries and from 10 to five for carriers. The part A functional criteria are Bill Processing and Service, Payment Safeguards, Administrative Management, and Program Efficiency. The part B functional criteria are Claims Processing, Payment Safeguards, Service, Administrative Management, and Program Efficiency. Within each functional criterion we have identified those performance standards which, when measured, will indicate how effectively each contractor is performing. The three key indicators of performance used in the past (cost, quality, and timeliness) will no longer be used to categorize standards. We believe that the reduced number of standards make these categorizations less meaningful.

We have also developed separate (i.e., separate and apart from the "traditional" CPEP) criteria and standards which measure only the activities of Regional Home Health Intermediaries (RHHIs) and Common Working File (CWF) Hosts. Section 1816(e)(4) of the Act requires the Secretary to designate regional agencies or organizations, which are already Medicare intermediaries under section 1816, to perform bill processing functions with respect to freestanding home health agency (HHA) bills. The law requires that we limit the number of such regional intermediaries (i.e., RHHIs) to not more than ten; there are currently nine (see 42 CFR 421.117 and the **Federal Register** published on May 19, 1988 (53 FR 17936) for more details about the RHHIs).

In addition, section 1816(e)(4) of the Act requires the Secretary to develop criteria and standards in order to

determine whether to designate an agency or organization to perform services with respect to hospital affiliated HHAs. We have developed criteria and standards for RHHIs in order to measure the distinct RHHI functions. These functions include the processing of freestanding HHA, hospital affiliated HHA, and Hospice bills. Through the evaluation of these criteria and standards we will determine whether the RHHI functions should be moved from one intermediary to another in order to ensure effective and efficient administration of the program benefit.

At this time, CWF Hosts are selected from existing Medicare contractors under the authority of section 1842 of the Act which allows the Secretary to enter into or amend carrier contracts. The CWF Hosts perform functions of making available to Medicare contractors (intermediaries and carriers) and their providers within the CWF territory, or "sector," Medicare beneficiary entitlement and utilization data; and providing intermediaries and carriers with prepayment approval of Part A bills and Part B claims of all types. These functions are distinctly different than those of the traditional Medicare carrier in that the CWF Hosts does not adjudicate claims and determine the amount of payment. For this reason, it is necessary to evaluate CWF Hosts performance with a separate set of criteria and standards.

#### *Action Based on Performance Evaluations*

We may initiate administrative actions as a result of the evaluation of contractor performance based on these performance criteria and standards. Under sections 1816 and 1842 of the Act, we consider the results of the evaluation in our determinations on:

- Entering into, renewing, or terminating agreements or contracts with contractors; and
- Decisions concerning other contract actions for intermediaries and carriers (such as deletion of an automatic renewal clause). These decisions are made on a case-by-case basis and depend primarily on the nature and degree of performance. More specifically, they depend on:
  - + Relative overall performance compared to other contractors;
  - + Number of standards in which deficient performance occurs;
  - + Extent of each deficiency; and
  - + Relative significance of the standards for which deficient performance occurs within the overall CPEP.
- Decisions concerning the assignment or reassignment of providers

and designation of regional or national intermediaries for classes of providers.

We make individual contract action decisions after considering these factors in terms of their relative significance and impact on the efficient administration of the Medicare program.

#### **D. Scoring System**

For both intermediaries and carriers under the traditional CPEP, the maximum score attainable is 100 points, reduced from 1000 points in prior years. Each of the CPEP's performance standards is assigned a given portion of the 100 points available based on the measured activity's relative importance to all other measured activities. To pass CPEP, 90 percent of the available points must be attained.

For CWF Hosts and RHHIs, the maximum score attainable is 30 points each. The CWF Host and RHHI criteria and standards will be scored separately from the traditional CPEP for intermediaries and carriers. Each of the CWF Host and RHHI CPEP's performance standards is assigned a given portion of the 30 points available based on the measured activity's relative importance to all other measured activities. To pass the CWF Host and/or RHHI CPEP, 90 percent of the available points must be attained.

A contractor's performance is evaluated against each applicable standard. In general, if a contractor meets the level of performance required by operational manual instructions, it achieves all of the points allocated to that standard. Any rating below basic operational expectations generally constitutes a deficiency. In most instances, there are varying degrees of deficiency which allow contractors to receive a portion of the total points available. The contractor may be required to develop and implement a corrective action plan when performance problems are identified. The contractor will be monitored to assure effective and efficient compliance with the corrective action plan and improved performance where standards are not met.

#### **E. Criteria and Standards for Intermediaries**

As stated previously, we will use 4 criteria to evaluate the overall performance of an intermediary. They are: (1) Bill processing and Service; (2) Payment Safeguards; (3) Administrative Management; and (4) Program Efficiency.

The 4 criteria contain a total of 25 standards. There are 7 for Bill Processing and Service, 10 for Payment Safeguards, 3 for Administrative

Management, and 5 for Program Efficiency.

#### **1. Bill Processing and Service Criterion (Total Points=20)**

Bills are processed timely and accurately and providers and beneficiaries are served in accordance with program laws, regulations, and general instructions.

*Standard 1*—95 percent of clean non-Periodic Interim Payment (PIP) bills paid within mandated timeframes. (4 points)

*Standard 2*—95 percent of all bills processed within 60 days. (3 points)

*Standard 3*—Intermediary system processing accuracy rate of 95 percent. (4 points)

*Standard 4*—95 percent of reconsiderations are accurately processed. (3 points)

*Standard 5*—75 percent of reconsiderations are processed within 60 days and 90 percent processed within 90 days. (2 points)

*Standard 6*—95 percent of correspondence is accurate and answered within 30 days. (3 points)

*Standard 7*—95 percent of appeal reversals reflect accurate intermediary determinations. (1 point)

#### **2. Payment Safeguards Criterion (Total points=43)**

The Medicare program is safeguarded against inappropriate program expenditures.

*Standard 1*—Provider audit savings goal is achieved. (4 points)

Contractors are advised of their specific audit savings goal through program instructions prior to the evaluation period. In determining the contractor-specific goal, HCFA considers such factors as the contractor's provider mix, audit funding, and historical performance.

*Standard 2*—97.5 percent of Medical Review (MR) coverage decisions, including decisions on SNF demand bills, are accurate. (4 points)

*Standard 3*—Focused MR program is effective. (3 points)

Detailed requirements for measuring MR effectiveness under this standard are contained in the Medicare Intermediary Manual (MIM), Section 2901.2.

*Standard 4*—Medicare Secondary Payer (MSP) savings goal is achieved. (4 points)

Contractors are advised of their specific MSP savings goal through program instructions prior to the evaluation period. In determining the contractor-specific goal, HCFA considers such factors as geographic variables in MSP coverage and MSP

case mix. This includes the working aged population and the percent of population covered by Group Health Insurance, accident rates for both industrial and automobile situations, incidence of black lung disease, and the number of veterans in the population.

**Standard 5**—Inappropriate MSP billings to the Medicare Program are prevented. (5 points)

Detailed requirements for measuring the appropriateness of MSP billing under this standard are contained in MIM, Section 2901.2.

**Standard 6**—Interim provider payments approximate actual reimbursable costs. (4 points)

**Standard 7**—Cost reports/statements are 93 percent accurate. (6 points)

**Standard 8**—90 percent of provider cost reports are timely settled. (4 points)

**Standard 9**—Provider overpayments collected within 30 days. (3 points)

**Standard 10**—Fraud and abuse cases are detected and properly developed. (6 points)

Detailed requirements for detection and development of fraud and abuse cases are contained in MIM, Sections 3950ff.

### 3. Administrative Management Criterion (Total Points = 12)

The Medicare program is effectively administered.

**Standard 1**—Administrative and financial reports are accurate and timely. (5 points)

Accuracy and timeliness requirements under this standard are contained in MIM, Section 2901.3.

**Standard 2**—Priority I critical tasks are accurately and timely implemented. (5 points)

Accuracy and timeliness requirements under this standard are contained in MIM, Section 2901.3.

**Standard 3**—Regional Office requests and instructions are accurately and timely implemented. (2 points)

Accuracy and timeliness requirements under this standard are contained in MIM, Section 2901.3.

### 4. Program Efficiency Criterion (Total Points = 25)

Contractors operate the program in the most efficient and effective manner possible.

**Standard 1**—Increase the rate in which bills are submitted electronically. (6 points)

Contractors are advised of their specific goals through program instructions prior to the evaluation period. In determining the contractor-specific goal, HCFA considers such factors as the contractor's provider mix and historical performance.

**Standard 2**—Implement measures which result in cost efficiencies in comparison to level of work. (5 points)

Contractor administrative costs expressed as a percentage of total national administrative costs should equate to the contractor level of work expressed as a percentage of the national level of work.

**Standard 3**—Budget Performance Requirements are met. (6 points)

Budget performance requirements, sent to each contractor prior to the fiscal year, set forth the comprehensive level of work to be completed by contractors.

**Standard 4**—Total actual expenditures are at or below budget authority and administrative funds drawn are in line with monthly expenditures. (6 points)

**Standard 5**—Implement other measures which improve program efficiency. (2 points)

All contractors are expected to operate in a shared system arrangement and each contractor is to undertake a program efficiency measure which will result in a reduction in operational costs or inefficiencies.

### F. Criteria and Standards for Carriers

We will use 5 criteria to evaluate overall carrier performance. They are:

(1) Claims Processing; (2) Payment Safeguards; (3) Service; (4) Administrative Management; and (5) Program Efficiency. The 5 criteria contain a total of 27 standards. There are 8 for Claims Processing, 7 for Payment Safeguards, 4 for Service, 3 for Administrative Management, and 5 for Program Efficiency.

#### 1. Claims Processing Criterion (Total Points = 29)

**Standard 1**—95% of clean participating physician claims processed within mandated timeframes. (4 points)

**Standard 2**—95% of other clean claims processed within mandated timeframes. (3 points)

**Standard 3**—95% of all claims processed within 60 days. (3 points)

**Standard 4**—Claims processed with an accuracy rate of 98.3%. (6 points)

**Standard 5**—97.5% of HCFA Common Procedure Coding System codes and related pricing are properly installed. (3 points)

**Standard 6**—Properly calculate and install all fee schedules and reasonable charge updates. (5 points)

**Standard 7**—95% of reviews are accurate and clear and completed within 45 days. (3 points)

**Standard 8**—90% of carrier hearings are accurate and completed within 120 days. (2 points)

#### 2. Payment Safeguards Criterion (Total Points = 27)

The Medicare program is safeguarded against inappropriate program expenditures.

**Standard 1**—97.5% of MR coverage decisions are accurate. (4 points)

**Standard 2**—MR savings goal is achieved. (3 points)

Contractors are advised of their specific medical review savings goal through program instructions prior to the evaluation period. In determining the contractor-specific goal, HCFA considers such factors as the contractor's provider mix, medical review funding, and historical performance.

**Standard 3**—Postpayment MR program is effective. (3 points)

Detailed requirements for measuring MR effectiveness under this standard are contained in the Medicare Carriers Manual (MCM), Section 5261.2.

**Standard 4**—MSP savings goal is achieved. (4 points)

Contractors are advised of their specific MSP savings goal through program instructions prior to the evaluation period. In determining the contractor-specific goal, HCFA considers such factors as geographic variables in MSP coverage and MSP case mix. This includes the working aged population and the percent of population covered by Group Health Insurance, accident rates for both industrial and automobile situations, incidence of black lung disease, and the number of veterans in the population.

**Standard 5**—Inappropriate MSP billings to the Medicare program are prevented. (5 points)

Detailed requirements for measuring the appropriateness of MSP billing under this standard are contained in the MCM, Section 5261.2.

**Standard 6**—Fraud and abuse cases are detected and properly developed. (6 points)

Detailed requirements for detection and development of fraud and abuse cases are contained in the MCM, Section 14000ff.

**Standard 7**—90% of overpayment cases are properly handled. (2 points)

Requirements for handling overpayment cases are contained in the MCM Sections 7103ff, 7120ff and 7130ff.

#### 3. Service Criterion (Total Points = 7)

Beneficiaries and providers are treated in accordance with all applicable laws, regulations, and general instructions.

**Standard 1**—Telephone inquiries are responded to timely. (2 points)

Telephone calls are to be answered within 120 seconds and callers are not to get a busy signal more than 20% of the time.

**Standard 2**—95% of correspondence is accurate and clear and answered within 30 days. (2 points)

**Standard 3**—Requirements of the participating physician program are met. (2 points)

Detailed requirements for measuring the participating physician program under this standard are contained in the MCM, Section 5261.3.

**Standard 4**—98% of Explanations of Medicare Benefits (EOMBs) are properly generated. (1 point)

#### 4. Administrative Management Criterion (Total Points=12)

The Medicare program is effectively administered.

**Standard 1**—Administrative and financial reports are accurate and timely. (5 points)

Accuracy and timeliness requirements under this standard are contained in MCM, Section 5261.4.

**Standard 2**—Priority I critical tasks are accurately and timely implemented. (5 points)

Accuracy and timeliness requirements under this standard are contained in MCM, Section 5261.4.

**Standard 3**—Regional Office requests and instructions are accurately and timely implemented. (2 points)

Accuracy and timeliness requirements under this standard are contained in MCM, Section 5261.4.

#### 5. Program Efficiency Criterion (Total Points=25)

Contractors operate the program in the most efficient and effective manner possible.

**Standard 1**—Increase the rate in which claims are submitted electronically. (6 points)

Contractors are advised of their specific goals through program instructions prior to the evaluation period. In determining the contractor-specific goal, HCFA considers such factors as the contractor's provider mix and historical performance.

**Standard 2**—Implement measures which result in cost efficiencies in comparison to level of work. (5 points)

Contractor administrative costs expressed as a percentage of total national administrative costs should equate to the contractor level of work expressed as a percentage of the national level of work.

**Standard 3**—Budget Performance Requirements are met. (6 points)

Budget performance requirements, sent to each contractor prior to the fiscal

year, set forth the comprehensive level of work to be completed by contractors.

**Standard 4**—Total actual expenditures are at or below budget authority and administrative funds drawn are in line with monthly expenditures. (6 points)

**Standard 5**—Implement other measures which improve program efficiency. (2 points)

All contractors are expected to operate in a shared system arrangement and each contractor is to undertake a program efficiency measure which will result in a reduction in operational costs or inefficiencies.

#### G. Criterion and Standards for Common Working File (CWF) Hosts

##### CWF Host Criterion (Total Points=30)

The CWF Host must process transactions for satellites (i.e., intermediaries and carriers) within and out of its sector and maintain complete beneficiary entitlement and claims history records; provide services to its satellite sites, including operational and maintenance support; and take all necessary measures to ensure compliance with HCFA directives. We will use this criterion containing 8 standards to evaluate CWF Host performance.

**Standard 1**—Provide on-line access to CWF records for at least 98% of the required available hours. (5 points)

Available hours are specified in section 3.4 of the currently applicable Proposal Submission Requirements.

**Standard 2**—Twenty-four hour turnaround requirement for at least 98% of files is met for all satellites. (5 points)

**Standard 3**—Notify satellites within 15 minutes of discovery of major downtime. (2 points)

**Standard 4**—Adhere to HCFA procedures and guideline for change control processing. (4 points)

Change control processing procedures and guidelines describe the actions to follow in reviewing, evaluating, and taking appropriate action or requests from satellites for software changes.

**Standard 5**—Install, test and implement CWF software by due date. (5 points)

Due dates are published in each CWF software release.

**Standard 6**—Install, test and implement CWF software releases accurately. (5 points)

Accuracy requirements are published in each CWF software release.

**Standard 7**—Submit accurate Schedule II and IIA reports by the 30th day following the period covered by the reports. (2 points)

**Standard 8**—Report major downtime occurrences to HCFA within two hours of discovery. (2 points)

#### H. Criterion and Standards for Regional Home Health Intermediaries (RHHIs)

##### RHHI Criterion (Total Points=30)

We will use this criterion containing 9 standards to review RHHI performance with respect to its performance in handling the HHA/Hospice workload. This includes processing HHA/Hospice bills timely and accurately, properly paying and settling HHA cost reports, and processing reconsiderations from beneficiaries, HHAs, and Hospices timely and accurately.

**Standard 1**—95% of clean non-PIP HHA/Hospice bills paid within mandated timeframes. (4 points)

**Standard 2**—95% of all HHA/Hospice bills processed within 60 days. (3 points)

**Standard 3**—HHA Cost reports are 93% accurate. (4 points)

**Standard 4**—90% of freestanding HHA cost reports timely settled. (3 points)

**Standard 5**—Interim payments for freestanding HHAs approximate actual reimbursable costs. (3 points)

**Standard 6**—97.5% of HHA/Hospice MR coverage decisions are accurate. (4 points)

**Standard 7**—95% of HHA/Hospice reconsiderations are accurately processed. (3 points)

**Standard 8**—75% of HHA/Hospice reconsiderations are processed within 60 days and 90% within 90 days. (2 points)

**Standard 9**—Implement measures which improve program efficiency. (4 points)

Measures of program efficiency (e.g., electronic processing of bills) will be considered under this standard.

#### I. Contractor Replacement Under Section 2326(a) of the Deficit Reduction Act of 1984 (DEFRA)

The Omnibus Budget Reconciliation Act of 1989 (OBRA 89), Pub. L. 101-239, extended through FY 1993 the authority of Section 2326(a) of DEFRA, Pub. L. 99-369, whereby each year up to two intermediaries and up to two carriers, which over a period of time have been in the lowest 20th "over a 2-year period of time." Consequently, the methodology for separately identifying intermediaries and carriers for potential replacement under Section 2326(a) of DEFRA, as amended, will be as follows:

- Performance, as measured by the Secretary's criteria and standards, will be considered for the most recent 2 evaluation period.

- Each evaluation period's overall performance will be captured in the form of an unweighted performance rating—points earned as a percentage of points available, as determined by the performance criteria and standards. For example, FY 1992 performance ratings will be calculated based upon the criteria and standards used for the October 1991–September 1992 review period.

- Each period's performance rating will be weighted to provide extra emphasis for the most recent performance. The weights, to be multiplied by each period's performance rating, are:

	Weight
Most Recent Period.....	3
Prior Period.....	32

- For each contractor, the weighted performance rating for each of the two periods will be summed.

- Contractors will be divided into two groups, those passing CPEP for both of the evaluation periods (Group I) and those failing CPEP in any of the evaluation periods (Group II).

- Group I contractors will be ranked above Group II contractors.

- Within each group, the contractors will be ranked from highest points to lowest points.

- Careful study of the bottom 20th percentile of contractors will be undertaken to fully assess considerations such as performance that is improving/deteriorating, factors beyond the contractor's control, and other factors pertinent to a particular territory.

The methodology will be applied separately to intermediaries and carriers under the traditional CPEP. The DEFRA methodology will not be applied to CWF Hosts and RHHs for FY 1992 since it is the first full year for which criteria and standards for these contractors are explicitly defined.

#### J. Response to Public Comments

Because of the large number of items of correspondence we normally receive on a proposed notice, we are unable to acknowledge or respond to them individually. However, we will consider all comments that we receive by the date and time specified in the "DATES" section of the preamble and, if we proceed with a revised notice, we will respond to the comments in the preamble of that notice.

#### K. Regulatory Impact Statement

##### 1. Executive Order 12291

Executive Order 12291 (E.O. 12291) requires us to prepare and publish a regulatory impact analysis for any general notice that meets one of the E.O. criteria for a "major rule"; that is, that would be likely to result in—

- An annual effect on the economy of \$100 million or more;

- A major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

- Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Preliminary analyses reveal that the FY 1992 CPEP may reduce the Federal resources required to administer these criteria and standards as more efficient evaluation methodologies are being used. We expect minimal effects on the contractor costs due to this notice since the criteria and standards measure functional responsibilities that the contractor must be performing as a Medicare contractor. This general notice does not meet the \$100 million criterion nor do we believe that it meets the other E.O. 12291 criteria. Therefore, this general notice is not a major rule under E.O. 12291, and a regulatory impact analysis is not required.

##### 2. Regulatory Flexibility Act

We generally prepare a regulatory flexibility analysis that is consistent with the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 through 612) unless the Secretary certifies that a proposed notice would not have a significant economic impact on a substantial number of small entities. For purposes of the RFA, intermediaries and carriers are not small entities. We treat all providers and suppliers as small entities. In addition, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis if a general notice may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 50 beds.

This notice sets forth the criteria and standards to be used for evaluation of Medicare intermediaries and carriers which are not considered small entities.

This notice does not require specific performance of the operations being evaluated. It may have an effect on contractor operations such as bill processing, beneficiary services and provider services which could indirectly affect a substantial number of providers and suppliers.

The most important indirect effect on providers and suppliers as a result of this notice will be to ensure that they are paid timely and accurately. We, therefore, do not believe these criteria and standards will have any negative effects on providers and suppliers.

As stated above, this notice primarily affects intermediaries and carriers, which are not considered small entities for purposes of the RFA. For these reasons, we have determined, and the Secretary certifies, that this general notice will not have a significant economic impact on a substantial number of rural hospitals. Therefore, we have not prepared analyses for either the RFA or small rural hospitals.

Authority: (Secs. 1102, 1816, 1842, and 1871 of the Social Security Act (42 U.S.C. 1302, 1395h, 1395u, and 1395hh)).

(Catalog of Federal Domestic Assistance Program No. 13.773, Medicare-Hospital Insurance and Program No. 13.774, Medicare Supplementary Medical Insurance)

Dated: June 24, 1991.

Gail R. Wilensky,  
Administrator, Health Care Financing  
Administration.

[FR Doc. 91-22644 Filed 9-19-91; 8:45 am]

BILLING CODE 4120-01-M

#### [OCC-28-GNC]

#### Medicare Program; Conditional Designation of States in Which Medicare SELECT Insurance Policies May be Issued

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: General notice with comment period.

**SUMMARY:** This notice announces the Secretary's conditional determination of the 15 States in which Medicare supplemental insurance policies (commonly referred to as "Medigap" policies) may be issued as Medicare SELECT policies. The Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101-508, amended section 1882 of the Social Security Act to provide for the simplification and standardization of Medicare supplemental insurance policies and to authorize the approval of Medicare SELECT policies in fifteen States, as determined by the Secretary, for a three-

year period. Under State-approved Medicare SELECT policies, insurers may restrict full Medicare supplemental insurance benefits to items and services provided by a network of physicians and providers under contract with the insurer.

This notice implements section 4358(c) of OBRA '90, which provides for the designation of the 15 States in which Medicare SELECT policies may be approved for issuance during the period January 1, 1992 through December 31, 1994.

**DATES:** The conditional designations in this notice are effective from January 1, 1992 through December 31, 1994.

**ADDRESSES:** Mail written comments to the following address: Health Care Financing Administration, Department of Health and Human Services, Attention: OCC-28-GNC, P.O. Box 26676, Baltimore, MD 21207.

If you prefer, you may deliver your comments to one of the following addresses: Room 309-G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC, or Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, MD.

Due to staffing and resource limitations, we cannot accept audio or video comments or facsimile (FAX) copies of comments.

In commenting, please refer to file code OCC-28-GNC. Comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, in room 309-G of the Department's offices at 200 Independence Avenue, SW., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 5 p.m. (phone: (202) 245-7890).

**FOR FURTHER INFORMATION CONTACT:** Jean D. LeMasurier, (202) 401-2323.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Medicare program, title XVIII of the Social Security Act (the Act), provides payment for a wide range of inpatient and ambulatory services to beneficiaries. Medicare provides hospital insurance (under part A) and supplementary medical insurance (under part B) to cover certain costs of providing medical care for beneficiaries. Both parts A and B have deductible and coinsurance cost-sharing provisions. Also, there are a number of services and items that are not covered under either Medicare part A or part B, such as custodial nursing home care, dental care, and eyeglasses. Beneficiaries may pay amounts that are not covered under Medicare out-of-pocket or may choose

to purchase private insurance to help pay the costs.

Approximately 75 percent of all Medicare beneficiaries have some type of private supplemental health insurance coverage. This coverage includes Medicare supplemental policies (referred to as "Medigap" policies), employer sponsored health plans, as well as limited benefit plans such as indemnity policies for specified disease coverage and long-term care policies.

Specific standards for Medicare supplemental insurance policies were established by section 902(a) of the Social Security Disability Amendments of 1980, Public Law 96-285 (the Baucus Amendments), in an effort to address certain abuses associated with the sale of health insurance to the elderly. Section 902(a) added section 1882 to the Act, Voluntary Certification of Medicare Supplemental Health Insurance Policies. Medicare supplemental policies are designed to fill specific gaps in the Medicare benefit structure, typically offer coverage of some or all of the deductible and coinsurance amounts under Medicare, and sometimes include coverage of costs of services not covered under Medicare.

Section 1882 and our implementing regulations at 42 CFR part 403, subpart B, address only Medicare supplemental policies and do not affect policies offered by an employer to employees or former employees, or policies or plans offered by a labor organization to members or former members.

As originally enacted, section 1882 of the Act provided for a voluntary certification program under which a Medicare supplemental policy could be certified by the Secretary as meeting certain minimum standards, including minimum benefit requirements contained in a model regulation adopted by the National Association of Insurance Commissioners (NAIC). In addition, section 1882 provided that Medigap policies issued in a State would be deemed to meet the certification requirements if the State's regulatory program provided for the application of standards at least as stringent as those contained in the NAIC's model regulation and section 1882. A Supplemental Health Insurance Panel, chaired by the Secretary, was established to act on State requests for approval under section 1882.

Because the NAIC model regulation specified certain minimum benefits and policy provisions, satisfaction of the requirements was difficult for policies involving preferred provider organizations (PPOs), which often include benefit and cost-sharing variations as incentives for enrollees to

seek care from lower cost preferred providers.

Sections 4351 through 4357 of the Omnibus Budget Reconciliation Act of 1990 (OBRA '90), Public Law 101-508, enacted on November 5, 1990, made a number of substantive changes to section 1882 of the Act to provide for the simplification and standardization of Medicare supplemental insurance policies and to make compliance with the revised standards mandatory. OBRA '90 fundamentally altered the Federal role in the regulation of Medigap policies by providing that, as of the effective date of revised standards, no Medicare Supplemental policy may be issued in any State unless the State has an approved regulatory program or the Secretary has certified the policy as meeting the revised standards. The statute provides that if the NAIC adopts revisions to its model regulation for Medicare Supplemental policies to meet the OBRA '90 requirements by August 5, 1991 (nine months after enactment of OBRA '90), then the revised NAIC standards will be effective in all States within the following year, with limited exceptions. (In States that need new authorizing legislation but whose legislatures are not scheduled to meet during 1992, the standards will be applicable no later than the first calendar quarter beginning after the close of the first legislative session that begins on or after January 1, 1992.) The NAIC adopted implementing standards on July 30, 1991.

The OBRA '90 changes to the minimum standards for Medicare supplemental insurance policies include:

- Standardization of Medicare supplemental policies into no more than 10 packages to assist beneficiaries in comparative shopping for a policy;
- Guaranteed renewability;
- Suspension of Medigap benefits and premiums during Medicaid eligibility (for a period of up to 24 months if the beneficiary notifies the insurer within 90 days of the start or ending of Medicaid eligibility);
- New and higher loss ratio requirements for individual policies (65 percent instead of 60 percent) and for group policies (75 percent) and required refunds or credits if the policies do not meet the loss ratio requirements;
- Pre-existing conditions limitations (pre-existing conditions may only be imposed in a replacement policy to the extent such conditions were not met under the original policy) and restrictions on medical underwriting (6-month open enrollment period for new part B enrollees who are 65 or older);

- State assurances that copies of all policy forms approved in the State, along with information on the policy premium and loss ratio data for the past 3 years, are maintained and made publicly available;
  - Implementation of a process for approving or disapproving premium increases and establishment of a policy for the holding of public hearings prior to approval of a premium increase;
  - Required filing in all States in which a policy is marketed (deemed approval of mail order policies is no longer permitted);
  - Clarification that HMOs are excluded from the definition of a Medicare supplement only when they are providing Medicare benefits pursuant to a Federal contract under section 1876 or 1833 or a demonstration authority; and
  - Prohibition against virtually any sale of duplicative health insurance coverage to Medicare beneficiaries (including prescribed questions which must be asked and declarations made by both the buyer and seller on the application form for a policy);
- (Federal Regulations to implement the revised requirements for the Medicare supplemental policies, including the requirements for civil money and criminal penalties and the requirement for conformance with the most recent model standards adopted by the NAIC are under development in the Department as a separate document.)

OBRA '90 also abolished the Supplemental Health Insurance Panel, which formerly approved State regulatory programs, and provided for Secretarial approval of States' regulatory programs and their enforcement efforts. Prior to OBRA '90, a State's regulatory program could be approved by the Panel if the State had adopted appropriate laws and regulations. Under OBRA '90 a State's enforcement efforts (particularly with respect to assuring that policies comply with minimum loss ratios) will now also be subject to periodic Federal review.

## II. Medicare Select Policies

Sections 4358 (a) and (b) of OBRA '90 amended section 1882 to authorize approval of certain Medicare supplemental policies as Medicare SELECT policies if the policy meets the NAIC model standards and otherwise complies with the statute, except that its benefits are restricted to items and services furnished by certain physicians or providers (or reduced benefits are provided when items or services are furnished by other entities), and certain other minimum Federal requirements are met relating to the network of

physicians and providers specified in the statute. Section 4358(c) provides for the authorization of Medicare SELECT policies only in 5 States designated by the Secretary and only during the period January 1, 1992 through December 31, 1994. In addition to the revised requirements for the Medicare supplemental policies described above, Medicare SELECT issuers must assure that—

- Full benefits are provided for items and services provided outside the insurer's network of physicians and providers if the services are medically necessary and immediately required because of an unforeseen illness, injury or condition, and it is not reasonable to obtain the service through the network;
- The network provides sufficient access and there are arrangements for an ongoing quality assurance program for services provided through the network; and
- The beneficiary receives at the time of enrollment (and acknowledges receipt of) an explanation of restrictions on payment outside the network; out of area coverage; coverage of emergency and urgently needed services; and the availability and cost of Medicare Supplemental policy offered by the issuer that does not include the network restrictions.

The Secretary is authorized to impose civil money penalties against the issuer of a policy of up to \$25,000 for each of the following violations:

- Substantial failure to provide medically necessary items and services to enrollees through the network, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;
- Imposition of premiums on enrollees in excess of premiums approved by the State;
- Actions to expel an enrollee for reasons other than nonpayment of premiums;
- Failure to provide the enrollee with a written explanation of the policy's restrictions on payment outside the network, out-of-area coverage, coverage of emergency and urgently needed care and availability and cost of a policy without a network restriction; and
- Failure to obtain an acknowledgement from the enrollee that he or she received the above-described explanation at the time of enrollment.

## III. Conditional Designation of Medicare Select States

This notice announces the Secretary's conditional determination of the 15 States in which Medicare SELECT policies may be approved for issuance under the authority of section 4358 of

OBRA '90, effective for the period January 1, 1992 through December 31, 1994.

Under Medicare SELECT, issuers will enter into agreements with providers to assure appropriate utilization and deliver cost-efficient and high-quality care as a way to improve the value of Medicare supplemental insurance. In the designated States, an issuer of a Medicare supplemental policy that meets the requirements of section 1882 of the Act may issue a policy that restricts full benefits (in whole or in part) for non-emergency items and services to those that are furnished through a network of physicians and providers which have entered into a written agreement with the issuer, provided the policy is approved by the State as a Medicare SELECT policy.

### A. Solicitation of States as Candidates

On February 6, 1991, the NAIC informed all State Insurance Commissioners of the new Medicare SELECT program and advised interested States to contact the Health Care Financing Administration. HCFA held a number of briefing meetings with the NAIC Medicare Supplement Task Force on Medicare SELECT. In addition, we distributed information on the policies, including a description of the Medicare SELECT program, schedule, and draft criteria, to a wide audience of insurance companies, State officials, and interested individuals. On April 25, 1991, the Secretary announced his intention to designate the 15 Medicare SELECT States and invited States to notify us of their interest in participating.

As a result of these efforts, 28 State insurance departments notified the Department of their interest in being considered for participation in Medicare SELECT.

### B. Criteria for Designation

In order to make the designation, we considered the following factors:

- An effective State Medigap regulatory program as demonstrated by approval under the Medicare Catastrophic Coverage Act (Pub. L. 100-360) and the Medicare Catastrophic Coverage Repeal Act (Pub. L. 101-234). If a State was conditionally approved, we considered the nature of the problem and evidence that the problem will be corrected.
- Current Medigap products that incorporate a network, such as existing indemnity and health maintenance organization products and levels of enrollment;
- Interest of insurers in offering Medicare SELECT in a specific State;

- Availability of beneficiary assistance/counseling programs, Medicare/Medicaid assistance programs, or special programs supported by the State;

- Absence of State legislation that would deter the operation of effective utilization review techniques by the Medicare SELECT insurer or otherwise restrict effective network arrangements;

- State interest in and ability in regulating the products of Preferred Provider Organizations (PPO) (for example State authorizing PPO legislation that includes provisions on access, information, and quality) or State interest in developing an effective PPO regulatory program;

- State committee to coordinated care, such as a Governor's program for managed care or large Medicare and Medicaid health maintenance organization enrollment; and

- Factors related to evaluation of the Medicare SELECT program, such as geographic dispersion of the States.

Based on the information available to us, we applied the foregoing factors to each of the 28 States that notified HCFA of their interest in being designated under section 4358 of OBRA '90. As a minimum requirement, we have determined that all Medicare SELECT States must have an approved Medigap regulatory program that meets the OBRA '90 requirements. Under the statute, no Medigap policies (including Medicare SELECT policies) may be issued after July 30, 1992, in States that do not have approved regulatory programs unless they are certified by the Secretary. Because compliance with this requirement cannot be ascertained until after the NAIC adopts its revised model regulations and the States revise their programs accordingly and submit the revised program to HCFA for approval, we are making the following designations conditional on the States receiving approval of their respective regulatory programs.

#### C. Designated States

Based on the foregoing factors and the information submitted by the States that expressed interest, we are designating the following 15 States as States authorized to approve Medicare SELECT policies contingent upon their establishment of approvable regulatory programs that meet all OBRA '90 requirements by July 30, 1992:

Alabama, Arizona, California, Florida, Indiana, Kentucky, Michigan, Minnesota, Missouri, North Dakota, Ohio, Oregon, Texas, Washington, Wisconsin.

Subject to the approval of their overall Medigap programs, these 15 designated

States will be permitted to approve Medicare SELECT policies that meet the requirements of section 1882 of the Act during the three-year period beginning with 1992. These states will be required to adopt regulations for Medicare SELECT policies that are at least as stringent as those developed by the NAIC.

#### D. Alternate States

While more than 15 States may have been good candidates for Medicare SELECT, Congress limited the Secretary's authority to designating only 15 States.

If any of the States listed above under section III. C does not establish an approvable program by July 30, 1992, or otherwise chooses not to participate in Medicare SELECT, we will designate substitutes from the following list of alternate States.

Colorado, Delaware, Georgia, Illinois, Kansas, Massachusetts, Mississippi, Nevada, New Jersey, Pennsylvania, South Carolina, Virginia, West Virginia.

Should an alternate designation be necessary, it will be based on the information available that the time with respect to each of the factors discussed above, and a revised notice will be published in the **Federal Register**.

(Catalog of Federal Domestic Assistance Program N. 93.778 Medical Assistance Program; No. 93.773, Medicare—Hospital Insurance Program; No. 93-774, Medicare—Supplemental Medical Insurance)

Dated: August 10, 1991.

Gail R. Wilensky,  
Administrator, Health Care Financing  
Administrative.

Approved: September 10, 1991.

Louis W. Sullivan,  
Secretary.

[FR Doc. 91-22658 Filed 9-19-91; 8:45 am]

BILLING CODE 4120-01-M

#### Health Resources and Services Administration

##### Project Grants for Renovation or Construction at Tertiary Perinatal Facilities in Those States Whose Infant Mortality Rate is Significantly Above the National Average

**AGENCY:** Health Resources and Services Administration.

**ACTION:** Notice of correction and extension of application due date.

**SUMMARY:** This notice adds Puerto Rico to the list of states eligible to apply for Project Grants for Renovation or Construction at Tertiary Perinatal Facilities in Those States Whose Infant

Mortality Rate is Significantly Above the National Average, published on August 21, 1991, at 56 FR 41562. (See appendix A). As a result of this correction, the application due date is extended to November 19, 1991. The address for submitting completed applications and the rest of the notice remain as published.

Date: September 13, 1991.

Robert G. Harmon,  
Administrator.

Infant Mortality Rates for States Whose Mortality Rates Were 12 or More per 1,000 Live Births for Calendar Year 1988. (Based on Excerpts from the Monthly Vital Statistics Report, Volume 39, Number 7, Supplement, November 28, 1990, Published by the National Center for Health Statistics.)

State	Rate
District of Columbia.....	23.2
Georgia.....	12.6
North Carolina.....	12.5
Puerto Rico.....	12.5
Mississippi.....	12.3
North Carolina.....	12.3
Alabama.....	12.1

[FR Doc. 91 22699 filed 9-19-91; 8:45 am]

BILLING CODE 4160-15-M

#### Public Health Service

##### Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Public Health Service (PHS) publishes a list of information collection requests it has submitted to the Office of Management and Budget (MB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. chapter 35). The following requests have been submitted to OMB since the list was last published on September 6, 1991.

(Call PHS Reports Clearance Officer on 202-245-2100 for copies of request)

1. *Piedmont Health Survey of the Elderly—0925-0267*—This prospective epidemiologic study is comparing and contrasting the influence of physiological, behavioral, social and environmental forces on mortality, morbidity and health services utilization of the elderly in five North Carolina counties. *Respondents:* Individuals or households. *Number of Respondents:* 2,086; *Number of Responses per Respondent:* 1; *Average Burden per Response:* 1.66 hours; *Estimated Annual Burden:* 3,463 hours.

2. *Public Law 93-638—Initial and Renewal Contract: Application, Tribal Clearance and Contract Law Waiver—0917-0004*—Pursuant to Public Law 93-638 an American Indian Tribal organization may apply to IHS for a contract to carry out certain functions of IHS, and may request a contract law to be waived. Specific information is to be collected for applications for initial contract, Tribal clearances and contract law waivers. *Respondents:* State or local governments. *Number of Responses per Respondent:* 3.5; *Average Burden per Response:* 2.5 hours; *Estimated Annual Burden:* 3,200 hours.

OMB Desk Officer: Shannah Koss-McCallum.

Written comments and recommendations for the proposed information collections should be sent within 30 days of this notice directly to the OMB Desk Officer designated above at the following address: Human Resources and Housing Branch, New Executive Office Building, room 3002, Washington, DC 20503.

Dated: September 16, 1991.

Sandra K. Mahkorn,

Deputy Assistant Secretary for Public Health Policy.

[FR Doc. 91-22656 Filed 9-19-91; 8:45 am]

BILLING CODE 4160-17-M

## Social Security Administration

### Statement of Organization, Functions and Delegations of Authority

Part S of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services covers the Social Security Administration. Notice is given that Chapter 7, the Office of the Deputy Commissioner, Human Resources, is being amended to retitle the Division of Complaints Analysis and Monitoring (S7EA) in the Office of Civil Rights and Equal Opportunity as the Division of Equal Opportunity Services. The Division is being retitled to reflect the assumption of new functions related to disability services. The Division otherwise remains unchanged. The new material and changes are as follows:

Section S7E.10 *The Office of Civil Rights and Equal Opportunity—(Organization):*

Delete:

D. The Division of Complaints Analysis and Monitoring (S7EA).

Add:

D. The Division of Equal Opportunity Services (S7EA).

Section S7E.20 *The Office of Civil Rights and Equal Opportunity—*

(Functions):

Delete:

D. The Division of Complaints Analysis and Monitoring (S7EA).

Add:

D. The Division of Equal Opportunity Services (S7EA).

8. Implements policies, regulations and affirmative action programs, and develops and implements special needs placement programs related to the Disabled program.

Dated: September 6, 1991.

Ruth A. Pierce,

Acting Deputy Commissioner for Human Resources.

[FR Doc. 91-22709 Filed 9-19-91; 8:45 am]

BILLING CODE 4190-29-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of the Assistant Secretary for Community Planning and Development

[Docket No. N-91-1917; FR-2934-N-44]

### Federal Property Suitable as Facilities to Assist the Homeless

**AGENCY:** Office of the Assistant Secretary for Community Planning and Development, HUD.

**ACTION:** Notice.

**SUMMARY:** This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

**ADDRESSES:** For further information, contact James N. Forsberg, room 7262, Department of Housing and Urban Development, 451 Seventh Street SW, Washington, DC 20410; telephone (202) 708-4300; TDD number for the hearing- and speech-impaired (202) 708-2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1-800-927-7588.

**SUPPLEMENTARY INFORMATION:** In accordance with 24 CFR 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized

buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless v. Veterans Administration*, No. 88-2503-OG (D.D.C.).

Properties reviewed are listed in this notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to Judy Breitman, Division of Health Facilities Planning, U.S. Public Health Service, HHS, room 17A-10, 5600 Fishers Lane, Rockville, MD 20857; (301) 443-2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 56 FR 23789 (May 24, 1991).

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice.

Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll-free information line at 1-800-927-7588 for detailed instructions or write a letter to James N. Forsberg at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agency at the following address: U.S. Army: Robert Conte, Dept. of Army, Military Facilities, DAEN-ZCI-P; Rm. 1E671, Pentagon, Washington, DC 20310-2600; (202) 693-4583. (This is not a toll-free number.)

Dated: September 13, 1991.

**Paul Roitman Bardack,**  
*Deputy Assistant Secretary for Economic Development.*

**Title V, Federal Surplus Property Program Federal Register Report for 09/20/91**

*Suitable/Available Properties*

Buildings (by State)

**Alabama**

Bldg. T00220  
Fort McClellan  
Fort McClellan Co: Calhoun AL 36205-5000  
Location: Take left turn off Baltzell Gate Road.  
Landholding Agency: Army  
Property Number: 219110041  
Status: Underutilized  
Comment: 1040 sq. ft.; 1 story wood frame; needs major rehab; termite infested; off-site use only.

Bldg. T00221  
Fort McClellan  
Fort McClellan Co: Calhoun AL 36205-5000  
Location: Take left turn off Baltzell Gate Road.  
Landholding Agency: Army  
Property Number: 219110042  
Status: Underutilized  
Comment: 4125 sq. ft.; one story wood frame; needs major rehab; termite infested; presence of asbestos; off-site use only.

Bldg. T00796  
Fort McClellan  
Fort McClellan Co: Calhoun AL 36205-5000  
Location: Intersection of 19th and 20th Streets.  
Landholding Agency: Army  
Property Number: 219110043  
Status: Unutilized  
Comment: 1340 sq. ft.; one story wood frame; needs major rehab; termite infested; presence of asbestos; off-site use only.

Bldg. T00883  
Fort McClellan

3rd Avenue  
Fort McClellan Co: Calhoun AL 36205-5000  
Landholding Agency: Army  
Property Number: 219110044  
Status: Unutilized  
Comment: 760 sq. ft.; one story wood frame; needs major rehab; termite infested; presence of asbestos; off-site use only.

Bldg. T00890  
Fort McClellan  
2nd Avenue  
Fort McClellan Co: Calhoun AL 36205-5000  
Landholding Agency: Army  
Property Number: 219110045  
Status: Unutilized  
Comment: 1713 sq. ft.; one story wood frame; needs major rehab; termite infested; presence of asbestos; off-site use only.

Bldg. T00895  
Fort McClellan  
3rd Avenue in Area 8 Motor Pool Compound  
Fort McClellan Co: Calhoun AL 36205-5000  
Landholding Agency: Army  
Property Number: 219110047  
Status: Unutilized  
Comment: 108 sq. ft.; one story wood floor with metal walls; off-site use only.

Bldgs. T01121, T01123, T01124  
Fort McClellan  
MacArthur Avenue  
Fort McClellan Co: Calhoun AL 36205-5000  
Landholding Agency: Army  
Property Number: 219110048-219110050  
Status: Unutilized  
Comment: 2400 sq. ft. each; two story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T01125  
Fort McClellan  
21st Street and MacArthur Avenue  
Fort McClellan Co: Calhoun AL 36205-5000  
Landholding Agency: Army  
Property Number: 219110051  
Status: Unutilized  
Comment: 2556 sq. ft.; one story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldg. T01394  
Fort McClellan  
4th Avenue in Area 13 of Post  
Fort McClellan Co: Calhoun AL 36205-5000  
Landholding Agency: Army  
Property Number: 219110052  
Status: Unutilized  
Comment: 191 sq. ft.; one story tin and lumber building; needs major rehab; off-site use only.

Bldg. T01692  
Fort McClellan  
25th Street  
Fort McClellan Co: Calhoun AL 36205-5000  
Landholding Agency: Army  
Property Number: 219110053  
Status: Unutilized  
Comment: 4404 sq. ft.; one story wood frame; needs rehab; presence of asbestos; off-site use only.

Bldgs. T02264, T02266, T02268  
Fort McClellan  
WAC Circle  
Fort McClellan Co: Calhoun AL 36205-5000  
Landholding Agency: Army  
Property Number: 219110054-219110057  
Status: Unutilized

Comment: 664 sq. ft. each; one story wood frame; needs major rehab; electrical hazard; presence of asbestos; off-site use only.

Bldg. T00123  
Post Chapel—Fort Rucker  
5th Avenue  
Fort Rucker Co: Dale AL 36362-  
Landholding Agency: Army  
Property Number: 219110145  
Status: Unutilized  
Comment: 4798 sq. ft.; 1 story wood structure; minor repairs; scheduled to be vacated September 1991.

Bldg. T09307  
Post Chapel—Fort Rucker  
3rd Avenue  
Fort Rucker Co: Dale AL 36362-  
Landholding Agency: Army  
Property Number: 219110146  
Status: Unutilized  
Comment: 3739 sq. ft.; 1 story wood structure; minor repairs; scheduled to be vacated September 1991.

Bldg. T09309  
Fort Rucker—Education Facility  
3rd Avenue  
Fort Rucker Co: Dale AL 36362-  
Landholding Agency: Army  
Property Number: 219110147  
Status: Unutilized  
Comment: 1500 sq. ft.; 1 story wood structure; minor repairs; scheduled to be vacated September 1991.

Bldg. T05020—Fort Rucker  
3rd Avenue  
Fort Rucker Co: Dale AL 36362-  
Landholding Agency: Army  
Property Number: 219120108  
Status: Unutilized  
Comment: 2500 sq. ft.; 1 story, possible asbestos, off-site use only.

Bldg. T08901—Fort Rucker  
7th Avenue  
Fort Rucker Co: Dale AL 36362-  
Landholding Agency: Army  
Property Number: 219120109  
Status: Unutilized  
Comment: 2350 sq. ft., one story, possible asbestos, needs rehab, off-site use only.

Bldg. T08902—Fort Rucker  
7th Avenue  
Fort Rucker Co: Dale AL 36362-  
Landholding Agency: Army  
Property Number: 219120110  
Status: Unutilized  
Comment: 3663 sq. ft., one story, possible asbestos, needs rehab, off-site use only.

Bldg. T08903—Fort Rucker  
7th Avenue  
Fort Rucker Co: Dale AL 35362-  
Landholding Agency: Army  
Property Number: 219120111  
Status: Unutilized  
Comment: 3404 sq. ft., one story, possible asbestos, needs rehab, off-site use only.

Bldg. T08917—Fort Rucker  
Corner of Division Road & 7th Avenue  
Fort Rucker Co: Dale AL 36362-  
Landholding Agency: Army  
Property Number: 219120112  
Status: Unutilized  
Comment: 16004 sq. ft., two story, possible asbestos, needs rehab.

Bldg. T00108  
Fort Rucker  
6th Avenue  
Fort Rucker Co: Dale AL 36362-  
Landholding Agency: Army  
Property Number: 219120270  
Status: Unutilized  
Comment: 24992 sq. ft., 1 story wood structure, most recent use—youth center gymnasium, possible asbestos, off-site use only.

#### Arkansas

Fort Chafee  
U.S. Army Garrison  
1095 4th Avenue  
Barling Co: Sebastian AR 72905-5000  
Landholding Agency: Army  
Property Number: 219012811  
Status: Underutilized  
Comment: 3634 sq. ft.; 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

Fort Chafee  
U.S. Army Garrison  
1094 4th Avenue  
Barling Co: Sebastian AR 72905-5000  
Landholding Agency: Army  
Property Number: 219012812  
Status: Underutilized  
Comment: 2181 sq. ft., 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

Fort Chafee  
U.S. Army Garrison  
1092 4th Avenue  
Barling Co: Sebastian AR 72905-5000  
Landholding Agency: Army  
Property Number: 219012813  
Status: Underutilized  
Comment: 3321 sq. ft.; 1 story wood frame; possible asbestos; selected periods used for military/training exercises.

U.S. Army Garrison  
Fort Chafee  
1070 2nd Avenue  
Barling Co: Sebastian AR 72905-5000  
Landholding Agency: Army  
Property Number: 219013267  
Status: Underutilized  
Comment: 3191 sq. ft.; 2 story wood frame; possible asbestos; selected periods used for military training; most recent use—barracks.

U.S. Army Garrison  
Fort Chafee  
260 Taylor Avenue  
Fort Chafee Co: Sebastian AR 72905-5000  
Landholding Agency: Army  
Property Number: 219110112  
Status: Underutilized  
Comment: 173 sq. ft.; one story; no water or heat in bldg.; most recent use—administration.

U.S. Army Garrison  
Fort Chafee  
283 Taylor Avenue  
Fort Chafee Co: Sebastian AR 72905-5000  
Landholding Agency: Army  
Property Number: 219110113  
Status: Underutilized  
Comment: 707 sq. ft.; one story; no water or heat in bldg.; needs rehab; most recent use—storage.

Arizona  
Bldg. S-306  
Yuma Proving Ground  
Main Admin. Area—near inter. 1st & D Sts.  
Yuma Co: Yuma/La Paz AZ 85365-9102  
Landholding Agency: Army  
Property Number: 219011725  
Status: Underutilized  
Comment: 2 story wood and stucco frame; needs structural upgrading; portion of 2nd floor vacant.

Bldg. S-1003  
Yuma Proving Ground  
Main Admin Area—5th & Barranca Road  
Yuma Co: Yuma/La Paz AZ 85365-9102  
Landholding Agency: Army  
Property Number: 219011727  
Status: Underutilized  
Comment: 2227 sq. ft.; two-story wood and stucco frame; 2 floor wood and frame; possible asbestos; bldg. committed to Congress for disposal.

Bldg. S-503  
Yuma Proving Ground  
Main Admin. Area—2nd St. bet. D & F Sts.  
Yuma Co: Yuma/La Paz AZ 85365-9102  
Landholding Agency: Army  
Property Number: 219011748  
Status: Underutilized  
Comment: 2123 sq. ft.; possible asbestos; 2nd floor vacant; structural upgrading needed; bldg. scheduled for renovation and used as community center.

Bldg. S-501  
Yuma Proving Ground  
Main Admin Area—D & 2nd Sts.  
Yuma Co: Yuma/La Paz AZ 85365-9102  
Landholding Agency: Army  
Property Number: 219011747  
Status: Unutilized  
Comment: 4000 sq. ft.; possible asbestos; scheduled for renovation; to be used as "Army Continuing Education Facility"; 2 floors.

Bldg. S-611  
Yuma Proving Ground  
Yuma Co: Yuma/La Paz AZ 85365-9102  
Location: Main Administrative Area—Near intersection of 5th and D streets.  
Landholding Agency: Army  
Property Number: 219013928  
Status: Unutilized  
Comment: 1840 sq. ft.; 1 story wood and stucco frame; most recent use—child care center.

Bldg. S-1005  
Yuma Proving Ground  
Yuma Co: Yuma/La Paz AZ 85365-9102  
Location: Main Administrative Area—Near intersection of 7th and F streets.  
Landholding Agency: Army  
Property Number: 219013930  
Status: Unutilized  
Comment: 176 sq. ft.; 1 story wood and stucco frame; most recent use—cold storage and refrigeration facility.

Bldg. T67208  
U.S. Army Intelligence Center  
Fort Huachuca  
Sierra Vista Co: Cochise AZ 85635-  
Landholding Agency: Army  
Property Number: 219120113  
Status: Unutilized  
Comment: 2548 sq. ft., one story wood, most recent use—storage.

Bldg. T70224  
U.S. Army Intelligence Center  
Fort Huachuca  
Sierra Vista Co: Cochise AZ 85635-  
Landholding Agency: Army  
Property Number: 219120149  
Status: Unutilized  
Comment: 1252 sq. ft., one story wood; most recent use—Administrative.  
Bldgs. 70117—70120  
Fort Huachuca  
Sierra Vista Co: Cochise AZ 85635-  
Landholding Agency: Army  
Property Numbers: 219120306-219120309  
Status: Excess  
Comment: 3434 sq. ft. each, 1 story wood structure, presence of asbestos, most recent use—general instructional.  
Bldg. 70225—Fort Huachuca  
Sierra Vista Co: Cochise AZ 85635-  
Landholding Agency: Army  
Property Number: 219120310  
Status: Excess  
Comment: 3813 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83006—Fort Huachuca  
Sierra Vista Co: Cochise AZ 85635-  
Landholding Agency: Army  
Property Number: 219120311  
Status: Excess  
Comment: 2062 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83007—Fort Huachuca  
Sierra Vista Co: Cochise AZ 85635-  
Landholding Agency: Army  
Property Number: 219120312  
Status: Excess  
Comment: 2000 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83008—Fort Huachuca  
Sierra Vista Co: Cochise AZ 85635-  
Landholding Agency: Army  
Property Number: 219120313  
Status: Excess  
Comment: 2192 sq. ft., 2 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

Bldg. 83015—Fort Huachuca  
Sierra Vista Co: Cochise AZ 85635-  
Landholding Agency: Army  
Property Number: 219120314  
Status: Excess  
Comment: 2325 sq. ft., 1 story wood structure, presence of asbestos, most recent use—admin. gen. purpose.

#### California

Bldgs. T-1771 thru T-1775  
Fort Ord  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Numbers: 219010738, 219010740, 219010742-219010743, 219010745  
Status: Unutilized  
Comment: 2 story; possible asbestos, needs extensive repairs.

Bldgs. 608-610, 612-619, 621-629  
Parks Reserve Forces Training Area  
Dublin Co: Alameda CA 94129-  
Landholding Agency: Army  
Property Numbers: 219012855-219012874

**Status: Unutilized**

Comment: 49500 sq. ft. each; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 856-869, 875, 881-887, 889-890

Parks Reserve Forces Training Area

Dublin Co: Alameda CA 94129-

Landholding Agency: Army

Property Numbers: 219012884-219012897, 219012902-219012911

**Status: Unutilized**

Comment: 63290 sq. ft. each; 2 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 988, 906-909, 912-919, 924-938, 942-959, 966-969, 971-972, 976-979, 987

Parks Reserve Forces Training Area

Dublin Co: Alameda CA 94129-

Landholding Agency: Army

Property Numbers: 219012918, 219012923-219012926, 219012929-219012936, 219012938-219012970, 219012975-219012978, 219012980-219012981, 219012984-219012987, 219012995

**Status: Unutilized**

Comment: 11300 sq. ft. each; 1 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 218-219, 227-229, 237-249, 252-269, 279, 282, 283, 286-289

Parks Reserve Forces Training Area

Dublin Co: Alameda CA 94129-

Landholding Agency: Army

Property Numbers: 219013002-219013003, 219013011-219013013, 219013021-219013033, 219013036-219013053, 219013062, 219013065-219013066, 219013068-219013071

**Status: Unutilized**

Comment: 11500 sq. ft. each; 3 story temporary wood; extensive asbestos present; most recent use—barracks.

Bldgs. 920-922, 940-941

Parks Reserve Forces

Training Area

Dublin Co: Alameda CA 94129-

Landholding Agency: Army

Property Numbers: 219030289-219030291, 219030293-219030294

**Status: Unutilized**

Comment: 11300 sq. ft. each; 1 story wood frame; needs major rehab; extensive asbestos present.

EM Barracks, T-1201 thru T-1204, T-1208, T-1214

Sierra Army Depot

DS Hall Avenue

Herlong Co: Lassen CA 96113-

Landholding Agency: Army

Property Numbers: 219110117-219110122

Status: Underutilized

Comment: 5310 sq. ft.; two story wood frame; security restrictions.

Open Mess & NCO Club, T-1218

Sierra Army Depot

DS Hall Avenue

Herlong Co: Lassen CA 96113-

Landholding Agency: Army

Property Number: 219110123

Status: Underutilized

Comment: 8694 sq. ft.; one story wood frame; needs rehab; presence of asbestos; security restrictions.

Bldg. 60

Los Alamitos Armed Forces Reserve Center

Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Number: 219120315

Status: Unutilized

Comment: 1024 sq. ft., 2 story concrete-wood plaster, possible asbestos, off-site use only, most recent use—nose hanger.

Bldg. 95

Los Alamitos Armed Forces Reserve Center

Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Number: 219120316

Status: Unutilized

Comment: 392 sq. ft., 1 story portable, off-site use only, most recent use—radar maint. shop.

Bldg. 186

Los Alamitos Armed Forces Reserve Center

Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Number: 219120317

Status: Unutilized

Comment: 996 sq. ft., 1 story steel, off-site use only, most recent use—storage.

Bldg. 196

Los Alamitos Armed Forces Reserve Center

Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Number: 219120318

Status: Unutilized

Comment: 1029 sq. ft., stucco structure, off-site use only, most recent use—storage.

Bldg. 197

Los Alamitos Armed Forces Reserve Center

Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Number: 219120319

Status: Unutilized

Comment: 720 sq. ft., 1 story stucco structure, off-site use only, most recent use—storage, possible asbestos.

Bldgs. 262-263, 265, 268

Los Alamitos Armed Forces Reserve Center

Main entrance on Lexington Dr.

Los Alamitos Co: Orange CA 90720-5001

Landholding Agency: Army

Property Numbers: 219120320-219120323

Status: Unutilized

Comment: 448 sq. ft., trailers, off-site use only, most recent use—storage.

**Georgia**

Bldgs. 4920, 4921, 4910, 4911, 4928

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219010002-219010003, 219010105-219010106, 219010108

Status: Unutilized

Comment: 1888 sq. ft. each; most recent use—barracks; needs rehab.

Bldg. 4915

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010004

Status: Unutilized

Comment: 1297 sq. ft.; most recent use—headquarters building; needs rehab.

Bldg. 4914

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010005

Status: Unutilized

Comment: 810 sq. ft.; most recent use—arms building; needs rehab.

Bldg. 4927

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010107

Status: Unutilized

Comment: 1888 sq. ft.; most recent use—classrooms; 2-stories; needs rehab.

Bldgs. 5288, 5290

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219010109, 219010111

Status: Unutilized

Comment: 1216 sq. ft. each; most recent use—arms building; needs rehab.

Bldg. 5289

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010110

Status: Unutilized

Comment: 1216 sq. ft.; most recent use—store house; needs rehab.

Bldgs. 5291, 5293-5295

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219010112, 219010114-219010116

Status: Unutilized

Comment: 2529 sq. ft. each; most recent use—dining room; needs rehab.

Bldg. 5292

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010113

Status: Unutilized

Comment: 2525 sq. ft.; most recent use—snack bar; needs rehab.

Bldg. 5297

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219010117

Status: Unutilized

Comment: 1080 sq. ft.; most recent use—storehouse; needs rehab.

Bldgs. 5298-5299

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219010118-219010119

Status: Unutilized

Comment: 4759 sq. ft. each; most recent use—general; needs rehab.

Bldgs. 5300, 5302

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219010120, 2190010122

Status: Unutilized

Comment: 1400 sq. ft. each; most recent use—day room; needs rehab.

Bldgs. 5301, 5303-5305

Fort Benning Co: Muscogee Ga 31905-

Landholding Agency: Army

Property Numbers: 219010121, 219010123-219010125

Status: Unutilized

Comment: 2124 sq. ft. each; most recent use—barracks; needs rehab.

Bldg. 5306

Fort Benning Co: Muscogee Ga 31905-

Landholding Agency: Army

- Property Number: 219010128  
Status: Unutilized  
Comment: 2406 sq. ft.; most recent use—dining room; needs rehab.
- Bldg. 5307  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010127  
Status: Unutilized  
Comment: 1216 sq. ft.; most recent use—arms building; needs rehab.
- Bldg. 5308  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010128  
Status: Unutilized  
Comment: 1680 sq. ft.; most recent use—storehouse; needs rehab.
- Bldg. 5309  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010129  
Status: Unutilized  
Comment: 1829 sq. ft.; most recent use—clinic; needs rehab.
- Bldg. 5310  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010130  
Status: Unutilized  
Comment: 3484 sq. ft.; most recent use—diagnostic center; needs rehab.
- Bldg. 5311  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010131  
Status: Unutilized  
Comment: 5787 sq. ft.; most recent use—post exchange (store); needs rehab.
- Bldg. 5315  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010132  
Status: Unutilized  
Comment: 2930 sq. ft.; most recent use—hdqts. bldg.; needs rehab.
- Bldg. 5316  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010133  
Status: Unutilized  
Comment: 1400 sq. ft.; most recent use—day room; needs rehab.
- Bldg. 5320  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010134  
Status: Unutilized  
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.
- Bldgs. 5368-5367  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Numbers: 219010135-219010138  
Status: Unutilized  
Comment: 3759 sq. ft.; most recent use—recreation bldg.; needs rehab.
- Bldg. 5390  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010137  
Status: Unutilized  
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab.
- Bldg. 5404  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010138  
Status: Unutilized  
Comment: 2792 sq. ft.; most recent use—recreation bldg.; needs rehab.
- Bldg. 5328  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010139  
Status: Unutilized  
Comment: 2486 sq. ft.; most recent use—arms bldg.; needs rehab.
- Bldg. 5324  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010141  
Status: Unutilized  
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.
- Bldg. 5323  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010142  
Status: Unutilized  
Comment: 2525 sq. ft.; most recent use—dining room; needs rehab.
- Bldgs. 5322, 5321  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Numbers: 219010143-219010144  
Status: Unutilized  
Comment: 2124 sq. ft. each; most recent use—barracks; needs rehab.
- Bldgs. 5360, 5361, 5363  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Numbers: 219010145-219010146, 219010148  
Status: Unutilized  
Comment: 3759 sq. ft.; most recent use—recreation bldg.; needs rehab.
- Bldg. 5362  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010147  
Status: Unutilized  
Comment: 5559 sq. ft.; most recent use—service club; needs rehab.
- Bldg. 5404  
Fort Benning Co: Muscogee Ga 31905—  
Landholding Agency: Army  
Property Number: 219010149  
Status: Unutilized  
Comment: 2792 sq. ft.; most recent use—recreation bldg.; needs rehab.
- Bldg. 5365  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219010150  
Status: Unutilized  
Comment: 3759 sq. ft.; most recent use—recreation bldg.; needs rehab.
- Bldg. 5392  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219010151  
Status: Unutilized  
Comment: 2432 sq. ft.; most recent use—dining room; needs rehab.
- Bldg. 5391  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army
- Property Number: 219010152  
Status: Unutilized  
Comment: 2432 sq. ft.; most recent use—dining room needs rehab.
- Bldg. 4865  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219011447  
Status: Unutilized  
Comment: 1098 sq. ft., 1 floor, most recent use—storehouse, needs rehab.
- Bldgs. 4867-4870  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Numbers: 219011448, 219011450-219011452  
Status: Unutilized  
Comment: 1888 sq. ft. each, 2 floors; most recent use—trainee barracks, needs rehab/major construction to be habitable.
- Bldg. 4871  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219011453  
Status: Unutilized  
Comment: 1507 sq. ft.; 1 floor; most recent use—day room; needs major rehab/construction to be made habitable.
- Bldg. 4875  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219011455  
Status: Unutilized  
Comment: 1888 sq. ft.; 2 floors; most recent use—BN classrooms; major rehab/construction required to be habitable.
- Bldg. 4872  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219011458  
Status: Unutilized  
Comment: 2183 sq. ft.; 1 floor; most recent use—dining room; major construction required to be made habitable.
- Bldg. 4873  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219011465  
Status: Unutilized  
Comment: 2183 sq. ft.; 1 floor; most recent use—dining room; major construction required to be made habitable.
- Bldg. 4546  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219011466  
Status: Unutilized  
Comment: 2818 sq. ft.; bldgs. in poor condition; major construction needed to be made habitable.
- Bldg. 4874  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219011467  
Status: Unutilized  
Comment: 1507 sq. ft.; 1 floor; most recent use—day room; major construction required to be made habitable.
- Bldgs. 4877, 4876, 4878, 4880, 4902-4905  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Numbers: 219011468, 219011470, 219011472, 219011474, 219011476-219011479

Status: Unutilized

Comment: 1888 sq. ft. each; 2 floors; most recent use—trainee barracks; major rehab/construction required to be habitable.

Bldg. 4545

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011473

Status: Unutilized

Comment: 2818 sq. ft.; bldgs. in poor condition; major construction needed to be made habitable.

Bldg. 4906

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011480

Status: Unutilized

Comment: 1507 sq. ft.; 1 floor; most recent use—day room; major construction required to be made habitable.

Bldgs. 4907, 4908

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219011481, 219011482

Status: Unutilized

Comment: 2183 sq. ft.; 1 floor; most recent use—dining room facility; major construction required to be made habitable.

Bldg. 4909

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011483

Status: Unutilized

Comment: 1507 sq. ft.; 1 floor; most recent use—day room; major construction required to be made habitable.

Bldg. 4901

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011484

Status: Unutilized

Comment: 810 sq. ft.; 1 floor; most recent use—other inst. st.; major rehab/construction to be made habitable is required.

Bldg. 4866

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011485

Status: Unutilized

Comment: 794 sq. ft.; 1 floor; most recent use—arms bldg.; major rehab./construction required to be made habitable.

Bldg. 4879

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011486

Status: Unutilized

Comment: 794 sq. ft.; 1 floor; most recent use—arms buildings; major rehab/construction required to be habitable.

Bldg. 4549

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011487

Status: Unutilized

Comment: 794 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4550

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011488

Status: Unutilized

Comment: 269 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4551

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011489

Status: Unutilized

Comment: 4,416 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4552

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011490

Status: Unutilized

Comment: 6,624 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4553

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011491

Status: Unutilized

Comment: 1,440 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4564

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011492

Status: Unutilized

Comment: 3,149 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4605, 4615

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219011493-219011494

Status: Unutilized

Comment: 915 sq. ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4642, 4643

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219011495-219011496

Status: Unutilized

Comment: 3,068 sq. ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4747, 4834

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219011497-219011498

Status: Unutilized

Comment: 794 sq. ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldg. 4835

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011499

Status: Unutilized

Comment: 1,501 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldgs. 4840, 4841

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219011500-219011501

Status: Unutilized

Comment: 2,930 sq. ft. each, building in poor condition, major construction needed to be made habitable.

Bldg. 4843

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011502

Status: Unutilized

Comment: 1,776 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4844

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011503

Status: Unutilized

Comment: 3,776 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldg. 4846

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011504

Status: Unutilized

Comment: 1,455 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4847

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011505

Status: Unutilized

Comment: 900 sq. ft., building in poor condition, major construction needed to be made habitable.

Bldg. 4848

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011506

Status: Unutilized

Comment: 804 sq. ft., buildings in poor condition, major construction needed to be made habitable.

Bldgs. 4851-4854, 4859-4862

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219011507-219011510,

219011515-219011518

Status: Unutilized

Comment: 1,888 sq. ft. each, buildings in poor condition, major construction needed to be made habitable.

Bldg. 4855

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219011511

- Status: Unutilized  
 Comment: 1,507 sq. ft., buildings in poor condition, major construction needed to make habitable.
- Bldg. 4856  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011512  
 Status: Unutilized  
 Comment: 2,183 sq. ft., buildings in poor condition, major construction needed to make habitable.
- Bldg. 4857  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011513  
 Status: Unutilized  
 Comment: 2,160 sq. ft., building in poor condition, major construction needed to make habitable.
- Bldg. 4858  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011514  
 Status: Unutilized  
 Comment: 1,507 sq. ft., building in poor condition, major construction needed to make habitable.
- Bldg. 4863  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011519  
 Status: Unutilized  
 Comment: 794 sq. ft., building in poor condition, major construction needed to make habitable.
- Bldg. 4864  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011520  
 Status: Unutilized  
 Comment: 1,292 sq. ft., building in poor condition, major construction needed to make habitable.
- Bldg. 4507  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011673  
 Status: Unutilized  
 Comment: 1,888 sq. ft.; most recent use—barracks, needs substantial rehabilitation, 2 floors.
- Bldgs. 4506, 4505  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Numbers: 219011675-219011676  
 Status: Unutilized  
 Comment: 2,145 sq. ft. each; most recent use—dining facilities, needs substantial rehabilitation, 1 floor.
- Bldg. 4487  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011681  
 Status: Unutilized
- Comment: 1,868 sq. ft.; most recent use—telephone exchange bldg.; needs substantial rehabilitation; 1 floor.
- Bldg. 4484  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011682  
 Status: Unutilized  
 Comment: 1,098 sq. ft.; most recent use—storehouse; needs substantial rehabilitation; 1 floor.
- Bldg. 4319  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011683  
 Status: Unutilized  
 Comment: 2,584 sq. ft.; most recent use—vehicle maintenance shop; needs substantial rehabilitation; 1 floor.
- Bldgs. 4481, 4479  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Numbers: 219011685-219011686  
 Status: Unutilized  
 Comment: 1,507 sq. ft. each; most recent use—administrative (day room); needs substantial rehabilitation; 1 floor.
- Bldg. 2414  
 Fort Benning  
 Fort Benning, Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011692  
 Status: Unutilized  
 Comment: 1,472 sq. ft.; most recent use—administrative; needs substantial rehabilitation; 1 floor.
- Bldg. 3400  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011694  
 Status: Unutilized  
 Comment: 2,570 sq. ft.; most recent use—fire station; needs substantial rehabilitation; 1 floor.
- Bldg. 2285  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011704  
 Status: Unutilized  
 Comment: 4,574 sq. ft.; most recent use—clinic; needs substantial rehabilitation; 1 floor.
- Bldg. 4092  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011709  
 Status: Unutilized  
 Comment: 336 sq. ft.; most recent use—flammable materials storage; needs substantial rehabilitation; 1 floor.
- Bldg. 4089  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219011710  
 Status: Unutilized  
 Comment: 176 sq. ft.; most recent use—gas station; needs substantial rehabilitation; 1 floor.
- Bldg. 5266  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219012364  
 Status: Unutilized  
 Comment: 1400 sq. ft.; one story; most recent use—day room; in poor condition; needs major rehab.
- Bldgs. 5267-5275, 5277-5283  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Numbers: 219012365, 219012367-219012370, 219012372-219012375, 219012378-219012379, 219012381-219012383, 219012385-219012386  
 Status: Unutilized  
 Comment: 2124 sq. ft. each; 2 story; most recent use—barracks; poor condition; needs major repair.
- Bldg. 4936  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219012388  
 Status: Unutilized  
 Comment: 1888 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.
- Bldg. 4937  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219012389  
 Status: Unutilized  
 Comment: 2183 sq. ft.; 1 story; most recent use—dining room; poor condition; needs major rehab.
- Bldg. 4938  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219012391  
 Status: Unutilized  
 Comment: 1320 sq. ft.; one story; most recent use—administrative; poor condition; needs major rehab.
- Bldg. 4939  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219012392  
 Status: Unutilized  
 Comment: 1800 sq. ft.; one story; most recent use—classrooms; poor condition; needs major rehab.
- Bldg. 4951  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219012394  
 Status: Unutilized  
 Comment: 2192 sq. ft.; one story; most recent use—storehouse; poor condition; needs major rehab.
- Bldg. 4953  
 Fort Benning  
 Fort Benning Co: Muscogee GA 31905-  
 Landholding Agency: Army  
 Property Number: 219012395  
 Status: Unutilized

Comment: 794 sq. ft.; 1 story; most recent use—storehouse; poor condition; needs major rehab.

Bldg. 4954

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012397

Status: Unutilized

Comment: 1888 sq. ft.; 2 story; most recent use—custody fac.; poor condition; needs major rehab.

Bldg. 4926

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012398

Status: Unutilized

Comment: 1888 sq. ft.; 2 story; most recent use—classrooms; poor condition; needs major rehab.

Bldg. 4925

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012400

Status: Unutilized

Comment: 1507 sq. ft.; one story; most recent use—classroom; poor condition; needs major rehab.

Bldg. 4924

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012401

Status: Unutilized

Comment: 2183 sq. ft.; one story; most recent use—dining room; poor condition; needs major rehab.

Bldgs. 4919, 4918, 4929, 4931, 4912, 4933, 4935

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219012403-219012404,

219012406, 219012410, 219012417-219012418,

219012422

Status: Unutilized

Comment: 1888 sq. ft. each; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldgs. 4917, 4930

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219012405, 219012408

Status: Unutilized

Comment: 810 sq. ft. each; 1 story; most recent use—arms building; poor condition; needs major rehab.

Bldg. 5287

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012411

Status: Unutilized

Comment: 1216 sq. ft.; 1 story; most recent use—arms building; poor condition; needs major rehab.

Bldg. 4934

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012419

Status: Unutilized

Comment: 1507 ft.; one story; most recent use—dayroom; needs major rehab.

Bldg. 4932

Fort Benning

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219012421

Status: Unutilized

Comment: 794 sq. ft.; 1 story; most recent use—storehouse; needs rehab.

Bldgs. 20701, 20703, 20709, 34402, 34404, 35401

Fort Gordon

Augusta Co: Richmond GA 31905-

Location: Located on Barnes Avenue and 20th street.

Landholding Agency: Army

Property Numbers: 219014281-219014282,

219014284-219014287

Status: Unutilized

Comment: 4524 sq. ft. each; 2 story wood structure; needs major rehab; off-site use only.

Bldgs. 1235, 1236

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219014887-219014888

Status: Unutilized

Comment: 9367 sq. ft. each; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 1251

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014889

Status: Unutilized

Comment: 18385 sq. ft.; 1 story building; needs rehab; most recent use—Arms Repair Shop.

Bldg. 2393

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014902

Status: Unutilized

Comment: 820 sq. ft., 1 story building, needs rehab, most recent use—Vehicle Maintenance, potential use—storage.

Bldg. 2397

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014903

Status: Unutilized

Comment: 420 sq. ft., 1 story building, needs rehab, most recent use—Dispatch Building, potential use—storage.

Bldg. 2416

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014904

Status: Unutilized

Comment: 1840 sq. ft., 1 story building, needs rehab, most recent use—administrative.

Bldg. 2591

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014906

Status: Unutilized

Comment: 1663 sq. ft., 1 story building, needs rehab, most recent use—General Storehouse.

Bldgs. 3005-3010

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219014907-219014912

Status: Unutilized

Comment: 7688 sq. ft. each, 2 story buildings, needs rehab, most recent use—Barracks.

Bldg. 2393

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014902

Status: Unutilized

Comment: 820 sq. ft.; 1 story building; needs rehab; most recent use—Vehicle Maintenance; potential use—storage.

Bldg. 2397

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014903

Status: Unutilized

Comment: 420 sq. ft.; 1 story building; needs rehab; most recent use—Dispatch Building; potential use—storage.

Bldg. 2416

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014904

Status: Unutilized

Comment: 1840 sq. ft.; 1 story building; needs rehab; most recent use—administrative.

Bldg. 2591

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014906

Status: Unutilized

Comment: 1663 sq. ft.; 1 story building; needs rehab; most recent use—General storehouse.

Bldgs. 3005-3010

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Numbers: 219014907-219014912

Status: Unutilized

Comment: 7688 sq. ft. each; 2 story building; needs rehab; most recent use—Barracks.

Bldg. 3080

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014913

Status: Unutilized

Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.

Bldg. 3081

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014914

Status: Unutilized

Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—Clinic.

Bldg. 4022

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014915

Status: Unutilized

Comment: 1712 sq. ft.; 1 story building; needs rehab; most recent use—Clinic.

Bldg. 4491

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

Property Number: 219014916

Status: Unutilized

Comment: 18240 sq. ft.; 1 story building; needs rehab; most recent use—Vehicle maintenance shop.

Bldg. 4500

Fort Benning Co: Muscogee GA 31905-

Landholding Agency: Army

- Property Number: 219014917  
Status: Unutilized  
Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—Arms Building.  
Bldg. 4511  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219014918  
Status: Unutilized  
Comment: 4720 sq. ft.; 2 story building; needs rehab; most recent use—Barracks.  
Bldg. 4633  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219014919  
Status: Unutilized  
Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.  
Bldg. 4634  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219014920  
Status: Unutilized  
Comment: 5069 sq. ft.; 1 story building; needs rehab; most recent use—Training Building.  
Bldgs. 4646, 4690  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Numbers: 219014921, 219014923  
Status: Unutilized  
Comment: 1372 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.  
Bldg. 4649  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219014922  
Status: Unutilized  
Comment: 2250 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.  
Bldg. 4751  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219014924  
Status: Unutilized  
Comment: 3960 sq. ft.; 1 story building; needs rehab; most recent use—Recreation building.  
Bldg. 4752  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219014925  
Status: Unutilized  
Comment: 2284 sq. ft.; 1 story building; needs rehab; most recent use—Headquarters Building.  
Bldg. 5400  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219014926  
Status: Unutilized  
Comment: 2750 sq. ft.; 1 story building; needs rehab; most recent use—General Storehouse.  
Bldg. 5401  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219014927  
Status: Unutilized  
Comment: 2958 sq. ft.; 1 story building; needs rehab; most recent use—Dental Clinic.  
Bldg. 5403  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219030268  
Status: Unutilized  
Comment: 7850 sq. ft.; 1 story; needs major rehab; most recent use—exchange branch.  
Bldg. 95  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120253  
Status: Unutilized  
Comment: 1006 sq. ft., 1 story, most recent use—fire station annex, needs rehab.  
Bldg. 1234  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120254  
Status: Unutilized  
Comment: 16148 sq. ft., 2 story, most recent use—officer's club, needs rehab.  
Bldg. 1684  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120255  
Status: Unutilized  
Comment: 2671 sq. ft., 1 story, needs rehab, most recent use—administration/general purpose.  
Bldgs. 1724, 1827  
Fort Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Numbers: 219120256, 2190120257  
Status: Unutilized  
Comment: 943 sq. ft. each, 1 story, needs rehab, most recent use—general purpose warehouse.  
Bldg. 2150  
Fort Benning  
Ft. Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120258  
Status: Unutilized  
Comment: 3909 sq. ft., 1 story, needs rehab, most recent use—general inst. bldg.  
Bldgs. 2212, 2213  
Fort Benning  
Ft. Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120259–219120260  
Status: Unutilized  
Comment: 4720 sq. ft. each, 2 story, needs rehab, most recent use—drug abuse center.  
Bldg. 2214  
Fort Benning  
Ft. Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120261  
Status: Unutilized  
Comment: 2253 sq. ft., 1 story, needs rehab, most recent use—enlisted persons dining room.  
Bldg. 2215  
Fort Benning  
Ft. Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120262  
Status: Unutilized  
Comment: 1844 sq. ft., 1 story, needs rehab, most recent use—day room.  
Bldg. 2409  
Fort Benning  
Ft. Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120263  
Status: Unutilized  
Comment: 9348 sq. ft., 1 story, needs rehab, most recent use—general purpose warehouse.  
Bldg. 2548  
Fort Benning  
Ft. Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120264  
Status: Unutilized  
Comment: 2337 sq. ft., 1 story, needs rehab, most recent use—clinic w/o beds.  
Bldg. 2590  
Fort Benning  
Ft. Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120265  
Status: Unutilized  
Comment: 3132 sq. ft., 1 story, needs rehab, most recent use—vehicle maintenance shop.  
Bldg. 3828  
Fort Benning  
Ft. Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120266  
Status: Unutilized  
Comment: 628 sq. ft., 1 story, needs rehab, most recent use—general storehouse.  
Bldg. 5284  
Fort Benning  
Ft. Benning Co: Muscogee GA 31905—  
Landholding Agency: Army  
Property Number: 219120267  
Status: Unutilized  
Comment: 5310 sq. ft., 2 story, needs rehab, most recent use—trainee barracks.
- Indiana**  
Bldg. 719-1  
Indiana Army Ammunition Plant  
Charlestown Co: Clark IN  
Landholding Agency: Army  
Property Number: 219013578  
Status: Underutilized  
Comment: 5000 sq. ft., 1 story brick frame; secured area with alternate access; most recent use—administration.  
Bldg. 703-1C  
Indiana Army Ammunition Plant  
Charlestown Co: Clark IN  
Location: Gate 22 off Highway 22  
Landholding Agency: Army  
Property Number: 219013761  
Status: Underutilized  
Comment: 400 sq. ft.; 2 story brick frame; possible asbestos; most recent use—exercise area.  
Bldg. 1011 (Portion of)  
Indiana Army Ammunition Plant  
End of 3rd Street  
Charlestown Co: Clark IN  
Location: East of State Highway 62 at Gate 3  
Landholding Agency: Army  
Property Number: 219013762  
Status: Underutilized  
Comment: 4040 sq. ft.; 1 story concrete block frame; possible asbestos; secured area with alternate access; most recent use—office.  
Bldg. 1001 (Portion of)  
Indiana Army Ammunition Plant  
Charlestown Co: Clark IN  
Location: South end of 3rd Street, East of Highway 62 at entrance gate.  
Landholding Agency: Army

Property Number: 219013763  
 Status: Underutilized  
 Comment: 55,630 sq. ft.; 1 story concrete block; possible asbestos; secured area with alternate access; most recent use—cloth bag manufacturing.

Bldg. 720  
 Indiana Army Ammunition Plant  
 Charlestown Co: Clark IN  
 Landholding Agency: Army  
 Property Number: 219013765  
 Status: Underutilized  
 Comment: 5000 sq. ft.; 2 story brick frame; possible asbestos; secured area with alternate access; most recent use—administrative.

#### Kansas

Bldg. T-1383  
 Fort Riley  
 Fort Riley Co: Geary KS 66442-  
 Landholding Agency: Army  
 Property Number: 219013774  
 Status: Unutilized  
 Comment: 3864 sq. ft.; 2 story wood frame; possible asbestos; most recent use—open-bay trainee barracks with gang latrine.

Bldg. T-2080  
 Fort Riley  
 Fort Riley Co: Geary KS 66442-  
 Landholding Agency: Army  
 Property Number: 219013775  
 Status: Unutilized  
 Comment: 3852 sq. ft.; 2 story wood frame; possible asbestos; most recent use—open-bay trainee barracks with gang latrine.

Bldg. T-2324  
 Fort Riley  
 Fort Riley Co: Geary KS 66442-  
 Landholding Agency: Army  
 Property Number: 219013777  
 Status: Unutilized  
 Comment: 3422 sq. ft.; 2 story wood frame; possible asbestos; most recent use—open-bay trainee barracks with gang latrines.

Bldg. T-829  
 Fort Leavenworth—NCO Club Building  
 Combined Arms Command  
 Leavenworth Co: Leavenworth KS 66027-  
 Landholding Agency: Army  
 Property Number: 219110148  
 Status: Unutilized  
 Comment: 17549 gross sq. ft.; 2 story wood frame; needs rehab; termite infested; possible asbestos; scheduled to be vacated Summer 1991; off-site use only.

#### Kentucky

Bldg. 104  
 Fort Campbell  
 Fort Campbell Co: Christian KY 42223-  
 Landholding Agency: Army  
 Property Number: 219010937  
 Status: Underutilized  
 Comment: 15066 sq. ft.; two story; possible asbestos; most recent use—barracks.  
 Bldgs. 126, 141, 147, 149, 161, 165, 167, 169, 143  
 Fort Campbell  
 Fort Campbell Co: Christian KY 42223-  
 Landholding Agency: Army  
 Property Numbers: 219010938, 219010940-  
 219010946, 219013139  
 Status: Underutilized  
 Comment: 12576 sq. ft. each; two story; possible asbestos.

Bldg. 122  
 Fort Campbell  
 Fort Campbell Co: Christian KY 42223-  
 Landholding Agency: Army  
 Property Number: 219010939  
 Status: Underutilized  
 Comment: 1488 sq. ft.; two story; possible asbestos; most recent use—storage and administration.

Bldg. 2244  
 Fort Campbell  
 Fort Campbell Co: Christian KY 42223-  
 Landholding Agency: Army  
 Property Number: 219010948  
 Status: Underutilized  
 Comment: 4248 sq. ft.; possible asbestos; two story; most recent use—storage.

Bldg. 3110  
 Fort Campbell  
 Fort Campbell Co: Christian KY 42223-  
 Landholding Agency: Army  
 Property Number: 219010950  
 Status: Unutilized  
 Comment: 1000 sq. ft.; one story; possible asbestos; most recent use—administration.

Bldgs. 5954, 5956, 5958, 5960  
 Fort Campbell  
 Fort Campbell Co: Christian KY 42223-  
 Landholding Agency: Army  
 Property Numbers: 219010953, 219010956,  
 219010958, 219010961  
 Status: Unutilized  
 Comment: 2179 sq. ft. each; one story; possible asbestos; most recent use—Military Vehicle Maintenance Shop, Organizational.

Bldg. 6805  
 Fort Campbell  
 Fort Campbell Co: Christian KY 42223-  
 Landholding Agency: Army  
 Property Number: 219010968  
 Status: Underutilized  
 Comment: 1968 sq. ft.; one story; most recent use—storage.

Bldg. 3148  
 Fort Campbell  
 Fort Campbell Co: Christian KY 42223-  
 Landholding Agency: Army  
 Property Number: 219013223  
 Status: Underutilized  
 Comment: 2200 sq. ft.; 1 story; possible asbestos; selected periods used for military/training exercises.

#### Louisiana

Bldg. 417  
 8th Street  
 Fort Polk Co: Vernon LA 71459-5000  
 Landholding Agency: Army  
 Property Number: 219012682  
 Status: Unutilized  
 Comment: 7870 sq. ft.; 2 story temporary wood frame; possible asbestos; most recent use—BOQ

Bldg. 7124  
 Reserve Road  
 Fort Polk Co: Vernon LA 71459-5000  
 Landholding Agency: Army  
 Property Number: 219012688  
 Status: Unutilized  
 Comment: 2500 sq. ft.; 1 story temporary wood frame; most recent use—recreation room.

Bldgs. 7129-7132, 7134-7135, 7161-7163, 7166-7168

Fort Polk Co: Vernon LA 71459-5000  
 Landholding Agency: Army  
 Property Numbers: 219012689-219012692,  
 219012694-219012695, 219012699-219012704  
 Status: Unutilized  
 Comment: 4957 sq. ft. each; 2 story temporary wood frame; possible asbestos; most recent use—barracks.

Bldg. 7143  
 "D" Avenue  
 Fort Polk Co: Vernon LA 71459-5000  
 Landholding Agency: Army  
 Property Number: 219012696  
 Status: Unutilized  
 Comment: 2250 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility

Bldg. T-7157  
 Guard Road  
 Fort Polk Co: Vernon LA 71459-5000  
 Landholding Agency: Army  
 Property Number: 219012698  
 Status: Unutilized  
 Comment: 4357 sq. ft.; 2 story; possible asbestos; most recent use—barracks.

Bldg. 7183  
 "D" Avenue  
 Fort Polk Co: Vernon LA 71459-5000  
 Landholding Agency: Army  
 Property Number: 219012705  
 Status: Unutilized  
 Comment: 2630 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. 7184  
 "D" Avenue  
 Fort Polk Co: Vernon LA 71459-5000  
 Landholding Agency: Army  
 Property Number: 219012708  
 Status: Unutilized  
 Comment: 2830 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. 7187  
 "D" Avenue  
 Fort Polk Co: Vernon LA 71459-5000  
 Landholding Agency: Army  
 Property Number: 219012707  
 Status: Unutilized  
 Comment: 2250 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. 7304  
 Armored Road  
 Fort Polk Co: Vernon LA 71459-5000  
 Landholding Agency: Army  
 Property Number: 219012712  
 Status: Unutilized  
 Comment: 6103 sq. ft.; 2 story temporary wood frame; most recent use—storage.

Bldg. 7430  
 1st Street  
 Fort Polk Co: Vernon LA 71459-5000  
 Landholding Agency: Army  
 Property Number: 219012715  
 Status: Unutilized  
 Comment: 4987 sq. ft.; 2 story temporary frame; most recent use—storage.

Bldg. 8026  
 10th Street  
 Fort Polk Co: Vernon LA 71459-5000  
 Landholding Agency: Army  
 Property Number: 219012724  
 Status: Underutilized

Comment: 2580 sq. ft.; 1 story temporary wood frame; most recent use—storage.

Bldg. 8226  
12th Street  
Fort Polk Co: Vernon LA 71459-5000  
Landholding Agency: Army  
Property Number: 219012729  
Status: Unutilized

Comment: 2050 sq. ft.; 1 story temporary wood frame; possible asbestos; most recent use—dining facility.

Bldg. 7175  
Fort Polk  
3rd Street  
Fort Polk Co: Vernon LA 71459-  
Landholding Agency: Army  
Property Number: 219013770  
Status: Excess

Comment: 7527 sq. ft.; temporary wood structure; scheduled for demolition; seriously deteriorated.

#### Massachusetts

Bldgs. T-2732, T-2281  
Fort Devens  
Fort Devens Co: Middlesex/Worce MA  
01433-  
Landholding Agency: Army  
Property Numbers: 219012343-219012344  
Status: Unutilized

Comment: 6351 sq. ft., wood, two stories, most recent use—housing.

Bldg. T-201  
Fort Devens  
Fort Devens Co: Middlesex/Worce MA  
01433-  
Landholding Agency: Army  
Property Number: 219012363  
Status: Unutilized

Comment: 1000 sq ft.; wood structure-needs rehab, no sanitary facilities, most recent use—company admin/supply.

#### Maryland

Bldg. 2030  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011418  
Status: Unutilized  
Comment: 3302 sq ft., one story, possible asbestos.

Bldg. 2174  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011419  
Status: Unutilized  
Comment: 3540 sq ft.; poor condition; utilities disconnected; one story; possible asbestos.

Bldg. 3243  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011420  
Status: Unutilized  
Comment: 11800 sq ft., possible asbestos, two story, potential utilities.

Bldg. 3244  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011421  
Status: Unutilized  
Comment: 3302 sq ft., one-story, possible asbestos, potential utilities.

Bldgs. 3621-3624, 3636-3629, 3634-3635, 3637, 3639-3642

Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Numbers: 219011422-219011425, 2199011427-219011430, 219011435-219011437, 2199011439-219011442  
Status: Unutilized

Comment: 4720 sq ft. each, two story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3625  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011426  
Status: Unutilized

Comment: 2031 sq ft., one story, utilities disconnected, poor condition, possible asbestos.

Bldg. 3630  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011431  
Status: Unutilized

Comment: 1750 sq ft., one story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3631, 3632  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011432-219011433  
Status: Unutilized

Comment: 1513 sq ft., each, one story, possible asbestos, poor condition, utilities disconnected.

Bldg. 3633  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011434  
Status: Unutilized

Comment: 1754 sq ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3638  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011438  
Status: Unutilized

Comment: 18880 sq ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3643  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011443  
Status: Unutilized

Comment: 1750 sq ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3644  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011444  
Status: Unutilized

Comment: 1541 sq ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3645  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011445  
Status: Unutilized  
Comment: 1541 sq ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. 3646  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219011446  
Status: Unutilized  
Comment: 1750 sq ft., one story, utilities disconnected, possible asbestos, poor condition.

Bldg. E4736  
Aberdeen Proving Ground  
Edgewood Area  
Aberdeen City Co: Harford MD 21010-55425  
Landholding Agency: Army  
Property Number: 219012621  
Status: Unutilized  
Comment: Possible contamination—under study; potential utilities.

Bldg. 4723  
Aberdeen Proving Ground  
Edgewood Area  
Aberdeen City Co: Harford MD 21010-5425  
Landholding Agency: Army  
Property Number: 219012643  
Status: Unutilized  
Comment: 3250 sq. ft.; potential utilities; poor conditions; possible asbestos.

Bldg. 5104  
Aberdeen Proving Ground  
Edgewood Area  
Aberdeen City Co: Harford MD 21010-5425  
Landholding Agency: Army  
Property Number: 219012644  
Status: Unutilized  
Comment: 624 sq. ft.; trailer; potential utilities; poor condition.

Bldg. E5878  
Aberdeen Proving Ground  
Edgewood Area  
Aberdeen City Co: Harford MD 21010-5425  
Landholding Agency: Army  
Property Number: 219012652  
Status: Unutilized  
Comment: 213 sq. ft.; structural deficiencies; possible asbestos; and contamination.

Bldg. E5879  
Aberdeen Proving Ground  
Edgewood Area  
Aberdeen City Co: Harford MD 21010-55425  
Landholding Agency: Army  
Property Number: 219012653  
Status: Unutilized  
Comment: 213 sq. ft.; possible asbestos and contamination; no utilities; most recent use—igloo storage.

Bldg. E5974  
Aberdeen Proving Ground  
Edgewood Area  
Aberdeen City Co: Harford MD 21010-5425  
Landholding Agency: Army  
Property Number: 219012654  
Status: Unutilized  
Comment: 272 sq. ft.; possible asbestos and contamination; most recent use—headquarters building.

- Bldg. 10302  
Aberdeen Proving Ground  
Edgewood Area  
Aberdeen City Co: Harford MD 21010-5425  
Landholding Agency: Army  
Property Number: 219012666  
Status: Unutilized  
Comment: 42 sq. ft.; possible asbestos; most recent use—pumping station.
- Bldg. E5978  
Aberdeen Proving Ground  
Edgewood Area  
Aberdeen City Co: Harford MD 21010-5425  
Landholding Agency: Army  
Property Number: 219012667  
Status: Unutilized  
Comment: 256 sq. ft.; 1 story; structural deficiencies; possible asbestos and contamination; most recent use—general storehouse.
- Bldg. E5975  
Aberdeen Proving Ground  
Edgewood Area  
Aberdeen City Co: Harford MD 21010-5425  
Landholding Agency: Army  
Property Number: 219012677  
Status: Unutilized  
Comment: 650 sq. ft.; possible contamination; structural deficiencies; most recent use—training exercises/chemicals and explosives; potential use—storage.
- Bldg. 6926  
Taylor Avenue  
Fort Meade Co: Anne Arundel MD 21061-  
Landholding Agency: Army  
Property Number: 219013605  
Status: Unutilized  
Comment: 1275 sq. ft.; 1 story frame with basement (216 sq. ft.); possible asbestos; termite damage.
- Bldg. 832  
Fort Meade  
15th Street  
Fort Meade Co: Anne Arundel MD 21061-  
Landholding Agency: Army  
Property Number: 219013608  
Status: Unutilized  
Comment: 2208 sq. ft.; 1 story wood frame; possible asbestos; needs major rehab.
- Bldg. 841  
Fort Meade  
15th Street  
Fort Meade Co: Anne Arundel MD 21061-  
Landholding Agency: Army  
Property Number: 219013610  
Status: Unutilized  
Comment: 3537 sq. ft.; 1 story with balcony; possible asbestos; no furnace; needs major rehab.
- Bldg. 143  
Fort Meade  
1st and Saxton Streets  
Fort Meade Co: Anne Arundel MD 21061-  
Landholding Agency: Army  
Property Number: 219013611  
Status: Unutilized  
Comment: 7670 sq. ft.; 2 story wood frame; possible asbestos; needs rehab; no furnace.
- Bldg. 2250A  
Fort Meade  
Fort Meade Co: Anne Arundel MD 20755-  
5115  
Landholding Agency: Army  
Property Number: 219013612  
Status: Unutilized
- Comment: 240 sq. ft.; 1 story metal/wood shed; structurally unsound; potential use—storage.
- Bldg. 2173  
Aberdeen Proving Ground  
Aberdeen City Co: Harford MD 21005-5001  
Landholding Agency: Army  
Property Number: 219013772  
Status: Unutilized  
Comment: 3540 sq. ft.; 1 story temporary frame; possible asbestos; most recent use—barracks.
- Bldg. 197  
Fort George G. Meade  
1st and Chisholm Streets  
Fort Meade Co: Anne Arundel MD 20755-  
Landholding Agency: Army  
Property Number: 219014848  
Status: Unutilized  
Comment: 7670 sq. ft.; 2 story wood frame; needs rehab; secured area with alternate access; possible asbestos.
- Bldgs. 508, T-356, 2229, 543, 509, 364, 357, 353, 2408, 2413, 2417, 2418  
Fort George G. Meade  
Fort Meade Co: Anne Arundel MD 20755-  
Landholding Agency: Army  
Property Numbers: 219014849, 219014862-  
219014863, 219014866-219014867, 219014869,  
219014871-219014872, 219014874-219014877  
Status: Unutilized  
Comment: 4720 sq. ft. each; 2 story wood frame; needs rehab; most recent use—storage; secured area with alternate access; possible asbestos.
- Bldg. 4461  
Fort George G. Meade  
Lewlyn Avenue  
Fort Meade Co: Anne Arundel MD 20755-  
Landholding Agency: Army  
Property Number: 219014850  
Status: Unutilized  
Comment: 16594 sq. ft.; 2 story concrete block; needs rehab; secured area with alternate access; possible asbestos; most recent use—branch exchange.
- Bldg. 3187  
Fort George G. Meade  
Mac Arthur Road  
Fort Meade Co: Anne Arundel MD 20755-  
Landholding Agency: Army  
Property Number: 219014851  
Status: Unutilized  
Comment: 1914 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.
- Bldg. 6599  
Fort George G. Meade  
Zimborski Road  
Fort Meade Co: Anne Arundel MD 20755-  
Landholding Agency: Army  
Property Number: 219014852  
Status: Unutilized  
Comment: 4173 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access.
- Bldgs. 378, 373  
Fort George G. Meade  
Fort Meade Co: Anne Arundel MD 20755-  
Landholding Agency: Army  
Property Numbers: 219014853-219014854  
Status: Unutilized  
Comment: 1144 sq. ft. each; 1 story wood frame; secured area with alternate access;
- possible asbestos; most recent use—storage.
- Bldgs. 2815, 267, 369, T-359  
Fort George G. Meade  
Fort Meade Co: Anne Arundel MD 20755-  
Landholding Agency: Army  
Property Numbers: 219014855-219014856,  
219014868, 219014870  
Status: Unutilized  
Comment: 2208 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.
- Bldg. T-6357  
Fort George G. Meade  
Hodges Street  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014857  
Status: Unutilized  
Comment: 2360 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; possible asbestos.
- Bldg. 6205  
Fort George G. Meade  
Rock Avenue  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014858  
Status: Unutilized  
Comment: sq. ft.; 1 story wood frame; secured area with alternate access; possible asbestos; most recent use—storage.
- Bldg. 6212  
Fort George G. Meade  
Rock Avenue  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014859  
Status: Unutilized  
Comment: 2220 sq. ft.; 1 story wood frame; needs rehab; secured area with alternate access; most recent use—storage.
- Bldg. 2816  
Fort George G. Meade  
Chisholm Street  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014860  
Status: Unutilized  
Comment: 1676 sq. ft.; 1 story wood frame; secured area with alternate access; possible asbestos; most recent use—storage.
- Bldg. 2817  
Fort George G. Meade  
Chisholm Street  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014861  
Status: Underutilized  
Comment: 3663 sq. ft.; 1 story wood frame; possible asbestos; secured area with alternate access; most recent use—storage.
- Bldg. 649  
Fort George G. Meade  
Chamberlain Avenue  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014864  
Status: Underutilized  
Comment: 2594 sq. ft.; 1 story wood frame; possible asbestos; secured area with alternate access; needs rehab; most recent use—storage.

- Bldg. 269**  
Fort George G. Meade  
Chisholm Street  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014873  
Status: Underutilized  
Comment: 3537 sq. ft.; 1 story wood frame;  
possible asbestos; needs rehab; secured  
area with alternate access; most recent  
use—storage.
- Bldg. 2419**  
Fort George G. Meade  
Behind Bldg 2427—Earnie Pyle Street  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014878  
Status: Underutilized  
Comment: 2441 sq. ft.; 1 story wood frame;  
needs rehab; possible asbestos; secured  
area with alternate access; most recent  
use—arms room.
- Bldg. 2425**  
Fort George G. Meade  
Earnie Pyle Street  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014879  
Status: Unutilized  
Comment: 1843 sq. ft.; 1 story wood frame;  
needs rehab; secured area with alternate  
access; possible asbestos.
- Bldg. 2426**  
Fort George G. Meade  
Earnie Pyle Street  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014880  
Status: Unutilized  
Comment: 7670 sq. ft.; 1 story wood frame;  
needs rehab; secured area with alternate  
access; possible asbestos.
- Bldg. 2427**  
Fort George G. Meade  
Earnie Pyle Street  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014881  
Status: Unutilized  
Comment: 8150 sq. ft.; 2 story wood frame;  
needs rehab; secured area with alternate  
access; possible asbestos.
- Bldg. 2840**  
Fort George G. Meade  
Earnie Pyle Street  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014882  
Status: Unutilized  
Comment: 2250 sq. ft.; 1 story wood frame;  
needs rehab; possible asbestos; secured  
area with alternate access.
- Bldg. 2847**  
Fort George G. Meade  
Earnie Pyle Street  
Fort Meade Co: Anne Arundel Md 20755-  
Landholding Agency: Army  
Property Number: 219014883  
Status: Unutilized  
Comment: 3663 sq. ft.; 1 story wood frame;  
possible asbestos; secured area with  
alternate access; most recent use—gym.
- Bldg. 6599**  
Fort George G. Meade  
6599 Zimborski Road
- Fort Meade Co: Anne Arundel Md 20755-5115**  
Landholding Agency: Army  
Property Number: 219030002  
Status: Unutilized  
Comment: 4173 sq. ft.; 1 story wood frame;  
possible asbestos; needs major rehab; most  
recent use—PX exchange facility.
- Bldg. 3187**  
Fort George G. Meade  
3187 MacArthur Road  
Fort Meade Co: Anne Arundel Md 20755-5115  
Landholding Agency: Army  
Property Number: 219030003  
Status: Unutilized  
Comment: 1914 sq. ft.; 1 story wood frame;  
possible asbestos; needs major rehab; most  
recent use—storage.
- Bldg. 2426**  
Fort George G. Meade  
2426 Earnie Pyle Street  
Fort Meade Co: Anne Arundel Md 20755-5115  
Landholding Agency: Army  
Property Number: 219030005  
Status: Unutilized  
Comment: 1 story wood frame; needs major  
rehab; possible asbestos; secured area with  
alternate access; potential utilities; most  
recent use—storage.
- Bldg. 533**  
Fort George Meade  
Fort Meade Co: Anne Arundel MD 20755-  
5115  
Landholding Agency: Army  
Property Number: 219040001  
Status: Unutilized  
Comment: 6525 sq. ft.; one story; wood frame;  
possible asbestos; needs major rehab;  
secured area w/alternate access.
- Bldg. 523**  
Fort George Meade  
Fort Meade Co: Anne Arundel MD 20755-  
5115  
Landholding Agency: Army  
Property Number: 219040002  
Status: Unutilized  
Comment: 4307 sq. ft.; one story; wood frame;  
possible asbestos; needs major rehab;  
secured area w/alternate access.
- Bldg. 194**  
Fort George G. Meade  
½ Street  
Fort Meade Co: Anne Arundel MD 20755  
Landholding Agency: Army  
Property Number: 219120252  
Status: Unutilized  
Comment: 1550 sq. ft., wood frame, possible  
asbestos, needs rehab, most recent use—  
storage, off-site use only.
- Minnesota**  
Le Sueur USAR Center  
620 Turill Street  
Le Sueur Co: Le Sueur MN 56058-  
Landholding Agency: Army  
Property Number: 219013558  
Status: Underutilized  
Comment: 4316/1325 sq. ft.; 1 story; most  
recent use—storage.
- Nevada**  
Bldgs. 00425-00449  
Hawthorne Army Ammunition Plant  
Schweier Drive Housing Area  
Hawthorne Co: Mineral NV 89415-  
Landholding Agency: Army
- Property Numbers: 219011946-219011952,**  
219011954, 219011956, 219011959, 219011961,  
219011964, 219011968, 219011970, 219011974,  
219011976-219011978, 219011980, 219011982,  
219011984, 219011987, 219011990, 219011994,  
219011996  
Status: Unutilized  
Comment: 1310-1640 sq. ft. each, one floor  
residential, semi/wood construction, good  
condition.
- New York**  
Bldg. 503  
Fort Totten  
Ordnance Road  
Bayside Co: Queens NY 11357-  
Landholding Agency: Army  
Property Number: 219012564  
Status: Unutilized  
Comment: 510 sq. ft., 1 floor, most recent  
use—storage, needs major rehab/no  
utilities.
- Bldg. 323**  
Fort Totten  
Story Avenue  
Bayside Co: Queens NY 11359-  
Landholding Agency: Army  
Property Number: 219012567  
Status: Unutilized  
Comment: 30000 sq. ft., 3 floors, most recent  
use—barracks & mess facility, needs major  
rehab.
- Bldg. 304**  
Fort Totten  
Shore Road  
Bayside Co: Queens NY 11359-  
Landholding Agency: Army  
Property Number: 219012570  
Status: Unutilized  
Comment: 9610 sq. ft., 3 floors, most recent  
use—hospital, needs major rehab/utilities  
disconnected.
- Bldg. 211**  
Fort Totten  
211 Totten Avenue  
Bayside Co: Queens NY 11359-  
Landholding Agency: Army  
Property Number: 219012573  
Status: Unutilized  
Comment: 6329 sq. ft., 3 floors, most recent  
use—family housing, needs major rehab,  
utilities disconnected.
- Bldg. 332**  
Fort Totten  
Theater Road  
Bayside Co: Queens NY 11359-  
Landholding Agency: Army  
Property Number: 219012578  
Status: Unutilized  
Comment: 6288 sq. ft., 1 floor, most recent  
use—theater w/stage, needs major rehab,  
utilities disconnected.
- Bldg. 504**  
Fort Totten  
Ordnance Road  
Bayside Co: Queens NY 11359-  
Landholding Agency: Army  
Property Number: 219012580  
Status: Unutilized  
Comment: 490 sq. ft., 1 floor, most recent  
use—storage, no utilities, needs major  
rehab.
- Bldg. 322**  
Fort Totten

322 Story Avenue  
Bayside Co: Queens NY 11359-  
Landholding Agency: Army  
Property Number: 219012583  
Status: Unutilized  
Comment: 30000 sq. ft., 3 floors, most recent use—barracks, mess & administration, utilities disconnected, needs rehab.

Bldg. 326  
Fort Totten  
326 Pratt Avenue  
Bayside Co: Queens NY 11359-  
Landholding Agency: Army  
Property Number: 219012586  
Status: Unutilized  
Comment: 6000 sq. ft., 2 floors, most recent use—storage, offices & residential, utilities disconnected/needs rehab.

Bldg. 627  
U.S. Military Academy—West Point  
Pitcher Road, North Dock  
Highland Co: Orange NY 10996-1592  
Landholding Agency: Army  
Property Number: 219030185  
Status: Unutilized  
Comment: 23185 sq. ft.; 1 story wood frame; needs rehab; presence of asbestos; most recent use—storage warehouse; scheduled to be vacant 9/1/90.

**Oklahoma**

Bldg. T-931  
Fort Sill  
931 Fort Sill Blvd.  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011239  
Status: Unutilized  
Comment: 5174 sq. ft.; structurally unsound; wood frame; 1 floor asbestos; WWII Bldg.

Bldg. T-2530  
Fort Sill  
2530 Sheridan Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011246  
Status: Unutilized  
Comment: 3988 sq. ft.; structurally unsound; asbestos; wood frame; 2 floors, WWII Bldg.

Bldgs. T-2531, T-2532  
Fort Sill  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Numbers: 219011248, 219011250  
Status: Unutilized  
Comment: 1990 sq. ft.; structurally unsound; asbestos; wood frame, 2 floors, WWII Bldg.

Bldg. T-2533  
Fort Sill  
2533 Sheridan Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011252  
Status: Unutilized  
Comment: 1976 sq. ft.; structurally unsound; asbestos; wood frame; 2 floors, WWII Bldg.

Bldgs. T-2544, T-2545 thru T-2548  
Fort Sill  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Numbers: 219011253, 219011255, 219011257-219011258, 219011260  
Status: Unutilized  
Comment: 1994 sq. ft. each; asbestos; wood frame; 2 floors, no operating sanitary facilities; most recent use—barracks.

Bldg. T-2564  
Fort Sill  
2564 Currie Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011264  
Status: Unutilized  
Comment: 1165 sq. ft.; asbestos; wood frame; 1 floor; most recent use—administrative/supply.

Bldg. T-2565  
Fort Sill  
2565 Currie Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011266  
Status: Unutilized  
Comment: 1196 sq. ft.; asbestos; wood frame; 1 floor; most recent use—administrative/supply.

Bldg. T-2566  
Fort Sill  
2566 Currie Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011267  
Status: Unutilized  
Comment: 1179 sq. ft.; asbestos; wood frame; 1 floor; most recent use—administrative/supply.

Bldg. T-2601  
Fort Sill  
2601 Ringold Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011272  
Status: Unutilized  
Comment: 1600 sq. ft.; 2 story wood frame; possible asbestos; possible structure deficiencies.

Bldg. T-2606  
Fort Sill  
2606 Currie Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011273  
Status: Unutilized  
Comment: 2722 sq. ft.; possible asbestos, one floor wood frame; most recent use—Headquarters Bldg.

Bldg. T-2613  
Fort Sill  
2613 Ringold Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011276  
Status: Unutilized  
Comment: 4800 sq. ft.; possible asbestos, wood frame, 2 floors; most recent use—barracks.

Bldg. T-2614  
Fort Sill  
2614 Ringold Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011278  
Status: Unutilized  
Comment: 3778 sq. ft.; possible asbestos; wood frame; two floors; most recent use—barracks.

Bldg. T-2615  
Fort Sill  
2615 Ringold Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army

Property Number: 219011279  
Status: Unutilized  
Comment: 3778 sq. ft.; possible asbestos; wood frame; 2 floors; most recent use—barracks.

Bldgs. T-2620 thru T-2622, T-2626, T-2627  
Fort Sill  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Numbers: 219011281, 219011283, 219011285, 219011291-219011292  
Status: Unutilized  
Comment: 2370 sq. ft. each; 2 story wood frame; possible asbestos; possible structure deficiencies.

Bldg. T-2623  
Fort Sill  
2623 Ringold Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011287  
Status: Unutilized  
Comment: 2400 sq. ft.; 2 story wood frame; asbestos; possible structure deficiencies.

Bldg. T-2624  
Fort Sill  
2624 Miner Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011288  
Status: Unutilized  
Comment: 3738 sq. ft.; possible asbestos, wood frame; 2 floors; most recent use—day room.

Bldg. T-2625  
Fort Sill  
2625 Ringold Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011289  
Status: Unutilized  
Comment: 3664 sq. ft.; wood frame; 2 floors; possible asbestos; most recent use—barracks.

Bldg. T-2628  
Fort Sill  
2628 Ringold Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011294  
Status: Unutilized  
Comment: 3664 sq. ft.; possible asbestos; wood frame; 2 floors; most recent use—barracks.

Bldg. T-2629 thru T-2631  
Fort Sill  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Numbers: 219011296, 219011298, 219011299  
Status: Unutilized  
Comment: 3664 sq. ft.; wood frame; 2 floors; possible asbestos; most recent use—barracks.

Bldg. T-2650  
Fort Sill  
250 Ringold Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011301  
Status: Unutilized  
Comment: 4021 sq. ft.; 2 story; possible asbestos; possible structure deficiencies.

Bldg. T-2761

- Fort Sill  
2781 Ringold Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011312  
Status: Unutilized  
Comment: 2229 sq. ft.; structurally unsound;  
wood frame; 2 floors; asbestos.
- Bldg. T-2931  
Fort Sill  
2931 Currie Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011313  
Status: Unutilized  
Comment: 435 sq. ft.; structurally unsound;  
asbestos; wood frame; 1 floor.
- Bldg. T-3507  
Fort Sill  
3507 Sheridan Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011315  
Status: Unutilized  
Comment: 2904 sq. ft.; possible asbestos;  
potential heavy metal contamination; wood  
frame; most recent use—chapel.
- Bldg. T-3508  
Fort Sill  
3508 Sheridan Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011316  
Status: Unutilized  
Comment: 1964 sq. ft.; structurally unsound;  
asbestos; wood frame; 1 floor, WWII Bldg.
- Bldg. T-3514  
Fort Sill  
3514 Sheridan Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011322  
Status: Unutilized  
Comment: 1917 sq. ft.; possible asbestos;  
wood frame; most recent use—  
administrative.
- Bldg. T-3516  
Fort Sill  
3516 Sheridan Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011324  
Status: Unutilized  
Comment: 1945 sq. ft.; possible asbestos;  
wood frame; most recent use—  
administrative.
- Bldg. T-3518  
Fort Sill  
3518 Sheridan Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011325  
Status: Unutilized  
Comment: 2345 sq. ft.; possible asbestos;  
wood frame; most recent use—  
Headquarters Bldg.
- Bldg. T-3524  
Fort Sill  
3524 Walker St.  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011327  
Status: Unutilized  
Comment: 1603 sq. ft.; structurally unsound;  
asbestos; wood frame; 1 floor, WWII Bldg.
- Bldgs. T-3527, T-3529  
Fort Sill  
Sheridan Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Numbers: 219011328, 219011330  
Status: Unutilized  
Comment: 2370 sq. ft. each; structurally  
unsound; asbestos; wood frame; 2 floors;  
WWII Bldg.
- Bldg. T-3534  
Fort Sill  
3534 Tacy Street  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011331  
Status: Unutilized  
Comment: 2467 sq. ft.; structurally unsound;  
asbestos; wood frame; 1 floor; WWII Bldg.
- Bldg. T-3582  
Fort Sill  
3582 Packard Street  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011334  
Status: Unutilized  
Comment: 1027 sq. ft.; possible asbestos;  
wood frame; most recent use—storage.
- Bldg. T-3638  
Fort Sill  
3638 Scott Street  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011336  
Status: Unutilized  
Comment: 1618 sq. ft.; 2 story wood frame;  
possible asbestos; possible structured  
deficiencies.
- Bldg. T-3760  
Fort Sill  
3760 Tacy Street  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011337  
Status: Unutilized  
Comment: 2787 sq. ft.; structurally unsound;  
possible asbestos; one story wood frame.
- Bldg. T-3760  
Fort Sill  
3767 Hartell Road.  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011339  
Status: Unutilized  
Comment: 2469 sq. ft.; structurally unsound;  
possible asbestos; one story wood frame.
- Bldgs. T-3779, T-3780  
Fort Sill  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Numbers: 219011343, 219011344  
Status: Unutilized  
Comment: 4720 sq. ft. each; possible asbestos,  
wood frame, 2 floors, most recent use—  
barracks.
- Bldg. T-3781  
Fort Sill  
3781 Hartell Blvd.  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011345  
Status: Unutilized  
Comment: 2781 sq. ft.; structurally unsound,  
possible asbestos; one story wood frame.
- Bldg. 3788  
Fort Sill  
3788 Tacy Street  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011346  
Status: Unutilized  
Comment: 2758 sq. ft.; structurally unsound,  
possible asbestos, one story wood frame.
- Bldg. T-4520  
Fort Sill  
4520 Bragg Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011347  
Status: Unutilized  
Comment: 1249 sq. ft.; 1 story wood frame,  
possible asbestos, possible structural  
deficiencies.
- Bldg. T-4363  
Fort Sill  
4363 McKee Street  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011348  
Status: Unutilized  
Comment: 1947 sq. ft.; some utilities; possible  
structural deficiencies; possible asbestos.
- Bldg. T-4521  
Fort Sill  
4521 Wilson Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011352  
Status: Unutilized  
Comment: 3833 sq. ft.; 1 floor, wood frame,  
asbestos, most recent use-classroom.
- Bldg. T-4375  
Fort Sill  
4375 Bragg Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011356  
Status: Unutilized  
Comment: 1102 sq. ft.; structurally unsound;  
possible asbestos.
- Bldg. T-4525  
Fort Sill  
4525 Wilson Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011363  
Status: Unutilized  
Comment: 1636 sq. ft.; 1 floor, asbestos, wood  
frame, most recent use-Exchange Service  
Outlet.
- Bldg. T-4526  
Fort Sill  
4526 Wilson Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011366  
Status: Unutilized  
Comment: 3833 sq. ft.; 1 floor, asbestos, wood  
frame, most recent use-recreation building.
- Bldg. T-4387  
Fort Sill  
4387 Bragg Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011367  
Status: Unutilized  
Comment: 1968 sq. ft.; no sanitary facilities;  
structurally unsound; possible asbestos;  
two story wood frame.

Bldg. P-4489  
Fort Sill  
4489 Walker Street  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011370  
Status: Unutilized  
Comment: 1045 sq. ft.; 1 story; concrete block structure, structurally unsound; possible asbestos.

Bldg. T-4498  
Fort Sill  
4498 Walker Street  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011371  
Status: Unutilized  
Comment: 1000 sq. ft.; wood frame; one floor; possible asbestos; most recent use—storage.

Bldg. 4528  
Fort Sill  
4528 Wilson Road  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011372  
Status: Unutilized  
Comment: 2741 sq. ft.; possible asbestos, possible structural deficiencies, one story wood frame.

Bldg. T-4502  
Fort Sill  
4502 Wilson Road  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011376  
Status: Unutilized  
Comment: 2812 sq. ft.; structurally unsound; possible asbestos; one story wood frame.

Bldg. T-4335  
Fort Sill  
4535 Hartell Blvd.  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011384  
Status: Unutilized  
Comment: 2816 sq. ft., 1 story wood frame, possible asbestos, possible structural deficiencies.

Bldg. T-4510  
Fort Sill  
4510 Wilson Road  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011386  
Status: Unutilized  
Comment: 3006 sq. ft.; asbestos; wood frame; 1 floor; most recent use—medical storage.

Bldg. T-4513  
Fort Sill  
4513 Wilson Road  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011389  
Status: Unutilized  
Comment: 3842 sq. ft.; asbestos; wood frame; 1 floor; most recent use—classroom.

Bldg. T-4548  
Fort Sill  
4548 Lewis Street  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011398  
Status: Unutilized

Comment: 1976 sq. ft.; 1 story wood frame, possible asbestos; structurally unsound.

Bldg. T-4556  
Fort Sill  
4556 Hartell Blvd.  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011401  
Status: Unutilized  
Comment: 2308 sq. ft.; possible asbestos; possible structural deficiencies; one story wood frame

Bldg. T-4558  
Fort Sill  
4558 Hartell Blvd.  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011403  
Status: Unutilized  
Comment: 4021 sq. ft.; 2 story wood frame; possible asbestos; possible structural deficiencies.

Bldg. T-4720  
Fort Sill  
4720 Hartell Blvd.  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219011405  
Status: Unutilized  
Comment: 13225 sq. ft.; visual asbestos; wood frame; 2 floors; most recent use—recreation bldg.

Bldg. T-4550  
Fort Sill  
4550 Hartell Blvd.  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219013795  
Status: Unutilized  
Comment: 2750 sq. ft., 1 story wood frame; possible asbestos; most recent use—headquarters bldg.

Bldg. T-836  
Fort Sill  
Corner of Macob Road and Burrell Road  
Lawton Co; Comanche OK 73503-  
Landholding Agency: Army  
Property Number: 219014328  
Status: Unutilized  
Comment: 1341 sq. ft.; 1 story wood frame; most recent use—storage; possible asbestos.

Bldg. T-4919  
Fort Sill  
4919 Post Road  
Lawton Co; Comanche OK 73503-  
Landholding Agency: Army  
Property Number: 219014842  
Status: Unutilized  
Comment: 603 sq. ft.; 1 story mobile home trailer; possible asbestos; needs rehab.

Bldg. T-4914  
Fort Sill  
4914 Post Road  
Lawton Co; Comanche OK 73503-  
Landholding Agency: Army  
Property Number: 219014843  
Status: Unutilized  
Comment: 719 sq. ft.; 1 story mobile home trailer; needs rehab; possible asbestos.

Bldg. T-4555  
Fort Sill  
4555 Hartell Blvd.  
Lawton Co; Comanche OK 73503-

Landholding Agency: Army  
Property Number: 219014930  
Status: Unutilized  
Comment: 3893 sq. ft.; 2 story wood frame; needs rehab; possible asbestos; most recent use—barracks.

Bldg. T-4523  
Fort Sill  
4523 Wilson Road  
Lawton Co; Comanche OK 73503-  
Landholding Agency: Army  
Property Number: 219014933  
Status: Unutilized  
Comment: 1639 sq. ft.; 1 story wood frame; needs rehab; possible asbestos; most recent use—storage.

Bldg. T-4541  
Fort Sill  
4541 Hartell Blvd.  
Lawton Co; Comanche OK 73503-  
Landholding Agency: Army  
Property Number: 219014935  
Status: Unutilized  
Comment: 2340 sq. ft.; 1 story wood frame; needs rehab; possible asbestos, most recent use—administration.

Bldg. T-4552  
Fort Sill  
4552 Hartell Blvd.  
Lawton Co; Comanche OK 73503-  
Landholding Agency: Army  
Property Number: 219014936  
Status: Unutilized  
Comment: 4071 sq. ft.; 2 story wood frame; needs rehab; possible asbestos; most recent use—barracks.

Bldg. S-701  
Fort Sill  
701 Randolph Road  
Lawton Co; Comanche OK 73503-5100  
Landholding Agency: Army  
Property Number: 219030183  
Status: Unutilized  
Comment: 19903 sq. ft.; steel/wood frame; 1 story; needs rehab; possible asbestos; most recent use—general instruction building.

#### South Carolina

Bldg. 5405  
Fort Jackson  
Jackson Blvd.  
Fort Jackson Co; Richland SC 29207-  
Landholding Agency: Army  
Property Number: 219012563  
Status: Unutilized  
Comment: 4764 sq. ft.; 1 floor; wood frame; needs rehab; to be vacated mid 1990.

Bldg. 1565  
Anderson Street  
Fort Jackson Co; Richland SC 29207-  
Landholding Agency: Army  
Property Number: 219012668  
Status: Unutilized  
Comment: 1585 sq. ft.; corrugated metal building; most recent use—fueling point; potential use—storage.

#### Tennessee

Milan Army Ammunition Plant  
Area Q—Housing Area Q-27, Q-7, Q-12  
Milan Co; Carroll TN 38358-  
Landholding Agency: Army  
Property Numbers: 219010559, 219010605, 219010609

Status: Underutilized  
 Comment: two story; wood frame; temporarily empty due to personnel rotation.

Robert Joel Ridings  
 US Army Reserve Center  
 920 Cherokee Avenue  
 Nashville Co: Davidson TN 37207-  
 Landholding Agency: Army  
 Property Number: 219011667  
 Status: Excess  
 Comment: 40,000 sq. ft.; 3.67 acres; concrete block; utilities disconnected; site vandalized.

Area Q—Housing Area—Q-20, Q-21, Q-28  
 Milan Army Ammunition Plant  
 Milan Co: Carroll TN 38358-  
 Landholding Agency: Army  
 Property Numbers: 219014790, 219110032-  
 219110033  
 Status: Underutilized  
 Comment: 2506 sq. ft. each; 2 story wood frame residences.

Area Q—Housing Area—Q-28, Q-9, Q-4, Q-15, Q-19  
 Milan Army Ammunition Plant  
 Milan Co: Carroll TN 38358-  
 Landholding Agency: Army  
 Property Numbers: 219110034, 219110102, 219120272-219120274  
 Status: Underutilized  
 Comment: 2024 sq. ft. each; 2 story wood frame residences.

#### Texas

Bldg. T-227  
 Fort Sam Houston  
 San Antonio Co: Bexar TX 78234-  
 Landholding Agency: Army  
 Property Number: 219014275  
 Status: Excess  
 Comment: 2987 sq. ft.; 1 story wood structure; major rehab needed.

Bldgs. 1189, 1192, T-1193  
 Fort Sam Houston  
 San Antonio Co: Bexar TX 78234-  
 Landholding Agency: Army  
 Property Numbers: 219014276-219014277, 219014280  
 Status: Excess  
 Comment: 9190 sq. ft.; 1 story wood structure; needs major rehabilitation.

Bldgs. T4001, T4004  
 Fort Sam Houston  
 San Antonio Co: Bexar TX 78234-  
 Landholding Agency: Army  
 Property Numbers: 219014278-219014279  
 Status: Underutilized  
 Comment: 48000 sq. ft. each; 2 story wood frame building with metal siding; needs rehab; possible asbestos.

Bldg. T-1193  
 Fort Sam Houston  
 San Antonio Co: Bexar TX 78234-  
 Landholding Agency: Army  
 Property Number: 219014280  
 Status: Unutilized  
 Comment: 9190 sq. ft.; 1 story wood frame structure; needs major rehab.

11255 SGT F. Markle St.  
 Biggs Army Airfield  
 Fort Bliss  
 El Paso Co: El Paso TX 79916-  
 Landholding Agency: Army  
 Property Number: 219014694

Status: Unutilized  
 Comment: 1052 sq. ft.; 1 story cinder block frame; off-site use only; most recent use—storage.

Bldg. 2  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014815  
 Status: Unutilized  
 Comment: 94606 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 4  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014816  
 Status: Unutilized  
 Comment: 1350 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 17  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014817  
 Status: Unutilized  
 Comment: 68 sq. ft.; wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—guard house.

Bldg. 29  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014818  
 Status: Unutilized  
 Comment: 5028 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 30  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014819  
 Status: Unutilized  
 Comment: 5323 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 18  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014820  
 Status: Unutilized  
 Comment: 9560 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 6  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014821  
 Status: Unutilized  
 Comment: 1258 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 7  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014822  
 Status: Unutilized

Comment: 508 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 8  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014824  
 Status: Unutilized  
 Comment: 171 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—watch tower.

Bldg. 16  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014825  
 Status: Unutilized  
 Comment: 17263 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 19  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014826  
 Status: Unutilized  
 Comment: 25399 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 31  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014827  
 Status: Unutilized  
 Comment: 1392 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 9  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014828  
 Status: Unutilized  
 Comment: 244 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 25  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014829  
 Status: Unutilized  
 Comment: 1320 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—fire house.

Bldg. 10  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014830  
 Status: Unutilized  
 Comment: 354 sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

Bldg. 26  
 Saginaw Army Aircraft Plant  
 Saginaw Co: Tarrant TX 76070-  
 Landholding Agency: Army  
 Property Number: 219014831  
 Status: Unutilized

Comment: sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

## Bldg. 21

Saginaw Army Aircraft Plant  
Saginaw Co: Tarrant TX 76070-  
Landholding Agency: Army  
Property Number: 219014832

Status: Unutilized

Comment: 65 sq. ft.; wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—guard house.

## Bldg. 22

Saginaw Army Aircraft Plant  
Saginaw Co: Tarrant TX 76070-  
Landholding Agency: Army  
Property Number: 219014833

Status: Unutilized

Comment: sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab.

## Bldg. 27

Saginaw Army Aircraft Plant  
Saginaw Co: Tarrant TX 76070-  
Landholding Agency: Army  
Property Number: 219014834

Status: Unutilized

Comment: sq. ft.; 2 story wood and metal frame; subject to sewer pipeline easement; needs rehab; most recent use—control tower.

## Bldg. 32

Saginaw Army Aircraft Plant  
Saginaw Co: Tarrant TX 76070-  
Landholding Agency: Army  
Property Number: 219014835

Status: Unutilized

Comment: 19546 sq. ft.; 1 story wood and metal frame; subject to sewer pipeline easement; needs rehab

## T-4013

Fort Sam Houston  
San Antonio Co: Bexar TX 78234-  
Landholding Agency: Army  
Property Number: 219030001

Status: Underutilized

Comment: 64067 sq. ft.; 1 story wood frame; needs rehab; limited utilities.

## Bldg. 2302

Fort Hood  
Headquarters Avenue  
Fort Hood Co: Coryell TX 76544-  
Landholding Agency: Army  
Property Number: 219030169

Status: Unutilized

Comment: 7239 sq. ft.; 2 story; needs rehab; potential utilities; presence of asbestos; most recent use—administrative/storage.

## Bldg. 35

Fort Hood  
Battalion Avenue  
Fort Hood Co: Coryell TX 76544-  
Landholding Agency: Army  
Property Number: 219030177

Status: Unutilized

Comment: 5346 sq. ft.; 1 story; needs rehab; potential utilities; presence of asbestos; most recent use—administrative office.

## Bldg. 34

Fort Hood  
Battalion Avenue  
Fort Hood Co: Coryell TX 76544-  
Landholding Agency: Army  
Property Number: 219030179

Status: Unutilized

Comment: 3996 sq. ft.; 1 story; needs rehab; potential utilities; presence of asbestos; most recent use—administrative office.

## Bldg. 856

Fort Bliss  
856 Lufberry Road  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219030186

Status: Unutilized

Comment: 1770 net sq. ft.; 1 story wood frame; no utilities; needs major rehab; off-site use only.

## Bldg. 11253

Fort Bliss  
11253 Luke and Markle Street  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219030193

Status: Unutilized

Comment: 14389.5 net sq. ft.; 1 story wood frame; no utilities; needs major rehab; off-site use only.

## Bldg. 11109

Fort Bliss  
11109 CSM E. Slewitzke Street, Biggs Field  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110035

Status: Unutilized

Comment: 642 sq. ft.; one story wood frame; needs rehab; off-site use only; most recent use—storehouse.

## Bldg. 11195

Fort Bliss  
11195 Duncan Street, Biggs Army Airfield  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110036

Status: Unutilized

Comment: 4863 net sq. ft.; one story wood frame; needs rehab; off-site use only; most recent use—storage.

## Bldg. 4203

Fort Bliss  
4203 Ellerthrop Avenue  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110037

Status: Unutilized

Comment: 4200 net sq. ft.; one story wood frame; off-site use only; most recent use—bowling center.

## Bldg. 4769

Fort Bliss  
4769 Burgin Street, Logan Heights  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110038

Status: Unutilized

Comment: 873 net sq. ft.; one story wood frame; off-site use only; most recent use—headquarters building.

## Bldg. 4817

Fort Bliss  
4817 Gatchell Avenue, Logan Heights  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110039

Status: Unutilized

Comment: 858 net sq. ft.; one story wood frame; off-site use only; most recent use—storehouse.

## Bldg. 4830

Fort Bliss

4830 Hohenthal Avenue, Logan Heights  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110040

Status: Unutilized

Comment: 915 net sq. ft.; one story wood frame; off-site use only; recent use—storehouse.

## Bldg. 640

Fort Bliss  
640 Merritt Road  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110058

Status: Unutilized

Comment: 150 sq. ft.; one story metal frame; off-site use only; most recent use—general storehouse.

## Bldg. 757

Fort Bliss  
757 Merritt Road  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110059

Status: Unutilized

Comment: 495 sq. ft.; one story metal frame; off-site use only; most recent use—general storehouse.

## Bldg. 758-759

Fort Bliss  
Merritt Road  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110060-219110061

Status: Unutilized

Comment: 260 sq. ft. each; one story metal frame; off-site use only; most recent use—general storehouse.

## Bldg. 5440

Fort Bliss  
5440 Forsyth Road  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110065

Status: Unutilized

Comment: 152 sq. ft.; one story metal frame; off-site use only; most recent use—general storehouse.

## Bldg. 7034

Fort Bliss  
7034 Sutherland Street, Lower Beaumont Area  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110066

Status: Unutilized

Comment: 430 sq. ft.; one story brick/stucco frame; off-site use only; most recent use—storage shed.

Bldgs. T-340, T-341—Fort Sam Houston  
San Antonio Co: Bexar TX 78234-5000  
Landholding Agency: Army  
Property Numbers: 219120102-219120103

Status: Unutilized

Comment: 2284 sq. ft. each, one story wood bldg., potential utilities, presence of asbestos.

## Bldg. 456—Fort Bliss

456 Pershing Road  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219120115

Status: Unutilized

- Comment: 1770 sq. ft., one story, most recent use—Youth center; off-site use only.
- Bldgs. 468-469, 478-479—Fort Bliss  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Numbers: 219120116-219120119  
Status: Unutilized  
Comment: 3540 sq. ft. ea., two story wood frame; presence of friable asbestos in boiler room; most recent use—barracks; off-site use only.
- Bldg. 4202—Fort Bliss, Tex.  
4202 Ellertorpe Avenue  
Logan Heights  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Number: 219120120  
Status: Unutilized  
Comment: 2100 sq. ft., one story, needs rehab; most recent use—dental clinic; off-site use only.
- Bldg. 4308—Fort Bliss, Tex.  
4308 Link Road  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Number: 219120121  
Status: Unutilized  
Comment: 4108 sq. ft., one story wood frame; needs rehab; most recent use—Skill Development Center; off-site use only.
- Bldgs. 4348-4349—Fort Bliss, Tex.  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Numbers: 219120122-219120123  
Status: Unutilized  
Comment: 1829 sq. ft., each, one story wood frame; most recent use—vehicle maintenance shop; off-site use only.
- Bldg. 4747—Fort Bliss, Tex.  
4747 Grinder Avenue  
Logan Heights  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Number: 219120125  
Status: Unutilized  
Comment: 488 net sq. ft., needs major rehab; off-site use only.
- Bldgs. 4749, 4783, 4820, 4839, 4868, 4877  
Fort Bliss, Tex.  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Numbers: 219120126, 219120131, 219120133, 219120138, 219120140, 219120142  
Status: Unutilized  
Comment: 873 sq. ft. each, one story; most recent use—storage; off-site use only.
- Bldgs. 4758—Fort Bliss, Tex.  
4758 Grinder Avenue  
Logan Heights  
El Paso Co: El Paso TX 79910—  
Landholding Agency: Army  
Property Number: 219120128  
Status: Unutilized  
Comment: 915 sq. ft., one story wood frame; most recent use—day room; off-site use only.
- Bldgs. 4781—Fort Bliss, Tex.  
4781 Burgin Street  
Logan Heights  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Number: 219120115  
Status: Unutilized
- Comment: 1266 sq. ft., one story wood frame; presence of friable asbestos; most recent use—sales store; off-site use only.
- Bldgs. 4825, 4867, 4875, 4925  
Fort Bliss, Tex.  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Number: 219120134, 219120139, 219120141, 219120144  
Status: Unutilized  
Comment: 2169 sq. ft. each, one story wood frame; most recent use—general storage; off-site use only.
- Bldg. 4921—Fort Bliss, Tex.  
4921 Ketcham Avenue  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Number: 219120143  
Status: Unutilized  
Comment: 1381 sq. ft., one story wood frame; possible friable asbestos; most recent use—Day room; off-site use only.
- Bldg. 4938—Fort Bliss, Tex.  
4938 Burgin Street  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Number: 219120145  
Status: Unutilized  
Comment: 1770 sq. ft., one story wood frame; possible friable asbestos; most recent use—storage; off-site use only; limited utilities.
- Bldg. 4940—Fort Bliss, Tex.  
4940 Burgin Street  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Number: 219120146  
Status: Unutilized  
Comment: 1792 sq. ft., one story wood frame; possible friable asbestos; most recent use—storage; off-site use only; limited utilities.
- Bldg. 11190—Fort Bliss, Tex.  
11190 SGT E. Churchill Street  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Number: 219120147  
Status: Unutilized  
Comment: 600 sq. ft., one story wood frame; limited utilities; needs rehab; most recent use—storage; off-site use only.
- Bldg. 11191—Fort Bliss, Tex.  
11191 SGT E. Churchill Street  
El Paso Co: El Paso TX 79916—  
Landholding Agency: Army  
Property Number: 219120145  
Status: Unutilized  
Comment: 1140 sq. ft., one story wood frame; limited utilities; most recent use—storage; off-site use only.
- Harlingen USARC  
1920 East Washington  
Harlingen Co: Cameron TX 78550—  
Landholding Agency: Army  
Property Number: 219120304  
Status: Excess  
Comment: 19440 sq. ft., 1 story brick, needs rehab, with approx. 6 acres including parking areas, most recent use—Army Reserve Training Center.
- Virginia
- Bldgs. T413-T415, T418, T421-T423, T426-T428, T431-T433, T441-T443, T446-T448, T1724, T1726-T1727, T1876, T1877, T2213, T2413-T2415, T2418-T2424, T2427-T2430, T2437-T2439, T2442-T2448, T2451-T2453, T2615-T2626, T1363-T1364, T2208, T2209, T1349-T1351, T1354-T1355, T3042-T3048, T3051-T3054
- Fort Pickett  
Blackstone Co: Nottoway VA 23824—  
Landholding Agency: Army  
Property Numbers: 219010006-219010079  
Status: Unutilized  
Comment: 4292 sq. ft. each; Selected periods are reserved for military/training exercises.
- Bldgs. T435-T438, T440, T1718, T2226, 1662, T2411-T2412, 2431, T2433-T2434, T2455-T2457, T2612-T2614, T2633, T2635-T2636, T2638, T2657, T2659
- Fort Pickett  
Blackstone Co: Nottoway VA 23824—  
Landholding Agency: Army  
Property Numbers: 219010080-219010104  
Status: Unutilized  
Comment: 2900 sq. ft. each; selected periods are reserved for military/training exercises.
- Bldg. 1676  
Fort Pickett  
Blackstone Co: Nottoway VA 23930—  
Landholding Agency: Army  
Property Number: 219010971  
Status: Underutilized  
Comment: 3300 sq. ft.; Selected periods reserved for military/training exercises; most recent use—Hdqts. Bldg.
- Bldgs. 1663, 1664, T2617, T2620, T2621, T2622-T2623, T2624, T2625, T2626, T2629, T2630, T2631, T2632, 2639, T2640, T2641, 2644-2646, 2647-2648, 2650, 2814, 2815, T2852, T2853-T2855
- Fort Pickett  
Blackstone Co: Nottoway VA 23824—  
Landholding Agency: Army  
Property Numbers: 219010972, 219010978, 219010979, 219010982, 219010984, 219010987, 219010990, 219010993, 219010995, 219010998, 219011000, 219011003, 219011010, 219011012, 219011014, 219011017, 219011020, 219011023, 219011027, 219011032, 219011033-219011036, 219011038, 219011040, 219011043, 219011046-219011047  
Status: Underutilized  
Comment: 4292 sq ft each; selected periods are reserved for military/training exercises, most recent use—barracks.
- Bldg. 1677  
Fort Pickett  
Blackstone Co: Nottoway VA 23930—  
Landholding Agency: Army  
Property Number: 219010973  
Status: Underutilized  
Comment: 3300 sq. ft.; selected periods reserved for military/training exercises; most recent use—Hdqts. Bldg.
- Bldg. 1666  
Fort Pickett  
Blackstone Co: Nottoway VA 23824—  
Landholding Agency: Army  
Property Number: 219010974  
Status: Underutilized  
Comment: 1300 sq. ft.; selected periods are reserved for military/training exercises; most recent use—Hdqts. Bldg.
- Bldgs. 1667, 1696  
Fort Pickett  
Blackstone Co: Nottoway VA 23824—  
Landholding Agency: Army  
Property Numbers: 219010975, 219010977  
Status: Underutilized

Comment: 1300 sq. ft. each; selected periods are reserved for military/training exercises; most recent use—Hdqts. Bldg.

Bldgs. 1887, 1888

Fort Pickett

Blackstone Co: Nottoway VA 23930-

Landholding Agency: Army

Property Numbers: 219010978, 219010980

Status: Underutilized

Comment: 11000 sq. ft. ea.; most recent use—mess hall; selected periods are reserved for military/training exercises.

Bldg. 1690

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Number: 219010981

Status: Underutilized

Comment: 2300 sq. ft.; selected periods are reserved for military/training exercises; most recent use—storage.

Bldg. 2810

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Number: 219010983

Status: Underutilized

Comment: 3500 sq. ft.; most recent use—recreation; selected periods are reserved for military/training exercises.

Bldgs. 2809, 2801

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219010985, 219010986

Status: Underutilized

Comment: 1200 sq. ft. each; most recent use—recreation; selected periods are reserved for military/training exercises.

Bldgs. 2602, 2808

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219010988, 219010989

Status: Underutilized

Comment: 2200 sq. ft. ea.; most recent use—Recreation Bldg; selected periods are reserved for military/training exercises.

Bldgs. 1315, 1316

Fort Pickett

Blackstone Co: Nottoway VA 23930-

Landholding Agency: Army

Property Numbers: 219010991, 219010992

Status: Underutilized

Comment: 4038 sq. ft. each; most recent use—housing; selected periods are reserved for military/training exercises.

Bldgs. T1348, T1365, 1309, 2810

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219010994, 219010996-

219010997, 219010999

Status: Underutilized

Comment: 2256 sq. ft. each; most recent use—housing; selected periods are reserved for military/training exercises.

Bldg. T3055

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Number: 219011001

Status: Underutilized

Comment: 2307 sq. ft.; most recent use—recreation facility; selected periods are reserved for military/training exercises.

Bldgs. T1367, T1886, 1887, 2205, 2207, 2227-

2228, 2811, 2832, 2834-2835, 2837, 2856,

3018-3017, 3031-3036, 3057, T412, T424-

T425, T434, T444, T445, T1880, 2416, T2425,

T2416, 2440, 2441, 2449, 2450, 2618, 2619,

2628, 2642, 2643, 2652, 1357-1358, 2211,

2220-2221, 2826-2827, 2841-2842, 2850-2851,

3010, 3012, 3025, 3040-3041, 3049, 3050

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Number: 219011002, 219011004-

219011009, 219011011, 219011013,

219011015-219011016, 219011018-219011019,

219011021-219011022, 219011024-219011026,

219011028-219011030, 219011031, 219011060,

219011064-219011065, 219011067-219011068,

219011070, 219011071, 219011073-219011074,

219011076-219011077, 219011079-219011081,

219011083, 219011085, 219011086,

219011088-219011089, 219011091, 219011093,

219011098-219011103, 219011105, 219011107,

219011114, 219011118, 219011121, 219011140,

219011143, 219011145-219011147

Status: Underutilized

Comment: 2900 sq. ft. ea.; selected periods reserved for military/training exercises; most recent use—recreation/admin.

Bldg. 1662

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Number: 219011037

Status: Underutilized

Comment: 2500 sq. ft.; selected periods reserved for military/training exercises; most recent use—Hdqts. Bldg.

Bldgs. 1665, 1688, 1689, 1691

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Number: 219011039, 219011041-

219011042, 219011044

Status: Underutilized

Comment: 2500 sq. ft. each; selected periods reserved for military/training exercises; most recent use—Hdqts. Bldg.

Bldg. T2853

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Number: 219011043

Status: Underutilized

Comment: 4292 sq. ft.; selected periods are reserved for military training exercises; most recent use—barracks.

Bldg. 2402

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Number: 219011045

Status: Underutilized

Comment: 1176 sq. ft.; selected periods of time reserved for military training exercises; most recent use—Hdqts. Bldg.

Bldg. T2854

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Number: 219011046

Status: Underutilized

Comment: 4292 sq. ft.; selected periods are reserved for military training exercises; most recent use—barracks.

Bldg. T2855

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Number: 219011047

Status: Underutilized

Comment: 4292 sq. ft.; selected periods are reserved for military training exercises; most recent use—barracks.

Bldgs. 2869, T2410, 3002, 3005

Fort Pickett

Blackstone Co: Nottoway Va 23930-

Landholding Agency: Army

Property Numbers: 219011048-219011049,

219011051-219011052

Status: Underutilized

Comment: 1176 sq. ft. each; selected periods of time reserved for military/training exercises; most recent use—Hdqts. Bldg.

Bldg. 1897

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Number: 219011050

Status: Underutilized

Comment: 2761 sq. ft.; most recent use—veh. maint. shop; selected periods are reserved for military/training exercises.

Bldgs. 2229, 2238-2239, 2373, 2462-2463, 2671-2673, 2864, 2885, 3061-3063

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Numbers: 219011059,

219011061-219011063, 219011066, 219011069,

219011072, 219011075

Status: Underutilized

Comment: 2761 sq. ft. each; most recent use—veh. maint. shop; selected periods are for military/training exercises.

Bldgs. 1725, 2608, 2651, 2803, 2817

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Numbers: 219011078, 219011082,

219011084, 219011087, 219011090

Status: Underutilized

Comment: 2300 sq. ft. each; most recent use—dining fac; selected periods are reserved for military/training exercises.

Bldg. 2627

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Number: 219011086

Status: Underutilized

Comment: 2900 sq. ft.; most recent use—dining facility; selected periods are reserved for military/training exercises.

Bldgs. 1352, 3028

Fort Pickett

Blackstone Co: Nottoway Va 23824-

Landholding Agency: Army

Property Numbers: 219011092, 219011095

Status: Underutilized

Comment: 3500 sq. ft. ea.; most recent—dining fac; selected periods are reserved for military/training exercises.

Bldg. 1932

Fort Belvoir

Goethals Road

Fort Belvoir Co: Fairfax Va 22060-  
Landholding Agency: Army  
Property Number: 219012310  
Status: Underutilized  
Comment: 13780 sq. ft.; 2 floors; most recent use—storage; All utilities have been removed; needs rehab.

Bldg. 227  
Fort Belvoir  
OPS General Purpose Building  
Fort Belvoir Co: Fairfax VA 22401-  
Location: Off of Middleton Road  
Landholding Agency: Army  
Property Number: 219012313  
Status: Unutilized  
Comment: 900 sq. ft.; one floor; concrete foundation with wood walls; utilities disconnected.

Bldg. 2222  
Fort Belvoir  
Fort Belvoir Co: Fairfax VA 22060-  
Location: West of Foster Road  
Landholding Agency: Army  
Property Number: 219012315  
Status: Unutilized  
Comment: 3800 sq. ft. per floor; 2 floors; concrete foundation/frame building; no utilities.

Bldg. 1932  
Fort Belvoir  
Goethals Road  
Fort Belvoir Co: Fairfax VA 22060-  
Landholding Agency: Army  
Property Number: 219012318  
Status: Unutilized  
Comment: 6890 sq. ft. per floor; two floors; frame on concrete foundation; possible asbestos; utilities disconnected; quarters.

Bldg. T-6015  
U.S. Army Logistics Center & Fort Lee  
Shop Road  
Fort Lee Co: Prince George VA 23801-  
Landholding Agency: Army  
Property Number: 219012376  
Status: Unutilized  
Comment: 2124 sq. ft.; 2 story; most recent use—barracks; poor condition; needs major rehab.

Bldg. T-6018  
U.S. Army Logistics Center and Fort Lee  
Shop Road  
Fort Lee Co: Prince George VA 23801-  
Landholding Agency: Army  
Property Number: 219012396  
Status: Unutilized  
Comment: 1575 sq ft., 1 floor, no utilities, possible asbestos, needs rehab, off site use only.

Bldg. T-2850  
Fort Pickett  
Blackstone Co: Nottoway VA 23824-  
Landholding Agency: Army  
Property Number: 219012797  
Status: Underutilized  
Comment: 2900 sq. ft.; 1 story; selected periods are reserved for military/training exercises.

Bldg. 2222  
Fort Belvoir Military Reservation  
West of Foster Road  
Fort Belvoir Co: Fairfax VA 22060-  
Landholding Agency: Army  
Property Number: 219013767  
Status: Unutilized

Comment: 3800 sq. ft.; 2 story concrete and wood; possible asbestos; most recent use—storage.

Bldg. T-12054  
U.S. Army Logistics Center and Fort Lee  
Logistics Circle  
Fort Lee Co: Prince George VA 23801-  
Landholding Agency: Army  
Property Number: 219030328  
Status: Unutilized  
Comment: 4095 sq. ft.; 1 story sheet metal; needs rehab; presence of asbestos; off-site use only.

Bldg. #43-Admin. Gen Purp Bldg.  
Fort Myer  
Washington Avenue  
Fort Meyer Co: Arlington VA 22211-  
Landholding Agency: Army  
Property Number: 219120100  
Status: Unutilized  
Comment: 1341 sq. ft., two story, brick/wood siding, needs major rehab, possible asbestos, off-site use only.

Bldg. #46-Admin. Gen Purp Bldg.  
Fort Myer  
Washington Avenue  
Fort Myer Co: Arlington VA 22211-  
Landholding Agency: Army  
Property Number: 219120101  
Status: Unutilized  
Comment: 2866 sq. ft., two story brick/partial wood shingles, needs major rehab, off-site use only.

Washington  
Bldg. 875  
East 10th Street & Cabell Road  
Vancouver Barracks  
Vancouver Co: Clark WA 98661-3896  
Landholding Agency: Army  
Property Number: 219011616  
Status: Excess  
Comment: 13,695 sq. ft., 2 story wood frame, extensive fire damage, Historic property.

Bldg. 701  
SE Corner, McClelland & McLoughlin Road  
Vancouver Barracks  
Vancouver Co: Clark WA 98661-3896  
Landholding Agency: Army  
Property Number: 219011628  
Status: Unutilized  
Comment: 1 story wood frame, needs extensive repairs, Historic property.

Wisconsin  
Bldg. T-1058  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013435  
Status: Unutilized  
Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10122  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013436  
Status: Unutilized  
Comment: 1900 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10123  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013437  
Status: Unutilized  
Comment: 2405 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10135  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013438  
Status: Unutilized  
Comment: 97 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldg. T-10136  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013439  
Status: Unutilized  
Comment: 96 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldg. T-10127  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013440  
Status: Unutilized  
Comment: 1148 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. P-10119  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013441  
Status: Unutilized  
Comment: 215 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. P-10137  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013442  
Status: Unutilized  
Comment: 192 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—power plant.

Bldg. T-01088 thru T-01097, T-01014  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Numbers: 219013444-219013449,  
219013452-219013455, 219013457  
Status: Unutilized  
Comment: 5295 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10118, T-10120  
Fort McCoy  
Army Hospital Complex

Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Numbers: 219013450-219013451  
Status: Unutilized

Comment: 1250 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10113

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013458

Status: Unutilized  
Comment: 2393 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10121

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013458

Status: Unutilized  
Comment: 506 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10100 thru T-10103, T-10105, T-10107, T-10108

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013459-219013462, 219013463, 219013465, 219013466

Status: Unutilized  
Comment: 3944 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10106

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013464

Status: Unutilized  
Comment: 4105 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10124

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013467

Status: Unutilized  
Comment: 3115 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10125

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013468

Status: Unutilized  
Comment: 3580 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10126

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013469

Status: Unutilized

Comment: 3590 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. 101110

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013470

Status: Unutilized  
Comment: 2548 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—vehicle storage.

Bldg. T-0107 thru T-01030, T-01035 thru T-01040, T-01044, T-01048 thru T-01053, T-01059, T-01063, T-01069, T-01034, T-01041, T-01057, T-01071 thru T-01080, T-01082 thru T-01084

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Numbers: 219013471-219013480,

219013483, 219013485-219013493, 219013497, 219013502, 219013504-219013505, 219013519, 219013521-219013533

Status: Unutilized

Comment: 4829 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01042, T-01043, T-01045, T-01060 thru T-01062, T-01022 thru T-01025, T-01064, T-01085 thru T-01086

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Numbers: 219013481-219013482, 219013484, 219013494-219013496, 219013515-219013518, 219013520, 219013534-219013535

Status: Unutilized

Comment: 4686 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01065 thru T-01067

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Numbers: 219013498-219013500  
Status: Unutilized

Comment: 4793 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01068

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013501  
Status: Unutilized

Comment: 4848 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01032

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013503  
Status: Unutilized

Comment: 5588 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01054

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013506  
Status: Unutilized

Comment: 4184 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01033

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013507  
Status: Unutilized

Comment: 5241 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10112

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013508  
Status: Unutilized

Comment: 1273 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—morgue.

Bldg. T-01031

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013509  
Status: Unutilized

Comment: 4813 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01002

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013510  
Status: Unutilized

Comment: 2573 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01010

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013511  
Status: Unutilized

Comment: 8799 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-10109

Fort McCoy

Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013512  
Status: Unutilized

Comment: 2000 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01098

Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013513  
Status: Unutilized  
Comment: 7133 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01099  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013514  
Status: Unutilized  
Comment: 3294 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01003  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013536  
Status: Unutilized  
Comment: 3366 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01001  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013537  
Status: Unutilized  
Comment: 3350 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01005  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013538  
Status: Unutilized  
Comment: 3253 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01020  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013539  
Status: Unutilized  
Comment: 4150 sq. ft. 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-01070, T-01081  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Numbers: 219013540-219013541  
Status: Unutilized  
Comment: 7133 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-01006 thru T-01007, T-01009, T-01012 thru T-01013, T-01015 thru T-01018  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army

Property Numbers: 219013542-219013544, 219013546-219013551  
Status: Unutilized  
Comment: 5295 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01011  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013545  
Status: Unutilized  
Comment: 4236 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01021  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013552  
Status: Unutilized  
Comment: 4236 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldgs. T-01004, T-01019  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Numbers: 219013553-219013554  
Status: Unutilized  
Comment: 2815 sq. ft. each; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01056  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013555  
Status: Unutilized  
Comment: 15657 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

Bldg. T-01000  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013556  
Status: Unutilized  
Comment: 3378 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings; most recent use—fire station.

Bldg. T-01055  
Fort McCoy  
Army Hospital Complex  
Sparta Co: Monroe WI 54656-5000  
Landholding Agency: Army  
Property Number: 219013557  
Status: Unutilized  
Comment: 5471 sq. ft.; 1 story wood frame; possible asbestos; hospital/patient ward buildings.

#### Land (by State)

**Alaska**  
Nome Army Site  
Nome Co: Nome AK  
Location: Located on shoreline of Norton Sound on Bering Sea.  
Landholding Agency: Army

Property Number: 219013779  
Status: Underutilized  
Comment: 2.2 acres; limited utilities.  
Eklutna Dispersal Site  
Fort Richardson  
Anchorage Co: Anchorage AK 99505-  
Landholding Agency: Army  
Property Number: 219014608  
Status: Underutilized  
Comment: 500 acres; parkland; environmentally protected.

#### Arkansas

Pine Bluff Arsenal  
Pine Bluff Co: Jefferson AR 71602-9500  
Location: 8 miles north of Pine Bluff on Highway 365  
Landholding Agency: Army  
Property Number: 219013841  
Status: Unutilized  
Comment: 1 acre and 3 acres; potential utilities; brush terrain; used as safety buffer; subject to easements.

#### Illinois

Arlington USAR Center  
1515 W. Central Road  
Arlington Height Co: Cook IL 60005-  
Landholding Agency: Army  
Property Number: 219013921  
Status: Underutilized  
Comment: 6 acres; access subject to negotiation.

#### Kansas

Parcel 1  
Fort Leavenworth  
Combined Arms Center  
Fort Leavenworth Co: Leavenworth KS 66027-5020  
Landholding Agency: Army  
Property Number: 219012333  
Status: Underutilized  
Comment: 14.4+ acres.  
Parcel 3  
Fort Leavenworth  
Combined Arms Center  
Fort Leavenworth Co: Leavenworth KS 66027-5020  
Landholding Agency: Army  
Property Number: 219012336  
Status: Underutilized  
Comment: 261+ acres; heavily forested; no access to a public right-of-way; selected periods are reserved for military/training exercises.

Parcel 4  
Fort Leavenworth  
Combined Arms Center  
Fort Leavenworth Co: Leavenworth KS 66027-5020  
Landholding Agency: Army  
Property Number: 219012339  
Status: Underutilized  
Comment: 24.1+ acres; selected periods are reserved for military/training exercises; steep/wooded area.

Parcel 6  
Fort Leavenworth  
Combined Arms Center  
Fort Leavenworth Co: Leavenworth KS 66027-5020

Location: Extreme north east corner of installation in Flood Plain of the Missouri River.

Landholding Agency: Army  
Property Number: 219012340  
Status: Underutilized  
Comment: 1280 acres; selected periods are reserved for military/training exercises.

Parcel F  
Fort Leavenworth  
Combined Arms Center  
Fort Leavenworth Co: Leavenworth KS 66027-5020

Landholding Agency: Army  
Property Number: 219012552  
Status: Unutilized  
Comment: 33.4 acres; area is land locked; heavily wooded; periodic flooding.

#### Minnesota

Land  
Twin Cities Army Ammunition Plant  
New Brighton Co: Ramsey MN 55112-  
Landholding Agency: Army  
Property Number: 219120269  
Status: Underutilized  
Comment: Approx. 25 acres, possible contamination, secured area with alternate access.

#### Nevada

Parcel A  
Hawthorne Army Ammunition Plant  
Hawthorne Co: Mineral NV 89415-  
Location: At Foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane  
Landholding Agency: Army  
Property Number: 219012049  
Status: Unutilized  
Comment: 160 acres, road and utility easements, no utility hookup, possible flooding problem.

Parcel B  
Hawthorne Army Ammunition Plant  
Hawthorne Co: Mineral NV 89415-  
Location: At foot of Eastern slope of Mount Grant in Wassuk Range & S.W. edge of Walker Lane  
Landholding Agency: Army  
Property Number: 219012056  
Status: Unutilized  
Comment: 1920 acres; road and utility easements; no utility hookup; possible flooding problem.

Parcel C  
Hawthorne Army Ammunition Plant  
Hawthorne Co: Mineral NV 89415-  
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at Western edge of State Route 359  
Landholding Agency: Army  
Property Number: 219012057  
Status: Unutilized  
Comment: 85 acres; road and utility easements; no utility hookup.

Parcel D  
Hawthorne Army Ammunition Plant  
Hawthorne Co: Mineral NV 89415-  
Location: South-southwest of Hawthorne along HWAAP's South Magazine Area at western edge of State Route 359  
Landholding Agency: Army  
Property Number: 219012058  
Status: Unutilized

Comment: 955 acres; road and utility easements; no utility hookup.

#### Oklahoma

Parcel No. 8  
Fort Gibson Lake  
Section 22  
Cherokee County, OK  
Landholding Agency: Army  
Property Number: 219013801  
Status: Underutilized  
Comment: 5 acres; bushy and timbered; subject to grazing lease.

Parcel No. 9  
Fort Gibson Lake  
Section 18  
Cherokee County, OK  
Landholding Agency: Army  
Property Number: 219013802  
Status: Underutilized  
Comment: 7.5 acres; rolling; relatively open; subject to grazing lease; most recent use—recreation.

Parcel No. 10  
Fort Gibson Lake  
Section 16  
Cherokee County, OK  
Landholding Agency: Army  
Property Number: 219013803  
Status: Underutilized  
Comment: 36 acres; rolling; relatively open; subject to grazing lease; most recent use—recreation.

Parcel No. 11  
Fort Gibson Lake  
Section 16  
Cherokee County, OK  
Landholding Agency: Army  
Property Number: 219013804  
Status: Underutilized  
Comment: 60.34 acres; semi open with trees; most recent use—recreation.

Parcel No. 12  
Fort Gibson Lake  
Section 16  
Cherokee County, OK  
Landholding Agency: Army  
Property Number: 219013805  
Status: Underutilized  
Comment: 6 acres; flat and open; subject to grazing lease; most recent use—recreation.

Parcel No. 13  
Fort Gibson Lake  
Section 21  
Cherokee County, OK  
Landholding Agency: Army  
Property Number: 219013806  
Status: Underutilized  
Comment: 7 acres; flat and open; subject to grazing lease; most recent use—recreation.

Parcel No. 17  
Fort Gibson Lake  
Section 12  
Wagoner Co. Co: Wagoner OK  
Landholding Agency: Army  
Property Number: 219013807  
Status: Underutilized  
Comment: 25.09 acres; flat with trees; subject to grazing lease; most recent use—recreation.

Parcel No. 18  
Fort Gibson Lake  
Section 12  
Wagoner Co. Co: Wagoner OK  
Landholding Agency: Army

Property Number: 219013808  
Status: Underutilized  
Comment: 8.77 acres; subject to grazing lease; most recent use—recreation.

Parcel No. 22  
Fort Gibson Lake  
Section 16 and 21  
Wagoner Co. Co: Wagoner OK  
Landholding Agency: Army  
Property Number: 219013809  
Status: Underutilized  
Comment: 177.84 acres; rolling with timbered and open areas; subject to grazing lease; most recent use—recreation.

Parcel No. 32  
Fort Gibson Lake  
Section 2  
(See County) Co: Mayes OK  
Landholding Agency: Army  
Property Number: 219013810  
Status: Underutilized  
Comment: 22 acres; rolling and open; subject to grazing lease; most recent use—recreation.

Parcel No. 33  
Fort Gibson Lake  
Section 4  
Mayes County, OK  
Landholding Agency: Army  
Property Number: 219013811  
Status: Underutilized  
Comment: 18 acres; flat and open; subject to grazing lease; most recent use—recreation

Parcel No. 34  
Fort Gibson Lake  
Section 34  
Mayes County, OK  
Landholding Agency: Army  
Property Number: 219013812  
Status: Underutilized  
Comment: 18 acres; hilly-timbered; subject to grazing lease; most recent use—recreation.

Parcel No. 36  
Fort Gibson Lake  
Section 12  
Mayes County, OK  
Landholding Agency: Army  
Property Number: 219013813  
Status: Underutilized  
Comment: 19 acres; subject to grazing lease; most recent use—recreation.

Parcel No. 38  
Fort Gibson Lake  
Section 7 and 8  
Mayes County, OK  
Landholding Agency: Army  
Property Number: 219013814  
Status: Underutilized  
Comment: 97.39 acres; rolling, partially open with trees; subject to grazing lease; most recent use—recreation.

Parcel No. 40  
Fort Gibson Lake  
Section 5  
Mayes County, OK  
Landholding Agency: Army  
Property Number: 219013815  
Status: Underutilized  
Comment: 42 acres; timber; subject to grazing lease; most recent use—recreation.

Parcel No. 41  
Fort Gibson Lake  
Section 5  
Mayes County, OK

Landholding Agency: Army  
Property Number: 219013816  
Status: Underutilized  
Comment: 10 acres; some trees; subject to grazing lease; most recent use—recreation.

#### Tennessee

Milan Army Ammunition Plant  
Milan Co: Carroll TN 38358-  
Location: Plant boundary in the northeast corner of the plant & housing area  
Landholding Agency: Army  
Property Number: 219010547  
Status: Excess  
Comment: 17.2 acres; right of entry legal constraint.

Holston Army Ammunition Plant  
Kingsport Co: Hawkins TN 61299-6000  
Landholding Agency: Army  
Property Number: 219012338  
Status: Unutilized  
Comment: 8 acres; unimproved; could provide access; 2 acres unusable; near explosives.

#### Texas

Land Saginaw Army Aircraft Plt  
Saginaw Co: Tarrant TX 76070-  
Landholding Agency: Army  
Property Number: 219014814  
Status: Unutilized  
Comment: 154.3 acres; includes buildings/structures/parking and air strip.

#### Suitable/Unavailable Properties Buildings (by State)

##### Arkansas

S.W. Terry USAR Center  
3600 South Pierce Street  
Little Rock Co: Pulaski AR 72204-  
Landholding Agency: Army  
Property Number: 219014785  
Status: Unutilized  
Comment: 22350 sq. ft.; 1 story plus mezzanine; masonry frame; possible asbestos in boiler room.

##### California

P-33 Fort Ord  
East Garrison  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010723  
Status: Unutilized  
Comment: 4132 sq. ft.; 1 floor; most recent use—storage.

T-88 Fort Ord  
East Garrison  
Ford Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010768  
Status: Unutilized  
Base closure  
Comment: 1049 sq. ft.; 1 story; possible asbestos.

Bldg. 226  
Parks Reserve Forces Training Area  
Dublin Co: Alameda CA 94129-  
Landholding Agency: Army  
Property Number: 219013010  
Status: Unutilized  
Comment: 11500 sq. ft.; 3 story temporary wood; extensive asbestos present; most recent use—barracks.  
Bldg. T-220

Artillery Street  
Presidio of Monterey Co: Monterey CA 93940-

Landholding Agency: Army  
Property Number: 219014784  
Status: Unutilized  
Comment: 3343 sq. ft.; 2 story wood frame; most recent use—bowling center.

Bldg. 939  
Parks Reserve Forces  
Training Area  
Dublin Co: Alameda CA 94129-  
Landholding Agency: Army  
Property Number: 219030292  
Status: Unutilized  
Comment: 11300 sq. ft.; 1 story wood frame; needs major rehab; extensive asbestos present.

#### Georgia

Bldg. 5325  
Fort Benning Co: Muscogee CA 31905-  
Landholding Agency: Army  
Property Number: 219010140  
Status: Unutilized  
Comment: 2124 sq. ft.; most recent use—barracks; needs rehab.

#### Kentucky

Bldgs. 2945, 3165, 3111, 3113  
Fort Campbell  
Fort Campbell Co: Christian KY 42223-  
Landholding Agency: Army  
Property Numbers: 219012543, 219013221, 219013230, 219013231  
Status: Underutilized  
Comment: 4248 sq. ft. each; 2 story; selected periods are reserved for military/training exercises; possible asbestos.

Bldgs. 144, 145  
Ft. Campbell  
Ft. Campbell Co: Christian KY 42223-  
Landholding Agency: Army  
Property Numbers: 219013140-219013141  
Status: Underutilized  
Comment: 12576 sq. ft. each; 2 story; possible asbestos; most recent use—basic training central issue facility.

Bldgs. 3149, 3143, 3142, 3141  
Ft. Campbell  
Ft. Campbell Co: Christian KY 42223-  
Landholding Agency: Army  
Property Numbers: 219013222, 219013224-219013226  
Status: Underutilized  
Comment: 2200 sq. ft. each; 1 story; possible asbestos; selected periods used for military/training exercises.

Bldgs. 3135, 2733, 3132, 3133  
Ft. Campbell  
Ft. Campbell Co: Christian KY 42223-  
Landholding Agency: Army  
Property Numbers: 219013227, 219013229, 219013233-219013234  
Status: Underutilized  
Comment: 1760 sq. ft. each; 1 story; possible asbestos; selected periods used for military/training exercises.

Bldg. 3134  
Ft. Campbell  
Ft. Campbell Co: Christian KY 42223-  
Landholding Agency: Army  
Property Number: 219013228  
Status: Underutilized

Comment: 1880 sq. ft. each; 1 story; possible asbestos; selected periods used for military/training.

#### Louisiana

Bldg. 8323  
12th Street  
Fort Polk Co: Vernon LA 71459-5000  
Landholding Agency: Army  
Property Number: 219012730  
Status: Underutilized  
Comment: 4015 sq. ft.; temporary wood frame; most recent use—motor pool maintenance shop.

#### Massachusetts

Bldg. T-206  
Fort Devens  
Fort Devens Co: Middlesex/Worce MA 01433-  
Landholding Agency: Army  
Property Number: 219012345  
Status: Underutilized  
Comment: 1000 sq. ft.; 1 story, wood, most recent use—day room.

Bldg. T-209  
Fort Devens  
Fort Devens MA 01433-  
Landholding Agency: Army  
Property Number: 219030265  
Status: Underutilized  
Comment: 40701 sq. ft.; 2 story wood frame; needs rehab; most recent use—barracks.

#### New Jersey

Bldgs. 3315-B, 3316-C, 3329-C, 3329-E, 3346-C, 3349-B&C, 3350-B, 3350-E, 3350-C, 3356-A thru D  
Nelson Family Housing  
Fort Dix Co: Burlington NJ 08640-  
Landholding Agency: Army  
Property Numbers: 219030194, 219030198, 219030206-219030207, 219030223, 219030227-219030228, 219030230-219030232, 219030235-219030238  
Status: Unutilized

Comment: 879 sq. ft. each; 2 story residences; structurally deteriorated; possible asbestos.

Bldgs. 3315-C, 3349-E, 3351-C&D, 3356-E  
Nelson Family Housing  
Fort Dix Co: Burlington NJ 08640-  
Landholding Agency: Army  
Property Numbers: 219030195, 219030229, 219030233-219030234, 219030239  
Status: Unutilized

Comment: 595 sq. ft. each; 1 story residences; structurally deteriorated; possible asbestos.

Bldgs. 3316-A&B, 3317-A, 3322-C, 3319-C, 3323-A&B, 3332-A&B, 3333-E, 3336-F, 3336-E, 3338-B, 3339-A, 3340-A, 3342-A thru E, 3345-A, 3348-A thru C

Nelson Family Housing  
Fort Dix Co: Burlington NJ 08640-  
Landholding Agency: Army  
Property Numbers: 219030196-219030197, 219030199, 219030201-219030204, 219030208-219030220, 219030222, 219030224-219030226  
Status: Unutilized

Comment: 975 sq. ft. each; 2 story residences; structurally deteriorated; possible asbestos.

Bldgs. 3318-A, 3325-A, 3344-B  
Nelson Family Housing  
Fort Dix Co: Burlington NJ 08640-  
Landholding Agency: Army

Property Numbers: 219030200, 219030205,  
219030221

Status: Unutilized

Comment: 1267 sq. ft. each; 2 story  
residences; structurally deteriorated;  
possible asbestos.

Bldgs. 3357-C, 3357-D, 3357-E

Nelson Family Housing

Lexington Avenue

Fort Dix Co: Burlington NJ 08640-

Landholding Agency: Army

Property Numbers: 219030240-219030242

Status: Unutilized

Comment: 875 sq. ft. each; 2 story residences;  
structurally deteriorated; possible asbestos.

#### South Carolina

Bldg. 5485

Marion Avenue

Fort Jackson Co: Richland SC

Landholding Agency: Army

Property Number: 219013897

Status: Unutilized

Comment: 6303 sq. ft.; 1 story permanent  
structure; former heating plant;  
deteriorated condition.

#### Tennessee

Area Q—Housing Area—Q-1, Q-29

Milan Army Ammunition Plant

Milan Co: Carroll, TN 38358-

Landholding Agency: Army

Property Numbers: 219120271, 219120275

Status: Underutilized

Comment: 2024 sq. ft. ea., 2 story wood frame,  
most recent use—residence, intermittently  
used during selected periods.

#### Texas

Bldg. T-342 Fort Sam Houston

San Antonio Co: Bexar TX 78234-5000

Landholding Agency: Army

Property Number: 219120104

Status: Unutilized

Comment: 2284 sq. ft., one story wood bldg.,  
presence of asbestos.

Bldg. T-1185 Fort Sam Houston

San Antonio Co: Bexar TX 78234-5000

Landholding Agency: Army

Property Number: 219120105

Status: Unutilized

Comment: 4720 sq. ft., two story wood bldg.,  
potential utilities, needs rehab, presence of  
asbestos.

Bldg. S-2586 Fort Sam Houston

San Antonio Co: Bexar TX 78234-5000

Landholding Agency: Army

Property Number: 219120106

Status: Unutilized

Comment: 19436 sq. ft., two story wood/  
stucco bldg., potential utilities, needs  
rehab.

Bldg. T-2589 Fort Sam Houston

San Antonio Co: Bexar TX 78234-5000

Landholding Agency: Army

Property Number: 219120107

Status: Unutilized

Comment: 15360 sq. ft., two story wood bldg.,  
needs rehab.

Bldg. 809 Fort Hood

20th Street and Central Avenue

Fort Hood Co: Bell TX 76544-

Landholding Agency: Army

Property Number: 219120114

Status: Unutilized

Comment: 4779 sq. ft., two story wooden  
structure, needs major rehab, no latrine  
facilities.

#### Utah

Bldg. 101

Tooele Army Depot, North Area

2 miles south of Tooele on State Hwy 36

Tooele Co: Tooele UT 84074-5008

Landholding Agency: Army

Property Number: 219120305

Status: Underutilized

Comment: 1698 sq. ft., 1 story, most recent  
use—admin. and supply.

#### Virginia

Bldg. 2809

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Number: 219030271

Status: Underutilized

Comment: 3500 sq. ft.; selected periods are  
reserved for military/training exercises;  
most recent use—recreation building.

Bldg. 2649

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Number: 219030272

Status: Underutilized

Comment: 2900 sq. ft.; selected periods are  
reserved for military/training exercises;  
most recent use—dining facility.

Bldgs. 2212, 2417

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219030279-219030280

Status: Underutilized

Comment: 2256 sq. ft. each; selected periods  
are reserved for military/training exercises;  
most recent use—headquarters building.

Bldgs. 1693-1695

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219030281-219030283

Status: Underutilized

Comment: 6912 sq. ft. each; selected periods  
are reserved for military/training exercises;  
most recent use—barracks.

Bldgs. T-3029, 3030, T-3037 thru T-3039

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219030284-219030288

Status: Underutilized

Comment: 4292 sq. ft. each; selected periods  
are reserved for military/training exercises;  
most recent use—barracks.

Bldgs. 1356, 1360-1362, 1666-1675, 1678-1685

Fort Pickett

Blackstone Co: Nottoway VA 23824-

Landholding Agency: Army

Property Numbers: 219030295-219030314

Status: Underutilized

Comment: 11000 sq. ft. each; selected periods  
are reserved for military/training exercises;  
most recent use—mess hall.

#### Unsuitable Properties

Buildings (by State)

#### Alaska

Bldg. 4006, 3705

Fort Wainwright

6th Infantry Division

Fort Wainwright Co: Fairbanks AK

Landholding Agency: Army

Property Number: 219013778, 219013780

Status: Excess

Reason: Secured Area.

Bldg. 603

Fort Richardson

Fort Richardson Co: Anchorage AK 99505-

Landholding Agency: Army

Property Number: 219014289

Status: Excess

Reason: Secured Area.

Bldg. P01024

MARS Station

Fort Wainwright Co: Fairbanks AK 99703-

Location: Located on North Post; West of

102nd street and North of Apple Street.

Landholding Agency: Army

Property Number: 219014685

Status: Unutilized

Reason: Floodway.

Bldg. 1188

Sentry Station

Fort Wainwright Co: Fairbanks AK 99703-

Location: Located at Trainor Gate Entrance.

Landholding Agency: Army

Property Number: 219014686

Status: Unutilized

Reason: Floodway.

Bldg. 1514, 1546, 1568

Fort Wainwright Co: Fairbanks AK 99703-

Landholding Agency: Army

Property Number: 219014687-219014689

Status: Unutilized

Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.

Bldg. 2050

Sentry Station

Fort Wainwright Co: Fairbanks AK 99703-

Landholding Agency: Army

Property Number: 219014690

Status: Unutilized

Reason: Floodway.

Bldg. 1066, 1062

Officer's Military Housing

Fort Wainwright Co: Fairbanks AK 99703-

Location: North of Apple Street and West of  
100th Street.

Landholding Agency: Army

Property Number: 219014691-219014692

Status: Underutilized

Reason: Floodway.

#### Alabama

78 Bldgs.

Redstone Arsenal

Redstone Arsenal Co: Madison AL 35898-

Landholding Agency: Army

Property Number: 219014000, 219014003-

219014005, 219014009, 219014012,

219014015-219014053, 219014055-219014061,

219014064, 219014066, 219014068-219014080,

219014291-219014292, 219110109-219110111,

219120247-219120251, 219130001

Status: Unutilized

Reason: Secured Area.

Bldg. T00862

Fort McClellan

Off 21st Street between 2nd & 3rd Avenue

Fort McClellan Co: Calhoun AL 36205-5000

Landholding Agency: Army

Property Number: 219130019

Status: Unutilized  
Reason: Other  
Comment: Extensive deterioration.

#### Arkansas

Fort Smith USAR Center  
Fort Smith  
1218 South A Street  
Fort Smith Co: Sebastian AR 72901-  
Landholding Agency: Army  
Property Number: 219014928  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.

U.S. Army Garrison  
Fort Chaffee  
428 Ellis Avenue  
Fort Chaffee Co: Sebastian AR 72905-5000  
Landholding Agency: Army  
Property Number: 219110114  
Status: Underutilized  
Reason: Other  
Comment: Fuel pumphouse.

U.S. Army Garrison  
Fort Chaffee  
1916 1st Avenue  
Fort Chaffee Co: Sebastian AR 72905-5000  
Landholding Agency: Army  
Property Number: 219110115  
Status: Unutilized  
Reason: Other  
Comment: Fuel pumphouse.

U.S. Army Garrison  
Fort Chaffee  
2520 1st Avenue  
Fort Chaffee Co: Sebastian AR 72905-5000  
Landholding Agency: Army  
Property Number: 219110116  
Status: Unutilized  
Reason: Other  
Comment: Fuel pumphouse.

#### Arizona

49 Bldgs.  
Yuma Proving Ground  
Yuma Co: Yuma/La Paz AZ 85365-9102  
Landholding Agency: Army  
Property Number: 219011738, 219011744-  
219011745, 219013931-219013958,  
219013962-219013964, 219013966-219013980  
Status: Underutilized  
Reason: Secured Area.

32 Bldgs.  
Navajo Depot Activity  
Bellemont Co: Coconino AZ 86015-  
Location: 12 miles west of Flagstaff, Arizona  
on I-40  
Landholding Agency: Army  
Property Number: 219014560-219014591  
Status: Underutilized  
Reason: Secured Area.

10 properties: 753 earth covered igloos; above  
ground standard magazines  
Navajo Depot Activity  
Bellemont Co: Coconino AZ 86015-  
Landholding Agency: Army  
Property Number: 219014592-219014601  
Status: Underutilized  
Reason: Secured Area.

9 Bldgs.  
Navajo Depot Activity  
Bellemont Co: Coconino AZ 86015-5000  
Location: 12 miles west of Flagstaff on I-40  
Landholding Agency: Army  
Property Number: 219030273-219030274,  
219120175-219120181

Status: Unutilized  
Reason: Secured Area.  
Bldgs. 15349, 15388  
Fort Huachuca  
Sierra Vista Co: Cochise AZ 85635-  
Landholding Agency: Army  
Property Number: 219130003-219130004  
Status: Excess  
Reason: Other.  
Comment: Extensive deterioration.

#### California

P-12 Fort Ord  
East Garrison  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010722  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.  
16 Bldgs., Fort Ord  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010724-219010727,  
219010729-219010737, 219010739, 219010741,  
219010744

Status: Underutilized  
Reason: Secured Area (some are also within  
2000 ft. of flammable or explosive  
material).

T-1781 Fort Ord  
4th St. and 1st Ave.  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010746  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material. Other environmental.  
Secured Area.  
Comment: friable asbestos.

T-8, T-9, T-10, T-23, T-26, T-27, T-135, Fort  
Ord  
East Garrison  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010747, 219010749,  
219010754, 219010758, 219010761, 219010765,  
219010774

Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.

T-1782, T-1783, T-1784, T-1785, T-1786, T-22,  
Fort Ord  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010748, 219010750,  
219010752-219010753

Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material. Other environmental.  
Comment: friable asbestos.

T-1801 Fort Ord  
4th St. and 1st Ave.  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010757  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material. Secured Area.

T-1806, T-1807 Fort Ord  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010759-219010760  
Status: Unutilized  
Reason: Other environmental. Secured Area.

Comment: contains friable asbestos.  
T-1963, T-2056, T-2106 Fort Ord  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010762-219010764  
Status: Unutilized  
Reason: Secured Area.  
T-2107-2109 Fort Ord  
7th St. between 1st and 2nd Ave.  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010766-219010767,  
219010769  
Status: Underutilized  
Reason: Secured Area.  
T-2112-T-2115 Fort Ord  
2nd Ave., 7th St.  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010770-219010773  
Status: Unutilized  
Reason: Secured Area.

48 Bldgs.  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010775-219010790,  
219010792-219010806, 219010808-219010816,  
219010818-219010819, 219010821,  
219010823-219010824, 219010826,  
219010828-219010829

Status: Underutilized  
Reason: Secured Area.

3 Bldgs.  
Fort Ord Co: Monterey CA 92940-  
Landholding Agency: Army  
Property Number: 219010791, 219010827,  
219010831  
Status: Unutilized  
Reason: Secured Area.

5 Bldgs.  
Fort Ord Co: Monterey CA 93940-  
Landholding Agency: Army  
Property Number: 219010807, 219010817,  
219010820, 219010822, 219010825  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.

T-1787  
Fort Ord Co: Monterey CA 97411-  
Landholding Agency: Army  
Property Number: 219010921  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material. Secured Area.

Bldgs. P-99, T-324  
Fort Hunter Liggett  
Jolon Co: Monterey CA 93944-  
Landholding Agency: Army  
Property Number: 219012413, 219012420  
Status: Unutilized  
Reason: Other  
Comment: Latrine, detached structure.

Bldgs. P-177, P-178, 325  
Fort Hunter Liggett  
Jolon Co: Monterey CA 93928-  
Landholding Agency: Army  
Property Number: 219012414-219012415,  
219012600  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.

Bldg. 18  
Riverbank Army Ammunition Plant

5300 Claus Road  
Riverbank Co: Stanislaus CA 95367-  
Landholding Agency: Army  
Property Number: 219012554  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material. Secured Area.

Bldgs. T-323, T-322  
Fort Hunter Liggett  
Mission Road  
Jolon Co: Monterey CA 93928-  
Landholding Agency: Army  
Property Number: 219012601-219012602  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material  
Comment: Within 2000 ft. of sewage facility.

7 Bldgs.  
Fort Ord Co: Monterey CA  
Landholding Agency: Army  
Property Number: 219013574-219013577,  
219013579-219013581  
Status: Unutilized  
Reason: Secured Area.

9 Bldgs., Nos. 2-8, 18, 156  
Riverbank Army Ammunition Plant  
5300 Claus Road  
Riverbank Co: Stanislaus CA 95367-  
Landholding Agency: Army  
Property Number: 219013582-219013590  
Status: Underutilized  
Reason: Secured Area.

Bldg. T-3880  
Fort Ord  
13th Street and Corps Pl.  
Fort Ord Co: Monterey CA  
Landholding Agency: Army  
Property Number: 219013817  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.

Bldgs. T-2438, T-2106, T-2524  
Fort Ord  
Fort Ord Co: Monterey CA  
Landholding Agency: Army  
Property Number: 219013818-219013819,  
219013821  
Status: Underutilized  
Reason: Secured Area.

Bldg. T-2404  
Fort Ord  
Tenth Street and First Avenue  
Fort Ord Co: Monterey CA  
Landholding Agency: Army  
Property Number: 219013820  
Status: Underutilized  
Reason: Within 2000 ft. of flammable or  
explosive material. Secured Area.

Bldg. T-1952, T-2004  
Fort Ord  
Fort Ord Co: Monterey CA  
Landholding Agency: Army  
Property Number: 219013822-219013823  
Status: Unutilized  
Reason: Secured Area.

Bldg. T-1705  
Fort Ord  
Third Street and First Avenue  
Fort Ord Co: Monterey CA  
Landholding Agency: Army  
Property Number: 219013824  
Status: Unutilized

Reason: Within 2000 ft. of flammable or  
explosive material. Secured Area.

Bldg. T-2409  
Fort Ord  
Tenth Street and Second Avenue  
Fort Ord Co: Monterey CA  
Landholding Agency: Army  
Property Number: 219013825  
Status: Underutilized  
Reason: Within 2000 ft. of flammable or  
explosive material. Secured Area.

Bldgs. T-2550, T-2527  
Fort Ord  
Fort Ord Co: Monterey CA  
Landholding Agency: Army  
Property Number: 219013826-219013827  
Status: Underutilized  
Reason: Secured Area.

10 Bldgs.  
Fort Ord  
Fort Ord Co: Monterey CA  
Landholding Agency: Army  
Property Number: 219013828-219013837  
Status: Unutilized  
Reason: Secured Area

8 Bldgs.  
Fort Ord  
Fort Ord Co: Monterey CA  
Landholding Agency: Army  
Property Number: 219013838-219013839,  
219014294-219014299  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material. Secured Area.

8 Bldgs.  
Oakland Army Base  
Oakland Co: Alameda CA 94626-5000  
Landholding Agency: Army  
Property Number: 219013903-219013906,  
219120048-219120051  
Status: Unutilized  
Reason: Secured Area.

Bldg. S-108  
Sharpe Army Depot  
Lathrop Co: San Joaquin CA 95331-  
Location: Roth Road  
Landholding Agency: Army  
Property Number: 219014290  
Status: Underutilized  
Reason: Secured Area.

4 Bldgs.  
Fort Ord  
Fort Ord Co: Monterey CA 93941-  
Landholding Agency: Army  
Property Number: 219014300-219014303  
Status: Underutilized  
Reason: Within 2000 ft. of flammable or  
explosive material. Secured Area.

Bldg. S-184  
Fort Hunter Liggett  
Ft. Hunter Liggett Co: Monterey CA 93928-  
Location: POL Road  
Landholding Agency: Army  
Property Number: 219014602  
Status: Underutilized  
Reason: Secured Area.

17 Bldgs.  
Sierra Army Depot  
Herlong Co: Lassen CA 96113-  
Landholding Agency: Army  
Property Number: 219014695-219014700,  
219014703-219014705, 219014713-219014717,  
219014719-219014721

Status: Unutilized  
Reason: Secured Area.  
Bldg. S-369  
Sierra Army Depot  
Herlong Co: Lassen CA 96113-  
Landholding Agency: Army  
Property Number: 219014706  
Status: Unutilized  
Reason: Other. Secured Area.  
Comment: Detached Latrine.

Bldg. P-88  
Sierra Army Depot  
Road Oil Storage  
Herlong Co: Lassen CA 96113-  
Landholding Agency: Army  
Property Number: 219014707  
Status: Unutilized  
Reason: Other  
Comment: Oil Storage Tank.

P-C0707, P-C0708, P-C0808—Igloo  
Sierra Army Depot  
Magazine Area  
Herlong Co: Lassen CA 96113-  
Landholding Agency: Army  
Property Number: 219014708-219014710  
Status: Unutilized  
Reason: Secured Area.  
Bldg. S-173, 177, 197  
Roth Road—Sharpe Army Depot  
Lathrop Co: San Joaquin CA  
Landholding Agency: Army  
Property Number: 219014940-219014942  
Status: Unutilized  
Reason: Secured Area.

39 Bldgs., Nos. 3001-3040  
Wherry Housing, Title VIII  
Sierra Army Depot  
Herlong Co: Lassen CA 96113-  
Location: Intersection of Susanville Road and  
Flagler Blvd.  
Landholding Agency: Army  
Property Number: 219030128-219030167  
Status: Unutilized  
Reason: Secured Area.

27 Bldgs.  
Fort Ord  
Fort Ord Co: Monterey CA 93941-5777  
Landholding Agency: Army  
Property Number: 219030180-219030182,  
219030346-219030360, 219040379-219040381,  
219110067-219110072  
Status: Unutilized  
Reason: Secured Area.

Bldg. S-321, T-136—Sierra Army Depot  
Herlong Co: Lassen CA 96113-  
Landholding Agency: Army  
Property Number: 219120046-219120047  
Status: Unutilized  
Reason: Secured Area.

7 Bldgs—Fort Ord  
Fort Ord Co: Monterey CA 93941-5777  
Landholding Agency: Army  
Property Number: 219120052-219120057,  
219120099  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material. Secured Area.  
Bldg. 13, 171, 178 Riverbank Ammun Plant  
5300 Claus Road  
Riverbank Co: Stanislaus CA 95367-  
Landholding Agency: Army  
Property Number: 219120162-219120164

Status: Underutilized  
Reason: Secured Area.  
Bldg. 81  
Los Alamitos Armed Forces Reserve Center  
Los Alamitos Co: Orange CA 90720-5001  
Location: Main entrance on Lexington Dr.  
Landholding Agency: Army  
Property Number: 219120278  
Status: Unutilized  
Reason: Other  
Comment: Detached latrine.

#### Colorado

87 Bldgs.  
Pueblo Army Depot  
Pueblo Co: Pueblo CO 81001-  
Location: 14 miles East of Pueblo City on  
Highway 50  
Landholding Agency: Army  
Property Number: 219012209, 219012211,  
219012214, 219012216, 219012221,  
219012223-219012224, 219012226-219012228,  
219012230-219012237, 219012239-219012257,  
219012260-219012278, 219012280-219012288,  
219012290-219012298, 219012300, 219012303,  
219012743, 219012745, 219012747-219012748,  
219014845, 219120058-219120063  
Status: Unutilized  
Reason: Secured Area.  
Bldg. T-9643, T-9644  
Fort Carson  
Butts Airfield  
Colorado Springs Co: El Paso CO 80913-5023  
Landholding Agency: Army  
Property Number: 219013603-219013604  
Status: Unutilized  
Reason: Secured Area.

#### Georgia

Fort Stewart  
Sewage Treatment Plant  
Ft. Stewart Co: Hinesville GA 31314-  
Landholding Agency: Army  
Property Number: 219013922  
Status: Unutilized  
Reason: Sewage treatment.  
Railway Spur and Bridge  
Fort Gillem  
Forest Park Co: Clayton GA 30050-  
Location: Located on Highway 42, Southeast  
Landholding Agency: Army  
Property Number: 219014293  
Status: Unutilized  
Reason: Within airport runway clear zone.  
Facility 12304  
Fort Gordon  
Augusta Co: Richmond GA 30905-  
Location: Located off Lane Avenue  
Landholding Agency: Army  
Property Number: 219014787  
Status: Unutilized  
Reason: Other  
Comment: Wheeled vehicle grease/  
inspection rack.  
Bldg. 5397  
Fort Benning  
Ft. Benning Co: Muscogee GA 31905-  
Landholding Agency: Army  
Property Number: 219120268  
Status: Unutilized  
Reason: Other  
Comment: Detached lavatory bldg.

#### Hawaii

PU-01, 02, 03, 04, 05, 06, 07, 08, 09, 10, 11  
Schofield Barracks  
Kolekole Pass Road  
Wahiawa Co: Wahiawa HI 96786-  
Landholding Agency: Army  
Property Number: 219014836-219014837  
Status: Unutilized  
Reason: Secured Area.  
TMK 1-6-8-8-11  
Dillingham Military Reservation  
Waialua Co: Wahiawa HI 96791-  
Location: Property adjacent to 68-999  
Farrington Highway  
Landholding Agency: Army  
Property Number: 219014838  
Status: Unutilized  
Reason: Other environmental  
Comment: Civil Defense—Tsunami Inundated  
area.  
TMK 1-6-9-1-29  
Dillingham Military Reservation  
Wailua Co: Wahiawa HI 96791-  
Location: In Quarry site  
Landholding Agency: Army  
Property Number: 219014839  
Status: Unutilized  
Reason: Secured Area.  
P-001, PN-05  
Kahuku Training Area  
Kahuku Training Area Access Road  
Kahuku HI 96731-  
Landholding Agency: Army  
Property Number: 219030322-219030323  
Status: Underutilized  
Reason: Secured Area.  
P-88  
Aliamanu Military Reservation  
Honolulu Co: Honolulu HI 96818-  
Location: Approximately 600 feet from Main  
Gate on Aliamanu Drive.  
Landholding Agency: Army  
Property Number: 219030324  
Status: Unutilized  
Reason: Other environmental  
Comment: Friable Asbestos.  
P-3384 East Range  
Schofield Barracks  
East Range Road  
Wahiawa Co: Wahiawa HI 96786-  
Landholding Agency: Army  
Property Number: 219030361  
Status: Unutilized  
Reason: Secured Area.  
Iowa  
14 Bldgs.  
Iowa Army Ammunition Plant  
Middletown Co: Des Moines IA 52638-  
Landholding Agency: Army  
Property Number: 219012603, 219012605-  
219012607, 219012609, 219012611, 219012613,  
219012615, 219012620, 219012622, 219012624,  
219120172-219120174  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.  
33 Bldgs.  
Iowa Army Ammunition Plant  
Middletown Co: Des Moines IA  
Landholding Agency: Army  
Property Number: 219013706-219013738  
Status: Unutilized  
Reason: Secured Area.

#### Illinois

570 Bldgs.  
Joliet Army Ammunition Plant  
Joliet Co: Will IL 60436-  
Landholding Agency: Army  
Property Number: 219010153-219010317,  
219010319-219010413, 219010415-219010439,  
219011750-219011879, 219011881-219011908,  
219012331, 219013076-219013138,  
219014722-219014781, 219030277-219030278,  
219040354  
Status: Unutilized  
Reason: Secured Area: many within 2000 ft.  
of flammable or explosive materials; some  
within floodway.  
Bldg. 251  
Rock Island Arsenal  
Rock Island Co: Rock Island IL 61299-5000  
Landholding Agency: Army  
Property Number: 219012357  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.  
Bldg. 725  
Fort Sheridan  
Highwood Co: Lake IL 60037-5000  
Landholding Agency: Army  
Property Number: 219013769  
Status: Underutilized  
Reason: Secured Area.  
Bldg. 58, 59 and 72, 69, 64, 105  
Rock Island Arsenal  
Rock Island Co: Rock Island IL 61299-5000  
Landholding Agency: Army  
Property Number: 219110104-2955, 219010957,  
219010959-219010960, 219010962-219010964,  
219010966-219010967, 219010969-219010970,  
219011449, 219011454, 219011456-219011457,  
219011459-219011464, 219013848,  
219014608-219014620, 219014622-219014651,  
219014653-219014683, 219030315,  
219120168-219120171  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.  
6 Bldgs.  
Indiana Army Ammunition Plant  
Charlestown Co: Clark IN 47111-  
Landholding Agency: Army  
Property Numbers: 219010920, 219010924,  
219010927-219010928, 219014621, 219014652  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.  
52 Bldgs.  
Newport Army Ammunition Plant  
Newport Co: Vermillion IN 47966-  
Landholding Agency: Army  
Property Numbers: 219011584, 219011586-  
219011587, 219011589-219011590,  
219011592-219011627, 219011629-219011636,  
219011638-219011641  
Status: Unutilized  
Reason: Secured Area.  
Bldg T-109  
Fort Benjamin Harrison  
Beaumont Road  
Ft. Benjamin Harrison Co: Marion IN 47216-  
5450  
Landholding Agency: Army

Property Number: 219011648  
 Status: Unutilized  
 Reason: Within 2000 ft. of flammable or explosive material.  
 Propellant-Igniter Ldg. Line  
 Indiana Army Ammunition Plant  
 Charlestown Co: Clark IN  
 Landholding Agency: Army  
 Property Number: 219013764  
 Status: Underutilized  
 Reason: Within 2000 ft. of flammable or explosive material Secured Area.

#### Kansas

37 Bldgs.  
 Kansas Army Ammunition Plant  
 Production Area  
 Parsons Co: Labette KS 67357-  
 Landholding Agency: Army  
 Property Numbers: 219011909-219011945  
 Status: Unutilized  
 Reason: Secured Area (most are within 2000 ft. of flammable or explosive material).

324 Bldgs.  
 Sunflower Army Ammunition Plant  
 35425 W. 103rd Street  
 DeSoto Co: Johnson KS 66018-  
 Landholding Agency: Army  
 Property Numbers: 219040005-219040008, 219040032-219040353  
 Status: Unutilized  
 Reason: Within 2000 ft. of flammable or explosive material Floodway Secured Area.

25 Bldgs.  
 Sunflower Army Ammunition Plant  
 35425 W. 103rd Street  
 DeSoto Co: Johnson KS 66018-  
 Landholding Agency: Army  
 Property Numbers: 219040007-219040031  
 Status: Unutilized  
 Reason: Within 2000 ft. of flammable or explosive material Floodway.

Bldg. 9002  
 Sunflower Army Ammunition Plant  
 35525 W. 103rd Street  
 DeSoto Co: Johnson KS 66018-  
 Landholding Agency: Army  
 Property Number: 219110073  
 Status: Excess  
 Reason: Within 2000 ft. of flammable or explosive material Secured Area.

#### Kentucky

Bldg. 126  
 Lexington-Blue Grass Army Depot  
 Lexington Co: Fayette KY 40511-  
 Location: 12 miles northeast of Lexington, Kentucky.

Landholding Agency: Army  
 Property Number: 219011661  
 Status: Unutilized  
 Reason: Other Secured Area  
 Comment: Sewage treatment facility.

Bldg. 12  
 Lexington-Blue Grass Army Depot  
 Lexington Co: Fayette KY 40511-  
 Location: 12 miles Northeast of Lexington, Kentucky.

Landholding Agency: Army  
 Property Number: 219011663  
 Status: Unutilized  
 Reason: Other  
 Comment: Industrial waste treatment plant.  
 Spring House

Kentucky River Lock and Dam No. 1  
 Highway 320  
 Carrollton Co: Carroll KY 41008-  
 Landholding Agency: Army  
 Property Number: 219040416  
 Status: Unutilized  
 Reason: Other  
 Comment: Spring House.

Building  
 Kentucky River Lock and Dam No. 4  
 1021 Kentucky Avenue  
 Frankfort Co: Franklin KY 40601-9999  
 Landholding Agency: Army  
 Property Number: 219040417  
 Status: Unutilized  
 Reason: Other  
 Comment: Coal Storage.

Building  
 Kentucky River Lock and Dam No. 4  
 1021 Kentucky Avenue  
 Frankfort Co: Franklin KY 40601-9999  
 Landholding Agency: Army  
 Property Number: 219040418  
 Status: Unutilized  
 Reason: Other  
 Comment: Coal Storage.

Barn  
 Kentucky River Lock and Dam No. 3  
 Highway 501  
 Pleasureville Co: Henry KY 40057-  
 Landholding Agency: Army  
 Property Number: 219040419  
 Status: Underutilized  
 Reason: Other  
 Comment: 110 year old barn with crumbled foundation.

#### Louisiana

53 Bldgs.  
 Louisiana Army Ammunition Plant  
 Doyline Co: Webster LA 71023-  
 Landholding Agency: Army  
 Property Numbers: 219011668-219011670, 219011691, 219011700, 219011714-219011716, 219011718-219011724, 219011726, 219011728, 219011731, 219011733-219011737, 219012112, 219013571-219013572, 219013862-219013869, 219110124-219110137, 219120287-219120290, 219120303  
 Status: Unutilized  
 Reason: Secured Area (most are within 2000 ft. of flammable or explosive material).

Staff Residences  
 Louisiana Army Ammunition Plant  
 Doyline Co: Webster La 71023-  
 Landholding Agency: Army  
 Property Numbers: 219120284-219120286  
 Status: Excess.  
 Reason: Secured Area.

#### Massachusetts

Material Technology Lab  
 405 Arsenal Street  
 Watertown Co: Middlesex MA 02132-  
 Landholding Agency: Army  
 Property Numbers: 219120161  
 Status: Underutilized  
 Reason: Within 2000 ft. of flammable or explosive material Floodway Secured Area.

#### Maryland

55 Bldgs.  
 Aberdeen Proving Ground  
 Aberdeen City Co: Harford MD 21005-5001

Landholding Agency: Army  
 Property Numbers: 219011406-219011417, 219012608, 219012610, 219012612, 219012614, 219012616-219012617, 219012619, 219012623, 219012625-219012629, 219012631, 219012633-219012635, 219012637-219012642, 219012645-219012651, 219012655-219012664, 219013773, 219014711-219014712, 219030316, 219110140

Status: Unutilized  
 Reason: Most are in a secured area. (Some are within 2000 ft. of flammable or explosive material) (Some are in a floodway).

#### P501

Installation #24235  
 Ballast House  
 La Plata Co: Charles MD 20646-  
 Location: At the end of the access road  
 Landholding Agency: Army  
 Property Number: 219011643  
 Status: Underutilized  
 Reason: Within 2000 ft. of flammable or explosive material Secured Area.

#### Bldg. 312

SFC Adams Brandt & Reserve Center  
 700 Ordnance Road B  
 Baltimore Co: Anne Arundel MD 21226-1790  
 Landholding Agency: Army  
 Property Number: 219013881  
 Status: Underutilized  
 Reason: Other  
 Comment: Collapsed roof/supporting beams cracked.

#### 28 Bldgs.

Fort George G. Meade  
 Fort Meade Co: Anne Arundel MD 20755-  
 Landholding Agency: Army  
 Property Numbers: 219014789, 219014847, 219040365-219040366, 219040368-219040372, 219120152-219120159, 219130034-219130044  
 Status: Unutilized  
 Reason: Secured Area.

#### Bldg. 10401

Aberdeen Proving Ground  
 Aberdeen Area  
 Harford Co: Harford MD 21005-5001  
 Landholding Agency: Army  
 Property Numbers: 219110138  
 Status: Unutilized  
 Reason: Other  
 Comment: Sewage treatment plant.

#### Bldg. 10402

Aberdeen Proving Ground  
 Aberdeen Area  
 Aberdeen City Co: Harford MD 21005-5001  
 Landholding Agency: Army  
 Property Number: 219110139  
 Status: Unutilized  
 Reason: Other  
 Comment: Sewage pumping station.

Bldg. 142-146, USARC Gaithersburg  
 8510 Snouffers School Road  
 Gaithersburg Co: Montgomery MD 20879-1624

Landholding Agency: Army  
 Property Numbers: 219120009-219120013  
 Status: Unutilized  
 Reason: Secured Area.

15 Bldgs., Ft. George G. Meade  
 Ft. Meade Co: Anne Arundel MD 20755-  
 Landholding Agency: Army  
 Property Numbers: 219130045-219130059  
 Status: Unutilized

Reason: Other  
Comment: Extensive deterioration.

#### Michigan

Bldg. 602, 604  
US Army Garrison Selfridge  
Mt. Clemens Co: Macomb MI 48043-  
Landholding Agency: Army  
Property Numbers: 219012355-219012356  
Status: Unutilized  
Reason: Within airport runway clear zone  
Floodway Secured Area.

Detroit Arsenal Tank Plant  
28251 Van Dyke Avenue  
Warren Co: Macomb MI 48090-  
Landholding Agency: Army  
Property Number: 219014605  
Status: Underutilized  
Reason: Secured Area.  
25 Bldgs.  
Fort Cluster Training Center  
2501 28th Street  
Augusta Co: Kalamazoo MI 49102-9205  
Landholding Agency: Army  
Property Numbers: 219014947-219014963,  
219120001-219120008  
Status: Unutilized  
Reason: Secured Area.

#### Minnesota

Bldg. 113, 575, 598  
Twin Cities Army Ammunition Plant  
New Brighton Co: Ramsey MN 55112-  
Landholding Agency: Army  
Property Numbers: 219120165-219120167  
Status: Unutilized  
Reason: Secured Area.

#### Missouri

Lake City Army Ammo. Plant  
59, 59A, 59C, 59B  
Independence Co: Jackson MO 64050-  
Landholding Agency: Army  
Property Numbers: 219013668-219013669  
Status: Unutilized  
Reason: Secured Area.  
Building-Stockton Lake Project  
Old Mill Area  
(See County) Co: Ceder MO 65785-  
Landholding Agency: Army  
Property Number: 219040414  
Status: Unutilized  
Reason: Floodway  
Bldg #1, 2, 3  
St Louis Army Ammunition Plant  
4800 Goodfellow Blvd.  
St Louis Co: St. Louis MO 63120-1798  
Landholding Agency: Army  
Property Numbers: 219120067-219120069  
Status: Unutilized  
Reason: Secured Area.

#### Mississippi

Bldg. 8301, 8303-8305, 9158  
Mississippi Army Ammunition Plant  
Stennis Space Center Co: Hancock MS 39529-  
7000  
Landholding Agency: Army  
Property Numbers: 219040438-219040442  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.

#### Nebraska

13 Bldgs.

Cornhusker Army Ammunition Plant  
Grand Island Co: Hall NE 68802-  
Location: 4 miles west (Potash Road)  
Landholding Agency: Army  
Property Numbers: 219013849-219013861  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.

#### New Jersey

192 Bldgs.  
Armament Res. Dev. & Eng. Ctr.  
Picatinny Arsenal Co: Morris NJ 07806-5000  
Location: Route 15 north  
Landholding Agency: Army  
Property Numbers: 219010440-219010474,  
219010476, 219010478, 219010639-219010721,  
219012423-219012475, 219013787,  
219014306-219014321, 219030269-219030270  
Status: Excess  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.  
12 Bldgs.  
Armament Reserve Dev. and Engineering  
Center  
Route 15 North  
Picatinny Arsenal Co: Morris NJ 07806-  
Landholding Agency: Army  
Property Numbers: 219012756-219012767  
Status: Excess  
Reason: Secured Area.

Bldg. 2337  
Fort Monmouth  
Charles Wood Area  
Wall Co: Monmouth NJ 07719-  
Landholding Agency: Army  
Property Number: 219012828  
Status: Unutilized  
Reason: Secured Area.  
17 Bldgs. (Evans Area)  
Fort Monmouth  
Wall Co: Monmouth NJ 07719-  
Landholding Agency: Army  
Property Numbers: 219012829-219012844,  
219013786  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 13-14, 15A, 41, 100, 110-111  
Military Ocean Terminal  
Bayonne Co: Hudson NJ 07002-  
Location: Foot of 32nd Street and Route 169.  
Landholding Agency: Army  
Property Numbers: 219013890-219013896  
Status: Unutilized  
Reason: Floodway Secured Area.

#### Nevada

124 Bldgs.  
Hawthorne Army Ammunition Plant  
Hawthorne Co: Mineral NV 89415-  
Landholding Agency: Army  
Property Numbers: 219011953, 219011955,  
219011957, 219011958, 219011960, 219011962,  
219011963, 219011985-219011987, 219011969,  
219011971-219011973, 219011975, 219011979,  
219011981, 219011983, 219011985, 219011986,  
219011988, 219011989, 219011991-219011993,  
219011995, 219011998-219012001, 219012003,  
219012004, 219012006-219012008,  
219012010-219012012, 219012014, 219012015,  
219012017-219012020, 219012022-219012024,  
219012026, 219012027, 219012029, 219012030,  
219012032, 219012033, 219012035, 219012036,  
219012038-219012040, 219012042, 219012043,  
219012045-219012048, 219012050-219012055,  
219012059-219012107, 219013613, 219013614

Status: Unutilized  
Reason: Secured Area.  
Bldg. 396  
Hawthorne Army Ammunition Plant  
Bachelor Enlisted Qtrs W/Dining Facilities  
Hawthorne Co: Mineral NV 89415-  
Location: East side of Decatur Street—North  
of Maine Avenue  
Landholding Agency: Army  
Property Number: 219011997  
Status: Unutilized  
Reason: Within airport runway clear zone  
Secured Area.

64 Bldgs.  
Hawthorne Army Ammunition Plant  
Hawthorne Co: Mineral NV 89415-  
Landholding Agency: Army  
Property Numbers: 219012002, 219012005,  
219012009, 219012013, 219012016, 219012021,  
219012025, 219012028, 219012031, 219012034,  
219012037, 219012041, 219012044,  
219013615-219013655  
Status: Underutilized  
Reason: Secured Area; some within airport  
runway clear zone; many within 2000 ft. of  
flammable or explosive material.

62 Concrete Explo. Mag. Stor.  
Hawthorne Army Ammunition Plant  
Hawthorne Co: Mineral NV 89415-  
Location: North Mag. Area  
Landholding Agency: Army  
Property Number: 219120150  
Status: Unutilized  
Reason: Secured Area.

259 Concrete Explo. Mag. Stor.  
Hawthorne Army Ammunition Plant  
Hawthorne Co: Mineral NV 89415-  
Location: South & Central Mag. Areas  
Landholding Agency: Army  
Property Number: 219120151  
Status: Unutilized  
Reason: Secured Area.

#### New York

Bldgs. 10, 20, 40  
Watervliet Arsenal  
Watervliet Co: Albany NY 12189-4050  
Landholding Agency: Army  
Property Numbers: 219012514, 219012516,  
219012519  
Status: Underutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.

Bldg. 25  
Watervliet Arsenal  
Watervliet Co: Albany NY 12189-4050  
Landholding Agency: Army  
Property Number: 219012521  
Status: Underutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.  
Comment: contamination.

Bldg. 110  
Fort Totten  
110 Duane Road  
Bayside Co: Queens NY 11359-  
Landholding Agency: Army  
Property Number: 219012589  
Status: Unutilized  
Reason: Other  
Comment: contamination.

#### Ohio

62 Bldgs.

Ravenna Army Ammunition Plant  
Ravenna Co: Portage OH 44266-9297  
Landholding Agency: Army  
Property Numbers: 219012476-219012507,  
219012509-219012513, 2190125115,  
219012517, 219012518, 219012520, 219012522,  
219012523, 219012525-219012528,  
219012530-219012532, 219012534, 219012535,  
219012537, 219013670-219013677, 219013781  
Status: Unutilized  
Reason: Secured Area.

#### Oklahoma

Bldg. P-2505  
Fort Sill  
2505 Sheridan Road  
Lawton Co: Comanche OK 73503-51000  
Landholding Agency: Army  
Property Number: 219011243  
Status: Unutilized  
Reason: Other  
Comment: Latrine, detached structure.  
553 Bldgs.  
McAlester Army Ammunition Plant  
McAlester Co: Pittsburg OK 74501-5000  
Landholding Agency: Army  
Property Numbers: 219011674, 219011680,  
219011684, 219011687, 219012113, 219013792,  
219013793, 219013981-219013995,  
219014081-219014102, 219014104,  
219014107-219014137, 219014139,  
219014141-219014159, 219014161, 219014162,  
219014165-219014216, 219014218-219014274,  
219014336-219014559, 219030007-219030127,  
219040004  
Status: Underutilized  
Reason: Secured Area Some within 2000 ft. of  
flammable or explosive material.

P-3042, Fort Sill  
3042 Austin Road  
Lawton Co: Comanche OK 73503-5100  
Landholding Agency: Army  
Property Numbers: 219130060  
Status: Unutilized  
Reason: Other  
Comment: Structurally unsound.

#### Oregon

11 Bldgs.  
Tooele Army Depot  
Umatilla Depot Activity  
Hermiston Co: Morrow/Umatilla OR 97838-  
Location: 13 miles east of Hermiston Oregon  
on I-84  
Landholding Agency: Army  
Property Numbers: 219012174-219012176,  
219012178, 219012179, 219012190, 219012191,  
219012197, 219012198, 219012217, 219012229  
Status: Underutilized  
Reason: Secured Area.  
24 Bldgs.  
Tooele Army Depot  
Umatilla Depot Activity  
Hermiston Co: Morrow/Umatilla OR 97838-  
Location: 13 miles east of Hermiston Oregon  
on I-84  
Landholding Agency: Army  
Property Numbers: 219012177, 219012185,  
219012186, 219012189, 219012195, 219012196,  
219012199-219012205, 219012207, 219012208,  
219012225, 219012279, 219014304, 219014305,  
219014782, 219014844, 219030362-219030363,  
219120032  
Status: Underutilized  
Reason: Secured Area.

#### Pennsylvania

Defense Personnel Support Ctr.  
2800 South 20th Street  
Philadelphia Co: Philadelphia PA 19101-8419  
Landholding Agency: Army  
Property Number: 219011664  
Status: Underutilized  
Reason: Other environmental Secured Area  
Comment: Friable asbestos.  
Hays Army Ammunition Plant  
300 Mifflin Road  
Pittsburgh Co: Allegheny PA 15207-  
Landholding Agency: Army  
Property Number: 219011666  
Status: Excess  
Reason: Secured Area.

#### South Carolina

12 Bldgs.  
Ft. Jackson Co: Richland SC 29207-  
Landholding Agency: Army  
Property Numbers: 219120291-219120302  
Status: Unutilized  
Reason: Other  
Comment: extensive deterioration.

#### Tennessee

Bldg. 100  
Volunteer Army Ammo. Plant  
Chattanooga Co: Hamilton TN 37422-  
Landholding Agency: Army  
Property Number: 219010475  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.  
23 Bldgs.  
Volunteer Army Ammo. Plant  
Chattanooga Co: Hamilton TN 37422-  
Landholding Agency: Army  
Property Numbers: 219010477, 219010479-  
219010500  
Status: Unutilized  
Reason: Secured Area Some are within 2000  
ft. of flammable or explosive material.  
45 Bldgs.  
Milan Army Ammunition Plant  
Milan Co: Carroll TN 38358-  
Landholding Agency: Army  
Property Numbers: 219010501, 219010503,  
219010505, 219010545, 219010551, 219010554,  
219010557, 219010567, 219010569, 219010573,  
219010576, 219010596, 219010600-219010602,  
219010604, 219010606, 219010607, 219010610,  
219010611, 219010613-219010622,  
219010624-219010634, 219010922,  
219030317-219030319  
Status: Unutilized  
Reason: Secured Area Some within 2000 ft. of  
flammable or explosive material.

#### 198 Bldgs.

Milan Army Ammunition Plant  
Milan Co: Carroll TN 38358-  
Landholding Agency: Army  
Property Numbers: 219010504, 219010506-  
219010508, 219010510, 219010515, 219010521,  
219010523, 219010525, 219010526, 219010531,  
219010538, 219010539, 219010544, 219010546,  
219010548-219010550, 219010553, 219010555,  
219010556, 219010558, 219010561-219010566,  
219010568, 219010570-219010572, 219010574,  
219010575, 219010577-219010582,  
219010584-219010586, 219010588-219010595,  
219010597, 219010599, 219010635-219010638,  
219010923, 219014792-219014795, 219014797,  
219014801, 219014802, 219014804-219014811,

219030321, 219110001-219110031,  
219110074-219110101, 219120182-219120246  
Status: Underutilized  
Reason: Secured Area Some within 2000 ft. of  
flammable or explosive material.

#### 20 Bldgs.

Holston Army Ammunition Plant  
Kingsport Co: Hawkins TN 61299-6000  
Landholding Agency: Army  
Property Numbers: 219012304-219012309,  
219012311, 219012312, 219012314, 219012316,  
219012317, 219012319, 219012325, 219012328,  
219012330, 219012332, 219012334, 219012337,  
219013790, 219030266  
Status: Unutilized  
Reason: Secured Area Some are within 2000  
ft. of flammable or explosive material.

#### Bldg. 1

Holston Army Ammunition Plant  
Kingsport Co: Hawkins TN 61299-6000  
Landholding Agency: Army  
Property Number: 219012335  
Status: Underutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.

#### Bldg. No. 1, Area B

Holston Army Ammunition Plant  
Kingsport Co: Hawkins TN  
Landholding Agency: Army  
Property Number: 219013789  
Status: Underutilized  
Reason: Secured Area.

#### Texas

Saginaw Army Aircraft Plant  
Saginaw Co: Tarrant TX 76079-  
Landholding Agency: Army  
Property Number: 219011665  
Status: Unutilized  
Reason: Other  
Comment: easement to city of Saginaw for  
sewer pipeline ending 5/15/2023.

#### 18 Bldgs.

Long Star Army Ammunition Plant  
Highway 82 West  
Texarkana Co: Bowie TX 75505-9100  
Landholding Agency: Army  
Property Numbers: 219012524, 219012529,  
219012533, 219012536, 219012539, 219012540,  
219012542, 219012544, 219012545,  
219030337-219030345  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.

#### Bldgs. 0021A, 0027A

Longhorn Army Ammunition Plant  
Karnack Co: Harrison TX 75661-  
Location: State highway 43 north  
Landholding Agency: Army  
Property Numbers: 219012546, 219012548  
Status: Underutilized  
Reason: Secured Area.

#### Bldg. 14

Saginaw Army Aircraft Plant  
Saginaw Co: Tarrant TX 76070-  
Landholding Agency: Army  
Property Number: 219014823  
Status: Unutilized  
Reason: Other  
Comment: Pump house.

#### Bldg. 9042

Poosum Kingdom Rec Area  
Star Route, Box 200  
Grayford Co: Palo Pinto TX 76045-

Landholding Agency: Army  
Property Number: 219040397  
Status: Unutilized  
Reason: Other  
Comment: Detached latrine.  
Bldg. 9046  
Possum Kingdom Rec Area  
Star Route, Box 200  
Grayford Co: Palo Pinto TX 76045-  
Landholding Agency: Army  
Property Number: 219040399  
Status: Unutilized  
Reason: Other  
Comment: Sewage treatment plant.  
Bldg. 9047  
Possum Kingdom Rec Area  
Star Route, Box 200  
Grayford Co: Palo Pinto TX 76045-  
Landholding Agency: Army  
Property Number: 219040400  
Status: Unutilized  
Reason: Other  
Comment: Chlorine Building.  
Bldg. 4801  
Fort Bliss  
4801 Drake Street  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Number: 219110064  
Status: Unutilized  
Reason: Other  
Comment: Gas Station.  
Bldg. 40A Red River Army Depot  
Texarkana Co: Bowie TX 75505-  
Landholding Agency: Army  
Property Number: 219120064  
Status: Unutilized  
Reason: Secured Area.  
Bldgs. T-1191, T-1198—Fort Sam Houston  
San Antonio Co: Bexar TX 78234-5000  
Landholding Agency: Army  
Property Numbers: 219120065, 219120066  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.  
27 Ammun. Magazines  
Fort Bliss Ammunition Supply Point  
El Paso Co: El Paso TX 79916-  
Landholding Agency: Army  
Property Numbers: 219120072-219120098  
Status: Unutilized  
Reason: Other  
Comment: Extensive deterioration.  
Bldg. 05  
Red River Army Depot  
18 miles W. of Texarkana, Hwy. 82  
Texarkana Co: Bowie TX 75507-5000  
Landholding Agency: Army  
Property Number: 219130002  
Status: Excess  
Reason: Secured Area.

Utah  
42 Bldgs.  
Tooele Army Depot  
Tooele Co: Tooele UT 84074-5008  
Landholding Agency: Army  
Property Numbers: 219012110, 219012111,  
219012114-219012122, 219012126, 219012128,  
219012131, 219012133, 219012136, 219012138,  
219012140, 219012146, 219012150, 219012151,  
219012153, 219012159, 219012162,  
219012164-219012167, 219012169, 219012170,  
219012172, 219012749, 219012752-219012755,  
219014929, 219030366, 219120028-219120031  
Status: Unutilized  
Reason: Secured Area.  
4 Bldgs.  
Dugway Proving Ground  
Dugway Co: Tooele UY 84022-  
Landholding Agency: Army  
Property Numbers: 219013996-219013999  
Status: Underutilized  
Reason: Secured Area.  
Bldg. 7156  
Dugway Proving Ground  
Dugway Co: Tooele UT 84022-  
Landholding Agency: Army  
Property Number: 219014693  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 104  
Tooele Army Depot, North Area  
Tooele Co: Tooele UT 84074-5008  
Landholding Agency: Army  
Property Numbers: 219120014  
Status: Underutilized  
Reason: Other  
Comment: Extensive deterioration.  
13 Bldgs.  
Tooele Army Depot, South Area  
Tooele Co: Tooele UT 84074-5008  
Landholding Agency: Army  
Property Numbers: 219120015-219120027  
Status: Unutilized  
Reason: Other  
Comment: Extensive deterioration.  
6 Bldgs.  
Tooele Army Depot, North Area  
Tooele Co: Tooele UT 84074-5008  
Landholding Agency: Army  
Property Numbers: 219120277-219120282  
Status: Underutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.  
Bldg. 753  
Tooele Army Depot—North Area  
Tooele Co: Tooele UT 84074-5008  
Landholding Agency: Army  
Property Number: 219120283  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.  
8 Bldgs.  
Dugway Proving Ground  
Dugway Co: Tooele UT 84022-  
Landholding Agency: Army  
Property Numbers: 219130008, 219130011-  
219130013, 219130015-219130018  
Status: Underutilized  
Reason: Secured Area.  
3 Bldgs.  
Dugway Proving Ground  
Dugway Co: Tooele UT 84022-  
Landholding Agency: Army  
Property Numbers: 219130009, 219130010,  
219130014  
Status: Unutilized  
Reason: Secured Area.

Reason: Secured Area.  
Virginia  
149 Bldgs.  
Radford Army Ammunition Plant  
Radford Co: Montgomery VA 24141-  
Landholding Agency: Army  
Property Numbers: 219010833, 219010836,  
219010839, 219010842, 219010844,  
219010847-219010890, 219010892-219010912,  
219011521-219011577, 219011581-219011583,  
219011585, 219011588, 219011591,  
219013559-219013570, 219110142-219110143,  
219120070, 219120071  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material Secured Area.  
13 Latrines  
Radford Army Ammunition Plant  
Radford Co: Montgomery VA 24141-  
Landholding Agency: Army  
Property Numbers: 219010834, 219010835,  
219010837, 219010838, 219010840, 219010841,  
219010843, 219010845, 219010846, 219010891,  
219011578-219011580  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.  
Other: Secured Area.  
Comment: Latrine, detached structure.  
7 Bldgs.  
Fort Belvoir  
Fort Belvoir Co: Fairfax VA 22060-  
Landholding Agency: Army  
Property Numbers: 219012547, 219012553,  
219012556-219012558, 219012560, 219012562  
Status: Unutilized  
Reason: Within 2000 ft. of flammable or  
explosive material.  
16 Bldgs.  
U.S. Army Combined Arms Support  
Command  
Fort Lee Co: Prince George VA 23801-  
Landholding Agency: Army  
Property Numbers: 219120033-219120045,  
219120160, 219130006, 219130007  
Status: Unutilized  
Reason: Other  
Comment: Extensive deterioration.  
Washington  
6 Bldgs.  
130-228th Street, S.W.  
Federal Regional Center (FEMA)  
Bothell Co: Snohomish WA 98021-  
Landholding Agency: Army  
Property Numbers: 219011637, 219011642,  
219011644, 219011646, 219011647, 219011649  
Status: Unutilized  
Reason: Secured Area.  
34 Bldgs.  
Fort Lewis  
Fort Lewis Co: Pierce WA 98433-5000  
Landholding Agency: Army  
Property Numbers: 219011651, 219011652,  
219011654-219011660, 219011662, 219013782,  
219013882-219013888, 219013900,  
219013907-219013920, 219110144  
Status: Unutilized  
Reason: Secured Area.  
Bldg. 209  
Yakima Firing Center  
Yakima Co: Yakima WA 98901-5000

Location: Exit 26 off I-82 on Yakima Firing Center Road  
 Landholding Agency: Army  
 Property Number: 219040363  
 Status: Excess  
 Reason: Within 2000 ft. of flammable or explosive material Secured Area.

#### Wisconsin

6 Bldgs.  
 Badger Army Ammunition Plant  
 Baraboo Co: Sauk WI 53913-  
 Landholding Agency: Army  
 Property Numbers: 219011094, 219011209-219011212, 219011217

Status: Underutilized  
 Reason: Within 2000 ft. of flammable or explosive material.

Other: Environmental Secured Area.  
 Comment: Friable asbestos.

154 Bldgs.

Badger Army Ammunition Plant  
 Baraboo Co: Sauk WI 53913-  
 Landholding Agency: Army  
 Property Numbers: 219011104, 219011106, 219011108-219011113, 219011115-219011117, 219011119, 219011120, 219011122-219011139, 219011141, 219011142, 219011144, 219011148-219011208, 219011213-219011216, 219011218-219011234, 219011236, 219011238, 219011240, 219011242, 219011244, 219011247, 219011249, 219011251, 219011254, 219011256, 219011259, 219011263, 219011265, 219011268, 219011270, 219011275, 219011277, 219011280, 219011282, 219011284, 219011286, 219011290, 219011293, 219011295, 219011297, 219011300, 219011302, 219011304-219011311, 219011317, 219011319-219011321, 219011323

Status: Unutilized  
 Reason: Within 2000 ft. of flammable or explosive material

Other: Environmental Secured Area.  
 Comment: Friable asbestos.

Bldg. P-10111

Fort McCoy  
 Army Hospital Complex  
 Sparta Co: Monroe WI 54656-5000  
 Landholding Agency: Army  
 Property Number: 219013443  
 Status: Unutilized  
 Reason: Other  
 Comment: Structure is boiler plant for hospital.

Bldg. 264

Badger Army Ammunition Plant  
 Bus Station  
 Baraboo Co: Sauk WI 53913-  
 Landholding Agency: Army  
 Property Number: 219013784  
 Status: Unutilized  
 Reason: Within 2000 ft. of flammable or explosive material.

6 Bldgs.

Badger Army Ammunition Plant  
 Baraboo Co: Sauk WI  
 Landholding Agency: Army  
 Property Numbers: 219013870-219013875  
 Status: Underutilized  
 Reason: Secured Area.

5 Bldgs.

Badger Army Ammunition Plant  
 Baraboo Co: Sauk WI  
 Landholding Agency: Army  
 Property Numbers: 219013876-219013878, 219030275, 219030276

Status: Unutilized  
 Reason: Secured Area.

Land (by State)

#### Alaska

Dike Range  
 Fort Wainwright  
 Fort Wainwright Co: Fairbanks AK 99703-  
 Location: 14 miles south of Fairbanks  
 Landholding Agency: Army  
 Property Number: 219014684  
 Status: Unutilized  
 Reason: Within 2000 ft. of flammable or explosive material Floodway.

Eklutna Mountain & Glacier Training Site  
 Fort Richardson Co: Anchorage AK 99505-  
 Location: 18 miles from Fort Richardson  
 Landholding Agency: Army  
 Property Number: 219014788  
 Status: Unutilized  
 Reason: Other  
 Comment: Unexploded ordnance.

Davis Range

Fort Richardson  
 Fort Richardson Co: Anchorage AK 99505-  
 Location: SW Portion of Installation  
 Landholding Agency: Army  
 Property Number: 219030267  
 Status: Underutilized  
 Reason: Secured Area.

#### Georgia

Facility EH001  
 Fort Gordon  
 Augusta Co: Richmond GA 30905-  
 Location: Located at the Eisenhower Army Medical Center  
 Landholding Agency: Army  
 Property Number: 219014788  
 Status: Unutilized  
 Reason: Other  
 Comment: heliport—concrete pad.

#### Illinois

Group 66A  
 Joliet Army Ammunition Plant  
 Joliet Co: Will IL 60436-  
 Landholding Agency: Army  
 Property Number: 219010414  
 Status: Unutilized  
 Reason: Within 2000 ft. of flammable or explosive material Secured Area.

Parcel 1

Joliet Army Ammunition Plant  
 Joliet Co: Will IL 60436-  
 Location: South of the 811 Magazine Area, adjacent to the River Road.  
 Landholding Agency: Army  
 Property Number: 219012810  
 Status: Excess  
 Reason: Within 2000 ft. of flammable or explosive material Floodway.

Parcels No. 2 and 3

Joliet Army Ammunition Plant  
 Joliet Co: Will IL 60436-  
 Landholding Agency: Army  
 Property Numbers: 219013796, 219013797  
 Status: Underutilized  
 Reason: Within 2000 ft. of flammable or explosive material Floodway.

Parcels No. 4, 5, and 6

Joliet Army Ammunition Plant  
 Joliet Co: Will IL 60436-  
 Landholding Agency: Army

Property Numbers: 219013798-219013800  
 Status: Unutilized  
 Reason: Within 2000 ft. of flammable or explosive material Floodway.

Homewood USAR Center  
 18760 S. Halsted Street  
 Homewood Co: Cook IL 60430-  
 Landholding Agency: Army  
 Property Number: 219014067  
 Status: Underutilized  
 Reason: Secured Area.

#### Indiana

Newport Army Ammunition Plant  
 East of 14th St. & North of S. Blvd.  
 Newport Co: Vermillion IN 47966-  
 Landholding Agency: Army  
 Property Number: 219012360  
 Status: Unutilized  
 Reason: Within 2000 ft. of flammable or explosive material Secured Area.

#### Louisiana

Land  
 Louisiana Army Ammunition Plant  
 Doyline Co: Webster LA  
 Landholding Agency: Army  
 Property Number: 219013923  
 Status: Unutilized  
 Reason: Other  
 Comment: barrow pit, predominately under water.

#### Maryland

Carroll Island  
 Aberdeen Proving Ground  
 Edgewood Area  
 Aberdeen City Co: Harford MD 21010-5425  
 Landholding Agency: Army  
 Property Number: 219012630  
 Status: Underutilized  
 Reason: Floodway Secured Area.  
 Graces Quarters  
 Aberdeen Proving Ground  
 Edgewood City  
 Aberdeen City Co: Harford MD 21010-5425  
 Landholding Agency: Army  
 Property Number: 219012632  
 Status: Underutilized  
 Reason: Floodway Secured Area.

#### Nebraska

Land  
 Cornhusker Army Ammunition Plant  
 Potash Road  
 Grand Island Co: Hall NE 68802-  
 Location: 4 miles west of Grand Island.  
 Landholding Agency: Army  
 Property Number: 219013785  
 Status: Underutilized  
 Reason: Floodway.

#### New Jersey

Land  
 Armament Research Development & Eng. Center  
 Route 15 North  
 Picatinny Arsenal Co: Morris NJ 07806-  
 Landholding Agency: Army  
 Property Number: 219013788  
 Status: Unutilized  
 Reason: Secured Area.

#### New York

Watervliet Arsenal  
 Watervliet Co: Albany NY 12189-4050

Location: East of Main Arsenal Reservation  
 Landholding Agency: Army  
 Property Number: 219012508  
 Status: Excess  
 Reason: Other  
 Comment: Easement to N.Y. State. 6-lane highway construction.

#### Oklahoma

McAlester Army Ammo. Plant  
 McAlester Co: Pittsburg OK 74501-5000  
 Location: 10 miles south of McAlester OK  
 Landholding Agency: Army  
 Property Number: 219011671  
 Status: Unutilized  
 Reason: Within 2000 ft. of flammable or explosive material.

McAlester Army Ammunition Plant  
 McAlester Co: Pittsburg OK 74501-  
 Landholding Agency: Army  
 Property Number: 219014603  
 Status: Underutilized  
 Reason: Within 2000 ft. of flammable or explosive material.

#### Pennsylvania

Lickdale Railhead  
 Fort Indiantown Gap  
 Lickdale Co: Lebanon PA 17038-  
 Landholding Agency: Army  
 Property Number: 219012359  
 Status: Excess  
 Reason: Floodway.

Land  
 Raystown Lake  
 Huntingdon Co: Huntingdon PA  
 Location: Downstream of Raystown Lake.  
 Landholding Agency: Army  
 Property Number: 219040420  
 Status: Excess  
 Reason: Other  
 Comment: Property Landlocked.

#### Tennessee

Land  
 Volunteer Army Ammunition Plant  
 Chattanooga Co: Hamilton TN  
 Landholding Agency: Army  
 Property Number: 219013791  
 Status: Underutilized  
 Reason: Within 2000 ft. of flammable or explosive material Secured Area.

Volunteer Army Ammo. Plant  
 Chattanooga Co: Hamilton TN  
 Location: Area around VAAP—outside fence in buffer zone.  
 Landholding Agency: Army  
 Property Number: 219013880  
 Status: Unutilized  
 Reason: Within 2000 ft. of flammable or explosive material Secured Area.

McClure Bend  
 Cordell Hull Dam and Reservoir  
 Carthage Co: Smith TN 37030-  
 Location: Highway 85 to McClure Bend Road.  
 Landholding Agency: Army  
 Property Number: 219040412  
 Status: Underutilized  
 Reason: Floodway.

Brooks Bend  
 Cordell Hull Dam and Reservoir  
 Highway 85 to Brooks Bend Road  
 Gainesboro Co: Jackson TN 38582-  
 Location: Tracts 800, 802-806, 835-837, 900-902, 1000-1003, 1025

Landholding Agency: Army  
 Property Number: 219040413  
 Status: Underutilized  
 Reason: Floodway.  
 Cheatham Lock and Dam  
 Highway 12  
 Ashland City Co: Cheatham TN 37015-  
 Location: Tracts E-513, E-512-1 and E-512-2  
 Landholding Agency: Army  
 Property Number: 219040415  
 Status: Underutilized  
 Reason: Floodway.

#### Virginia

Fort Belvoir Military Reservation-5.6 Acres  
 South Post located West of Pohick Road  
 Fort Belvoir Co: Fairfax VA 22060-  
 Location Rightside of King Road  
 Landholding Agency: Army  
 Property Number: 219012550  
 Status: Unutilized  
 Reason: Within airport runway clear zone Secured Area  
 Comment: 5.6 acres

#### Wisconsin

Land  
 Badger Army Ammunition Plant  
 Baraboo Co: Sauk WI 53913-  
 Location: Vacant land within plant boundaries.  
 Landholding Agency: Army  
 Property Number: 219013783  
 Status: Unutilized  
 Reason: Secured Area.

#### Suitable/To Be Excessed Properties

##### Buildings (by State)

#### California

Bldg. 270  
 Los Alamitos Armed Forces Reserve Center  
 Main entrance on Lexington Dr.  
 Los Alamitos Co: Orange CA 90720-5001  
 Landholding Agency: Army  
 Property Number: 219120324  
 Status: Unutilized  
 Comment: 90 sq. ft., concrete/aluminum, off-site use only, most recent use—aircraft stream cleaning bldg.

#### Maryland

Bldg. 101  
 Walter Reed Army Medical Center  
 Forest Glen Section  
 Silver Spring Co: Montgomery MD 20910-  
 Landholding Agency: Army  
 Property Number: 219012678  
 Status: Underutilized  
 Comment: 18438 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.

#### Bldg. 104

Walter Reed Army Medical Center  
 Forest Glen Section  
 Silver Spring Co: Montgomery MD 20910-  
 Landholding Agency: Army  
 Property Number: 219012679  
 Status: Underutilized  
 Comment: 12495 sq. ft.; needs rehab; possible asbestos; building listed on National Historic Register.

#### Bldg. 107

Walter Reed Army Medical Center  
 Forest Glen Section  
 Silver Spring Co: Montgomery MD 20910-

Landholding Agency: Army  
 Property Number: 219012680  
 Status: Unutilized  
 Comment: 4107 sq. ft.; possible structural deficiencies; possible asbestos; historic property.

#### Bldg. 120

Walter Reed Army Medical Center  
 Forest Glen Section  
 Silver Spring Co: Montgomery MD 20910-  
 Landholding Agency: Army  
 Property Number: 219012681  
 Status: Underutilized  
 Comment: 2442 sq. ft.; possible structural deficiencies; possible asbestos; historic property.

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BILLING CODE 4210-29-M

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[G-010-4332-10/G1-0127]

#### Draft Rio Puerco Resource Management Plan Amendment and Environmental Assessment; Ignacio Chavez Special Management Area, NM

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Intent to prepare a Draft Rio Puerco Resource Management Plan Amendment and Environmental Assessment for vehicle use in the Ignacio Chavez Special Management Area (SMA), New Mexico.

SUMMARY: An emergency road closure was initiated in 1987 in accordance with the guidance contained in 43 CFR 8341.2. The emergency road closure was implemented due to unusually wet conditions that caused vehicles to leave the roadway and develop parallel vehicle trails adjacent to BLM Road 1103. The conditions which resulted in the vehicle closure no longer exist, and the alternate vehicle trails have revegetated. The emergency road closure for vehicle use in the Ignacio Chavez SMA will end on September 28, 1991.

Measures which will be taken to prevent the recurrence of the situation that resulted in the vehicle closure include increased ranger patrols, and preparation of a plan amendment for the Rio Puerco Resource Management Plan (1986) to address long term management of vehicle uses. The plan amendment is in accordance with section 102 of the National Environmental Policy Act of 1969. The proposed action in the plan amendment is seasonal closure of BLM Road 1103 between July 1 and August 15, and December 1 and March 30. Seasonal closure is based on the

management of vehicle uses, during periods of high precipitation. A quarter mile segment of BLM Road 1103 would also be realigned to its historic location, approximately 100 feet west of Ned's Tank Meadow. Closure points on BLM Road 1103 would be at the Forest Service/BLM Boundary on the north, and ½ mile north of Barrel Springs on the south. Approximately 17 miles of secondary routes off of BLM Road 1103 within the Ignacio Chavez SMA would be closed. The use of three miles of roads for livestock grazing management purposes would be permitted. Additional alternatives to be evaluated include closing the road and no action. The no action alternative would allow vehicle use on all existing roads and trails not closed through the existing Rio Puerco Resource Management Plan. The plan amendment will be available for public review by December 1, 1991. A 60 day public comment period will be provided. Public meetings will be held in Albuquerque, Grants, and Cuba, New Mexico. Dates, times, and specific locations for the meetings will be announced at a later date.

**FOR FURTHER INFORMATION CONTACT:** Katherine Walter, Outdoor Recreation Planner, Rio Puerco Resource Area, 435 Montano NE, Albuquerque, New Mexico 87107, (505) 761-8704.

Robert T. Dale,  
District Manager.

[FR Doc. 91-22679 Filed 9-19-91; 8:45 am]

BILLING CODE 4310-FB-M

#### Kingman Resource Area Grazing Advisory Board; Meeting

[AZ-020-00-4320-12]

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of meeting—Kingman Resource Area Grazing Advisory Board.

**SUMMARY:** The Kingman Resource Area Grazing Advisory Board will hold a meeting on Tuesday, November 19, 1991. The meeting will start at 9:00 a.m. in the Kingman Resource Area Conference Room, 2475 Beverly Avenue, Kingman, Arizona 86401.

The agenda for the meeting will include:

1. Report on District Boundary Changes.
2. Update of the Bureau's Exchange Program.
3. Status of the Bureau's Planning and Environmental Impact Statements.
4. Report on Range Improvements for fy 91 and fy 92.
2. Range Policy Update.
6. Use of Helicopter and Motor Vehicles to Capture Wild Horses and Burros.

7. Request for Advisory Board Expenditures.

8. Arrangement for Future Meetings.

The meeting is open to the public. Anyone wishing to make oral or written statements to the Board is requested to do so through the office of the District Manager, 2015 West Deer Valley Road, Phoenix, Arizona 85027, at least seven (7) days prior to the meeting date.

Summary minutes of the Board meeting will be maintained in the District Office and be made available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: September 12, 1991.

Charles R. Frost,  
Assistant District Manager.

[FR Doc. 91-22682 Filed 9-19-91; 8:45 am]

BILLING CODE 4310-32-M

[CO-030-91-4320-10-1784]

#### Montrose District Grazing Advisory Board; Meeting

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Meeting.

**SUMMARY:** Notice is hereby given in accordance with 43 CFR subpart 1784, that a meeting of the Montrose District Grazing Advisory Board will be held on October 8, 1991, in Gunnison, Colorado. **DATES:** A meeting is scheduled October 8, 1991.

**FOR FURTHER INFORMATION CONTACT:**

Ken Herman, Bureau of Land Management, 2465 South Townsend, Montrose, Colorado, 81401, telephone (303) 249-7791.

**SUPPLEMENTARY INFORMATION:** The Board will convene at 10 a.m. on October 8, 1991, in the conference room at the Gunnison Resource Area Office, Gunnison, Colorado. Agenda items will include: Minutes of the previous meeting, public presentations and requests, wild horse status, holistic resource management update, range improvement project review, new Board project proposals, updates on current issues, and arrangements for the next meeting. The meeting will adjourn at 5 p.m.

The meeting is open to the public. Anyone wishing to make an oral statement must notify the District Manager prior to the meeting date. Depending on the number of persons wishing to make oral statements, a per person time limit may be established by the District Manager.

Minutes of the board meeting will be maintained in the District Office and be

available for public inspection and reproduction (during regular business hours) within thirty (30) days following the meeting.

Dated: September 10, 1991.

Alan L. Kesterke,  
District Manager.

[FR Doc. 91-22680 Filed 9-19-91; 8:45 am]

BILLING CODE 4310-JB-M

[G-010-4332-10/G1-0124]

#### Emergency Road Closure Ignacio Chavez Special Management Area (SMA), Rio Puerco Resource Area, NM

**AGENCY:** Bureau of Land Management (BLM), Interior.

**ACTION:** Notice to end the Emergency Road Closure for vehicle use in the Ignacio Chavez Special Management Area (SMA), New Mexico.

**SUMMARY:** An emergency road closure for BLM Road 1103 was initiated in 1987 in accordance with the guidance contained in 43 CFR 8341.2. The emergency road closure was implemented due to unusually wet conditions that caused vehicles to leave the roadway and develop parallel vehicle trails adjacent to BLM Road 1103. The conditions which resulted in the vehicle closure no longer exist and the alternate vehicle trails have revegetated. The emergency road closure for vehicle use in the Ignacio Chavez SMA will end on September 28, 1991.

Measures which will be taken to prevent the recurrence of the situation that resulted in the vehicle closure include increased ranger patrols and preparation of a plan amendment for the Rio Puerco Resource Management Plan (1986) to address the long term management of vehicle uses. The plan amendment is in accordance with section 102 of the National Environmental Policy Act of 1969.

**FOR FURTHER INFORMATION CONTACT:** Katherine Walter, Outdoor Recreation Planner, Rio Puerco Resource Area, 435 Montano NE, Albuquerque, New Mexico 87107, (505) 761-8704.

Robert T. Dale,  
District Manager.

[FR Doc. 91-22681 Filed 9-19-91; 8:45 am]

BILLING CODE 4310-FB-M

[NV-930-91-4212-11; N-41568-16]

#### Realty Action; Lease/Purchase for Recreation and Public Purposes Clark County, NV

The following described public land in Las Vegas, Clark County, Nevada has

been identified and examined and will be classified as suitable for lease/purchase under the Recreation and Public Purposes Act, as amended (43 U.S.C. 869 et seq.). The lands will not be offered for lease/purchase until at least 60 days after the date of publication of this notice in the Federal Register.

**Mount Diablo Meridian, Nevada**

T. 22 S., R. 61 E.,

Sec. 23, NE $\frac{1}{4}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , S $\frac{1}{2}$ NW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , NE $\frac{1}{4}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ , W $\frac{1}{2}$ NE $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ .

Aggregating 15 acres (gross).

This parcel of land contains approximately 15 acres. The Clark County School District intends to use the land for a senior high school. The adjacent parcel of land described as the S $\frac{1}{2}$ NE $\frac{1}{4}$ NW $\frac{1}{4}$ , containing 20 acres was originally classified and identified as a junior high school site. The determination was made that a senior high school was needed instead of a junior high school. The original 20 acre site will be incorporated into this parcel. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches and canals constructed by the authority of the United States, Act of August 30, 1890, 26 Stat. 391, 43 U.S.C. 945.

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe.

And will be subject to:

1. An easement for streets, roads and public utilities in accordance with the transportation plan for Clark County.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

Upon publication of this notice in the Federal Register, interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89128. Any adverse comments will be reviewed by the State Director.

In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the Federal Register.

Dated: September 7, 1991.

**Ben F. Collins,**

(District Manager, Las Vegas, NV)

[FR Doc. 91-22677 Filed 9-19-91; 8:45 am]

BILLING CODE 4310-HC-M

[OR-943-01-4214-10; GP1-366; OR-47551]

**Proposed Withdrawal and Opportunity for Public Meeting; OR**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Agriculture, Forest Service, proposes to withdraw 1,225.57 acres of National Forest System lands to protect the scenic, recreational, water quality, and fishery resource values of the North Fork John Day River—Elkhorn Drive Scenic Byway Corridor. This notice closes the lands for up to two years from mining. The lands will remain open to mineral leasing.

**DATES:** Comments and requests for a public meeting must be received by December 19, 1991.

**ADDRESSES:** Comments and meeting requests should be sent to the Oregon State Director, BLM, P.O. Box 2965, Portland, Oregon 97208-0039.

**FOR FURTHER INFORMATION CONTACT:** Linda Sullivan, BLM, Oregon State Office, 503-280-7171.

**SUPPLEMENTARY INFORMATION:** On August 19, 1991, the U.S. Department of Agriculture, Forest Service, filed an application to withdraw the following described National Forest System lands from location and entry under the United States mining laws (30 U.S.C. ch. 2), subject to valid existing rights:

**Willamette Meridian**

*Umatilla National Forest*

T. 7 S., R. 35 $\frac{1}{2}$  E.,

Sec. 34, those portions of the W $\frac{1}{2}$ NE $\frac{1}{4}$ , SE $\frac{1}{4}$ NE $\frac{1}{4}$  and NE $\frac{1}{4}$ SE $\frac{1}{4}$  outside the boundary for the North Fork John Day Wilderness.

*Whitman National Forest*

A tract of land located within the following described townships and sections as more particularly identified and described below:

T. 7 N., R. 35 $\frac{1}{2}$  E.,

Secs. 35 and 36.

T. 7 N., R. 36 E.,

Secs. 31, 32, 33, 34, and 35.

Beginning at a point on the west section line of sec. 35, T. 7 S., R. 35 $\frac{1}{2}$  E., W.M. and 500 feet north of the centerline of Forest Development Road (FDR) 73 as shown on U.S.G.S. 7.5 minute topographic quadrangle maps Trout Meadows, Ore. dated 1972 and photorevised 1983 and Crawfish Lake, Ore. dated 1972 and photorevised 1984, thence

following a line in an easterly direction 500 feet north of the centerline of said FDR 73 as shown on said map to where said line intersects the north section line of sec. 33, T. 7 S., R. 36 E., W.M., thence easterly along said north section line to the northeast section corner of said sec. 33, thence southerly along the east section line of said sec. 33 to a point on said east section line 500 feet north of the centerline of Forest Development Road 7300380 as shown on U.S.G.S. 7.5 minute topographic quadrangle map Crawfish Lake, Ore. dated 1972 and photorevised 1984, thence following a line in an easterly direction 500 feet north of the centerline of said FDR 7300380 as shown on said map and continuing in a southerly direction on a line 500 feet east of the centerline of USFS Trail 1640 from the point where said trail intersects FDR 7300380 as shown on said map to where said line intersects the north boundary of the North Fork John Day Wilderness in the S $\frac{1}{2}$ , sec. 35, T. 7 S., R. 36 E., W.M., thence westerly along said north boundary of the North Fork John Day Wilderness to the northeast corner of said Wilderness in the SW $\frac{1}{4}$ , sec. 36, T. 7 S., R. 35 $\frac{1}{2}$  E., W.M., thence southeasterly along the Wilderness boundary to a point on the Wilderness boundary which intersects a line 330 feet south of the centerline of the North Fork John Day River as shown on U.S.G.S. 7.5 minute topographic quadrangle maps Crawfish Lake, Ore. dated 1972 and photorevised 1984 and Trout Meadows, Ore. dated 1972 and photorevised 1983, thence following a line in a westerly direction 330 feet south of the centerline of said river as shown on the said maps to where said line intersects the west section line of sec. 35, T. 7 S., R. 35 $\frac{1}{2}$  E., W.M., thence northerly along said west section line to the point of beginning.

The areas described aggregate approximately 1,225.57 acres in Grant County, Oregon.

The purpose of the proposed withdrawal is to protect the significant scenic, recreational, water quality, and fishery resource values of the North Fork John Day River-Elkhorn Drive Scenic Byway Corridor.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director at the address indicated above within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and

place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of two years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are other National Forest management activities, including permits, licenses, and cooperative agreements, that are compatible with the intended use under the discretion of the authorized officer.

Dated: September 11, 1991.

Robert E. Mollohan,  
Chief, Branch of Lands and Minerals  
Operations.

[FR Doc. 91-22663 Filed 9-19-91; 8:45 am]

BILLING CODE 4310-33-M

[OR-943-01-4214-10; GP1-367; OR-47552]

#### Proposed Withdrawal and Opportunity for Public Meeting; Oregon

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Department of Agriculture, Forest Service, proposes to withdraw 43.75 acres of National Forest System land to ensure that the integrity of the Granite Chinese Walls Historic Site is preserved. This notice closes the land for up to two years from mining. The land will remain open to mineral leasing.

**DATES:** Comments and requests for a public meeting must be received by December 19, 1991.

**ADDRESSES:** Comments and meeting requests should be sent to the Oregon State Director, BLM, P.O. Box 2965, Portland, Oregon 97208-0039.

**FOR FURTHER INFORMATION CONTACT:** Linda Sullivan, BLM, Oregon State Office, 503-280-7171.

**SUPPLEMENTARY INFORMATION:** On August 19, 1991, the U.S. Department of Agriculture, Forest Service, filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws (30 U.S.C. ch. 2), subject to valid existing rights:

Willamette Meridian

Whitman National Forest

T. 8 S., R. 35½ E.,

Sec. 34 SE¼SW¼NW¼NW¼, SW¼SE¼NW¼NW¼, W¼SE¼SE¼NW¼NW¼, W¼E¼E¼SW¼NW¼, W¼E¼, SW¼NW¼, E¼W¼SW¼NW¼, W¼E¼NE¼NW¼SW¼, W¼NE¼NW¼SW¼, and E¼NW¼NW¼SW¼.

The area described contains 43.75 acres in Grant County, Oregon.

The purpose of the proposed withdrawal is to protect the Granite Chinese Walls Historic Site.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the State Director at the address indicated above.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested parties who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request to the State Director at the address indicated above within 90 days from the date of publication of this notice. Upon determination by the authorized officer that a public meeting will be held, a notice of the time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of two years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date. The temporary uses which may be permitted during this segregative period are other National Forest management activities, including permits, licenses, and cooperative agreements, that are compatible with the intended use under the discretion of the authorized officer.

Dated: September 11, 1991.

Robert E. Mollohan,  
Chief, Branch of Lands and Minerals  
Operations.

[FR Doc. 91-22664 Filed 9-19-91; 8:45 am]

BILLING CODE 4310-33-M

#### National Park Service

##### Grand Canyon National Park, AZ; Public Scoping Meetings for General Management Plan

**SUMMARY:** The National Park Service will hold a series of public meetings to initiate the scoping process for the General Management Plan (GMP) for

Grand Canyon National Park, Arizona. The Notice of Intent announcing the initiation of the GMP appeared in the **Federal Register** of September 3, 1991. The meetings will be held as follows:

Location	Date/time
Kanab, UT, Best Western, Red Hills.....	10/24/91, 7-9 p.m.
Tusayan, AZ, Grand Canyon Squire Inn.....	11/5/91, 7-9 p.m.
Flagstaff, AZ, Little America.....	11/6/91, 7-9 p.m.
Phoenix, AZ, Sheraton Hotel, 111 N. Central.....	11/7/91, 7-9 p.m.

**SUPPLEMENTARY INFORMATION:** The GMP process for Grand Canyon National Park is in its initial stages. This plan will provide the parkwide management framework and proposed actions for operation and visitor use for the park. The GMP will incorporate existing approved plans for other areas of the park, such as the inner canyon and river. It will also incorporate on-going planning efforts such as the Development Concept Plan and Environmental Impact Statement for the North Rim Visitor Facilities which is scheduled to be completed prior to issuance of the draft GMP.

The purpose of this first series of meetings is to allow the public the opportunity to express their concerns related to the management of the park in terms of natural and cultural resources, the visitor experience, and park support facilities. Topics to be addressed in the GMP include, but are not limited to: Transportation and circulation patterns, new areas added since 1976, impacts of adjacent land uses, visitor use management, and housing as well as other support facilities in the park. Public input early in the planning process is invaluable and attendance at one of the meetings is encouraged.

For any questions please contact the Superintendent, Grand Canyon National Park, P.O. Box 129, Grand Canyon, AZ 86023, telephone number (602) 638-7701.

Dated: December 13, 1991.

Lewis Albert,

Acting Regional Director, Western Region.

[FR Doc. 91-22655 Filed 9-19-91; 8:45 am]

BILLING CODE 4310-70-M

##### Delaware Water Gap National Recreation Area Citizens Advisory Commission; Meeting

**AGENCY:** Delaware Water Gap National Recreation Area Citizens Advisory

Commission, National Park Service, Interior.

**ACTION:** Notice of Meetings.

**SUMMARY:** This notice sets forth the date for a meeting of the Delaware Water Gap National Recreation Area Citizens Advisory Commission. Notice of said meeting is required under the Federal Advisory Committee Act.

**DATE:** October 19, 1991.

**TIME:** 9 a.m.

**LOCATION:** Bushkill school office, Delaware Water Gap, NRA.

**AGENDA:** The agenda will be devoted to committee reports, Superintendent's report, old business, correspondence, identification of topics of concern. An opportunity for public comment to the Commission will be provided.

**FOR FURTHER INFORMATION CONTACT:** Richard G. Ring, Superintendent; Delaware Water Gap National Recreation Area, Bushkill, PA 18324: 717/588-2435.

**SUPPLEMENTARY INFORMATION:** The Delaware Water Gap National Recreation Area Citizens Advisory Commission was established by Public Law 100-573 to advise the Secretary of the Interior and the United States Congress on matters pertaining to management and operation of the Delaware Water Gap National Recreation Area and its surrounding communities.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning agenda items. The statement should be addressed to The Delaware Water Gap National Recreation Area Citizens Advisory Commission, P.O. Box 284, Bushkill, PA 18324. Minutes of the meeting will be available for inspection four weeks after the meeting at the permanent headquarters of the Delaware Water Gap National Recreation Area located on River Road 1 mile east of U.S. Route 209, Bushkill, Pennsylvania.

James W. Coleman, Jr.,  
Regional Director, Mid-Atlantic Region.  
[FR Doc. 91-22653 Filed 9-19-91; 8:45 am]  
BILLING CODE 4310-70-M

## INTERSTATE COMMERCE COMMISSION

### Intent to Engage in Compensated Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use

compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

A. 1. Parent Corporation and address of principal office:

AVEMCO Corporation, a Delaware corporation, 411 Aviation Way, Frederick, Maryland 21701-4799

2. Wholly-owned subsidiaries which will participate in the operations, and state(s) of incorporation:

Loss Management Services, Inc., a Maryland corporation.

AVEMCO Insurance Company, a Maryland corporation.

Eastern Aviation & Marine Insurance Company, a Maryland corporation.

National Assurance Underwriters, Inc., a Missouri corporation.

National Aviation Underwriters, Inc., a Missouri corporation.

B. 1. Parent corporation is: Production Holdings Inc, 930 Lakefort Promenade, Mississauga, Ont, Canada L5E 2C4.

2. Wholly owned subsidiaries:

1. Clarke's Produce Canada Ltd, Mississauga, Ont, Canada

2. Pride Pak Canada Ltd, Mississauga, Ont, Canada

3. Jakron Holdings Limited, Mississauga, Ont, Canada

Sidney L. Strikland, Jr.,  
Secretary.

[Doc. 91-22710 Filed 9-19-91; 8:45 am]

BILLING CODE 7035-01-M

[No. 40604]

### State of Georgia Restrictions on Registration of Motor Carrier Operating Authority—Declaratory Order Proceeding

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of declaratory order proceeding.

**SUMMARY:** In response to information provided in a letter-complaint, by Collette's Service Center, Inc., (Collette's) a licensed interstate motor carrier, the Commission is instituting a declaratory order proceeding to determine whether certain insurance requirements, imposed by the State of Georgia on interstate motor carriers licensed by this Commission, constitute a burden on interstate commerce and whether those requirements are preempted or otherwise precluded by the Interstate Commerce Act. The Commission is directing its Office of Compliance and Consumer Assistance (OCCA) to participate in the proceeding as a party.

**DATES:** Persons interested in

participating in this proceeding should so advise the Commission in writing by October 7, 1991. A service list will then be prepared. Comments from interested persons are due 30 days following the issue date of the service list. Comments should be submitted to the Commission and all parties on the service list, including OCCA's representative. All parties will have 50 days from the issue date of the service list to reply.

**ADDRESSES:** An original and 10 copies of the comments should be sent to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423. (Referring to Docket No. 40604).

Send one copy of comments to OCCA's representative: Charles E. Wagner, Deputy Director, Office of Compliance and Consumer Assistance, Interstate Commerce Commission, Washington, DC 20423.

**FOR FURTHER INFORMATION CONTACT:** Heber Hardy, Deputy Director, (202) 275-7148, or Alice Ramsay, Chief, Insurance Branch, (202) 275-0944. [TDD for hearing impaired (202) 275-1721.]

**SUPPLEMENTARY INFORMATION:** Petitioner's letter-complaint requests in essence that the Commission issue a declaratory order finding that certain insurance requirements, imposed by the Georgia Public Service Commission on interstate motor carrier operations, constitute an undue burden on interstate or foreign commerce and are preempted or otherwise precluded by the Interstate Commerce Act. The Georgia Public Service Commission requires that interstate motor carriers be insured by an insurance company licensed to do business in Georgia. This requirement exceeds the standards set forth in 49 U.S.C. 11506, which govern the registration of interstate authority by the states. The Commission has thus determined that the issue raised in Collette's letter-complaint presents a controversy sufficient to warrant the institution of a Declaratory Order Proceeding under 5 U.S.C. 554(e).

Additional information is contained in the Commission's decision. To obtain a copy of the full decision, write to, call, or pick up in person from: Office of the Secretary, room 2215, Interstate Commerce Commission, Washington, DC 20423, Telephone: (202) 275-7428. [Assistance for the hearing impaired is available through TDD Services (202) 275-1721.]

Decided: September 9, 1991.

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

Sidney L. Strickland, Jr.,

Secretary.

[FR Doc. 91-22711 Filed 9-19-91; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF JUSTICE

### Information Collections Under Review

September 16, 1991.

The Office of Management and Budget (OMB) has been sent the following collection(s) of information proposals for review under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) and the Paperwork Reduction Reauthorization Act since the last list was published.

Entries are grouped into submission categories, with each entry containing the following information:

- (1) The title of the form/collection;
- (2) The agency form number, if any, and the applicable component of the Department sponsoring the collection;
- (3) How often the form must be filled out or the information is collected;
- (4) Who will be asked or required to respond, as well as a brief abstract;
- (5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond;
- (6) An estimate of the total public burden (in hours) associated with the collection; and,
- (7) An indication as to whether section 3504(h) of Public Law 96-511 applies.

Comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the OMB reviewer, Ms. Lin Liu, on (202) 395-7340 and to the Department of Justice's Clearance Officer, Mr. Lewis B. Arnold, on (202) 514-4305.

If you anticipate commenting on a form/collection, but find that time to prepare such comments will prevent you from prompt submission, you should notify the OMB reviewer and the DOJ Clearance Officer of your intent as soon as possible.

Written comments regarding the burden estimate or any other aspect of the collection may be submitted to Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Mr. Lewis B. Arnold, DOJ Clearance Officer, SPS/JMD/5031 CAB, Department of Justice, Washington, DC 20530.

This notice contains the Form I-9 for which an expedited review has been requested from the Office of Management and Budget. In an effort to fully inform the reporting public, this entry is printed in full, including instructions, at the end of this notice. It is imperative that the Form I-9, Employment Eligibility Verification, be approved in order for full distribution of this form to the public in compliance with the "Final Employer Sanctions Regulations" (8 CFR part 274a) which will become effective November 21, 1991, and which provides for a new I-9. A revised Form I-9 was previously submitted for OMB review and for

public comment on May 3, 1991, and all comments/suggestions have been considered and/or incorporated in the redesign of this final draft of the I-9.

### Revision of Currently Approved Collections

An Expedited Review Has Been Requested For This Entry

(1) Employment Eligibility Verification.

(2) I-9, Immigration and Naturalization Service.

(3) One time only.

(4) Individuals or households, State or local governments, farms, businesses or other for-profit institutions, Federal agencies or employees, non-profit institutions, small businesses or organizations. The Form I-9 was developed to facilitate compliance with Section 101 of the Immigration Reform and Control Act of 1986. Making employment of unauthorized aliens unlawful will and is diminishing the flow of illegal workers into the United States.

(5) 90,000,000 respondents at .166 hours per total response.

(6) 14,940,000 hours.

(7) Not applicable under 3504(h).

Public comment on this item is encouraged. Comments can be accepted at any time. However, because of the expedited review consideration, comments dealing with changes to the I-9 can not be accepted after September 23, 1991.

Lewis Arnold,

Department Clearance Officer, Department of Justice.

BILLING CODE 4410-10-M

U.S. Department of Justice  
Immigration and Naturalization Service

**DRAFT**

OMB No 1115-0136  
Employment Eligibility Verification

**INSTRUCTIONS**

PLEASE READ ALL INSTRUCTIONS CAREFULLY BEFORE COMPLETING THIS FORM

**Anti-Discrimination Notice.** It is illegal to discriminate against any individual (other than an alien not authorized to work in the U.S.) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or citizenship status. It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

**Section 1 - Employee.** All employees, citizens and noncitizens, hired after November 6, 1986, must complete Section 1 of this form at the time of hire, which is the actual beginning of employment. **The employer is responsible for ensuring that Section 1 is timely and properly completed.**

**Preparer/Translator Certification.** The Preparer/Translator Certification must be completed if Section 1 is prepared by a person other than the employee. A preparer/translator may be used only when the employee is unable to complete Section 1 on his/her own. However, the employee must still sign Section 1 personally.

**Section 2 - Employer.** For the purpose of completing this form, the term "employer" includes those recruiters and referrers for a fee who are agricultural associations, agricultural employers, or farm labor contractors.

Employers must complete Section 2 by examining evidence of identity and employment eligibility within three (3) business days of the date employment begins. If employees are authorized to work, but are unable to present the required document(s) within three business days, they must present a receipt for the application of the document(s) within three business days and the actual document(s) within ninety (90) days. However, if employers hire individuals for a duration of less than three business days, Section 2 must be completed at the time employment begins. **Employers must record:** 1) document title; 2) issuing authority; 3) document number, 4) expiration date, if any; and 5) the date employment begins. Employers must sign and date the certification. Employees must present original documents. Employers may, but are not required to, photocopy the document(s) presented. These photocopies may only be used for the verification process and must be retained with the I-9. **However, employers are still responsible for completing the I-9.**

**Section 3 - Updating and Reverification.** Employers must complete Section 3 when updating and/or reverifying the I-9. Employers must reverify employment eligibility of their employees on or before the expiration date recorded in Section 1.

- If an employee's name has changed at the time this form is being updated/ reverified, complete Block A.
- If an employee is rehired within three (3) years of the date this form was originally completed and the employee is still eligible to be employed on the same basis as previously indicated on this form (updating), complete Block B and the signature block.

- If an employee is rehired within three (3) years of the date this form was originally completed and the employee's work authorization has expired or if a current employee's work authorization is about to expire (reverification), complete Block B and:
  - examine any document that reflects that the employee is authorized to work in the US (see List A or C).
  - record the document title, document number and expiration date (if any) in Block C, and
  - complete the signature block

**Photocopying and Retaining Form I-9.** A blank I-9 may be reproduced provided both sides are copied. The instructions must be available to all employees completing this form. Employers must retain completed I-9s for three (3) years after the date of hire or one (1) year after the date employment ends whichever is later.

**For more detailed information, you may refer to the INS Handbook for Employers, (Form M-274). You may obtain the handbook at your local INS office**

**Privacy Act Notice** The authority for collecting this information is the Immigration Reform and Control Act of 1986, Pub L. 99-603 (8 U.S.C. 1324a)

This information is for employers to verify the eligibility of individuals for employment to preclude the unlawful hiring, or recruiting or referring for a fee of aliens who are not authorized to work in the United States.

This information will be used by employers as a record of their basis for determining eligibility of an employee to work in the United States. The form will be kept by the employer and made available for inspection by officials of the U.S. Immigration and Naturalization Service, the Department of Labor, and the Office of Special Counsel for Immigration Related Unfair Employment Practices.

Submission of the information required in this form is voluntary. However, an individual may not begin employment unless this form is completed since employers are subject to civil or criminal penalties if they do not comply with the Immigration Reform and Control Act of 1986.

**Reporting Burden** We try to create forms and instructions that are accurate, can be easily understood, and which impose the least possible burden on you to provide us with information. Often this is difficult because some immigration laws are very complex. Accordingly, the reporting burden for this collection of information is computed as follows: 1) learning about this form, 5 minutes; 2) completing the form, 5 minutes; and 3) assembling and filing (recordkeeping) the form, 5 minutes, for an average of 15 minutes per response. If you have comments regarding the accuracy of this burden estimate, or suggestions for making this form simpler, you can write to both the Immigration and Naturalization Service, 425 I Street, N.W., Room 5304, Washington, D. C. 20536, and the Office of Management and Budget, Paperwork Reduction Project, OMB No. 1115-0136, Washington, D.C. 20503.

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U.S. Department of Justice  
Immigration and Naturalization Service

OMB No. 1115-0136  
Employment Eligibility Verification

Please read instructions carefully before completing this form. The instructions must be available during completion of this form. **ANTI-DISCRIMINATION NOTICE.** It is illegal to discriminate against work eligible individuals. Employers **CANNOT** specify which document(s) they will accept from an employee. The refusal to hire an individual because of a future expiration date may also constitute illegal discrimination.

**Section 1. Employee Information and Verification.** To be completed and signed by employee at the time employment begins

Print Name: Last	First	Middle Initial	Maiden Name
Address (Street Name and Number)		Apt. #	Date of Birth (month/day/year)
City	State	Zip Code	Social Security #
I am aware that federal law provides for imprisonment and/or fines for false statements or use of false documents in connection with the completion of this form.		I attest, under penalty of perjury, that I am (check one of the following): <input type="checkbox"/> A citizen or national of the United States <input type="checkbox"/> A Lawful Permanent Resident (Alien # A _____) <input type="checkbox"/> An alien authorized to work until ____/____/____ (Alien # or Admission # _____)	
Employee's Signature			Date (month/day/year)

**Preparer and/or Translator Certification.** (To be completed and signed if Section 1 is prepared by a person other than the employee.) I attest, under penalty of perjury that I have assisted in the completion of this form and that to the best of my knowledge the information is true and correct.

Preparer's/Translator's Signature	Print Name
Address (Street Name and Number, City, State, Zip Code)	
Date (month/day/year)	

**Section 2. Employer Review and Verification.** To be completed and signed by employer. Examine one document from List A OR examine one document from List B and one from List C as listed on the reverse of this form and record the title, number and expiration date, if any, of the document(s)

List A	OR	List B	AND	List C
Document title: _____		_____		_____
Issuing authority: _____		_____		_____
Document #: _____		_____		_____
Expiration Date (if any) ____/____/____		____/____/____		____/____/____
Document #: _____		_____		_____
Expiration Date (if any) ____/____/____		____/____/____		____/____/____

**CERTIFICATION - I attest, under penalty of perjury, that I have examined the document(s) presented by the above-named employee, that the above-listed document(s) appear to be genuine and to relate to the employee named, that the employee began employment on (month/day/year) \_\_\_\_/\_\_\_\_/\_\_\_\_ and that to the best of my knowledge the employee is eligible to work in the United States. (State employment agencies may omit the date the employee began employment).**

Signature of Employer or Authorized Representative	Print Name	Title
Business or Organization Name	Address (Street Name and Number, City, State, Zip Code)	
		Date (month/day/year)

**Section 3. Updating and Reverification.** To be completed and signed by employer

A. New Name (if applicable)	B. Date of rehire (month/day/year) (if applicable)
C. If employee's previous grant of work authorization has expired, provide the information below for the document that establishes current employment eligibility. Document Title: _____ Document #: _____ Expiration Date (if any): ____/____/____	

I attest, under penalty of perjury, that to the best of my knowledge, this employee is eligible to work in the United States, and if the employee presented document(s), the document(s) I have examined appear to be genuine and to relate to the individual.

Signature of Employer or Authorized Representative	Date (month/day/year)
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**DRAFT****LISTS OF ACCEPTABLE DOCUMENTS**

LIST A	OR	LIST B	AND	LIST C
<p><b>Documents that Establish Both Identity and Employment Eligibility</b></p> <ol style="list-style-type: none"> <li>1. U. S. Passport (unexpired or expired)</li> <li>2. Certificate of U.S. Citizenship (<i>INS Form N-560 or N-561</i>)</li> <li>3. Certificate of Naturalization (<i>INS Form N-550 or N-570</i>)</li> <li>4. Unexpired foreign passport, with <i>I-551</i> stamp or attached <i>INS Form I-94</i> indicating unexpired employment authorization</li> <li>5. Alien Registration Receipt Card with photograph (<i>INS Form I-151</i>) or Resident Alien Card with photograph (<i>INS Form I-551</i>)</li> <li>6. Unexpired Temporary Resident Card (<i>INS Form I-688</i>)</li> <li>7. Unexpired Employment Authorization Card (<i>INS Form I-688A</i>)</li> <li>8. Unexpired Reentry Permit (<i>INS Form I-327</i>)</li> <li>9. Unexpired Refugee Travel Document (<i>INS Form I-571</i>)</li> <li>10. Unexpired Employment Authorization Document issued by the INS which contains a photograph (<i>INS Form I-688B</i>)</li> </ol>	OR	<p><b>Documents that Establish Identity</b></p> <ol style="list-style-type: none"> <li>1. Driver's license or ID card issued by a state or outlying possession of the United States provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address</li> <li>2. ID card issued by federal, state, or local government agencies or entities provided it contains a photograph or information such as name, date of birth, sex, height, eye color, and address</li> <li>3. School ID card with a photograph</li> <li>4. Voter's registration card</li> <li>5. U.S. Military card or draft record</li> <li>6. Military dependent's ID card</li> <li>7. U.S. Coast Guard Merchant Mariner Card</li> <li>8. Native American tribal document</li> <li>9. Driver's license issued by a Canadian government authority</li> </ol> <p style="text-align: center;"><b>For persons under age 18 who are unable to present a document listed above:</b></p> <ol style="list-style-type: none"> <li>10. School record or report card</li> <li>11. Clinic, doctor, or hospital record</li> <li>12. Day-care or nursery school record</li> </ol>	AND	<p><b>Documents that Establish Employment Eligibility</b></p> <ol style="list-style-type: none"> <li>1. U.S. social security card issued by the Social Security Administration (<i>other than a card stating it is not valid for employment</i>)</li> <li>2. Certification of Birth Abroad issued by the Department of State (<i>Form FS-545 or Form DS-1350</i>)</li> <li>3. Original or certified copy of a birth certificate issued by a state, county, municipal authority or outlying possession of the United States bearing an official seal</li> <li>4. Native American tribal document</li> <li>5. U.S. Citizen ID Card (<i>INS Form I-179</i>)</li> <li>6. ID Card for use of Resident Citizen in the United States (<i>INS Form I-179</i>)</li> <li>7. Unexpired employment authorization document issued by the INS (<i>other than those listed under List A</i>)</li> </ol>

Illustrations of many of these documents appear in Part 8 of the Handbook for Employers (M-274)

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**DEPARTMENT OF LABOR****Employment Standards Administration  
Wage and Hour Division****Minimum Wages for Federal and  
Federally Assisted Construction;  
General Wage Determination  
Decisions**

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used

in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., room S-3014, Washington, DC 20210.

**Withdrawn General Wage  
Determination Decision**

This is to advise all interested parties that the Department of Labor is withdrawing, from the date of this notice, General Wage Determination Nos. TX91-33, TX91-34, TX91-35, TX91-37, TX91-39, TX91-40, TX91-41, TX91-42, TX91-44, and TX91-49.

Agencies with construction projects pending to which these wage decisions would have been applicable should utilize General Wage Determination Nos. TX91-27, TX91-28, TX91-29, TX91-38, TX91-43, TX91-47, and TX91-48. (See Regulations, 29 CFR part 1, § 1.5). Contracts for which bids have been opened shall not be affected by this notice. Also, consistent with 29 CFR 1.6(c)(2)(i)(A), when the opening of bids is within ten (10) days of this notice, the contract specifications need not be affected.

**Modifications to General Wage  
Determination Decisions**

The numbers of the decisions listed in the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

<b>Volume I:</b>		
New York.....	NY91-7 (Feb. 22, 1991).	p. 837, pp. 838-839, 841, p. 843.
Virginia.....	VA91-51 (Feb. 22, 1991).	p. 1361, p. 1362.
<b>Volume II:</b>		
Iowa.....	IA91-2 (Feb. 22, 1991).	p. 29, p. 30.
Iowa.....	IA91-4 (Feb. 22, 1991).	p. 37, pp. 38-39.
Iowa.....	IA91-6 (Feb. 22, 1991).	p. 49, p. 50.
Iowa.....	IA91-13 (Feb. 22, 1991).	p. 63, p. 64.
Missouri.....	MO91-1 (Feb. 22, 1991).	p. 651, pp. 653-655, pp. 662-665, pp. 670-672.
Wisconsin.....	WI91-3 (Feb. 22, 1991).	p. 1205, p. 1206.
Wisconsin.....	WI91-8 (Feb. 22, 1991).	p. 1225, p. 1227.
Wisconsin.....	WI91-11 (Feb. 22, 1991).	p. 1259, p. 1260.
Wisconsin.....	WI91-12 (Feb. 22, 1991).	p. 1263, p. 1264.
<b>Volume III:</b>		
Alaska.....	AK91-1 (Feb. 22, 1991).	p. 1, pp. 2, 4.
California.....	CA91-1 (Feb. 22, 1991).	p. 31, pp. 32-44.
Colorado.....	CO91-1 (Feb. 22, 1991).	p. 151, p. 153.
Washington.....	WA91-1 (Feb. 22, 1991).	p. 451, pp. 452, 455-458, pp. 461-476.
Wyoming.....	WY91-1 (Feb. 22, 1991).	p. 521, pp. 522-524b.
Wyoming.....	WY91-2 (Feb. 22, 1991).	p. 525, pp. 526-530.
Wyoming.....	WY91-3 (Feb. 22, 1991).	pp. 531, pp. 532-534.
Wyoming.....	WY91-6 (Aug. 23, 1991).	p. 536g, p. 536h.

**General Wage Determination  
Publication**

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 13th day of September 1991.

Alan L. Moss,  
 Director, Division of Wage Determinations.  
 [FR Doc. 91-22505 Filed 9-19-91; 8:45 am]  
 BILLING CODE 4510-27-M

**Employment and Training Administration**

**Attestations Filed by Facilities Using Nonimmigrant Aliens As Registered Nurses**

**AGENCY:** Employment and Training Administration, Labor.  
**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is publishing, for public information, a list of the following health care facilities which plan on employing nonimmigrant alien nurses. These organizations have attestations on file with DOL for that purpose.

**ADDRESSES:** Anyone interested in inspecting or reviewing the employer's attestation may do so at the employer's place of business.

Attestations and short supporting explanatory statements are also available for inspection in the Immigration Nursing Relief Act Public Disclosure Room, U.S. Employment Service, Employment and Training Administration, Department of Labor, room N4456, 200 Constitution Avenue, NW., Washington, DC 20210.

Any complaints regarding a particular attestation or a facility's activities under that attestation, shall be filed with a local office of the Wage and Hour Division of the Employment Standards Administration, U.S. Department of Labor. The address of such offices are found in many local telephone directories, or may be obtained by writing to the Wage and Hour Division, Employment Standards Administration, Department of Labor, Room S3502, 200 Constitution Avenue, NW., Washington, DC 20210.

**FOR FURTHER INFORMATION CONTACT:**

**Regarding the Attestation Process**

The Employment and Training Administration has established a voice-mail service for the H-1A nurse attestation process. Call Telephone Number: 202-535-0643 (this is not a toll-free number). At that number, a caller can:

- (1) Listen to general information on the attestation process for H-1A nurses;
- (2) Request a copy of the Department of Labor's regulations (20 CFR part 655, subparts D and E, and 29 CFR part 504, Subparts D and E) for the attestation

- process for H-1A nurses, including a copy of the attestation form (form ETA 9029) and the instructions to the form;
- (3) Listen to information on H-1A attestations filed within the preceding 30 days;
- (4) Listen to information pertaining to public examination of H-1A attestations filed with the Department of Labor;
- (5) Listen to information on filing a complaint with respect to a health care facility's H-1A attestation (however, see the telephone number regarding complaints, set forth below); and
- (6) Request to speak to a Department of Labor employee regarding questions not answered by Nos. (1) through (4) above.

**Regarding the Complaint Process**

Questions regarding the complaint process for the H-1A nurse attestation program shall be made to the Chief, Farm Labor Program, Wage and Hour Division. Telephone: 202-523-7605 (this is not a toll-free number).

**SUPPLEMENTARY INFORMATION:** The Immigration and Nationality Act requires that a health care facility seeking to use nonimmigrant aliens as registered nurses first attest to the Department of Labor (DOL) that it is taking significant steps to develop, recruit and retain United States (U.S.) workers in the nursing profession. The law also requires that these foreign nurses will not adversely affect U.S. nurses and that the foreign nurses will be treated fairly. The facility's attestation must be on file with DOL before the Immigration and Naturalization Service will consider the facility's H-1A visa petitions for bringing nonimmigrant registered nurses to the United States. 26 U.S.C. 1101(a)(15)(H)(i)(a) and 1181(m). The regulations implementing the nursing attestation program are at 20 CFR Part 655 and 29 CFR Part 504, 55 FR 50500 (December 6, 1990). The Employment and Training Administration, pursuant to 20 CFR 655.310(c), is publishing the following list of facilities which have submitted attestations which have been accepted for filing.

The list of facilities is published so that U.S. registered nurses, and other persons and organizations can be aware of health care facilities that have requested foreign nurses for their staffs. If U.S. registered nurses or other persons which to examine the attestation (on Form ETA 9029) and the supporting documentation, the facility is required to make the attestation and documentation available. Telephone numbers of the facilities' chief executive officers also are listed, to aid public inquiries. In addition, attestations and supporting

short explanatory statements (but not the full supporting documentation) are available for inspection at the address for the Employment and Training Administration set forth in the **ADDRESSES** section of this notice.

If a person wishes to file a complaint regarding a particular attestation or a facility's activities under that attestation, such complaint must be filed at the address for the Wage and Hour Division of the Employment Standards Administration set forth in the **ADDRESSES** section of this notice.

Signed at Washington, DC, this 4th day of September, 1991.

Robert J. Litman,  
 Acting Director, United States Employment Service.

**DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS**

[08/01/91 to 08/30/91]

CEO-name/facility name/address	State	Approval date
Mr. Robert Jay Rowen, Omni Medical Center, 615 E. 82nd Ave., Ste 300, Anchorage, AK 99518, 907-344-7775.	AK	08/30/91
Mr. Gordon Smith, The Eve Foundation Hospital, 1720 University Blvd., Birmingham, AL 35233, 205-325-8535.	AL	08/23/91
Mr. Wm. R. Warnock, Crittenden Memorial Hospital, 200 Tyler Ave., West Memphis, AR 72301, 501-735-1500.	AR	08/22/91
Mr. William G. Coe, Parker Community Hospital, P.O. Box 1149, Parker, AZ 85344, 602-669-9201.	AZ	08/15/91
Mr. Richard Keyser, Mercy Hospital & Medical Center, 4077 Fifth Avenue, San Diego, CA 92103, 619-294-8111.	CA	08/01/91
Ms. Elsie J. Arca, Skilled Nurses Registry Corp., 3142 Wilshire Blvd., #5, Los Angeles, CA 90010, 213-387-4941.	CA	08/01/91
Mr. Sanford M. Shapero, City of Hope National Medical Center, 1500 East Duarte Road, Duarte, CA 91010, 818-359-8111.	CA	08/01/91
Ms. Sandy Hazel, East Los Angeles Doctors Hospital, 4060 East Whittier Boulevard, Los Angeles, CA 90023, 213-2186-5514.	CA	08/01/91
Mr. D. Scott Ideson, Mercy General Hospital, 4001 J Street, Sacramento, CA 95819, 916-453-4915.	CA	08/01/91
Mr. Robert J. Myers, Pleasanton Convalescent Hospital, 300 Neal Street, Pleasanton, CA 94566, 415-462-2400.	CA	08/07'91

## DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[08/01/91 to 08/30/91]

CEO-name/facility name/address	State	Approval date
Mr. Ivan H. Desuasido, Staffing Specialists, Inc., 347 Geller Blvd., Suite D, Daly City, CA 94015, 415-897-3387.	CA	08/07/91
Mr. Warren Kirk, Charter Community Hospital, C/O Andrea Viggers, Fountain Valley, CA 92708, 714-963-7233.	CA	08/07/91
Mr. Robert Rama, Sharp Nurses, Inc., 3727 West 6th Street, #406, Los Angeles, CA 90020, 213-385-6333.	CA	08/08/91
Mr. Richard Sandford, Lodi Memorial Hospital, 975 So. Fairmont Ave., Lodi, CA 95240, 209-334-3411.	CA	08/09/91
Mr. Daniel Bunn, Helix View Healthcare Center, 1201 S. Orange, El Cajon, CA 92020, 619-441-1988.	CA	08/15/91
Mr. Darryl E. Henley, Los Banos Community Hospital, 520 West "I" Street, Los Banos, CA 93635, 209-826-0591.	CA	08/15/91
Mr. A. Jason Geisinger, Winchester Living Ctr.—Hillha, First Healthcare Corp., d.b.a., San Jose, CA 95128, 408-241-8666.	CA	08/19/91
Ms. Anni Chung, Self Help for the Elderly Home, 445 Grant Avenue, San Francisco, CA 94108, 415-882-9171.	CA	08/23/91
Ms. Melinda Beswik, FHP Hospital, C/O Andrea Viggers, Fountain Valley, CA 92708, 714-963-7233.	CA	08/23/91
Mr. Alonso Washington, Rio Hondo Convalescent Hospital, 273 S. Beverly Blvd., Montebello, CA 90640, 213-461-8963.	CA	08/30/91
Mr. Ascension Crisostomo, Marco International, 1409 Southgate Avenue, Daly City, CA 94015, 415-755-3887.	CA	08/30/91
Mr. Daniel Mordecai, U.S. Nursing Corp., 425 South Cherry Street, Denver, CO 80222, 303-377-3778.	CO	08/30/91
Mr. Jesse Dunwoody, RWB Medical Income Properties 1, d/b/a Southpoint Manor, Miami Beach, FL 33139, 305-672-1771.	FL	08/01/91
Mr. Herbert F. Dorsett, Southwest Florida Regional Medical, 3785 Evans Avenue, Fort Myers, FL 33901, 813-939-1147.	FL	08/01/91
Mr. Michael J. Stenger, Humana Hosp.—Palm Beaches, 2201 45th St., West Palm Beach, FL 33407, 407-863-3820.	FL	08/13/91
Mr. Alan Gayer, Eggleston Children's Hospital, 1405 Clifton Road, NE., Atlanta, GA 30322, 404-325-6170.	GA	08/07/91

## DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[08/01/91 to 08/30/91]

CEO-name/facility name/address	State	Approval date
Mr. Rodney Ray, West Paces Ferry Hospital, 3200 Howell Mill Rd., Atlanta, GA 30327, 404-351-0351.	GA	08/15/91
Mr. John Henry, Crawford Long Hospital of Emory, 550 Peachtree Street, NE., Atlanta, GA 30365, 404-686-4411.	GA	08/15/91
Mr. Lou Lazatin, The Brown Schools of Hawaii, 91-2301 Fort Weaver Rd., Ewa Beach, HI 96706, 809-677-2527.	HI	08/23/91
Mr. Sam Gorenstein, Metropolitan Nursing Center of Bridgeview, 8540 S. Harlem Avenue, Bridgeview, IL 60455, 708-598-2605.	IL	08/01/91
Mr. Edward A. Cucci, Swedish Conventant Hospital, 5145 N. California Ave., Chicago, IL 60625, 312-878-8200.	IL	08/01/91
Mr. John Sullivan, Our Lady of the Resur. Medical Center, 5645 W. Addison St., Chicago, IL 60634, 312-282-7000.	IL	08/01/91
Mr. Sam Gorenstein, Metro. Nursing Center of Haze, 3300 West 175th Street, Hazel Crest, Illinois 60435, 708-335-2400.	IL	08/01/91
Mr. Jack Schnell, Clark Manor Convalescent Center, 7433 N. Clark Street, Chicago, IL 60626, 312-338-8778.	IL	08/01/91
Mr. John Bohrer, Saint Joseph Medical Center, 333 N. Madison Street, Joliet, IL 60435, 815-725-7133.	IL	08/01/91
Mr. Morris Esformes, Lake Park Center, 919 Washington Park, Waukegan, IL 60085, 708-623-9100.	IL	08/02/91
Mr. Marvin Mermelstein, Central Nursing Home, Inc., 2450 North Central Avenue, Chicago, IL 60639, 312-889-1333.	IL	08/05/91
Mr. Gary T. Johanson, The Washington & Jane Smith Hospital, 2340 West 113th Place, Chicago, IL 60643, 312-779-8010.	IL	08/07/91
Mr. Peter Rogan, Edgewater Medical Center, Edgewater Operating Co. d/b/a, Chicago, IL 60660, 312-275-9289.	IL	08/07/91
Mr. Mark Holland, Glenview Terrace Nursing Center, 1511 Greenwood Road, Glenview, IL 60025, 708-729-9090.	IL	08/09/91
Mr. Ronald Shabat, Peterson Park Health Care Center, 6141 N. Pulaski, Chicago, IL 60648, 312-478-2000.	IL	08/15/91
Mr. Tali Tzur, Wellington Plaza Nursing Center, 504 W. Wellington Ave., Chicago, IL 60657, 312-281-6200.	IL	08/15/91

## DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[08/01/91 to 08/30/91]

CEO-name/facility name/address	State	Approval date
Ms. Diane E. Kramer, Aurora Manor Nursing Center, 1601 N. Farnsworth, Aurora, IL 60505, 708-898-1180.	IL	08/15/91
Ms. Sylvia Y. Mostello, Heritage Healthcare Center, 5888 N. Ridge, Chicago, IL 60660, 312-769-2626.	IL	08/19/91
Mr. Herman Katz, Balmoral Nursing Center, Inc., 2055 West Balmoral Avenue, Chicago, IL 60625, 312-561-8661.	IL	08/19/91
Mr. Daniel Shabat, Deawille Healthcare Center, 7445 N. Sheridan Rd., Chicago, IL 60626, 312-338-3300.	IL	08/23/91
Mr. Robert Magnuson, Elmhurst Memorial Hospital, 200 Berteau, Elmhurst, IL 60126, 708-941-4510.	IL	08/23/91
Mr. J. Rex Pippin, Lifelink Corporation, 331 South York Road, Bensenville, IL 60106, 708-766-3570.	IL	08/30/91
Mr. Mark Brown-Barnett, The Saint Mary Hospital, 1823 College Avenue, Manhattan, KS 66502, 913-776-1981.	KS	08/01/91
Mr. John L. Millard, Bethany Medical Center, 51 North 12th Street, Kansas City, KS 66102, 913-281-8400.	KS	08/23/91
Mr. Ron Hytoff, HH-University of Louisville, Humana of Virginia, Louisville, KY 40202, 502-562-3156.	KY	08/14/91
Mr. Robert L. Johnson, Appalachia Regional Medical Center, Appalachia Regional Healthcare, Inc., Hazard, KY 41701, 606-281-2440.	KY	08/30/91
Mr. Peter J. Betts, East Jefferson General Hospital, 4200 Houma Blvd., Metairie, LA 70011, 504-454-5606.	LA	08/23/91
Mr. Darrold E. Endres, Saugus Nursing Home, Louise Caroline Rehabilitation Nursing Home, Saugus, MA 01906, 617-233-6830.	MA	08/08/91
Ms. Judith Kurland, Boston City Hospital, 818 Harrison Avenue, Boston, MA 02118, 617-534-5000.	MA	08/30/91
Mr. Gerald Fitzgerald, Oakwood Hospital, 18101 Oakwood Blvd., Dearborn, MI 48123, 313-593-7656.	MI	08/15/91
Mr. A. Jason Geisinger, Winston-Salem Convalescent Center, First Health Care Corp., d.b.a., Winston-Salem, NC 27104, 919-724-2821.	NC	08/01/91
Mr. Lowell Fein, Regent Care Center, 50 Polify Road, Hackensack, NJ 07601, 201-848-1168.	NJ	08/01/91
Mr. Steven Goldberg, Eatontown Convalescent Center, Eatontown Senior Care Center, Eatontown, NJ 07724, 908-542-4700.	NJ	08/01/91

## DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[08/01/91 to 08/30/91]

CEO-name/facility name/address	State	Approval date
Mr. Thomas Glodman, Bayshore Community Hospital, 727 N. Beers St., Holmdel, NJ 07733, 201-739-5936.	NJ	08/07/91
Mr. Joseph Leon, Garden State Health Care Center, 140 Park Avenue, East Orange, NJ 07017, 201-677-1500.	NJ	08/19/91
Ms. Elizabeth E. Miller, Burnt Tavern Convalescent Center, 1049 Burnt Tavern Rd., Brick, NJ 08724, 201-840-3700.	NJ	08/21/91
Mr. David I. Macpherson, Gospel Hall Home for the Aged, 2800 Atlantic Avenue, Longport, NJ 08403, 609-822-0241.	NJ	08/23/91
Mr. Herbert Friedman, Gurwin Jewish Geriatric Center, 68 Hauppauge Rd., Commack, NY 11725, 516-499-6500.	NY	08/01/91
Mr. Norman Deane, National Nephrology Fund., Inc., Manhattan Kidney Center, New York, NY 10016, 212-779-2333.	NY	08/05/91
Mr. Herbert A. Rothman, Brookhaven Beach HRF, 250 Beach 17th Street, Far Rockaway, NY 11691, 718-471-7500.	NY	08/09/91
Mr. Patrick Madden, St. Mary's Hospital, 89 Genesee St., Rochester, NY 14611, 716-464-3000.	NY	08/15/91
Ms. Celia Strow, The Grace Plaza of Great Neck, 15 St. Paul's Place, Great Neck, NY 11021, 516-466-3001.	NY	08/15/91
Ms. Daine M. Iorfida, University Hospitals of Cleveland, 2074 Abington Road, Cleveland, OH 44106, 216-844-1686.	OH	08/23/91
Mr. Lawrence D. Slomovitz, Summit County Nursing Home, dba Crown Care Inc., Tallmadge, OH 44278, 216-688-8600.	OH	08/30/91
Mr. Steve Hendley, Enid Regional Hospital, 401 S. 3rd Street, Enid, OK 73702, 405-249-4350.	OK	08/30/91
Sister Margaret Ann Hardner, Saint Vincent Health Center, 232 West 25 Street, Erie, PA 16544, 814-452-5000.	PA	08/01/91
Mr. William E. Ball, West Texas, Inc., 409 N. Willis, Abilene, TX 79604, 915-677-2231.	TX	08/01/91
Mr. Allen Cohen, The University of Texas Health at Tyler, Tyler, TX 75710, 903-877-7740.	TX	08/01/91
Mr. Mark A. Wallace, Texas Children's Hospital, 6621 Fannin Street, Houston, TX 77030, 713-798-1100.	TX	08/01/91
Ms. Callie Smith, Baptist Memorial Hospital System, 111 Dallas Street, San Antonio, TX 78205, 512-222-8431.	TX	08/01/91

## DIVISION OF FOREIGN LABOR CERTIFICATIONS APPROVED ATTESTATIONS—Continued

[08/01/91 to 08/30/91]

CEO-name/facility name/address	State	Approval date
Mr. George Farr, Children's Medical Center of Dallas, 1935 Motor Street, Dallas, TX 75235, 214-920-2000.	TX	08/09/91
Mr. James Courtney, University Medical Center, 602 Indiana Avenue, Lubbock, TX 79417, 806-743-3515.	TX	08/19/91
Mr. Mel Bishop, DBA Parkway Hospital, NOTAMI Hospitals of Texas, Inc., Houston, TX 77076, 713-697-2831.	TX	08/30/91
Mr. Thomas B. Newhof, Pullman Memorial Hospital, NE 1125 Washington Ave., Pullman, WA 99163, 509-332-2541.	WA	08/30/91
Total Attestations .....		80

[FR Doc. 91-22715 Filed 9-19-91; 8:45 am]  
BILLING CODE 4510-30-M

### Pension and Welfare Benefits Administration

[Application No. D-8734, et al.]

### Proposed Exemptions; Colorado Container Corporation Employee Pension Plan, et al.

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Notice of proposed exemptions.

**SUMMARY:** This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restriction of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

### Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this Federal Register Notice. Comments and request for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the

exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

**ADDRESSES:** All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, room N-5649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, room N-5507, 200 Constitution Avenue, NW., Washington, DC 20210.

### Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the Federal Register. Such notice shall include a copy of the notice of proposed exemption as published in the Federal Register and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

**SUPPLEMENTARY INFORMATION:** The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

**Colorado Container Corporation  
Employee Pension Plan (the Plan)  
Located in Denver, Colorado**

[Application No. D-8734]

**Proposed Exemption**

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR part 2570, subpart B [55 FR 32836, August 10, 1990]. If the exemption is granted the restrictions of section 406(a), 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code shall not apply to the proposed cash sale by the Plan of four limited partnership interests (the Interests) to Colorado Container Corporation (CCC), a party in interest with respect to the Plan, provided the Plan receives no less than the greater of: (1) Its cost for the Interests; or (2) the fair market value of the Interests on the date of the sale.

**Summary of Facts and Representations**

1. The Plan is a defined plan which has 77 participants and approximately 85 beneficiaries. As of January 30, 1991, the aggregate fair market value of the total assets of the Plan was \$491,666.

2. Among the assets in the Plan are the Interests, which are interests in four limited partnerships, unrelated to CCC, which invest in real estate and real estate mortgages. On December 31, 1981, the Plan bought 25.125 units of Balcor Pension Investors—II (Balcor II) for a purchase price of \$25,000. Balcor II has issued 85,000 units, of which the Plan owns .029%. On October 27, 1982, the Plan bought 50 units of Balcor Pension Investors—III (Balcor III) for \$25,000. Balcor III has issued 23,740 units, of which the Plan owns .021%. On May 18, 1984, the Plan bought 25 units of MLH Realty IV (MLH IV) for \$25,000, and on May 24, 1985, the Plan purchased 25 units of MLH Realty V (MLH V) for \$25,000. MLH IV has issued 416,285 units, of which the Plan owns .006%, and MLH V has issued 525,529 units, of which the Plan owns .004%. Balcor has returned a portion of the Plan's original investment for both Balcor II and Balcor III because mortgage principal was prepaid earlier than expected. Thus, the applicant represents that the Plan's cost the Balcor II is \$17,487, and the Plan's cost for Balcor III is \$21,767.50.

3. CCC has elected to terminate the Plan and to distribute the assets to the Plan's participants. However, the trustees of the Plan cannot liquidate the

Interests. MLH IV and MLH V will not repurchase their limited partnership units. Balcor will repurchase their limited partnerships at 90% of the current value, but there is a two year waiting list to re-sell Balcor II and a five year waiting list to re-sell Balcor III units back to Balcor. Accordingly, an exemption has been requested to permit the Plan to sell the Interests to CCC. The Plan is to receive the greater of the current fair market value of the Interests, or its cost for the Interests.

4. Mr. Michael Moskal of Merrill Lynch Consumer Markets in Denver, Colorado, has represented that as of October 31, 1990, MLH IV had an appraised value of \$644 per unit, so that the total value for 25 units was \$16,100. Mr. Moskal also represents that as of October 31, 1990, MLH V had an appraised value of \$886 per unit, so that the total value of 25 units was \$22,150. Ms. Mary C. Steber of Balcor Management Services, Inc. has represented that as of March 31, 1991, Balcor II had an appraised value of \$512.13 per interest. Thus, the total value for 25.125 units was \$12,867.27. Ms. Steber also represented that as of March 31, 1991, Balcor III had an appraised value of \$444.87 per interest. Thus, the total value for 50 units was \$22,243.50.

5. Since CCC proposes to pay to the Plan the greater of the fair market value of the Interests or the Plan's cost, CCC represents that it will pay \$25,000 each, the Plan's cost, for the Plan's Interests in MLH IV and MLH V, since the Plan's cost exceeds the appraised fair market value for each of those investments. CCC represents that it will pay \$17,487, the Plan's cost, for Balcor II since that amount exceeds the appraised fair market value for that interest. CCC represents that it will pay the appraised fair market value of \$22,243.50 for Balcor III, since that amount exceeds the Plan's cost for Balcor III.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (1) The sale is a one-time transaction for cash; (2) no commissions will be paid by the Plan; (3) the sale will provide the Plan with liquidity to make distributions to the participants; and (4) the sales price will be the higher of the Plan's cost of the Interests or the current fair market value of the Interests as determined by appraisal.

**FOR FURTHER INFORMATION CONTACT:**  
Gary H. Lefkowitz of the Department, telephone (202) 523-8861. (This is not a toll-free number.)

**General Information**

The attention of interested persons is directed to the following

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan; and

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction.

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 17th day of September, 1991.

Ivan Strasfeld,

*Director of Exemption Determinations,  
Pension and Welfare Benefits Administration,  
U.S. Department of Labor.*

[FR Doc. 91-22732 Filed 9-19-91; 8:45 am]

BILLING CODE 4510-29-M

[Prohibited Transaction Exemption 91-53; Exemption Application No. D-8599, et al.]

**Grant of Individual Exemptions; Elko Regional Medical Center Profit Sharing Plan, et al.**

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

**ACTION:** Grant of individual exemptions.

**SUMMARY:** This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Notices were published in the Federal Register of the pendency before the Department of proposals to grant such exemptions. The notices set forth a summary of facts and representations contained in each application for exemption and referred interested persons to the respective applications for a complete statement of the facts and representations. The applications have been available for public inspection at the Department in Washington, DC. The notices also invited interested persons to submit comments on the requested exemptions to the Department. In addition the notices stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicants have represented that they have complied with the requirements of the notification to interested persons. No public comments and no requests for a hearing, unless otherwise stated, were received by the Department.

The notices of proposed exemption were issued and the exemptions are being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

**Statutory Findings**

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR part 2570, subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemptions are administratively feasible;

(b) They are in the interests of the plans and their participants and beneficiaries; and

(c) They are protective of the rights of the participants and beneficiaries of the plans.

**Elko Regional Medical Center Profit Sharing Plan (the Plan) Located in Elko, Nevada**

[Prohibited Transaction Exemption No. 91-53; Exemption Application No. D-8599]

**Exemption**

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the loan of \$785,000 (the Loan) by the Plan to Elko Regional Medical Center (the Employer), the Plan sponsor and a party in interest with respect to the Plan provided that the following conditions are satisfied:

(1) The terms of the Loan will be at least as favorable to the Plan as those obtainable in an arm's-length transaction with an unrelated party;

(2) The outstanding balance plus accrued, but unpaid interest on the Loan will at no time exceed 25% of the Plan's net assets;

(3) The independent fiduciary, who has represented that the transaction is in the best interest and protective of the Plan, will monitor the Loan and enforce the rights of the Plan under the Loan throughout its duration;

(4) The independent fiduciary is independent of other parties involved in the transaction and the fees received by the independent fiduciary for serving in such capacity, combined with any other fees derived from the Employer or related parties, will not exceed 1% of his annual income for each fiscal year that he continues to serve in the independent fiduciary capacity with respect to the transaction described herein; and

(5) On the date the Loan is entered into, the Plan will be named as the beneficiary and loss payee with respect to the fire and casualty insurance coverage of the commercial building, which secures the Loan.

For a complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption published on July 22, 1991 at 56 FR 33469/33470.

**EFFECTIVE DATE:** This exemption will be effective as of July 1, 1991.

**FOR FURTHER INFORMATION CONTACT:** Ekaterina A. Uzlyan of the Department, telephone (202) 523-8883. (This is not a toll-free number.)

**Reynolds Metal Company Savings and Investment Plan for Salaried Employees (the Plan) Located in Richmond, Virginia**

[Prohibited Transactions Exemption 91-53; Exemption Application No. D-8757]

**Exemption**

The restrictions of section 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to an interest-free extension of credit to the Plan (the Advances) by Reynolds Metals Company (the Employer), the sponsor of the Plan; provided that (a) no interest and/or expenses are paid by the Plan; (b) the proceeds of the Advances are used only in lieu of payments due with respect to guaranteed investment contract number GIC01132 (the GIC) issued by Executive Life Insurance Company (Executive Life); (c) repayment of the Advances will be restricted to cash proceeds paid to the Plan by or on behalf of Executive Life with respect to Executive Life's obligations under the GIC; and (d) repayment of the Advances will be waived to the extent the Plan receives less from the disposition of the GIC than the total amount of the Advances.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the notice of proposed exemption.

**EFFECTIVE DATE:** This exemption is effective as of June 30, 1991.

**Written Comments**

The Department received six written comments and no requests for a hearing. Five of the comments expressed support and approval of the proposed exemption.

A sixth comment, submitted by the applicant, constituted a supplementation and correction of the summary of facts in the Notice of Proposed Exemption and a request for a retroactive effective date of the exemption;

(1) The applicant represents that as of May 31, 1991, the Plan had approximately 6,256 participants.

(2) The summary of facts indicates that Sovran Bank of Richmond, Virginia (Sovran) is the trustee of the Plan. Although Sovran was the Plan's trustee at the time of the Plan's purchase of the GIC, the applicant represents that Chase Manhattan Bank, N.A. has since been appointed as successor to Sovran as trustee and remains in that capacity.

(3) In describing the terms of the GIC, the summary of facts states that the

guaranteed interest rate was to be compounded annually over four years. The applicant wishes to clarify and correct the summary by noting that the GIC provides for an effective annual yield of 8.45 percent achieved by daily compounding over six years and that the deposit period began July 1, 1986 and ended June 30, 1987, with no deposit limit.

(4) The summary of facts states that as of May 3, 1991, the GIC's accumulated book value represented approximately 11.70 percent of the assets in the GI Fund. The applicant represents that the GIC's accumulated book value represented approximately 10.70 percent of the assets in the GI Fund as of May 3, 1991.

(5) The applicant notes that the Notice of Proposed Exemption does not indicate a proposed effective date. The applicant requests that the exemption be effective as of June 30, 1991, the first date on which GIC withdrawal payments were scheduled to occur after the applicant's exemption request was filed with the Department.

After consideration of the entire record, including the comments, the Department has determined to grant the exemption with an effective date of June 30, 1991.

**FOR FURTHER INFORMATION CONTACT:** Ronald Willett of the Department, telephone (202) 523-8881. (This is not a toll-free number.)

#### General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions to which the exemptions does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) These exemptions are supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the

fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of these exemptions is subject to the express condition that the material facts and representations contained in each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 17th day of September, 1991.

Ivan Strasfeld,

*Director of Exemption Determinations,  
Pension and Welfare Benefits Administration,  
U.S. Department of Labor.*

[FR Doc. 91-22731 Filed 9-19-91; 8:45 am]

BILLING CODE 4510-29-M

**[Exemption Application Nos. D-8750, D-8751 and D-8752]**

**Withdrawal of Notice of Proposed Exemption Involving the Schneider Transport, Inc. 401K Savings Plan, Special Services Division Retirement and Savings Plan and Schneider National Retirement (the Plans); Located in Green Bay, Wisconsin**

**AGENCY:** Pension and Welfare Benefits Administration, Labor.

In the *Federal Register* dated July 22, 1991 (56 FR 33471), the Department of Labor published a notice of proposed exemption (the Notice) from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 and from certain taxes imposed by the Internal Revenue Code of 1986. The Notice concerned a cash sale by the Plans of a guaranteed investment contract (the GIC) to Schneider National, Inc. (SNI), a party in interest with respect to the Plans.

By letter dated August 27, 1991, the applicant informed the Department that the transaction did not occur on June 28, 1991, as was represented in the application dated June 24, 1991, and that SNI does not intend to enter into the transaction. The applicant represents that the transaction required the approval of its Chief Executive Officer and its Board of Directors whose approval was anticipated, but was not secured. Therefore, the applicant has requested that the exemption application be withdrawn.

Accordingly, the notice of proposed exemption is hereby withdrawn.

Signed at Washington, DC, this 17th day of September, 1991.

Ivan L. Strasfeld,

*Director of Exemption Determinations,  
Pension and Welfare Benefits Administration,  
U.S. Department of Labor.*

[FR Doc. 91-22733 Filed 9-19-91; 8:45 am]

BILLING CODE 4510-29-M

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50-206]**

**Southern California Edison Company and the San Diego Gas and Electric Company San Onofre Nuclear Generating Station, Unit 1; Issuance of Environmental Assessment and Finding of No Significant Impact**

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Provisional Operating License No. DPR-13 issued to the Southern California Edison Company and the San Diego Gas and Electric Company (the licensees), for operation of the San Onofre Nuclear Generating Station, Unit 1, located in San Diego County, California.

#### Identification of Proposed Action

The amendment would consist of a conversion of the Provisional Operating License (POL) No. DPR-13 to a Full-Term Operating License (FTOL). The expiration date for the FTOL would be March 2, 2004, 40 years from the issuance date of the construction permit.

The amendment to the license is in response to the licensees' application for the conversion dated July 28, 1970. The NRC staff has prepared an Environmental Assessment of the proposed action, "Environmental Assessment by the Office of Nuclear Reactor Regulation Relating to the Conversion of the Provisional Operating License to a Full-Term Operating License," dated September 16, 1991.

#### Summary of the Environmental Assessment

In response to the licensees' request on July 28, 1970, to convert the San Onofre Unit 1 POL to an FTOL, the NRC staff prepared a Final Environmental Statement (FES) in October 1973. The FES concluded that the environmental consequences of the proposed action were acceptable. Licensee submittals dated February 5, 1986, and August 6, 1991, updated the information relevant to the findings and conclusions contained in the 1973 FES. The Environmental Assessment updates the

1973 FES. The updated information is based on the two submittals referenced above and on independent evaluation by the NRC staff.

#### *Non-Radiological Impacts*

Since the FES was issued in 1973, the San Onofre site has changed significantly. Two additional reactors, Units 2 and 3, were constructed adjacent to unit 1. The new construction includes support buildings, a parking lot, and a support facility east of Interstate Highway 5. These changes have affected land use. However, the effects are minor and local.

Control of the local environment in the vicinity of the site and along the transmission lines has been effective. The site drainage system effectively controls erosion. The terrestrial resources along the transmission lines have not been adversely affected.

The California Coastal Commission is evaluating the results of studies conducted to determine site effects on the marine environment. These studies are principally associated with Units 2 and 3; however, Unit 1 also affects the marine environment. The staff determined that state oversight of these studies is appropriate. With regard to federally regulated issues, the staff concluded that site effects on the marine environment are acceptable.

The staff also determined that, with the possible exception of the green sea turtle, *Chelonia mydas*, legally protected species inhabiting the general vicinity of the station and the transmission rights-of-way are not being adversely affected by station operation. Although the staff does not believe that site operations are affecting the green sea turtle population, consultation proceedings with the National Marine Fisheries Service will be instituted.

#### *Radiological Impacts*

The staff evaluated changes to the facility that were made after the 1973 FES was issued to determine whether potential radiological impacts were affected by the changes. Additionally, records documenting radioactive effluents and the results of the offsite radioactive monitoring program during the first 23 years of plant operation were examined.

The staff concluded that plant modifications made after 1973 were focused primarily on upgrading the plant and decreasing the likelihood of events that could cause undesirable radiological consequences. Modifications were also made to reduce the undesirable radiological consequences following a potential accident. No significant changes were

made to the facility that would affect radioactive releases during normal operations. Radioactive gaseous and liquid effluents during the first 23 years of operation did not exceed regulatory limits. Potential exposures to personnel in unrestricted areas resulting from plant effluents were determined to be within the design objectives contained in 10 CFR part 50, appendix I. Based on the operating history and plant upgrades, the staff concluded that the radiological environmental consequences of plant operations for the duration of the proposed FTOL are acceptable.

#### *Conclusion*

The staff did not identify any significant new environmental effects or any significant changes in those effects identified previously in the 1973 FES that would affect the proposed FTOL for San Onofre Unit 1. Therefore, the staff determined that the issuance of a new or amended FES is not required and that the conclusions reached in the FES with regard to the acceptability of the license conversion are still valid. The Commission has determined, pursuant to 10 CFR 51.31, not to prepare a new environmental impact statement for the proposed amendment.

For additional details with respect to this action, see (1) the application for license conversion dated July 28, 1970, (2) the Final Environmental Statement related to the operation of San Onofre Nuclear Generating Station Unit 1, issued October 1973, and (3) the Environmental Assessment dated September 16, 1991. These documents are available for public inspection at the Commission's Public Document Room, 2120 L Street, NW., Washington DC 20555 and at the Main Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 16th day of September, 1991.

For the Nuclear Regulatory Commission,  
James E. Dyer,  
Director, Project Directorate V, Division of  
Reactor Projects III/IV/V, Office of Nuclear  
Reactor Regulation.  
[FR Doc. 91-22723 Filed 9-19-91; 8:45 am]  
BILLING CODE 7590-01-M

#### **Advisory Committee on Reactor Safeguards (ACRS) and Advisory Committee on Nuclear Waste (ACNW); Proposed Meetings**

In order to provide advance information regarding proposed public meetings of the ACRS Subcommittees and meetings of the ACRS full Committee, of the ACNW, and the

ACNW Working Groups the following preliminary schedule is published to reflect the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings was published August 21, 1991 (56 FR 41571). Those meetings which are definitely scheduled have had, or will have, an individual notice published in the **Federal Register** approximately 15 days (or more) prior to the meeting. It is expected that sessions of ACRS full Committee and ACNW meetings designated by an asterisk (\*) will be closed in whole or in part to the public. ACRS full Committee and ACNW meetings begin at 8:30 a.m. and ACRS Subcommittee and ACNW Working Group meetings usually begin at 8:30 a.m. The time when items listed on the agenda will be discussed during ACRS full Committee and ACNW meetings, and when ACRS Subcommittee and ACNW Working Group meetings will start will be published prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the October 1991 ACRS and ACNW full Committee meetings can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committees (telephone: 301/492-4600 (recording) or 301/492-7288, Attn: Barbara Jo White) between 7:30 a.m. and 4:15 p.m., Eastern Time.

#### *ACRS Subcommittee Meetings*

*Structural Engineering*, October 9, Bethesda, MD. The Subcommittee will review the proposed final resolution of Generic Safety Issue-113, "Dynamic Qualification Testing of Large Bore Hydraulic Snubbers."

*Advanced Boiling Water Reactors*, October 23, 1991, Bethesda, MD. The Subcommittee will review draft safety evaluation reports related to chapters 3, 9, 10, 11 and 13 of the GE/Standard Safety Analysis Report for the Advanced Boiling Water Reactor design.

*Severe Accidents*, October 24-25, 1991, Bethesda, MD. The Subcommittee will discuss elements of the Severe Accident Research Program.

*Improved Light Water Reactors*, November 5, 1991, Bethesda, MD. The Subcommittee will review draft safety evaluation reports corresponding to chapters 1 and 10 of the EPRI's Requirements Document for the Evolutionary Designs.

*Materials and Metallurgy*, November 6, 1991, Bethesda, MD, 1 p.m. The Subcommittee will discuss steam

generator degradation concerns and the basis for the staff's acceptance criteria for steam generator tube plugging.

*Thermal Hydraulic Phenomena*, November 19, 1991, Bethesda, MD. The Subcommittee will begin review of the Westinghouse best estimate ECCS Evaluation Model for 3- and 4-loop Westinghouse plants.

*Advanced Building Water Reactors*, November 21, 1991, Bethesda, MD. The Subcommittee will review draft safety evaluation reports related to the GE/Advanced Boiling Water Reactor design.

*Regional Programs*, December 5-6, 1991, NRC Region V Office, Walnut Creek, CA. The Subcommittee will discuss the activities of the NRC Region V Office.

*Improved Light Water Reactors*, December 11, 1991, Bethesda, MD. The Subcommittee will review draft safety evaluation reports of the EPRI's Requirements Document for the Evolutionary Designs.

*Joint Safety Philosophy, Technology and Criteria/Severe Accidents/Regulatory Policies and Practices*, Date to be determined (October/November), Bethesda, MD. The Subcommittees will discuss a number of interrelated proposed staff position papers as follows: (1) Proposed definition of a large release for Safety Goal Policy implementation; (2) Proposed revision to TID-14844 to update source term and (3) Proposed revision to 10 CFR part 100, Decoupling siting from design.

*Reliability Assurance*, Date to be determined (December), Bethesda, MD. The Subcommittee will discuss, with the NRC staff and the industry, research and other matters regarding nuclear power plant aging phenomena.

*Advanced Reactor Designs*, Date and location to be determined (December/January). The Subcommittee will visit the ORNL facility and will discuss the testing program and experiments for the MHTGR design.

*Thermal Hydraulic Phenomena*, Date to be determined, Bethesda, MD. The Subcommittee will continue its review of the NRC staff program to address the issue of interfacing systems LOCAs.

*Joint Thermal Hydraulic Phenomena and Core Performance*, Date to be determined, Bethesda, MD. The Subcommittee will continue its review of the issues pertaining to BWR core power stability.

*Thermal Hydraulic Phenomena*, Date to be determined, Bethesda, MD. The Subcommittee will review the status of the application of the Code Scaling, Applicability, and Uncertainty (CSAU) Evaluation Methodology to a small-break LOCA calculation for a B&W plant

*Thermal Hydraulic Phenomena*, Date to be determined, Los Alamos, NM. The Subcommittee will review the documentation associated with the TRAC-PF1/MOD2 code version.

*Structural Engineering*, Date to be determined, Bethesda, MD. The Subcommittee will discuss with the NRC staff and the industry the status of Containment Structural Integrity programs, including foreign programs.

#### *ACRS Full Committee Meetings*

*378th ACRS Meeting*, October 10-12, 1991, Bethesda, MD. Items are tentatively scheduled.

*A. Key Technical Issues*—Continue discussion among members regarding key technical issues applicable to future ALWRs and advanced reactors in need of early attention.

*B. Diablo Canyon Nuclear Power Plant*—Briefing and discussion regarding the results of the Long-Term Seismic Reevaluation program for this plant. Representatives of the NRC staff and the licensee will participate, as appropriate.

*C. Level of Design Detail (tentative)*—Briefing and discussion regarding the level of design detail that is necessary for licensing of standardized nuclear power plants and related NRC staff requirements. Representatives of the NRC staff and the nuclear industry will participate, as appropriate.

*D. Potential Criticality Event at the GE Wilmington Fuel Facility*—Briefing and discussion regarding the May 29, 1991 potential criticality event at the Wilmington fuel facility. Representatives for the NRC staff and the licensee will participate, as appropriate.

*\*E. Meeting with the Director, NRC Office of Nuclear Material Safety and Safeguards (NMSS) (Open/Closed)*—Meeting with the Director of NMSS to discuss items of mutual interest, including safeguards information related to security provisions at nuclear power plants, status of the application/review for a centrifugal uranium enrichment facility, and the NRC-licensure interface during the potential criticality incident at the GE Wilmington fuel facility. Portions of the session will be closed to discuss safeguards and security information.

*F. ACRS Subcommittee Activities*—Reports by cognizant subcommittee chairman and members and discussion regarding the status of assigned subcommittee activities, including reactor set-point methodology proposed by EPRI for future nuclear plant designs.

*G. Future Activities*—Discussion of anticipated subcommittee activities and

items proposed for consideration by the full Committee.

*H. Preparation of ACRS Reports*—Discussion of proposed ACRS reports regarding items considered during this meeting, and issues that were not completed at previous meetings as time and availability of information permit.

*I. Operator Requalification Program*—Briefing by and discussion with representatives of the NRC staff regarding experience with the Operator Requalification Program, including the impact of using symptom-based operating procedures.

*J. Implementation of 10 CFR Part 20, Standards for Protection Against Radiation*—Review and report on selected regulatory guides associated with implementation of revised 10 CFR part 20 requirements. Representatives of the NRC staff will participate, as appropriate.

*K. Generic Issue 113, Dynamic Qualification Testing of Large Bore Hydraulic Snubbers*—Briefing by and discussion with representatives of the NRC staff regarding proposed resolution of Generic Issue-113.

*L. Organizational Factors Research*—Briefing by and discussion with representatives of the NRC staff regarding the status of the NRC staff research programs on organizational factors.

*M. Control of Nuclear Power Plant Switchyards*—Briefing by and discussion with members of the NRC staff regarding control responsibility and practices for the operation of nuclear power plant switchyards.

*\*N. Miscellaneous (Open/Closed)*—Discuss administrative matters related to the conduct of ACRS activities, including the status of a proposed rule by the Office of Government Ethics regarding standards of ethical conduct for government employees. Portions of this session will be closed as necessary to discuss information the release of which would represent a clearly unwarranted invasion of personal privacy.

*379th ACRS Meeting*, November 7-9, 1991—Agenda to be announced.

*380th ACRS Meeting*, December 12-14, 1991—Agenda to be announced.

#### *ACNW Full Committee and Working Group Meetings*

*ACNW Working Group/ACRS Subcommittee on Occupational and Environmental Protection Systems*, September 23-24, 1991. The Working Group/Subcommittee will review the regulatory guides related to the implementation of the revised 10 CFR

part 20, Standards for Protection Against Radiation.

35th ACNW Meeting, September 27, 1991, Bethesda, MD. Items are tentatively scheduled.

A. Discuss items of mutual interest with the Director of NRC's Office of Nuclear Material Safety and Safeguards.

B. Discuss and prepare comments on Regulatory Guides that implement the revised 10 CFR part 20, Standards for Protection Against Radiation.

C. Discuss ACNW thoughts on the overall subject of the management and disposal of low-level radioactive waste.

D. Discuss a systems analysis approach to the interim storage of spent fuel.

E. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

ACNW Working Group on NRC Staff Computer Modeling and Performance Assessment Capabilities, October 16-17, 1991, Bethesda, MD. The Working Group will begin its review of a request from Commissioner Rogers regarding whether or not the NRC staff has developed a suitable performance assessment program and whether the NRC staff has adequate equipment, expertise, and training to conduct high- and low-level waste computer modeling.

36th ACNW Meeting, October 18, 1991, Bethesda, MD. Items are tentatively scheduled.

A. Discuss and prepare comments to the Commission on a systems analyses approach to the interim storage of spent fuel.

B. Begin deliberations on a request from Commissioner Rogers regarding whether the NRC staff has developed a suitable performance assessment program and whether the NRC staff has adequate equipment, expertise, and training to conduct high- and low-level waste computer modeling.

C. Briefing by the Division of High Level Waste Management staff on their basis for establishing a probability limit for distinguishing between unlikely and very unlikely events. This relates to the alternative approach to the probabilistic section of the containment requirements in 40 CFR part 191.

D. Discuss anticipated and proposed Committee activities, future meeting agenda, administrative, and organizational matters, as appropriate. Also, discuss matters and specific issues that were not completed during previous meetings as time and availability of information permit.

ACNW Working Group on Geologic Dating, November 19, 1991, Bethesda, MD. The Working Group will review the problems and limitations with various Quaternary dating methods to be used in the assessment of volcanic features and materials for the site characterization of a high-level waste repository.

37th ACNW Meeting, November 20-21, 1991—Agenda to be announced.

ACNW Working Group on the Impact of Long-Range Climate Change in the Area of the Southern Basin and Range, December 17, 1991, Bethesda, MD. The Working Group will review the potential long-range climate changes and their impact on performance assessments of a proposed high-level waste repository.

38th ACNW Meeting, December 18-19, 1991—Agenda to be announced.

ACNW Working Group on Methods for Assessing Natural Resources at a Proposed High-Level Waste Repository Site, Date to be determined, Bethesda, MD. The Working Group will discuss methodologies for the assessment of the potential for natural resources at the proposed high-level waste repository site at Yucca Mountain. The relationship between such resources and the potential for human intrusion will be emphasized.

Dated: September 16, 1991.

John C. Hoyle,

Advisory Committee Management Officer.

[FR Doc. 91-22722 Filed 9-19-91; 8:45 am]

BILLING CODE 7590-01-M

## PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

### Columbia River Basin Fish and Wildlife Program

September 10, 1991.

**AGENCY:** Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

**ACTION:** Notice of final amendments to the Columbia River Basin Fish and Wildlife Program (priority habitat and production measures for anadromous fish).

**SUMMARY:** Pursuant to the Pacific Electric Power Planning and Conservation Act (the Northwest Power Act, 16 U.S.C. 839, et seq.) the Pacific Northwest Electric Power and Conservation Planning Council (Council) has adopted final amendments to the Columbia River Basin Fish and Wildlife Program (program). Copies of the final amendments and of the Council's

responses to comments are now available.

**BACKGROUND:** On May 30 1991, the Council gave notice that it was initiating a process to identify high-priority habitat and production measures for salmon and steelhead, to be included as amendments to the program. Hearings were held on the proposed amendments in Idaho, Montana, Oregon, and Washington, and comments were received through July 19, 1991. The Council reviewed the comments and took final action on the proposed amendments at its regular meeting on August 14, 1991. At its regular meeting on September 10, 1991, the Council adopted a document summarizing and responding to significant comments.

### FOR FURTHER INFORMATION:

Further copies of the final amendments (request document no. 91-27), or a copy of the Council's responses to comments (request document no. 91-29), contact the Council's Public Affairs Division, 851 SW Sixth Avenue, suite 1100, Portland, Oregon 97204 or (503) 222-5161, toll free 1-800-222-3355.

Edward W. Sheets,

Executive Director.

[FR Doc. 91-22682 Filed 9-19-91; 8:45 am]

BILLING CODE 0000-00-M

## SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-29687; File No. SR-NASD-91-13]

### Self-Regulatory Organizations; National Association of Securities Dealers, Inc.; Order Approving a Proposed Rule Change Relating to Amendments to the Uniform Practice Code

September 13, 1991.

On March 14, 1991, the National Association of Securities Dealers, Inc. ("NASD") filed with the Securities and Exchange Commission ("Commission") a proposed rule change (SR-NASD-91-13) pursuant to Section 19(b) of the Securities Exchange Act of 1934 ("Act").<sup>1</sup> The NASD filed the proposed rule change to amend its Uniform Practice Code ("UPC"). Notice of the proposed rule change appeared in the *Federal Register* on May 7, 1991.<sup>2</sup> This order approves the proposed rule change.

<sup>1</sup> 15 U.S.C. 78s(b).

<sup>2</sup> Securities Exchange Act Release No. 29134 (April 26, 1991), 56 FR 21188.

## I. Description of the Proposed Rule Change

NASD filed the proposed rule change to amend its UPC which governs over-the-counter ("OTC") secondary market transactions in securities between NASD members. The purpose of the proposed rule change is to update and to amend provision of the UPC which are obsolete or which do not conform to current industry standards and procedures. The proposal also endeavors to consolidate redundant provisions and to clarify certain other provisions.

The proposed rule change amends the UPC to provide for the delivery of securities which are the subject of aged fail to deliver transactions (*i.e.*, securities which are non-transferable, were issued by the bankrupt issuer, are deemed worthless, or have expired) and for the delivery of securities where the transfer records are closed indefinitely. The proposal contains other amendments (*e.g.*, a written notice may be delivered by facsimile and the delivery date for a contract due on a day other than a business day shall be the next business day) in an effort to clarify and confirm the UPC to current industry standards.<sup>3</sup>

## II. Discussion

The Commission believes that the proposed rule change is consistent with the Act and, in particular, with section 15A(b)(6) of the Act.<sup>4</sup> Section 15A(b)(6) of the Act provides that the rules of a national securities association must be designed to foster cooperation and coordination with persons engaged in clearing and settling securities transactions and to remove impediments to and perfect a national market system. The Commission believes the proposed rule change will foster coordination between NASD members and help to perfect a national market system by providing an efficient method for remedying aged fails on worthless or expired securities and on securities where the transfer books are closed indefinitely. Updating the UPC to conform to current industry standards and procedures also should help achieve these objectives by increasing the certainty and efficiency of affected transactions.

## III. Conclusion

For the reasons discussed above, the Commission finds that the proposal is consistent with the requirements of the

Act, particularly with section 15A of the Act, and the rules and regulations thereunder.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (File No. SR-NASD-91-13) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 91-22666 Filed 9-19-91; 8:45 am]

BILLING CODE 8010-01-M

(Release No. 34-29681; File No. SR-NYSE-91-27)

## Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by New York Stock Exchange, Inc. Relating to Enhancements to Audit Trail Identifiers

September 13, 1991.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on August 22, 1991, the New York Stock Exchange, Inc. ("NYSE" 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 proposed rule change consists of an introduction of new account identification codes to delineate member firm proprietary transactions for Audit Trail reporting purposes pursuant to the requirements of rule 132.

### 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

#### 1. Purpose

Exchange Rule 132 provides that clearing member firms submitting a transaction to comparison must include specified audit trail data elements, including a specification of the account type for which that transaction was effected according to specified account categories. However, current indicators do not distinguish between transactions effected for a member or member organization's proprietary account and those effected by a member or member organization for the proprietary account of another member or member organization. All such transactions are identified with a "P" meaning that such transaction was for a proprietary account without indicating whether it was for the proprietary account of the entity reporting such transaction or for the proprietary account of another member or member organization. Separate indicators used to denote program trading or index arbitrage strategies also do not distinguish between a member or member organization trading for its own account or for the account of another member or member organization.

The Exchange will continue to use the current indicators of D, C and P for transactions effected for a member or member organization's proprietary account. The indicators will represent transactions effected for Program Trade Index Arbitrage, Program Trade non-Index Arbitrage, and All Other Transactions, respectively. New indicators of M, N and W will be adopted to denote that a member or member organization had acted as an agent on behalf of another member or member organization in effecting such transactions in the three previously mentioned categories.

The Exchange believes that the three new account categories for order identification will (i) enhance the efficiency and accuracy of audit trail information; and (ii) eliminate any possible confusion on the use of the "P" indicator by limiting its usage to the common industry understanding of "principal" transactions. Further, this proposal can facilitate surveillance investigations by readily identifying a member's own proprietary trading, thus reducing information requests to member firms. Member firms would be given a reasonable period of time (approximately six months) to make their own system enhancements so that

<sup>3</sup> For a detailed description of the proposed rule change, see Securities Exchange Act Release No. 29134, *supra* note 2.

<sup>4</sup> 15 U.S.C. 78o-3(b)(6).

they may be in compliance with the new account type identification requirements.

## 2. Statutory Basis

The basis under the Act for the proposed rule change is the requirement under section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principals of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, 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 that is not necessary or appropriate in furtherance of the purposes of the Act.

### *C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others*

The Exchange has neither solicited nor received written comments on the proposed rule change.

## II. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the publication of this notice in the *Federal Register* or within such other period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in

accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 NYSE. All submissions should refer to File No. SR-NYSE-91-27 and should be submitted by October 11, 1991.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 91-22871 Filed 9-19-91; 8:45 am]  
BILLING CODE 8010-01-M

[Rel. No. IC-18313; 812-7776]

## FBL Series Fund Inc.; Application

September 13, 1991.

**AGENCY:** Securities and Exchange Commission ("SEC" or "Commission").

**ACTION:** Notice of Application for Exemption under the Investment Company Act of 1940 (the "Act").

**APPLICANT:** FBL Series Fund, Inc.

**RELEVANT ACT SECTIONS:** Exemption requested under section 17(b) of the Act from the provisions of section 17(a) of the Act.

**SUMMARY OF APPLICATION:** Applicant seeks an order pursuant to section 17(b) of the Act exempting a proposed reorganization from the provisions of section 17(a) of the Act. The proposed reorganization would permit the Growth Common Stock Portfolio of the Fund (the "Growth Portfolio") to acquire substantially all the assets and liabilities of the Aggressive Growth Common Stock Portfolio of the Fund (the "Aggressive Growth Portfolio") in exchange for shares of the Growth Portfolio. Further, it would permit the High Quality Bond Portfolio of the Fund (the "High Quality Portfolio") to acquire substantially all the assets and liabilities of the Ginnie Mae Portfolio of the Fund in exchange for shares of the High Quality Portfolio.

**FILING DATES:** The application was filed on August 21, 1991.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving 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 October 8, 1991, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 Fifth Street, NW, Washington, DC 20549. Applicant, FBL Series Fund, Inc., c/o Merlin D. Plagge, President, 5400 University Avenue, West Des Moines, Iowa 50265.

**FOR FURTHER INFORMATION CONTACT:** Elaine M. Boggs, Law Clerk, (202) 272-3026 or Nancy M. Rappa, Branch Chief, (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application is available for a fee from the SEC's Public Reference Branch.

## Applicant's Representations

1. The Fund, organized under the laws of Maryland, is registered under the Act as an open-end, diversified, series management investment company. The Fund is comprised of eight portfolios: Growth Common Stock Portfolio, Aggressive Growth Common Stock Portfolio, High Quality Bond Portfolio, High Yield Bond Portfolio, Ginnie Mae Portfolio, Managed Portfolio, Money Market Portfolio and Blue Chip Portfolio. The Fund issues a separate series of shares in connection with each portfolio and has registered these shares under the Securities Act of 1933 (the "1933 Act").

2. FBL Investment Advisory Services, Inc. ("FBL"), an indirect wholly-owned subsidiary of Farm Bureau Life Insurance Company ("Farm Bureau Life"), serves as the Fund's investment adviser.

3. The investment objective of the Growth Portfolio is long term capital appreciation with current income as a secondary objective. The investment objective of the Aggressive Growth Portfolio is maximum capital appreciation.

4. The investment objective of the High Quality Portfolio is to seek as high a level of current income as is consistent with investment in a portfolio of debt securities deemed to be of high quality by the Fund's investment adviser. The investment objective of the Ginnie Mae Portfolio is to seek as high a level of current income as is consistent with investment in a portfolio of Government

National Mortgage Association mortgage-backed pass through certificates ("Ginnie Maes"). As a secondary objective, the Ginnie Mae Portfolio seeks capital appreciation when consistent with its primary objective.

5. At a meeting held on August 15, 1991, the board of directors of the Fund (including a majority of those directors who are not "interested persons," as defined in the Act, of the Fund, FBL or Farm Bureau Life ("disinterested directors")) adopted a series of resolutions that together constitute a plan of reorganization (the "Plan"). Pursuant to the Plan, on the effective date of the transaction (the "Closing Date"), the Growth Portfolio will acquire all the assets and liabilities of the Aggressive Growth Portfolio in exchange for shares of the Growth Portfolio with an aggregate net asset value equal to the aggregate net assets of the Aggressive Growth Portfolio exchanged. The Fund will then distribute those Growth Portfolio shares to the Aggressive Growth Portfolio shareholders on a prorata basis. The same exchange procedures will be followed for the High Quality Portfolio's acquisition of the assets and liabilities of the Ginnie Mae Portfolio and the subsequent distribution of the High Quality Portfolio shares to shareholders of the Ginnie Mae Portfolio. The Fund will register the shares of the Growth Portfolio and the High Quality Portfolio issued in the exchange under the 1933 Act of Form N-14.

6. In evaluating whether to adopt the Plan and recommend its approval by shareholders, the board of directors considered the following factors, among others: (a) The potential benefits of the reorganization to shareholders; (b) the compatibility of investment objectives, policies, restrictions and investment holdings of the Growth and Aggressive Growth Portfolios and the High Quality and Ginnie Mae Portfolios, respectively; (c) the current total net assets of the various portfolios and the current expenses and performance of each portfolio; (d) the terms and conditions of the proposed reorganization and whether it would result in dilution of any shareholder's interest; (e) direct or indirect costs to be incurred by any portfolio; and (f) the absence of any tax consequences to the shareholders.

7. The Fund will submit the proposed Plan to the shareholders of the Aggressive Growth Portfolio and the Ginnie Mae Portfolio for their approval at a meeting to be held on November 13, 1991. Shareholders of these portfolios will receive a notice of the special

meeting and a proxy statement containing all material disclosures, including a description of all material aspects of the proposed reorganization and a copy of the Plan. Farm Bureau Life expects to vote the shares it owns in the Aggressive Growth and Ginnie Mae Portfolios in favor of the Plan.

8. The Fund will bear expenses in connection with the reorganization, such as legal and auditing fees, incremental registration expenses, and filing fees. The Fund will not bear the costs associated with holding the shareholder's meeting and the printing and distributing of proxy materials.

9. Any shareholder of the Aggressive Growth Portfolio or the Ginnie Mae Portfolio that does not want to participate in the reorganization will be given a 10-business day period prior to the reorganization during which the shareholder may redeem his or her shares at net asset value without the imposition of a contingent deferred sales charge.

10. In addition to shareholder approval, the consummation of the reorganization is conditioned upon receipt from the Commission of the order requested herein and receipt by the Fund of an opinion of tax counsel to the effect that the transaction will qualify as a tax-free reorganization under the Internal Revenue Code of 1986, as amended, and will not result in the recognition of any gain or loss to the Growth, Aggressive Growth, High Quality, or Ginnie Mae Portfolios, or any shareholder of the Fund.

#### Applicant's Legal Analysis

1. Farm Bureau Life owns more than 5% of the outstanding voting securities of both the Aggressive Growth and Growth Portfolios, and of both the Ginnie Mae and High Quality Portfolios. If each portfolio is treated as a separate entity under section 17(a) of the Act, then each is an affiliated person of an affiliated person (*i.e.*, Farm Bureau Life) of the other. Farm Bureau Life owns more than 25% of the outstanding voting securities of the Ginnie Mae and High Quality Portfolios. Section 2(a)(9) of the Act establishes a presumption that a person owning 25% or more of another person's outstanding voting securities controls that person. Therefore, if each portfolio is treated as a separate entity, then those two portfolios are under the common control of Farm Bureau Life and each is an affiliated person of the other.

2. Applicant recognizes that the transfer of assets from the Aggressive Growth Portfolio to the Growth Portfolio, and from the Ginnie Mae Portfolio to the High Quality Portfolio,

may entail the purchase and sale of securities or other property from or to these entities, acting as principal, in contravention of section 17(a).

3. Rule 17a-8 under the Act provides an exemption from the prohibitions of section 17(a) for certain reorganizations among registered investment companies that may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers. However, if the portfolios are treated as separate entities, the Fund may not rely upon rule 17a-8 because the Growth Portfolio and the Aggressive Growth Portfolio, as well as the Ginnie Mae Portfolio and the High Quality Portfolio, may be affiliated persons of each other due to the ownership of shares by a single shareholder.

4. The Fund submits that the terms of the proposed reorganization meet the standards of section 17(b) in that the terms of the proposed reorganization, including the consideration to be paid and received, are reasonable and fair and do not involve overreaching on the part of any person concerned. The board of directors of the Fund, including a majority of the disinterested directors, has reviewed and approved the terms of the proposed reorganization as set forth in the Plan. If effectuated according to the Plan, the proposed reorganization would result in the Aggressive Growth and Ginnie Mae Portfolios' assets being managed in portfolios of substantially greater size. The investment objectives of the Growth and Aggressive Growth Portfolios are very similar, as are the investment objectives of the High Quality and Ginnie Mae Portfolios. To the extent any portfolio investments of the Aggressive Growth Portfolio or the Ginnie Mae Portfolio are not compatible with the investment objectives, policies or restrictions of the Growth Portfolio or the High Quality Portfolio, respectively, FBL would pay the transaction costs of liquidating such investments before the proposed reorganization. In addition, there will be no dilution of shareholder interests because the exchange will be made on the basis of the aggregate value of the net assets of each portfolio on the closing date in conformity with section 22(c) of the Act and rule 22c-1 thereunder.

5. The proposed consolidation of the Growth and Aggressive Growth Portfolios is consistent with the investment policies of the Growth Portfolio and the Aggressive Growth Portfolio, and the consolidation of the High Quality and Ginnie Mae Portfolios is consistent with the investment

policies of the High Quality Portfolio and the Ginnie Mae Portfolio, as recited in the Fund's current registration statement and reports filed under the Act.

#### Applicant's Condition

The Fund agrees to the grant of the order requested herein being specifically subject to the following condition:

The directors of the Fund, including a majority of the disinterested directors, shall have determined for the Growth, Aggressive Growth, High Quality and Ginnie Mae Portfolios that (1) participating in the transaction is in the best interests of the shareholders of each portfolio, and (2) the interests of the existing shareholders of each portfolio will not be diluted as a result of the transaction. Such findings, and the basis upon which the findings were made, shall be recorded fully in the minute books of the Fund.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 91-22669 Filed 9-19-91; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-9434]

#### Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (PictureTel Corporation, Common Stock, \$.01 Par Value)

September 16, 1991.

PictureTel Corporation ("Company") has filed an application with the Securities and Exchange Commission, pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the above specified securities from listing and registration on the Boston Stock Exchange, Inc. ("BSE").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Company's Common Stock currently trades on the National Association Securities Dealers Automated Quotation/National Market System ("NASDAQ/NMS") and the BSE. Based on the low trading volume of the Common Stock on the BSE, the expenses associated with listing on the BSE, and other factors, the Company has determined to delist the Common Stock from the BSE. The Common Stock will remain listed under section 12(g) of the Act.

Any interested person may, on or before October 7, 1991 submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchanges and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 91-22673 Filed 9-19-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18315; 811-2466]

#### ProvidentMutual Income Shares, Inc.; Application

September 13, 1991.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

**APPLICANT:** ProvidentMutual Income Shares, Inc.

**RELEVANT ACT SECTION:** Section 8(f) of the Act.

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company.

**FILING DATE:** The application was filed on July 26, 1991.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving 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 October 8, 1991, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Christiana Executive

Campus, 220 Continental Drive, Newark, Delaware 19713.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth G. Osterman, Staff Attorney, at (202) 504-2524, or H.R. Hallock, Jr., Special Counsel, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

#### Applicant's Representations

1. Applicant is an open-end diversified management company organized as a corporation under the laws of the State of Delaware. On July 2, 1974, applicant filed a notification of Registration pursuant to section 8(a) of the Act and a Registration Statement pursuant to the Securities Act of 1933 and section 8(b) of the Act. The registration statement was declared effective on November 4, 1974. Applicant's initial public offering commenced on November 21, 1974.

2. At a meeting held on November 14, 1989, applicant's board of directors approved an agreement and plan of reorganization. On April 18, 1990, applicant mailed proxy materials relating to the proposed reorganization to its shareholders. Applicant's shareholders approved the reorganization at a special meeting held on May 17, 1990.

3. On May 18, 1990, pursuant to the agreement and plan of reorganization, applicant transferred substantially all of its assets to ProvidentMutual U.S. Government Fund for Income, Inc. (the "Acquiror") in exchange for shares of the Acquiror's capital stock. Applicant distributed such shares to its shareholders *pro rata*. The transfer of applicant's assets in exchange for shares of Acquiror's capital stock was based on the relative net asset value of the funds.

4. Expenses incurred in connection with applicant's liquidation and dissolution were borne by applicant's investment adviser or the investment adviser's parent company.

5. Applicant has filed a certificate of dissolution with the Department of State of the State of Delaware.

6. As of the date of the application, applicant had no debts or liabilities and was not a party to any litigation or administrative proceeding.

7. Applicant is neither engaged in nor proposes 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. 91-22667 Filed 9-19-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18314; 811-1967]

**ProvidentMutual Special Fund, Inc.; Application**

September 13, 1991.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

**APPLICANT:** ProvidentMutual Special Fund, Inc.

**RELEVANT ACT SECTION:** Section 8(f) of the Act.

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company.

**FILING DATE:** The application was filed on July 26, 1991.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving 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 October 8, 1991, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Christiana Executive Campus, 220 Continental Drive, Newark, Delaware 19713.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth G. Osterman, Staff Attorney, at (202) 504-2524, or H.R. Hallock, Jr., Special Counsel, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

**Applicant's Representations**

1. Applicant is an open-end non-diversified management company organized as a corporation under the laws of the State of Delaware. On November 7, 1969, applicant filed a Notification of Registration pursuant to section 8(a) of the Act and a registration statement pursuant to the Securities Act of 1933 and section 8(b) of the Act. The registration statement was declared effective and initial public offering commenced on September 23, 1970.

2. At a meeting held on November 14, 1989, applicant's board of directors approved an agreement and plan of reorganization. On May 25, 1990, applicant mailed proxy materials relating to the proposed reorganization to its shareholders. Applicant's shareholders approved the reorganization at a special meeting held on June 13, 1990.

3. On June 27, 1990, pursuant to the agreement and plan of reorganization, applicant transferred substantially all of its assets to ProvidentMutual Growth Fund, Inc. (the "Acquiror") in exchange for shares of the Acquiror's capital stock. Applicant distributed such shares to its shareholders *pro rata*. The transfer of applicant's assets in exchange for shares of Acquiror's capital stock was based on the relative net asset value of the funds.

4. Expenses incurred in connection with applicant's liquidation and dissolution were borne by applicant's investment adviser or the investment adviser's parent company.

5. Applicant has filed a certificate of dissolution with the Department of State of the State of Delaware.

6. As of the date of the application, applicant had no debts or liabilities and was not a party to any litigation or administrative proceeding.

7. Applicant is neither engaged in nor proposes 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. 91-22670 Filed 9-19-91; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-18317; 811-1924]

**ProvidentMutual Venture Shares, Inc.; Application**

September 13, 1991.

**AGENCY:** Securities and Exchange Commission ("SEC").

**ACTION:** Notice of Application for Deregistration under the Investment Company Act of 1940 (the "Act").

**APPLICANT:** ProvidentMutual Venture Shares, Inc.

**RELEVANT ACT SECTION:** Section 8(f) of the Act.

**SUMMARY OF APPLICATION:** Applicant seeks an order declaring that it has ceased to be an investment company.

**FILING DATE:** The application was filed on July 26, 1991.

**HEARING OR NOTIFICATION OF HEARING:** An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving 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 October 8, 1991, 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 who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

**ADDRESSES:** Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Applicant, Christiana Executive Campus, 220 Continental Drive, Newark, Delaware 19713.

**FOR FURTHER INFORMATION CONTACT:** Elizabeth G. Osterman, Staff Attorney, at (202) 504-2524, or H.R. Hallock, Jr., Special Counsel, at (202) 272-3030 (Division of Investment Management, Office of Investment Company Regulation).

**SUPPLEMENTARY INFORMATION:** The following is a summary of the application. The complete application may be obtained for a fee at the SEC's Public Reference Branch.

**Applicant's Representations**

1. Applicant is an open-end diversified management company organized as a corporation under the laws of the State of Delaware. On August 18, 1969, applicant filed a Notification of Registration pursuant to section 8(a) of the Act and a registration statement pursuant to the Securities Act of 1933 and section 8(b) of the Act. The registration statement was declared effective and initial applicant's public offering commenced on January 2, 1970.

2. At a meeting held on November 14, 1989, applicant's board of directors approved an agreement and plan of reorganization. On May 25, 1990,

applicant mailed proxy materials relating to the proposed reorganization to its shareholders. Applicant's shareholders approved the reorganization at a special meeting held on June 13, 1990.

3. On June 27, 1990, pursuant to the agreement and plan of reorganization, applicant transferred substantially all of its assets to Provident Mutual Growth Fund, Inc. (the "Acquiror") in exchange for shares of the Acquiror's capital stock. Applicant distributed such shares to its shareholders *pro rata*. The transfer of applicant's assets in exchange for shares of Acquiror's capital stock was based on the relative net asset value of the funds.

4. Expenses incurred in connection with applicant's liquidation and dissolution were borne by applicant's investment adviser or the investment adviser's parent company.

5. Applicant has filed a certificate of dissolution with the Department of State of the State of Delaware.

6. As of the date of the application, applicant had no debts or liabilities and was not a party to any litigation or administrative proceeding.

7. Applicant is neither engaged in nor proposes 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. 91-22668 Filed 9-19-91; 8:45 am]

BILLING CODE 8010-01-M

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by October 7, 1991 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the address(es) specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

#### Ohio Power Company (70-7884)

Ohio Power Company ("Ohio Power"), an electric public-utility subsidiary company of American Electric Power Company, Inc., a registered holding company, and its coal mining subsidiary company Southern Ohio Coal Company ("SOCCo"), both located at 301 Cleveland Avenue, SW., Canton, Ohio 44702, have filed a declaration under sections 6(a), 7 and 12(b) of the Act and Rule 50(a)(5) thereunder.

SOCCo proposes to issue and sell unsecured promissory notes in the aggregate principal amount of \$40 million ("Notes") to one or more commercial banks, financial institutions or other institutional investors pursuant to one or more term loan agreements ("Proposed Term Loan Agreement"). The Proposed Term Loan Agreement would be for a term of not less than nine months nor more than ten years from the date of borrowing.

The Proposed Term Loan Agreement would provide that the Notes bear interest at either (i) a fixed rate, (ii) a fluctuating rate, or (iii) some combination of fixed and fluctuating rates. The actual rate of interest which each Note shall bear shall be subject to negotiation between SOCCo and the lender. Any fixed rate of interest of the Notes will not be greater than 250 basis points above the yield at the time of issuance of the Notes to maturity of United States Treasury obligations that mature on or about the date of maturity of the Notes. Any fluctuating rate will not be greater than 200 basis points

above the rate of interest announced publicly from time to time as the base or prime rate by a major bank.

No compensating balances shall be maintained with, or fees in the form of substitute interest paid to, a lender under the Proposed Term Loan Agreement. However, in the event a bank or financial institution arranges for a borrowing from a third party, such institution may charge SOCCo a placement fee, not to exceed 7/8% of the principal amount of such borrowing.

In order to induce a bank or other financial institution to enter into the Proposed Term Loan Agreement and to make loans thereunder, Ohio Power proposes to unconditionally guarantee any failure on the part of SOCCo to make any payment of principal or interest when due, whether at maturity or earlier by reason of acceleration or otherwise, pursuant to the terms of the Proposed Term Loan Agreement.

Proceeds from the term loan will be used to pay at maturity or refund prior to maturity a \$40 million term loan due January 29, 1992 bearing interest at a rate of 7.62% per annum.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,  
Deputy Secretary.

[FR Doc. 91-22672 Filed 9-19-91; 8:45 am]

BILLING CODE 8010-01-M

#### SMALL BUSINESS ADMINISTRATION

[Application No. 99000049]

#### HCT Capital Corp; Application for License To Operate as a Small Business Investment Company

Notice is hereby given of the filing of an application with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1991)) by HCT Capital Corp. (the Applicant), 3715 Camp Bowie Boulevard, Fort Worth, Texas 76107 for a license to operate as a small business investment company (SBIC) under the provisions of the Small Business Investment Act of 1958, as amended (the Act) (15 U.S.C. 661 et seq.), and the Rules and Regulations promulgated thereunder.

The proposed officers, directors and shareholder of the Applicant are as follows:

[Release No. 35-25374]

#### Filings Under the Public Utility Holding Company Act of 1935 ("Act")

September 13, 1991.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendments thereto is/are available for public inspection through the Commission's Office of Public Reference.

Name and address	Title or relationship	Percentage of common (voting) stock ownership (percent)
Vicky Woodward Young, Jr., 4755 Fieldcrest, Fort Worth, Texas 76109.....	President/Manager/Director.....	0
Robert David Anderson, 2600 Aberdeen Drive, Arlington, Texas 76105.....	Vice President/Secretary/Director.....	0
Billye Glen Wamsher, 5352 Fort Concho Drive, Fort Worth, Texas 76137.....	Director.....	0
HCT Management and Ventures Company, 3715 Camp Bowie Boulevard, Fort Worth, Texas 76107.	Shareholder.....	100

<sup>1</sup> HCT Management and Ventures Company is 100 percent owned by Health Care of Texas, Inc., a Texas not-for-profit corporation, which has no shareholders.

The Applicant proposes to begin operations with a capitalization of \$1,000,000 and will be a source of equity capital and long term loan funds for qualified small business concerns. The Applicant will operate principally in the State of Texas.

Matters involved in SBA's consideration of the application include the general business reputation and character of the proposed owners and management, and the probability of successful operation of the applicant under their management, including adequate profitability and financial soundness, in accordance with the Small Business Investment Act and the SBA Rules and Regulations.

Notice is further given that any person may, not later than 30 days from the date of publication of this Notice, submit written comments on the proposed SBIC to the Associate Administrator for Investment, Small Business Administration, 409 Third Street, SW., Washington, DC 20416.

A copy of this notice will be published in a newspaper of general circulation in the Dallas/Fort Worth, Texas area.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Wayne S. Foren,

Associate Administrator for Investment.

Dated: September 16, 1991.

[FR Doc. 91-22688 Filed 9-19-91; 8:45 am]

BILLING CODE 8025-01-M

## DEPARTMENT OF STATE

[Public Notice 1487]

### Presidential Task Force on U.S. Government International Broadcasting; Change in Meeting Schedule

The Task Force announces that the meeting scheduled for October 2-3, 1991, will not take place. The Task Force will meet in executive session on September 30, 1991.

The schedule change is being made less than fifteen days from the publication of this notice. It will permit

discussion of information received at public meetings in time to assure completion of work by the deadline set for the Task Force.

The September 30 meeting will not be open to the public. In accordance with section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. I, section 10(d), it has been determined to involve discussion of matters exempt from disclosure under 5 U.S.C. 55b(c)(1). The Task Force will discuss and examine materials properly classified under the terms of Executive Order 12065 of June 28, 1978, and the effect of such materials on the deliberations of the Task Force in carrying out the tasks assigned to it by the President in the White House statement of April 29, 1991 establishing the Task Force.

Dated: September 17, 1991.

C. Edward Dillery,

Executive Director, Task Force on U.S. Government International Broadcasting.

[FR Doc. 91-22708 Filed 9-19-91; 8:45 am]

BILLING CODE 4710-10-M

## DEPARTMENT OF TRANSPORTATION

### Aviation Proceedings; Agreements Filed During the Week Ended September 13, 1991

The following Agreements were filed with the Department of Transportation under the provisions of 49 U.S.C. 412 and 414. Answers may be filed within 21 days of date of filing.

*Docket Number:* 47743.

*Date filed:* September 10, 1991.

*Parties:* Members of the International Air Transport Association.

*Subject:* Mail Vote 508 (Charge for PTA Services in Iceland).

*Proposed Effective Date:* October 1, 1991.

*Docket Number:* 47744.

*Date filed:* September 10, 1991.

*Parties:* Members of the International Air Transport Association.

*Subject:* Com Reso/P 0719 dated August 26, 1991; Composite Expedited Resolutions R-1 To R-9.

*Proposed Effective Date:* October 1, 1991.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 91-22675 Filed 9-19-91; 8:45 am]

BILLING CODE 4910-62-M

### Notice of Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q During the Week Ended September 13, 1991

The following applications for certificates of public convenience and necessity and foreign air carrier permits were filed under subpart Q of the Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.). The due date for answers, conforming application, or motion to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show-cause order, a tentative order, or in appropriate cases a final order without further proceedings.

*Docket Number:* 47747.

*Date filed:* September 12, 1991.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* October 10, 1991.

*Description:* Application of Hageland Aviation Services, Inc., pursuant to section 401(d)(1) of the Act and subpart Q of the Regulations requests authority to engage in interstate air transportation of persons, property and mail: Between any point in any State in the United States or District of Columbia, or any Territory or Possession of the United States, and any other point in any State of the United States or District of Columbia, or any Territory or Possession of the United States.

*Docket Number:* 47749.

*Date filed:* September 13, 1991.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* October 11, 1991.

*Description:* Application of International Cargo Xpress, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for issuance of a certificate of public convenience and necessity to authorize ICX to provide charter foreign air transportation of persons, property and mail in interstate, overseas and foreign air transportation.

*Docket Number:* 47750.

*Date filed:* September 13, 1991.

*Due Date for Answers, Conforming Applications, or Motion to Modify Scope:* October 11, 1991.

*Description:* Application of International Cargo Xpress, Inc., pursuant to section 401 of the Act and subpart Q of the Regulations applies for issuance of a certificate of public convenience and necessity to provide interstate overseas charter air transportation of property and mail.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 91-22674 Filed 9-19-91; 8:45 am]

BILLING CODE 4910-62-M

## Urban Mass Transportation Administration

### Intent to Prepare an Environmental Impact Statement for the Eastside Corridor Transportation Improvements in Los Angeles, CA

**AGENCY:** Urban Mass Transportation Administration, USDOT.

**ACTION:** Notice of Intent to prepare an Environmental Impact Statement.

**SUMMARY:** The Urban Mass Transportation Administration (UMTA) and the Los Angeles County Transportation Commission (LACTC) are undertaking the preparation of an Environmental Impact Statement (EIS) in accordance with the National Environmental Policy Act (NEPA) for transportation improvements in the Eastside Corridor. The Corridor extends from the Los Angeles Central Business District (Union Station) to the vicinity of Whittier and Atlantic Boulevards in the County of Los Angeles (community of East Los Angeles). The Los Angeles County Transportation Commission (local lead agency) will ensure the EIS also satisfies the requirements of the California Environmental Quality Act (CEQA) and serves as the Environmental Impact Report (EIR) required by CEQA. Alternatives to be considered include Metro rail extension alignment alternatives, No-Build and Transportation System Management (TSM) alternatives, and any new alternatives generated through the

scoping process. Scoping will be accomplished through correspondence with interested persons, organizations, and Federal, State, and local agencies, and through four public scoping meetings. See **SUPPLEMENTARY INFORMATION** below for details.

**DATES:** Written comments on the scope of alternatives and impacts to be considered should be sent to the Los Angeles County Transportation Commission by October 15, 1991.

Public scoping meetings will be held on Tuesday, September 24, 1991 at 6:30 p.m. to 9 p.m. at the Boyle Heights Senior Citizens Center; on Thursday, September 26, 1991 at 6:30 p.m. to 9 p.m. at Belvedere Park (Social Home Room); on Friday, September 27, 1991 at 2 p.m. to 5 p.m. at the Los Angeles County Transportation Commission offices; and on Wednesday, October 9, 1991, at 6:30 p.m. to 9 p.m. at Resurrection Parish. The scoping meeting at the LACTC offices is intended for interested and involved public agencies. Each formal scoping meeting will be preceded by an Open House where maps and other exhibits as well as LACTC project resource staff will be available to explain the proposed alternatives and to answer questions. See **ADDRESSES** below.

**ADDRESSES:** Written comments on the project scope should be sent to Ms. Nancy Michali, Project Manager, Central Area Team, Los Angeles County Transportation Commission, 818 West Seventh Street, suite 1100, Los Angeles, California 90017; telephone (213) 244-6736.

Scoping meetings will be held at: Day/date/time and location:

1. Tuesday, September 24, 1991, 3 p.m. to 6:30 p.m. (Open House) and 6:30 p.m. to 9 p.m. (Formal Scoping Meeting)—Boyle Heights Senior Citizens Center, 2839 East Third Street, Los Angeles, California 90033.

2. Thursday, September 26, 1991, 3 p.m. to 6:30 p.m. (Open House) and 6:30 p.m. to 9 p.m. (Formal Scoping Meeting)—Belvedere Park (Social Home Room), 4914 Brooklyn Avenue, Los Angeles, California, 90022.

3. Friday, September 27, 1991, noon to 2 p.m. (Open House) and 2 p.m. to 5 p.m. (Formal Scoping Meeting)—Los Angeles County Transportation Commission, 818 West Seventh Street, 11th Floor, Long Beach Room, Los Angeles, California 90017.

4. Wednesday, October 9, 1991, 3 p.m. to 6:30 p.m. (Open House) and 6:30 to 9 p.m. (Formal Scoping Meeting)—Resurrection Parish, 3324 Opal Street, Los Angeles, California 90023.

**FOR FURTHER INFORMATION CONTACT:** Mr. Hymie Luden, Program Manager, UMTA Region IX, 211 Main Street, suite 1160, San Francisco, California 94105; telephone (415) 744-3116.

**SUPPLEMENTARY INFORMATION:**

#### Scoping

UMTA and LACTC invite all interested individuals, organizations, and Federal, State, and local agencies to participate in defining the alternatives to be evaluated in the EIS/EIR and identifying any significant social, economic, or environmental issues related to the alternatives. A "Scoping Information" document describing the propose of the project, the proposed alternatives, the impact areas to be evaluated, the public involvement program, and the preliminary project schedule is being mailed to affected Federal, State and local agencies and to interested parties on record. Others may request the Scoping Information document by calling the LACTC Eastside Metro Orange Hot Line at (213) 244-6834.

Scoping comments may be made verbally at any of the public scoping meeting or in writing. See the **DATES** and **ADDRESSES** section above for locations and times. During scoping, comments should focus on identifying specific social, economic, or environmental impacts to be evaluated and suggesting other alternatives which may be less costly or have less environmental impact while achieving similar transportation objectives. Scoping is not an appropriate time to indicate a preference for a particular alternative. Comments on preferences should be communicated after the Draft EIS/EIR has been completed.

If you wish to be placed on the mailing list to receive further information as the study develops, please call the LACT Eastside Metro Hot Line as previously described. General comments are welcome at any time throughout the day.

#### Description of the Study Area and Project Need

The Eastside Metro Orange Line Corridor study area is a major travel corridor which crosses the City of Los Angeles and unincorporated portions of the County of Los Angeles. The study area includes that portion of East Los Angeles bounded by the Los Angeles Central Business District on the west (Alameda Avenue), Interstate 10 (San Bernardino Freeway) on the north, Garfield Avenue on the east, and Interstate 5 (Santa Ana Freeway) on the south. LACTC and UMTA are interested

in comments as to the possible need to extend this corridor to the east and south in order to consider longer range transportation needs.

The eastside is a growing transit dependent area with a population growth of almost 9 percent since 1987 with more than 90 percent of the current residents Hispanic. The current, heavily-used bus transit services (over 56,000 trips per day in the study area) must operate over a very congested street and freeway system in the study area to reach a majority of the residents jobs.

Improved transit services and connectivity to the Metro Red Line and other regional services will reduce travel time and thus increase the availability of opportunities for the residents of East Los Angeles.

#### Alternatives

The alternatives proposed for evaluation in the Corridor using forecasts of population and jobs for the year 2010 are as follows:

- **No-Build.** This alternative will be examined in order to determine the impact of not introducing transportation improvements to the study area. This alternative provides the basis for comparisons of whether the benefits derived from the transit improvements are worth the costs and the social, economic, and environmental impacts. Evaluation of the No-Build alternative is required by Federal and state regulations.

- **Transportation System Management (TSM).** This alternative is a relatively low cost approach to addressing the Corridor transportation problems. The TSM alternative is meant to represent the best that can be done to enhance transit service without constructing a fixed guideway transit alternative. Improvements could include signal timing improvements to improve bus speeds, high occupancy vehicle (HOV) lanes on existing streets, bus service improvements, and other low cost bus improvements.

- **Rail Transit Alternatives.** Five rail transit alternatives using the Metro Rail (heavy rail) technology are proposed for evaluation. The alternatives would all start at Union Station and terminate at Atlantic and Whittier Boulevards. The alternatives would be subway type construction except in the vicinity of the Metro Rail maintenance yards, where they would be at-grade construction. The ground surface would normally only be disturbed at the proposed station sites (called cut-and-cover-construction). Two of the proposed alternatives will use Whittier Boulevard, two will use First Street, and one will use Brooklyn Avenue. Two of the

alternatives which use Whittier and First will also consider the use of Metro Rail Yard as a possible joint development station location. The total number of new stations are 4 or 5 depending on the alternative. The alternatives are approximately 5.3 to 5.5 miles long. It is possible a shorter length will be selected for initial implementation prior to operation of the full length alternative. This initial segment will also be evaluated for an interim terminus location.

#### Probable Effects

UMTA and LACTC plan to evaluate in the EIS/EIR all significant social, economic, and environmental impacts of the alternatives. The potential impact issues proposed for analysis include:

- Transportation service changes, patronage changes, and the effect on traffic and parking conditions.
- Community impact, including land use plans and zoning compatibility, neighborhoods, displacement of homes and businesses, economic changes, aesthetics and utility relocations.
- Cultural resource impacts, including effects on historic, archaeological, and park resources.
- Natural resource impacts, including air quality, noise and vibration, geology/preexisting hazardous wastes, and ground water.
- Capital and operating costs and financial implications.

The proposed impact assessment and its evaluation criteria will take into account both adverse and beneficial impacts, direct and indirect impacts, short-term (construction) and long-term impacts, and site-specific, corridor-wide and overall cumulative impacts. Evaluation criteria will be consistent with the applicable Federal, State of California, and local standards, criteria, regulations, and policies. Mitigation measures will be explored for any significant adverse impacts that are identified as part of the analysis.

Comments are welcome and encouraged on the completeness of the list of issues to be addressed. Descriptions of site-specific issues are also encouraged. The planned public involvement program will also provide many opportunities for the presentation of additional site-specific issues as the alternatives are detailed and their analysis progresses.

#### UMTA Procedures

In accordance with the Urban Mass Transportation Act and UMTA policy, the Draft EIS/EIR will be prepared in conjunction with an Alternative Analysis, and the Final EIS/EIR in conjunction with Preliminary

Engineering. After its publication, the Draft EIS/EIR will be available for public and agency review and comment, and a public hearing will be held. On the basis of the Draft EIS/EIR and the comments received, the Los Angeles County Transportation Commission will select a locally preferred alternative and seek approval from UMTA to continue with Preliminary Engineering and preparation of the Final EIS/EIR.

Issued on: September 6, 1991.

Louis F. Mraz, Jr.,

Western Area Director.

[FR Doc. 91-22657 Filed 9-19-91; 8:45 am]

BILLING CODE 4910-57-M

## DEPARTMENT OF THE TREASURY

### General Counsel; Appointment of Members of the Legal Division to the Performance Review Board, Internal Revenue Service

Under the authority granted to me as Chief Counsel of the Internal Revenue Service by the General Counsel of the Department of the Treasury by General Counsel Order No. 21 (Rev. 4), and pursuant to the Civil Service Act, I hereby appoint the following persons to the Legal Division Performance Review Board, Internal Revenue Service Panel:

1. Dennis I. Foreman, Deputy General Counsel
2. David L. Jordan, Deputy Chief Counsel
3. Patrick J. Dowling, Associate Chief Counsel (Enforcement Litigation) designate
4. Paul F. Kugler, Assistant Chief Counsel (Passthroughs and Special Industries)
5. David E. Gaston, Mid-Atlantic Regional Counsel
6. Harold Friedman, Houston District Counsel

This publication is required by 5 U.S.C. 4314(c)(4).

Abraham N.M. Shashy, Jr.,

Chief Counsel.

[FR Doc. 91-22646 Filed 9-19-91; 8:45 am]

BILLING CODE 4030-01-M

## UNITED STATES INFORMATION AGENCY

### Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85-5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the object to be included

in the exhibit "Seeds of Change" (see list <sup>1</sup>), imported from abroad for the temporary exhibition without profit within the United States, is of cultural significance. This object is imported pursuant to a loan agreement with the foreign lender. I also determine that the temporary exhibition or display of the listed exhibit object at National Museum of Natural History, Smithsonian Institution, Washington, DC, beginning on or about October 24, 1991, to on or about April 1, 1993, is in the national interest.

Public notice of this determination is ordered to be published in the *Federal Register*.

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<sup>1</sup> The identification of the object may be obtained by contacting Ms. Lorie J. Nierenberg of the Office of the General Counsel of USIA. The telephone number is 202/619-6975, and the address is U.S. Information Agency, 301 Fourth Street, SW., room 700, Washington, DC 20547.

Dated: September 17, 1991.  
**Alberto J. Mora,**  
*General Counsel.*  
[FR Doc. 91-22791 Filed 9-19-91; 8:45 am]  
**BILLING CODE 8230-01-M**

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**OFFICE OF THE UNITED STATES  
TRADE REPRESENTATIVE**

**Advisory Committee for Trade Policy  
and Negotiations, Investment Policy  
Advisory Committee, Services Policy  
Advisory Committee; Meetings**

**ACTION:** Notice of meetings and  
determination of closing of meetings.

**SUMMARY:** The meetings of the Advisory  
Committee for Trade Policy and  
Negotiations (ACTPN), the Investment  
Policy Advisory Committee (INPAC)  
and the Services Policy Advisory  
Committee (SPAC) are to be held as  
follows: the ACTPN will meet on  
Tuesday, September 17 at 1:30 p.m. and

November 12, 1991 at 1:30 p.m.; the  
INPAC on Thursday, September 19, 1991  
from 10 a.m.-noon; and the SPAC  
Thursday, October 22, 1991 from 2 p.m.-5  
p.m. The meetings will include a review  
and discussion of current issues which  
influence U.S. trade policy.

Pursuant to section 2155(f)(2) of title  
19 of the United States Code, I have  
determined that these meetings will be  
concerned with matters the disclosure of  
which would seriously compromise the  
Government's negotiating objectives or  
bargaining positions.

**FOR FURTHER INFORMATION CONTACT:**  
Mollie Van Heuven, Director, Office of  
Private Sector Liaison, Office of the  
United States Trade Representatives,  
Executive Office of the President,  
Washington, DC 20506 at (202) 395-6120.  
**Carla A. Hills,**

*United States Trade Representative.*  
[FR Doc. 91-22734 Filed 9-17-91; 1:30 pm]  
**BILLING CODE 3190-01-M**

# Sunshine Act Meetings

Federal Register

Vol. 56, No. 183

Friday, September 20, 1991

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

## COMMISSION ON NATIONAL AND COMMUNITY SERVICE

**TIME AND DATE:** September 25, 1991, 10:00 a.m.

**PLACE:** Old Executive Office Building, Washington, DC

**STATUS:** The meeting will be closed to the public.

**MATTERS TO BE CONSIDERED:** The Commission on National and Community Service was established by Section 190 of the National and Community Service Act of 1990, Pub. L. 101-610 (Nov. 16, 1990) (to be codified at 42 U.S.C. 12551). The Commission is administered by a Board of Directors composed of 21 members appointed by the President and confirmed by the Senate and six Federal officials who serve ex officio.

The Board of Directors will hold an introductory, orientation meeting on September 25, 1991 at which meeting the Board members will be sworn in. In addition, the Board members will receive several briefings on the National and Community Service Act and the statutory responsibilities of the Board, the Points of Light Initiative, the budget submission process, and the standards of conduct. The Board may also elect a chairperson and vice-chairperson and any other officers the Board determines appropriate. The Board may consider the formation of subcommittees, delegations of authority, staffing and other internal agency administrative matters. No policy or programmatic issues will be discussed at this meeting.

### CONTACT PERSON FOR MORE INFORMATION:

Russell George, The White House Office of National Service, Room 100, Old Executive Office Building, Washington, DC 20500. (202) 456-6266.

Gregory S. Walden,

*Associate Counsel to the President.*

[FR Doc. 91-22903 Filed 9-18-91; 3:50 pm]

BILLING CODE 3195-01-M

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5

U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 2:00 p.m. on Tuesday, September 24, 1991, to consider the following matters:

**Summary Agenda:** No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

**Disposition of minutes of previous meetings.**

**Reports of actions approved by the standing committees of the Corporation and by officers of the Corporation pursuant to authority delegated by the Board of Directors.**

**Memorandum and resolution re: Amendment to an Existing System of Records (Financial Information System), which record would enable the Corporation to maintain more accessible accurate information on delegations of authority to certain individuals to approve particular types of expenditures.**

#### Discussion Agenda:

**Memorandum and resolution re: Final amendments to Part 338 of the Corporation's rules and regulations, entitled "Fair Housing," which revise the Home Loan Application Log-Sheet currently prescribed by its fair housing regulations in order to conform it to the Loan/Application Register prescribed by Regulation C of the Board of Governors of the Federal Reserve System.**

**Memorandum and resolution re: Proposed amendments to the Corporation's rules and regulations in the form of a new Part 359, entitled "Regulation of Golden Parachutes and Other Benefits Which are Subject to Misuse," which would limit golden parachute and indemnification payments to institution-affiliated parties by insured depository institutions, depository institution holding companies and their subsidiaries and affiliates.**

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-6757.

Dated: September 17, 1991.

Federal Deposit Insurance Corporation.

**Hoyle L. Robinson,**

*Executive Secretary.*

[FR Doc. 91-22792 Filed 9-18-91; 9:06 am]

BILLING CODE 6714-01-M

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:30 p.m. on Tuesday, September 24, 1991, the Federal Deposit Insurance Corporation's Board of Directors will meet in closed session, by vote of the Board of Directors, pursuant to sections 552b (c)(2), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of Title 5, United States Code, to consider the following matters:

**Summary Agenda:** No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

**Recommendations with respect to the initiation, termination, or conduct of administrative enforcement proceedings (cease-and-desist proceedings, termination-of-insurance proceedings, suspension or removal proceedings, or assessment of civil money penalties) against certain insured depository institutions or officers, directors, employees, agents or other persons participating in the conduct of the affairs thereof:**

**Names of persons and names and locations of depository institutions authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).**

**Note.**—Some matters falling within this category may be placed on the discussion agenda without further public notice if it becomes likely that substantive discussion of those matters will occur at the meeting.

#### Discussion Agenda:

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

**Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(2) and (c)(6) of**

the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

Matters relating to the possible closing of certain insured banks:

Names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting will be held in the Board Room on the sixth floor of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Requests for further information concerning the meeting may be directed to Mr. Hoyle L. Robinson, Executive Secretary of the Corporation, at (202) 898-6757.

Dated: September 17, 1991.  
Federal Deposit Insurance Corporation.  
**Hoyle L. Robinson,**  
*Executive Secretary.*  
[FR Doc. 91-22793 Filed 9-18-91; 9:06 am]  
BILLING CODE 6714-01-M

#### FEDERAL DEPOSIT INSURANCE CORPORATION

##### Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 2:07 p.m. on Tuesday, September 17, 1991, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider the following:

Matters relating to the probable failure of certain insured banks.

Recommendations concerning administrative enforcement proceedings.

Matters relating to the Corporation's corporate activities.

Matters relating to assistance agreements with insured institutions.

Matters relating to a certain financial institution.

In calling the meeting, the Board determined, on motion of Director C.C. Hope, Jr. (Appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Vice Chairman Andrew C. Hove, Jr., Director T. Timothy Ryan, Jr. (Office of Thrift Supervision), and Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of

the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550—17th Street, NW., Washington, DC.

Dated: September 18, 1991.  
Federal Deposit Insurance Corporation.  
**Robert E. Feldman,**  
*Deputy Executive Secretary.*  
[FR Doc. 91-22843 Filed 9-18-91; 12:17 am]  
BILLING CODE 6714-01-M

#### FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

**TIME AND DATE:** 10:00 a.m., Wednesday, September 25, 1991.

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

**STATUS:** Open.

##### MATTERS TO BE CONSIDERED:

1. Issues with respect to testing for credit discrimination in mortgage lending.
2. Proposed alternatives for implementing Financial Accounting Standards Board (FASB) Statement 106—Employers' Accounting for Postretirement Benefits Other Than Pensions.
3. Any items carried forward from a previously announced meeting.

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

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: September 18, 1991.  
**Jennifer J. Johnson,**  
*Associate Secretary of the Board.*  
[FR Doc. 91-22810 Filed 9-18-91; 10:34 am]  
BILLING CODE 6210-01-M

#### FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

**TIME AND DATE:** Approximately 11:30 a.m., Wednesday, September 25, 1991, following a recess at the conclusion of the open meeting.

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

**STATUS:** Closed.

##### MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

**CONTACT PERSON FOR MORE INFORMATION:** Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Date: September 18, 1991.  
**Jennifer J. Johnson,**  
*Associate Secretary of the Board.*  
[FR Doc. 91-22811 Filed 9-18-91; 10:34 am]  
BILLING CODE 6210-01-M

#### DEPARTMENT OF JUSTICE

United States Parole Commission  
Record of Vote of Meeting Closure  
(Public Law 94-409) (5 U.S.C. Sec 552b)

I, Carol Pavilack Getty, Chairman of the United States Parole Commission, presided at a meeting of said Commission which started at nine o'clock a.m. on Tuesday, September 17, 1991 at the Commission's Central Office, 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The meeting ended at or about 11:30 a.m. The purpose of the meeting was to decide approximately 9 appeals from National Commissioners' decisions pursuant to 28 C.F.R. Sec. 2.27. Four Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcements further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Carol Pavilack Getty, Jasper Clay, Jr., Vincent Fechtler, Jr., and Victor M.F. Reyes.

In Witness Whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Date: September 17, 1991.  
**Carol Pavilack Getty,**  
*Chairman, U.S. Parole Commission.*  
[FR Doc. 91-22902 Filed 9-18-91; 3:51 pm]  
BILLING CODE 4410-01-M

# Corrections

Federal Register

Vol. 56, No. 183

Friday, September 20, 1991

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

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### 7 CFR Part 51

[Docket Number FV-91-302]

#### Fresh Fruits, Vegetables and Other Products (Inspection, Certification, and Standards)

##### Correction

In proposed rule document 91-19871 beginning on page 41491 in the issue of Wednesday, August 21, 1991, make the following corrections:

#### § 51.38 [Corrected]

1. On page 41492, in the third column, in § 51.38(b)(1), in the fifth line, "dockside" should read "dock-side".
2. On page 41493, in the first column, in § 51.38(d), in the tenth line, "holding" should read "holiday".

BILLING CODE 1505-01-D

## DEPARTMENT OF AGRICULTURE

### Rural Electrification Administration

#### 7 CFR Parts 1712 and 1739

#### Pre- and Post-Loan Policies and Procedures for Guaranteed Electric and Telephone Loans

##### Correction

In rule document 91-19857 beginning on page 42460 in the issue of Tuesday, August 27, 1991, make the following corrections:

#### § 1712.65 [Corrected]

1. On page 42465, in § 1712.65(a)(2), in the first column, in the first line, "Broad" should read "Board".

#### § 1712.73 [Corrected]

2. On page 42468, in § 1712.73(a), in the seventh line from the bottom, "In" should read "If".

#### Appendix A to Part 1712 [Corrected]

3. On page 42472, in the first column, in Appendix A to part 1712, under XIX. *Notices*, beginning with the fifth line, the phrase "United States of America, Rural Electrification Administration." should be moved down below "Title" the first time it appears.

#### Appendix A to Part 1739 [Corrected]

4. On page 42485, in the second column, in Appendix A to part 1739, under X. *Default*, in paragraph 2., in the third line, "that" should read "the".
5. On the same page, in the third column, in Appendix A to part 1739, in paragraph D., in the fourth line, "principle" should read "principal"; and in the tenth line from the bottom of the same paragraph, "sent" should read "send".
6. On page 42487, in the third column, in Appendix A to part 1739, under XIX. *Notices*, beginning with the fifth line, the phrase "UNITED STATES OF AMERICA, Rural Electrification Administration." should be moved down below "Title" the first time it appears.

#### Appendix B to Part 1739 [Corrected]

7. On page 42488, in the first column, in Appendix B to part 1739, in paragraph 2., in the third line, "mortgage" should read "mortgagee".
8. On the same page, in the third column, in Appendix B to part 1739, in the first full paragraph, in the third line, "authorization" should read "authorized".

#### Appendix F to Part 1739 [Corrected]

9. On page 42492, in the first column, in Appendix F to part 1739, the first three lines at the top should be removed.

BILLING CODE 1505-01-D

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

[Docket No. 90P-0193]

#### Cottage Cheese Deviating From Identity Standard; Amendment of Temporary Permit of Market Testing

##### Correction

In notice document 91-20291 beginning on page 41850 in the issue of Friday, August 23, 1991, make the following corrections:

1. On page 41850, in the third column, under **SUMMARY**, in the seventh line "identify" should read "identity".

2. On the same page, in the same column, under **SUPPLEMENTARY INFORMATION**, in the fourth line from the bottom, "identify" should read "identity".

3. On page 41851, in the first column, in the second full paragraph, in the third line, "form" should read "from", and in the fourth line, "tan" should read "than".

BILLING CODE 1505-01-D

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

#### 43 CFR Public Land Order 6873

[CO-070-4920-10-4555-10; COC-51600]

#### Transfer of Public Land for Estes Gulch Disposal Site; Colorado

##### Correction

In rule document 91-20555 beginning on page 42540 in the issue of Wednesday, August 28, 1991 and corrected at page 46354 in the issue of Wednesday, September 11, 1991, in the second column, the correction should have read as follows:

On page 42541, in the first column, in the land description, in Sec. 14; the last two lines should read "W½NW¼SE¼, and W½E½NW¼SE½".

BILLING CODE 1505-01-D

## PENSION BENEFIT GUARANTY CORPORATION

#### Request for Extension of Approval Under the Paperwork Reduction Act; Collection of Information Under 29 CFR Part 2674, Insolvency

##### Correction

In notice document 91-16029 appearing on page 30780 in the issue of Friday, July 5, 1991, in the third column, in the file line at the end of the document, "FR Doc. 91-16027" should read "FR Doc. 91-16029".

BILLING CODE 1505-01-D

**SMALL BUSINESS ADMINISTRATION**

[Declaration of Disaster Loan Area #2503]

**Louisiana, With Contiguous Counties  
in Arkansas, Mississippi & Texas;  
Amendment #4; Declaration of  
Disaster Loan Area***Correction*

In notice document 91-16025 appearing on page 30786 in the issue of Friday, July 5, 1991, in the second column, in the file line at the end of the document, "FR Doc. 91-16026" should read "FR Doc. 91-16025".

BILLING CODE 1505-01-D

**DEPARTMENT OF TRANSPORTATION****Federal Aviation Administration****14 CFR Part 61**

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

RIN 2120-AE11

**Amendment of the Compliance Date  
for the Annual Flight Review  
Requirements for Recreational Pilots  
and Non-Instrument-Rated Private  
Pilots With Fewer Than 400 Hours of  
Flight Time***Correction*

In rule document 91-21242 beginning

on page 43970 in the issue of September 5, 1991, make the following correction:

**§ 61.56 [Corrected]**

On page 43971, in the third column, in § 61.56(d), in the third line, "1983" should read "1993".

BILLING CODE 1505-01-D



**Final Report  
to the  
Federal Government**

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**Friday  
September 20, 1991**

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**Part II**

**Department of  
Commerce**

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**National Oceanic and Atmospheric  
Administration**

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**15 CFR Part 925**

**Olympic Coast National Marine Sanctuary  
Regulations and Public Hearings on the  
Draft Environmental Impact Statement/  
Management Plan; Proposed Rule and  
Notice**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****15 CFR Part 925**

[Docket No. 901064-0264]

RIN 0648-AC63

**Olympic Coast National Marine Sanctuary Regulations**

**AGENCY:** Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Proposed Rule; notice of proposed designation; summary of draft management plan; and notice of public availability of draft management plan and draft environmental impact statement.

**SUMMARY:** By this notice, NOAA, as required by section 205(a)(4) of Public Law 100-627, is proposing to designate an approximately 2,605 square nautical mile area of coastal and ocean waters and the submerged lands thereunder, off the Olympic Peninsula of the State of Washington as the Olympic Coast National Marine Sanctuary (the "Sanctuary"). This notice publishes the proposed Designation Document, and summarizes the draft management plan, for the proposed Sanctuary. The draft management plan details the proposed goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement, including surveillance, activities for the proposed Sanctuary. By this notice, NOAA proposes regulations to implement the proposed designation and regulate activities consistent with the provisions of the proposed Designation Document. Finally, this notice announces the public availability of the Draft Environmental Impact Statement/Management Plan (DEIS/MP) prepared for the proposed designation. The intended effect of the proposed designation, proposed regulations, and DEIS/MP is to protect the conservation, recreational, ecological, historical, research, educational, and aesthetic qualities of the Olympic Peninsula coastal and ocean waters and the submerged lands thereunder.

**DATES:** Comments are invited and will be considered if submitted in writing to the address below by November 27, 1991.

**ADDRESSES:** Comments should be submitted to Joseph A. Uravitch, Chief, or Rafael V. Lopez, Regional Manager, Sanctuaries and Reserves Division,

Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., suite 714, Washington, DC 20235.

**FOR FURTHER INFORMATION CONTACT:** Rafael V. Lopez, Pacific Regional Manager, Chris Ostrom, Senior Project Manager, or Nina Garfield, Program Specialist 202/606-4126.

**SUPPLEMENTARY INFORMATION:****I. Introduction**

Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, 16 U.S.C. 1431 *et seq.* (the "Act"), authorizes the Secretary of Commerce to designate discrete areas of the marine environment as national marine sanctuaries to protect their conservation, recreational, ecological, historical, research, educational, or aesthetic qualities.

The Western Washington Outer Coast, recognized for its high natural resource and human-use values, was placed on the National Marine Sanctuaries Program Site Evaluation List (SEL) in August of 1983 (48 FR 35568). In 1988, Congress re-authorized and amended the Act and directed the Secretary to issue a notice of designation with respect to the Western Washington Outer Coast National Marine Sanctuary (hereinafter referred to as the Olympic Coast National Marine Sanctuary), as generally described in the August 1983 **Federal Register** notice, not later than June 30, 1990. (Section 205 (a)(4), Pub. L. 100-627, 102 Stat. 3213).

NOAA held four scoping meetings in Washington State during the week of April 10th-13th, 1989, to solicit public comments on the proposed Sanctuary: Aberdeen on April 10th, Port Angeles on April 11th, Forks on April 12th, and Seattle on April 13th. Notice of the scoping meetings was published in local newspapers. NOAA invited all interested persons to attend, and asked those attending the meeting to comment on readily identifiable issues, suggest additional issues for examination, and provide information useful in evaluating the site's potential as a Sanctuary (54 FR 10398).

Before an area may be designated as a national marine sanctuary, section 303 (16 U.S.C. 1433) of the Act requires the Secretary to find:

(1) The area is of special national significance due to its resource or human-use values;

(2) Existing State and Federal authorities are inadequate to ensure coordinated and comprehensive

conservation and management of the area, including resource protection, scientific research, and public education;

(3) Designation of the area as a national marine sanctuary will facilitate coordinated and comprehensive conservation and management of the area, including resource protection, scientific research, and public education; and

(4) The area is of a size and nature that will permit comprehensive and coordinated conservation and management.

Section 304 (16 U.S.C. 1434) requires the Secretary to issue in the **Federal Register** a notice of the proposal, proposed regulations, and a summary of the draft management plan.

The authority of the Secretary to designate national marine sanctuaries has been delegated to the Under Secretary of Commerce for Oceans and Atmosphere by DOC Organization Order 10-15, section 3.01(z) (Jan. 11, 1988). The authority to administer the other provisions of the Act has been delegated to the Assistant Administrator for Ocean Services and Coastal Zone Management of NOAA by NOAA Circular 83-38, Directive 05-50 (Sept. 21, 1983, as amended).

Comments on the proposal, proposed regulations, and draft environmental impact statement/management plan are solicited from all interested persons. Holders of, owners of, or future applicants for leases, permits, licenses, approvals, other authorizations, or rights are specifically invited to comment on how they may be affected by the proposed designation of the Sanctuary and particularly §§ 925.8-925.11 of the proposed regulations. Comments are also specifically sought on the adequacy of the regulatory regime to protect Sanctuary resources and qualities, including the exclusion of fishing activities from the activities subject to potential regulation under the terms of the proposed Designation Document.

After the comments received during the comment period have been considered, a final environmental impact statement and management plan will be prepared, and a notice of designation together with final regulations implementing the designation will be published in the **Federal Register**. The designation and regulations will become final and take effect at the close of a 45-day Congressional review period unless a joint resolution disapproving the designation or any of its terms is enacted, or the Governor of the State of Washington certifies to the Secretary of

Commerce that the designation or any of its terms is unacceptable, in which case the designation or the unacceptable terms will not take effect in the area of the Sanctuary lying within the seaward boundary of the State. A document will be published in the **Federal Register** announcing the effective date.

## II. Summary of Draft Environmental Impact Statement/Management Plan

The DEIS/MP for the proposed Olympic Coast National Marine Sanctuary sets forth the Sanctuary's location and provides details on the most important resources and uses of the Sanctuary. The DEIS/MP describes the resource protection, research, education and interpretive programs, and details the specific activities to be taken in each program. The DEIS/MP includes a detailed discussion, by program area, of agency roles and responsibilities. The goals and objectives for the proposed Sanctuary are:

### *Resource Protection*

The highest priority management goal is to protect the marine environment, resources, and qualities of the proposed Sanctuary. The specific objectives of protection efforts are to: (1) Coordinate policies and procedures among the agencies sharing responsibility for protection and management of resources; (2) encourage participation by interested agencies and organizations in the development of procedures to address specific management concerns (e.g. monitoring and emergency-response programs); (3) develop an effective and coordinated program for the enforcement of Sanctuary regulations in addition to other regulations already in place; (4) promote public awareness of, and voluntary compliance with, Sanctuary regulations and objectives through an educational/interpretive program stressing resource sensitivity and wise use; (5) ensure that the water quality of the Olympic Coast is maintained at a level consonant with Sanctuary designation; (6) establish cooperative agreements and other mechanisms for coordination among all the agencies participating in Sanctuary management; (7) ensure that the appropriate management agency incorporates research results and scientific data into effective resource protection strategies; and (8) reduce threats to Sanctuary resources.

### *Research Program*

Effective management of the proposed Sanctuary requires the initiation of a Sanctuary research program. The purpose of Sanctuary research is to

improve understanding of the Olympic Coast's coastal and offshore environment, resources, and qualities, and to resolve specific management problems. Some of these management problems involve resources common to coastal and offshore waters, and nearby Federal, State, local, and Tribal parks, refuges, and reserves. Research results will both support management efforts to protect Sanctuary resources and qualities, and be incorporated into interpretive programs for visitors and others interested in the Sanctuary.

Specific objectives for the research program are to: (1) Establish a framework and procedures for administering research to ensure that research projects are responsive to management concerns and that results contribute to improved management of the Sanctuary; (2) focus and coordinate data collection efforts on the physical, chemical, geological, and biological oceanography of the Sanctuary; (3) encourage studies that integrate research from the variety of coastal habitats with nearshore and open ocean processes; (4) initiate a monitoring program to assess environmental changes as they occur due to natural and human processes; (5) identify the range of effects on the environment that would result from predicted changes in human activity or natural phenomena; (6) encourage information exchange and cooperation among all the organizations and agencies undertaking management-related research in the Sanctuary to promote more informed management; and (7) incorporate research results into the interpretive/education program in a format useful for the general public.

### *Education*

The goal for Sanctuary education programs is to improve public awareness and understanding of the significance of the Sanctuary and the need to protect its resources and qualities.

The management objectives designed to meet this goal are to: (1) Provide the public with information on the Sanctuary and its goals and objectives, with an emphasis on the need to use Sanctuary resources and qualities wisely to ensure their long-term viability; (2) broaden support for Sanctuary management by offering programs suited to visitors with a diverse range of interests; (3) provide for public involvement by encouraging feedback on the effectiveness of education programs, collaboration with Sanctuary management staff in extension and outreach programs, and participation in other volunteer programs; and (4) collaborate with other

organizations to provide educational services complementary to the Sanctuary program.

### *Visitor Use*

The Sanctuary goal for visitor management is to facilitate, to the extent compatible with the primary objective of resource protection, public and private uses of the resources of the Sanctuary not prohibited pursuant to other authorities.

Specific management objectives are to: (1) Provide relevant information about Sanctuary regulations, use policies, and standards; (2) collaborate with public and private organizations in promoting compatible uses of the Sanctuary; (3) encourage the public who use the Sanctuary to respect sensitive Sanctuary resources and qualities; and (4) monitor and assess the levels of use to identify and control potential degradation of resources and qualities, and minimize potential user conflicts.

The proposed Sanctuary would be managed from a headquarters facility located in the Olympic Peninsula region.

## III. Proposed Designation Document

Section 304(a)(4) of the Act requires that the proposed Designation Document include the geographic area proposed to be included within the Sanctuary; the characteristics of the area that give it conservation, recreational, ecological, historical, research, educational, or aesthetic value; and the types of activities that will be subject to regulation by the Secretary to protect these characteristics. Section 304(a)(4) also specifies that the terms of designation may be modified only by the same procedures by which the original designation was made. Thus the terms of designation serve as a constitution for the Sanctuary.

### *Proposed Designation Document for the Olympic Coast National Marine Sanctuary*

Under the authority of title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (the "Act"), 16 U.S.C. 1431 *et seq.*, the ocean and coastal waters, and the submerged lands thereunder, off the Olympic Peninsula of the State of Washington, as described in Article 2, are hereby designated as the Olympic Coast National Marine Sanctuary (the "Sanctuary") for the purposes of protecting and managing the conservation, ecological, recreational, research, educational, historical, and aesthetic resources and qualities of the area.

### Article I. Effect of Designation

The Act authorizes the Secretary of Commerce to issue such final regulations as are necessary and reasonable to implement the designation, including managing and protecting the conservation, recreational, ecological, historical, research, educational, and aesthetic resources and qualities of the designated sanctuary. Section I of article IV of this Designation Document lists those activities that may have to be regulated on the effective date of designation, or at some later date, in order to protect Sanctuary resources and qualities. Thus, the act of designation empowers the Secretary of Commerce to regulate the activities listed in section 1. Listing does not necessarily mean that an activity will be regulated; however, if an activity is not listed it may not be regulated, except on an emergency basis, unless section 1 of Article IV is amended by the same procedures by which the original designation was made.

### Article II. Description of the Area

The Olympic Coast National Marine Sanctuary boundary encompasses a total of approximately 2,605 square nautical miles (approximately 8,935 square kilometers) of coastal and ocean waters, and the submerged lands thereunder, off the central and northern coast of the State of Washington. The Sanctuary boundary extends from Koiitlah Point due north to the United States/Canada international boundary. The Sanctuary boundary then follows the U.S./Canada international boundary seaward to the 100 fathom isobath. The seaward boundary of the Sanctuary approximates the 100 fathom isobath from the U.S./Canada international boundary to a point due west of the mouth of the Copalis River, cutting across the heads of Nitinat, Juan de Fuca, and Quinault Canyons. The southern boundary of the Sanctuary follows latitude 47° 08' N to the mean high water line, so as to incorporate the Copalis National Wildlife Refuge into the Sanctuary.

The coastal boundary of the Sanctuary is the mean high water line extending up rivers to the point of tidal influence. However, when adjacent to native American reservations, the coastal boundary extends to the mean lower low water line, cutting across the mouths of any rivers. The precise boundary of the Sanctuary is set forth in Appendix I of this designation document.

### Article III. Characteristics of the Area That Give It Particular Value

The Sanctuary area is a highly productive, nearly pristine ocean and coastal environment, that is important to the continued survival of several ecologically and commercially important species of fish, seabirds, and marine mammals. The diversity of habitats that make up the Sanctuary area support a great variety of biological communities. This unusually large range of habitat types include: offshore islands and rocks; intertidal pools; erosional features such as rocky headlands, seastacks, and arches; interspersed exposed beaches and protected bays; protected inlets at river mouths; submarine canyons and ridges; the continental shelf, including a broad shallow plateau known as the "plains"; and continental slope environments.

The region's high biological productivity results from areas of seasonal enhanced upwelling along the edge of the continental shelf, especially at submarine canyons, during periods of high solar radiation. In addition, the numerous seastacks and rocky outcrops along the coast, coupled with a large tidal range and wave splash zone, provide a substrate for an extensive rocky intertidal community.

The Sanctuary area provides an essential habitat for a wide variety of marine mammals and birds, and is of particular interest due to the presence of endangered and threatened species that live or migrate through the region. Twenty nine species of marine mammals are reported to breed, rest within, or migrate through the Olympic Coast region. Of particular interest are the migration route of the endangered California gray whale, the presence of the northern sea lion (recently included on the threatened species list), and the reintroduced resident population of sea otters. In addition, the seabird colonies of Washington's outer coast are among the largest in the continental United States and include a number of species listed as endangered or threatened including the short-tailed albatross, peregrine falcon, brown pelican, and Aleutian Canada goose, and one of the largest populations of bald eagles in the continental United States.

The high biological productivity of the coastal and offshore waters in the Sanctuary support valuable fisheries that contribute significantly to the State's economy. The commercially important species of fish include five species of salmon, bottomfish, and shellfish.

In addition to the Sanctuary's value with respect to its biological resources,

the region encompasses significant historical and cultural resources including: Indian village sites, ancient canoe runs, petroglyphs, Indian artifacts, and numerous shipwrecks. The diversity and richness of marine resources suggests that the marine sanctuary designation will provide exceptional opportunities for scientific research in the areas of species interactions, population dynamics, physiological ecology, and marine anthropology. The scientific research encouraged by the sanctuary management plan will, in turn, help support an intensive public education and awareness program that will address the diverse, complex, and sensitive ecosystems in Washington's coastal and oceanic environments.

### Article IV. Scope of Regulations

*Section 1. Activities Subject to Regulation.* The following activities are subject to regulation, including prohibition, to the extent necessary and reasonable, to ensure the protection and management of the conservation, ecological, recreational, research, educational, historical, and aesthetic resources and qualities of the area:

- a. Exploring for, developing, or producing oil, gas or minerals within the Sanctuary;
- b. Discharging or depositing, within the Sanctuary, any material or other matter;
- c. Discharging or depositing, outside the Sanctuary, any material or other matter;
- d. Moving, possessing, injuring, destroying or causing the loss of, or attempting to move, possess, injure, destroy or cause the loss of a Sanctuary historical resource;
- e. Drilling into, dredging, or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material, or other matter on the seabed of the Sanctuary;
- f. Taking any marine reptile, marine mammal, or seabird within or above the Sanctuary;
- g. Flying over the Sanctuary in motorized aircraft at low altitude;
- h. Operating commercial (other than fishing) vessels within the Sanctuary.

*Section 2. Consistency with International Law.* The regulations governing the activities listed in Section 1 of this Article shall apply to United States-flag vessels and to persons who are citizens, nationals, or resident aliens of the United States, and shall apply to foreign-flag vessels and persons not citizens, nationals, or resident aliens of the United States to the extent consistent with generally recognized principles of international law, and in

accordance with treaties, conventions, and other agreements to which the United States is a party.

**Section 3. Emergencies.** Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury, any and all activities, including those not listed in section 1 of this Article, are subject to immediate temporary regulation, including prohibition.

**Article V. Effect on Other Regulations, Leases, Permits, Licenses, and Rights**

**Section 1. Fishing Regulations, Licenses, and Permits.** Fishing in the Sanctuary, including fishing for shellfish and invertebrates, and mariculture activities, shall not be regulated as part of the Sanctuary management regime authorized by the Act. However, fishing in the Sanctuary may be regulated other than pursuant to the Act by Federal and State authorities of competent jurisdiction, and designation of the Sanctuary shall have no effect on any regulation, permit, or license issued thereunder (e.g., regulations promulgated under the Washington State Department of Fisheries Code, and regulations implementing Fishery Management Plans promulgated under the Magnuson Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.*). Notwithstanding the above, discharges and deposits from fishing vessels may be regulated pursuant to Article IV, section 1, paragraph (b) and (c); drilling into, dredging, or otherwise altering the seabed of the Sanctuary or constructing, placing or abandoning any structure, material, or other matter on the seabed of the Sanctuary in connection with fishing and mariculture activities may be regulated pursuant to Article IV, section 1, paragraph (e); and taking of marine reptiles, marine mammals and seabirds may be regulated pursuant to Article IV, section 1, paragraph (f).

**Section 2. Other.** If any valid regulation issued by any Federal, State, or local authority of competent jurisdiction, regardless of when issued, conflicts with a Sanctuary regulation, the regulation deemed by the Secretary of Commerce or designee as more protective of Sanctuary resources and qualities shall govern.

Pursuant to section 304(c)(1) of the Act, 16 U.S.C. 1434(c)(1), no valid lease, permit, license, approval, or other authorization issued by any Federal, State, or local authority of competent jurisdiction, or any right of subsistence use or access, may be terminated by the Secretary of Commerce or designee as a result of this designation or as a result of

any Sanctuary regulation, if such authorization or right was in existence on the effective date of this designation. However, the Secretary of Commerce or designee may regulate the exercise of such authorization or right consistent with the purposes for which the Sanctuary is designated.

Accordingly, the prohibitions set forth in the Sanctuary regulations shall not apply to any activity authorized by any valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or to any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that holder of such authorization or right complies with Sanctuary regulations regarding the certification of such authorizations and rights (e.g., notifies the Secretary or designee of the existence of, requests certification of, and provides requested information regarding, such authorization or right) and complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification by the Secretary or designee as deemed necessary to achieve the purposes for which the Sanctuary was designated.

Pending final agency action on the certification, such holder may exercise any such authorization or right without being in violation of any prohibitions set forth in the Sanctuary regulations, provided that the holder is in compliance with Sanctuary regulations regarding certifications.

The prohibitions set forth in the Sanctuary regulations shall not apply to any activity authorized by any valid lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation by any Federal, State, or local authority of competent jurisdiction, provided that the applicant complies with Sanctuary regulations regarding notification and review of applications (e.g., notifies the Secretary or designee of the application for such authorization and provides requested information regarding such application); the Secretary or designee notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Secretary or designee deems necessary to protect Sanctuary resources and qualities.

The prohibitions set forth in the Sanctuary regulations shall not apply to any activity conducted in accordance with the scope, purpose, terms, and conditions of a National Marine

Sanctuary permit issued by the Secretary or designee in accordance with the Sanctuary regulations. Such permits may only be issued if the Secretary or designee finds that the activity for which the permit is applied for will: further research related to Sanctuary resources; further the educational, natural, or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; assist in managing the Sanctuary; or further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary, title to which is held by the State of Washington.

The prohibitions set forth in the Sanctuary regulations shall not apply to any activity conducted in accordance with the scope, purpose, terms, and conditions of a Special Use permit issued by the Secretary or designee pursuant to Section 310 of the Act.

If the Sanctuary regulations prohibit the exploration, development, or production of oil, gas, or minerals in any area of the Sanctuary, the Secretary or designee may in no event permit or otherwise approve such activities in that area of the Sanctuary. Under such a prohibition, any leases, licenses, permits, approvals, or other authorizations issued after the effective date of Sanctuary designation authorizing the exploration, development, or production of oil, gas, or minerals in that area of the Sanctuary shall be invalid.

**Article VI. Alteration of this Designation**

The terms of designation may be modified only by the same procedures by which the original designation is made, including public hearings, consultation with appropriate Federal, State, regional, and local agencies, review by the appropriate Congressional Committees and Governor of the State of Washington, and approval by the Secretary of Commerce or designee.

*Appendix I—Proposed Olympic Coast National Marine Sanctuary Boundary Coordinates*

(Appendix I will set forth the precise boundaries based on the comments received on the DEIS).

**IV. Summary of Proposed Regulations**

The proposed regulations would set forth the boundary of the proposed Sanctuary; prohibit a relatively narrow range of activities; establish procedures for applying for National Marine Sanctuary permits to conduct otherwise

prohibited activities; establish certification procedures for existing leases, licenses, permits, approvals, other authorizations, or rights authorizing the conduct of a prohibited activity; establish notification procedures for applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity; set forth the maximum per-day penalties for violating Sanctuary regulations; and establish procedures for administrative appeals.

Specifically, the proposed regulations would add a new part 925 to title 15, Code of Federal Regulations.

Proposed § 925.1 would set forth the purpose of the regulations and briefly summarize the prohibitions contained therein. The purpose of the regulations would be to implement the designation of the Olympic Coast National Marine Sanctuary by regulating activities affecting the Sanctuary consistent with the terms of that designation in order to protect and manage the conservation, ecological, recreational, research, educational, historical, and aesthetic resources and qualities of the area. In brief summary, the regulations would prohibit: (1) discharging or depositing most materials and other matter within the Sanctuary; (2) discharging or depositing any such materials or other matter outside the Sanctuary that subsequently enter the Sanctuary and injure Sanctuary resources and qualities; (3) exploring for, developing, or producing oil, gas, or minerals within the Sanctuary; (4) constructing on, placing objects on, or altering the seabed; (5) removing or damaging historical resources; (6) disturbing or otherwise taking marine reptiles, marine mammals, or seabirds; and (7) flying motorized aircraft at less than 1000 feet above the Sanctuary within one nautical mile of the Flattery Rocks, Quillayute Needles, and Copalis National Wildlife Refuges, and the coastal boundary of the Sanctuary. The specific detailed prohibitions are set forth in proposed § 925.5 and are discussed in detail below.

Proposed § 925.2, and proposed Appendix I following proposed § 925.11, would set forth the boundary of the Sanctuary.

Proposed § 925.3 would define various terms used in the regulations. Other terms appearing in the proposed regulations are defined at 15 CFR 922.2, or in the Act.

Proposed § 925.4 would allow all activities, except those prohibited by § 925.5, to be undertaken subject to any emergency regulation promulgated pursuant to § 925.6 and all prohibitions, restrictions, and conditions validly

imposed by any other authority of competent jurisdiction.

If any valid regulation issued by any Federal, State, or local authority of competent jurisdiction, regardless of when issued, conflicts with a Sanctuary regulation, the regulation deemed by the Director of the Office of Ocean and Coastal Resource Management or designee as more protective of Sanctuary resources and qualities would govern.

Proposed § 925.5 would prohibit a variety of activities and thus make it unlawful to conduct them. However, any of the prohibited activities other than exploring for, developing, or producing oil, gas, or minerals in the Sanctuary could be conducted lawfully if:

(1) Necessary to respond to an emergency threatening life, property, or the environment; pursuant to a National Marine Sanctuary permit issued pursuant to proposed § 925.8; or pursuant to a Special Use permit issued under Section 310 of the Act;

(2) With regard to Department of Defense activities: the activity is being carried out as of the effective date of Sanctuary designation; the activity has no potential for any significant adverse impacts on Sanctuary resources or qualities; or the activity, although having the potential for significant adverse impacts, is exempted by the Director of the Office of Ocean and Coastal Resource Management after consultation between the Director and the Department of Defense (the regulations require that the Department of Defense carry out its activities in a manner that minimizes any adverse impact on Sanctuary resources and qualities and that it, in the event of threatened or actual destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an untoward incident, including but not limited to spills and groundings, caused by it, promptly coordinate with the Director for the purpose of taking appropriate actions to respond to and mitigate the harm and, if possible, restore or replace the Sanctuary resource or quality);

(3) Pursuant to a certification by the Director of the Office of Ocean and Coastal Resource Management or designee under proposed § 925.9, of a valid lease, permit, license, or other authorization issued by any Federal, State, or local authority of competent jurisdiction and in existence on (or conducted pursuant to any valid right of subsistence use or access in existence on) the effective date of designation of this Sanctuary, subject to complying with any terms and conditions imposed by the Director or designee to achieve

the purposes for which the Sanctuary was designated; or

(4) Pursuant to a valid lease, permit, license, or other authorization issued by any Federal, State, or local authority of competent jurisdiction after the effective date of Sanctuary designation, provided that the Director or designee was notified of the application in accordance with the requirements of proposed § 925.10, the applicant complies with the requirements of § 925.10, the Director or designee notifies the applicant and authorizing agency that he or she does not object to the issuance of the authorization, and the applicant complies with any terms and conditions the Director or designee deems necessary to protect Sanctuary resources and qualities.

Under § 925.5, the prohibitions would apply to: United States-flag vessels, and to persons who are citizens, nationals, or resident aliens of the United States; and to foreign-flag vessels and persons not citizens, nationals, or resident aliens of the United States to the extent consistent with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.

The first activity prohibited would be exploring for, developing, or producing oil, gas, or minerals in the Sanctuary. This prohibition is based on the best available scientific information which establishes that the Sanctuary's significant natural resources and qualities are especially sensitive to potential impacts from outer continental shelf oil and gas activities and should be protected. In particular, the sea otters, sea birds, and pinnipeds that use the haul-out sites, kelp forests, and rocks along the Olympic Peninsula and the Sanctuary's high water quality are especially vulnerable to oil and gas activities in the area. A prohibition on oil and gas activities within the proposed Sanctuary boundary would help protect the Sanctuary's resources and qualities. However, if new scientific information, developed through environmental studies that may be performed in the Sanctuary in the future, establishes that oil and gas development can be pursued in the Sanctuary in an environmentally safe manner, the prohibition on oil and gas activities may be removed or otherwise modified by NOAA after the year 2000 pursuant to the Administrative Procedure Act's notice-and-comment rulemaking process and the requirements of the National Environmental Policy Act. A prohibition on oil and gas activities within the Sanctuary is consistent with President

Bush's June 26, 1990, policy statement which excludes the Washington and Oregon Planning Area from consideration for lease sale until after the year 2000. A prohibition on mineral activities within the proposed Sanctuary is necessary to be consistent with the prohibition on drilling into, dredging, or otherwise altering the seabed discussed below.

The second activity prohibited would be depositing or discharging, except for valid law enforcement purposes, within the Sanctuary, any material or other matter except for: fish, fish parts, chumming materials, or bait used in, or resulting from, normal fishing operations in the Sanctuary; biodegradable effluents incidental to vessel use generated by marine sanitation devices approved by the U.S. Coast Guard; water generated by routine vessel operations (e.g., cooling water and deck washdown), excluding bilge pumping; or engine exhaust. This prohibition is necessary in order to protect the Sanctuary resources and qualities.

The third activity prohibited would be depositing or discharging, except for valid law enforcement purposes, outside the Sanctuary, any material or other matter, except for the exclusions discussed above for the second activity, that subsequently enter the Sanctuary and injure a Sanctuary resource or quality. The intent of this prohibition is to protect the Sanctuary resources and qualities.

The fourth activity prohibited would be moving, possessing, or injuring, or attempting to move, possess, or injure, except for valid law enforcement purposes, a Sanctuary historical resource. Historical resources in the marine environment are fragile, finite, and non-renewable. This prohibition is designed to protect these resources so that they may be researched, and information about their contents and type made available for the benefit of the public. This prohibition does not apply to accidental moving, possession, or injury during normal fishing operations.

The fifth activity prohibited would be drilling into, dredging, or otherwise altering the seabed of the Sanctuary; or constructing, placing, or abandoning any structure, material, or other matter on the seabed of the Sanctuary, except as a result of: valid law enforcement activities; anchoring vessels; normal fishing operations; routine harbor maintenance; installation of navigation aids; maintenance of mariculture operations existing as of the effective date of these regulations; and the construction of docks and piers. The intent of this prohibition is to protect the

resources of the Sanctuary from the harmful effects of activities such as, but not limited to, drilling into the seabed; mining, ocean mineral extraction, and dumping of dredge spoils.

The sixth activity prohibited would be taking any marine reptile, marine mammal, or seabird within or above the Sanctuary, except as permitted by regulations promulgated under the Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), and the Migratory Bird Treaty Act (MBTA). The term "taking" includes all forms of harassment. The MMPA, ESA, and MBTA prohibit the taking of specific species protected under those Acts. Sanctuary enforcement officials may consider harassment cases pursuant to the MMPA, ESA, and MBTA. While some marine reptiles, marine mammals, and seabirds are protected under the MMPA, ESA, and MBTA, the proposed prohibition would protect all marine reptiles, marine mammals, and seabirds in or above the Sanctuary.

The seventh and final activity prohibited would be flying motorized aircraft at less than 1000 feet above the Sanctuary within one nautical mile of the Flattery Rocks, Quillayute Needles, and Copalis National Wildlife Refuges, and the coastal boundary of the Sanctuary, except for valid law enforcement purposes. This prohibition is intended to protect marine birds and mammals from the disturbance and harassment of low-flying aircraft. For example, seabirds and pinnipeds use rocks and islands within the three offshore wildlife refuges, and coastal sea stacks and cliffs, for nesting colonies and resting areas.

Proposed § 925.6 would authorize the regulation, including prohibition, on a temporary basis of any activity where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss, or injury.

Proposed § 925.7 would set forth the maximum statutory civil penalty per day for conducting a prohibited activity—\$50,000. Each day of a continuing violation would constitute a separate violation. Proposed § 925.7 would also repeat the provision in section 312 of the Act that any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury; and any vessel used to destroy, cause the loss of, or injure any sanctuary resource is liable in rem to the United States for

response costs and damages resulting from such destruction, loss, or injury.

Regulations setting forth the procedures governing administrative proceedings for assessment of civil penalties, permit sanctions and denials for enforcement reasons, issuance and use of written warnings, and release or forfeiture of seized property are set forth in part 904, title 15, Code of Federal Regulations.

Proposed § 925.8 would set forth the procedures for applying for a National Marine Sanctuary permit to conduct an otherwise prohibited activity, and the criteria governing the issuance, denial, amendment, suspension, and revocation of such permits. Permits would be granted by the Director of OCRM or designee if he or she finds that the activity will: Further research related to Sanctuary resources; further the educational, natural, or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; assist in the management of the Sanctuary; or further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary, title to which is held by the State of Washington. In deciding whether to issue a permit, the Director or designee would be required to consider such factors as the professional qualifications and financial ability of the applicant as related to the proposed activity, the duration of the activity and the duration of its effects, the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity, the extent to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities, the cumulative effects of the activity, and the end value of the activity. In addition, the Director or designee would be authorized to consider any other factors deemed appropriate.

Proposed § 925.9 would set forth procedures for requesting certifications of leases, licenses, permits, approvals, other authorizations, or rights in existence on the date of Sanctuary designation authorizing the conduct of an activity otherwise prohibited under proposed § 925.5(a)(2)-(7). Pursuant to proposed § 925.5(f), the prohibitions in proposed § 925.5(a)(2)-(7) would not apply to any activity authorized by a valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective

date of Sanctuary designation, provided that the holder of such authorization or right complies with the requirements of § 925.9 (e.g., notifies the Director or designee of the existence of, requests certification of, and provides requested information regarding such authorization or right) and complies with any terms or conditions on the exercise of such authorization or right imposed by the Director or designee as deemed necessary to achieve the purposes for which the Sanctuary was designated.

Proposed § 925.9 would allow the holder 90 days from the effective date of Sanctuary designation to request certification. The holder would be allowed to conduct the activity without being in violation of § 925.5(a) (2)-(7) pending final agency action on his or her certification request, provided the holder has complied with all requirements of § 925.9.

Proposed § 925.9 also would allow the Director or designee to request additional information from the holder and to seek the views of other persons.

As a condition of certification, the Director or designee would impose such terms and conditions on the exercise of such lease, permit, license, approval, other authorization, or right as she or he deems necessary to achieve the purposes for which the Sanctuary was designated. This is consistent with the Secretary's authority under section 304(c)(2) of the Act.

The holder may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedures set forth in § 940.11.

Any amendment, renewal or extension not in existence as of the date of Sanctuary designation of a lease, permit, license, approval, other authorization or right would be subject to the provisions of § 940.10.

Proposed § 925.10 states that consistent with § 940.5(g), the prohibitions of § 925.5(a) (2)-(7) do not apply to any activity authorized by any valid lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation by any Federal, State, or local authority of competent jurisdiction, provided that the applicant notifies the Director or designee of the application for such authorization within 15 days of the date of filing of the application or of the effective date of Sanctuary designation, whichever is later, that the applicant/holder is in compliance with the other provisions of proposed § 925.10, that the Director or designee notifies the applicant and authorizing agency that he or she does not object to issuance of the authorization, and the applicant

complies with any terms and conditions the Director or designee deems necessary to protect Sanctuary resources and qualities.

Proposed § 925.10 would allow the Director to request additional information from the applicant and to seek the views of other persons.

The applicant may appeal any objection by, or terms or conditions imposed by, the Director or designee to the Assistant Administrator or designee in accordance with the procedures set forth in proposed § 925.11.

An application for an amendment to, an extension of, or a renewal of an authorization would also be subject to the provisions of proposed § 925.10.

Proposed § 925.11 would set forth the procedures for appealing to the Assistant Administrator or designee actions of the Director or designee with respect to: (1) The granting, conditioning, amendment, denial, suspension or revocation of a National Marine Sanctuary permit under proposed § 925.8 or a Special Use permit under section 310 of the Act; (2) the granting, denial, conditioning, amendment, suspension or revocation of a certification under proposed § 925.9; or (3) the objection to issuance or the imposition of terms and conditions under proposed § 925.10.

Thus, the regulatory regime that the proposed regulations would establish provides for multiple uses of the Olympic Coast National Marine Sanctuary while at the same time providing for the protection of Sanctuary resources and qualities.

For example, if a city or town were discharging sewage effluent into coastal waters pursuant to a valid National Pollution Discharge Elimination System (NPDES) permit issued prior to the effective date of Sanctuary designation, the city or town could continue to discharge under the permit without being in violation of the discharge prohibition by requesting certification of the permit under proposed § 925.9. The Director would then impose on the exercise of the NPDES permit such terms and conditions as he or she deems necessary to achieve the purposes for which the Sanctuary was designated. Such discharges would remain subject to all prohibitions, restrictions, and conditions imposed by any other authority of competent jurisdiction.

For another example, if an entity is dumping dredge spoils in Sanctuary waters pursuant to a valid existing permit, the entity could continue to do so by requesting certification in accordance with proposed § 925.9.

Prior to conditioning existing or future leases, permits, licenses, approvals,

other authorizations, or rights, NOAA intends to consult with relevant issuing agencies as well as owners, holders or applicants. NOAA's policy is to encourage best available management practices to minimize non-point source pollution entering the Sanctuary, and to require at a minimum secondary treatment, and sometimes tertiary treatment or more, depending on predicted effects on Sanctuary resources and qualities from industrial and municipal wastewater discharge.

## V. Miscellaneous Rulemaking Requirements

### *Marine Protection, Research, and Sanctuaries Act*

Section 304 of the Act requires the Secretary to submit to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, on the same day as this notice is published, a prospectus on the proposal which must contain, among other things, the terms of the proposed designation, the proposed regulations, a draft environmental impact statement, and a draft management plan detailing the proposed goals and objectives, management responsibilities, research activities, interpretive and educational programs, and enforcement and surveillance activities, for the area. In accordance with section 304, the required prospectus is being submitted to the specified Congressional Committees.

### *Executive Order 12291*

Under Executive Order 12291, the Department of Commerce must judge whether the regulations proposed in this notice are "major" within the meaning of section 1 of the Order, and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. The Administrator of NOAA has determined that the regulations proposed in this notice are not major because, if adopted, they are not likely to result in:

(1) An annual effect on the economy of \$100 million or more;

(2) A major increase in costs or prices for consumers, individual industries, Federal, State or local government agencies, or geographic regions; or,

(3) Significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

*Regulatory Flexibility Act*

The regulations proposed in this notice would allow all activities to be conducted in the proposed Sanctuary other than a relatively narrow range of prohibited activities. The procedures proposed in these regulations for applying for National Marine Sanctuary permits to conduct otherwise prohibited activities, for requesting certifications for existing leases, licenses, permits, approvals, other authorizations, or rights authorizing the conduct of a prohibited activity, and for notifying NOAA of applications for licenses, permits, approvals, or other authorizations to conduct a prohibited activity would all act to lessen any adverse economic effect on small entities. The proposed regulations, in total, if adopted in final form as proposed, are not expected to have a significant economic impact on a substantial number of small entities, and the General Counsel of the Department of Commerce has so certified to the Chief Counsel for Advocacy of the Small Business Administration. As a result, an initial Regulatory Flexibility Analysis was not prepared.

*Paperwork Reduction Act*

This proposed rule contains a collection of information requirement subject to the requirements of the Paperwork Reduction Act (Pub. L. No. 96-511). The collection of information requirement applies to persons seeking permits to conduct otherwise prohibited activities and is necessary to determine whether the proposed activities are consistent with the management goals for the Sanctuary. The collection of information requirement contained in the proposed rule has been submitted to the Office of Management and Budget for review under section 3504(h) of the Paperwork Reduction Act. The public reporting burden per respondent for the collection of information contained in this rule is estimated to average 1.83 hours annually. This estimate includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Comments from the public on the collection of information requirement are specifically invited and should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, D.C. 20503 (Attn: Desk Officer for NOAA); and to Richard Roberts, room 724, 8010 Executive Boulevard, Rockville, MD 20852.

*Executive Order 12612*

A Federalism Assessment (FA) was prepared for the proposed designation, draft management plan, and proposed implementing regulations. The FA concluded that all would be fully consistent with the principles, criteria, and requirements set forth in sections 2 through 5 of Executive Order 12612, Federalism Considerations in policy Formulation and Implementation (52 FR 41685). Copies of the FA are available upon request to the Office of Ocean and Coastal Resource Management at the address listed above.

*National Environmental Policy Act*

In accordance with section 304(a)(2) of the Act (16 U.S.C. 1434(a)(2)), and the provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321-4370(a)), a Draft Environmental Impact Statement (DEIS) has been prepared for the proposed designation and the proposed regulations. As required by section 304(a)(2), the DEIS includes the resource assessment report required by section 303(b)(3) of the Act (16 U.S.C. 1433(b)(3)), maps depicting the boundaries of the proposed designated area, and the existing and potential uses and resources of the area. Copies of the DEIS are available upon request to the Office of Ocean and Coastal Resource Management at the address listed above.

*Executive Order 12630*

This proposed rule, if issued in final form as proposed, would not have takings implications within the meaning of Executive Order 22630 because it would not appear to have an effect on private property sufficiently severe as effectively to deny economically viable use of any distinct legally potential property interest to its owner or to have the effect of, or result in, a permanent or temporary physical occupation, invasion, or deprivation. While the prohibition on the exploration, development, production of oil, gas and minerals from the Sanctuary might have a takings implication if it abrogated an existing lease for Outer Continental Shelf (OCS) tracts within the proposed Sanctuary or an approval of an exploration or development and production plan, no OCS leases have been sold for tracts within the proposed Sanctuary and no exploration or production and development plans have been filed or approved.

**List of Subjects in 15 CFR Part 925**

Administrative practice and procedure, Coastal zone, Marine

resources, Penalties, Recreation and recreation areas, Reporting and recordkeeping requirements, Research.

(Federal Domestic Assistance Catalog Number 11.429 Marine Sanctuary Program)

Dated: September 13, 1991.

**John J. Garey,**

*Acting Assistant Administrator for Ocean Services and Coastal Zone Management.*

Accordingly, for the reasons set forth above, 15 CFR chapter IX is proposed to be amended as set forth below.

A new part 925 is added to subchapter B (as proposed at 55 FR 31793, August 3, 1990) to read as follows:

**PART 925—OLYMPIC COAST  
NATIONAL MARINE SANCTUARY**

- Sec.
- 925.1 Purpose and summary.
- 925.2 Boundary.
- 925.3 Definitions.
- 925.4 Allowed activities.
- 925.5 Prohibited activities.
- 925.6 Emergency regulations.
- 925.7 Penalties for commission of prohibited acts.
- 925.8 National Marine Sanctuary permits; application procedures and issuance criteria.
- 925.9 Certification of pre-existing leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.
- 925.10 Notification and review of applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity.
- 925.11 Appeals of administrative action.

**Appendix I to Part 925—Olympic Coast  
National Marine Sanctuary Boundary  
Coordinates**

**Authority:** Sections 302, 303, 304, 305, 307 and 310 of Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (16 U.S.C. 1431 *et seq.*).

**§ 925.1 Purpose and summary.**

The purpose of the regulations in this part is to implement the designation of the Olympic Coast National Marine Sanctuary by regulating activities affecting the Sanctuary consistent with the terms of that designation in order to protect and manage the conservation, ecological, recreational, research, educational, historical, and aesthetic resources and qualities of the area. In brief summary, this part prohibits: discharging or depositing most materials and other matter within the Sanctuary; discharging or depositing any such materials or other matter outside the Sanctuary that subsequently enter the Sanctuary and injure Sanctuary resources and qualities; exploring for, developing, or producing oil, gas, or minerals within the Sanctuary;

constructing on, placing objects on, or altering the seabed; removing or damaging historical resources; disturbing or otherwise taking marine reptiles, marine mammals, or seabirds; and flying motorized aircraft at less than 1000 feet above the Sanctuary within one nautical mile of the Flattery Rocks, Quillayute Needles, and Copalis National Wildlife Refuges, and the coastal boundary of the Sanctuary. The specific detailed prohibitions are set forth in § 925.5.

#### § 925.2 Boundary.

The Olympic Coast National Marine Sanctuary consists of an area of approximately 2,605 square nautical miles of coastal and ocean waters, and the submerged lands thereunder, off the central and northern coast of Washington. The Sanctuary boundary extends from Koiitlah Point due north to the United States/Canada International boundary. The Sanctuary boundary then follows the U.S./Canada international boundary seaward to the 100 fathom isobath. The seaward boundary of the Sanctuary approximates the 100 fathom isobath from the U.S./Canada international boundary to a point due west of the mouth of the Copalis River, cutting across the heads of Nitinat, Juan de Fuca, and Quinault Canyons. The southern boundary of the Sanctuary follows latitude 47° 08' N to the mean high water line, so as to incorporate the Copalis National Wildlife Refuge into the Sanctuary. The coastal boundary of the Sanctuary is the mean high water line extending up rivers to the point of tidal influence. However, when adjacent to native American reservations, the coastal boundary extends to the mean lower low water line, cutting across the mouths of any rivers. The precise boundary of the Sanctuary appears in appendix I to this part.

#### § 925.3 Definitions.

(a) *Act* means Title III of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended (16 U.S.C. §§ 1431 *et seq.*).

(b) *Administrator* or *Under Secretary* means the Administrator of the National Oceanic and Atmospheric Administration/Under Secretary of Commerce for Oceans and Atmosphere.

(c) *Assistant Administrator* means the Assistant Administrator for Ocean Services and Coastal Zone Management, National Oceanic and Atmospheric Administration.

(d) *Director* means the Director of the Office of Ocean and Coastal Resource Management, National Oceanic and Atmospheric Administration.

(e) *Commercial vessel* means any vessel engaged in the trade of carrying cargo, including, but not limited to: tankers and other bulk carriers and barges; vessels used in seismic surveys; and vessels engaged in the trade of servicing offshore installations.

(f) *Effective date of Sanctuary designation* means the date this part implementing the designation of the Sanctuary becomes effective.

(g) *Historical resource* means a resource possessing historical, cultural, archaeological or paleontological significance, including sites, structures, districts, and objects significantly associated with, or representative of, earlier people, cultures, and human activities and events.

(h) *Injure* means change adversely, either in the long- or short-term, a chemical, biological, or physical attribute of, or the viability of. To "injure" therefore includes, but is not limited to, to cause the loss of and to destroy.

(i) *Person* means any private individual, partnership, corporation, or other entity; or any officer, employee, agent, department, agency, or instrumentality of the Federal Government, or any State or local unit of government, or of any foreign government.

(j) *Sanctuary* means the Olympic Coast National Marine Sanctuary.

(k) *Sanctuary quality* means a particular and essential characteristic of the Sanctuary, including, but not limited to, water quality and air quality.

(l) *Sanctuary resource* means any living or nonliving resource of the Sanctuary that contributes to its conservation, recreational, ecological, historical, research, educational, or aesthetic value, including, but not limited to, the substratum, invertebrates, algae, plankton, fish, seabirds, marine reptiles, marine mammals, and historical resources.

(m) *Taking any marine reptile, marine mammal, or seabird* means harassing, hunting, capturing, collecting, or killing, or attempting to harass, hunt, capture, collect, or kill, any marine reptile, marine mammal, or seabird, including, but not limited to, any of the following activities: collecting dead marine reptiles, marine mammals, or seabirds, or parts thereof; restraining or detaining any marine reptile, marine mammal, or seabird, no matter how temporary; tagging a marine reptile, marine mammal, or seabird; feeding a marine reptile or marine mammal; operating an aircraft or vessel, or doing any other act, that results in the disturbance or molestation of marine reptiles, marine mammals, or seabirds.

(n) *Vessel* means watercraft of any description capable of being used as a means of transportation in the waters of the Sanctuary.

(o) Other terms appearing in this part are defined at 15 CFR 922.2 or in the Act.

#### § 925.4 Allowed activities.

All activities except those prohibited by § 925.5 may be undertaken subject to any emergency regulation promulgated pursuant to § 925.6 and all prohibitions, restrictions, and conditions validly imposed by any other authority of competent jurisdiction. If any valid regulation issued by any Federal, State, or local authority of competent jurisdiction, regardless of when issued, conflicts with a Sanctuary regulation, the regulation deemed by the Director or designee as more protective of Sanctuary resources and qualities shall govern.

#### § 925.5 Prohibited activities.

(a) Except as specified in paragraphs (c) through (h) of this section, the following activities are prohibited and thus unlawful for any person to conduct or cause to be conducted:

(1) Exploring for, developing, or producing oil, gas, or minerals in the Sanctuary. This prohibition will be reviewed, pursuant to the notice-and-comment rulemaking process provided in the Administrative Procedure Act, after the year 2000 and the completion of environmental studies on the impacts of oil and gas activities on Sanctuary resources and qualities;

(2) Discharging or depositing, except for valid law enforcement purposes, within the Sanctuary, any material or other matter except:

(i) Fish, fish parts, chumming materials or bait used in, or resulting from, normal fishing operations in the Sanctuary;

(ii) Biodegradable effluents incidental to vessel use generated by marine sanitation devices approved in accordance with section 312 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1322);

(iii) Water generated by routine vessel operations (e.g., cooling water, deck washdown, and graywater as defined by section 312 of the Federal Water Pollution Control Act, as amended (33 U.S.C. 1322), excluding bilge pumping; or

(iv) Engine exhaust;

(3) Discharging or depositing, except for valid law enforcement purposes, outside the Sanctuary, any material or other matter, other than those listed in paragraphs (a)(2) (i) through (iv) of this section, that subsequently enter the

Sanctuary and injure a Sanctuary resource or quality;

(4) Moving, possessing or injuring, or attempting to move, possess, or injure, except for valid law enforcement purposes, a Sanctuary historical resource. This prohibition does not apply to accidental moving, possession or injury during normal fishing operations;

(5) Drilling into, dredging, or otherwise altering the seabed of the Sanctuary; or constructing, placing or abandoning any structure, material, or other matter on the seabed of the Sanctuary. This prohibition does not apply if any of the above results from: valid law enforcement activities, anchoring vessels, normal fishing operations, routine harbor maintenance, installation of navigation aids, maintenance of mariculture operations existing as of the effective date of this part, or the construction of docks and piers;

(6) Taking any marine reptile, marine mammal, or seabird in or above the Sanctuary, except as permitted by regulations promulgated under the Marine Mammal Protection Act (MMPA), the Endangered Species Act (ESA), and the Migratory Bird Treaty Act (MBTA); and

(7) Flying motorized aircraft at less than 1000 feet above the Sanctuary within one nautical mile of the coastal boundary of the Sanctuary and the Flattery Rocks, Quillayute Needles, and Copalis National Wildlife Refuges, except for valid law enforcement purposes.

(b) The prohibitions in paragraph (a) of this section apply to United States-flag vessels and to persons who are citizens, nationals or resident aliens of the United States; and to foreign-flag vessels and persons not citizens, nationals, or resident aliens of the United States to the extent consistent with generally recognized principles of international law, and in accordance with treaties, conventions, and other agreements to which the United States is a party.

(c) The prohibitions in paragraphs (a)(2) through (a)(7) of this section do not apply to any activity necessary to respond to an emergency threatening life, property, or the environment.

(d)(1) The prohibitions in paragraphs (a)(2) through (a)(7) of this section do not apply to activities being carried out by the Department of Defense as of the effective date of Sanctuary designation. Such activities shall be carried out in a manner that minimizes any adverse impact on Sanctuary resources and qualities. The prohibitions in paragraphs (a)(2) through (a)(7) of this section do not apply to any new activities carried

out by the Department of Defense that do not have the potential for any significant adverse impacts on Sanctuary resources or qualities. Such activities shall be carried out in a manner that minimizes any adverse impact on Sanctuary resources and qualities. New activities with the potential for significant adverse impacts on Sanctuary resources or qualities may be exempted from the prohibitions in paragraphs (a)(2) through (a)(7) by the Director or designee after consultation between the Director or designee and the Department of Defense. If it is determined that an activity may be carried out, such activity shall be carried out in a manner that minimizes any adverse impact on Sanctuary resources and qualities.

(2) In the event of threatened or actual destruction of, loss of, or injury to a Sanctuary resource or quality resulting from an untoward incident, including but not limited to spills and groundings, caused by a component of the Department of Defense, the cognizant component shall promptly coordinate with the Director or designee for the purpose of taking appropriate actions to respond to and mitigate the harm and, if possible, restore or replace the Sanctuary resource or quality.

(e) The prohibitions in paragraphs (a)(2) through (a)(7) of this section do not apply to any activity executed in accordance with the scope, purpose, terms, and conditions of a National Marine Sanctuary permit issued pursuant to § 925.8 of this part, or a Special Use permit issued pursuant to Section 310 of the Act.

(f) The prohibitions in paragraphs (a)(2) through (a)(7) of this section do not apply to any activity authorized by a valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that the owner or holder of such authorization or right complies with § 925.9 and complies with any terms and conditions on the exercise of such authorization or right imposed by the Director or designee to achieve the purposes for which the Sanctuary was designated.

(g) The prohibitions in paragraphs (a)(2) through (a)(7) of this section do not apply to any activity authorized by any lease, permit, license, approval, or other authorization issued after the effective date of Sanctuary designation, provided that the applicant complies with § 925.10, the Director or designee

notifies the applicant and the authorizing agency that he or she does not object to issuance of the authorization, and the applicant complies with any terms and conditions the Director or designee deems necessary to protect Sanctuary resources and qualities.

(h) Notwithstanding paragraphs (e), (f), and (g) of this section, in no event may the Director or designee issue a National Marine Sanctuary permit under § 925.8 or a Special Use permit under section 310 of the Act authorizing, or otherwise approve, the exploration for, development, or production of oil, gas or minerals in any area of the Sanctuary for which the exploration for, development, or production of oil, gas or minerals is prohibited by paragraph (a)(1) of this section. Any leases, licenses, permits, approvals, or other authorizations authorizing the exploration, development, or production of oil, gas or minerals in the Sanctuary issued after the effective date of Sanctuary designation shall be invalid with respect to any area of the Sanctuary for which the exploration for, development, or production of oil, gas or minerals is prohibited by paragraph (a)(1) of this section.

#### § 925.6 Emergency regulations.

Where necessary to prevent or minimize the destruction of, loss of, or injury to a Sanctuary resource or quality, or minimize the imminent risk of such destruction, loss or injury, any and all activities are subject to immediate temporary regulation, including prohibition.

#### § 925.7 Penalties for commission of prohibited acts.

(a) Each violation of the Act, any regulation in this Part, or any permit issued pursuant thereto, is subject to a civil penalty of not more than \$50,000. Each day of a continuing violation constitutes a separate violation.

(b) Regulations setting forth the administrative procedures governing the assessment of civil penalties, enforcement hearings and appeals, permit sanctions and denials for enforcement reasons, and the issuance of written warnings are set forth in 15 CFR part 904.

(c) Under section 312 of the Act, any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury, and any vessel used to destroy, cause the loss of, or injure any sanctuary resource is liable in rem to the United States for

response costs and damages resulting from such destruction, loss, or injury.

**§ 925.8 National Marine Sanctuary permits; application procedures and issuance criteria.**

(a) A person may conduct an activity otherwise prohibited by § 925.5(a) (2) through (7) if such activity is conducted in accordance with the scope, purpose, terms and conditions of a permit issued under this section.

(b) Applications for such permits should be addressed to the Director of the Office of Ocean and Coastal Resource Management; ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. An application must include a detailed description of the proposed activity including a timetable for completion of the activity and the equipment, personnel, and methodology to be employed. The qualifications and experience of all personnel must be set forth. The application must set forth the potential effects of the activity, if any, on Sanctuary resources and qualities. Copies of all other required licenses, permits, approvals, or other authorizations must be attached.

(c) Upon receipt of a complete application, the Director or designee may request such additional information from the applicant as he or she deems necessary to act on the application and may seek the views of any persons.

(d) The Director, at his or her discretion, may issue a permit, subject to such terms and conditions as deemed appropriate, to conduct an activity otherwise prohibited by § 925.5(a) (2) through (7), if the Director finds that the activity will: further research related to Sanctuary resources; further the educational, natural or historical resource value of the Sanctuary; further salvage or recovery operations in or near the Sanctuary in connection with a recent air or marine casualty; assist in managing the Sanctuary; or further salvage or recovery operations in connection with an abandoned shipwreck in the Sanctuary, title to which is held by the State of Washington. In deciding whether to issue a permit, the Director shall consider such factors as: the professional qualifications and financial ability of the applicant as related to the proposed activity; the duration of the activity and the duration of its effects, the appropriateness of the methods and procedures proposed by the applicant for the conduct of the activity; the extent

to which the conduct of the activity may diminish or enhance Sanctuary resources and qualities; the cumulative effects of the activity; and the end value of the activity. In addition, the Director may consider such other factors as he or she deems appropriate.

(e) A permit issued pursuant to this section is nontransferable.

(f) The Director may amend, suspend, or revoke a permit issued pursuant to this section or deny a permit application pursuant to this section, in whole or in part, if it is determined that the permittee has acted in violation of the terms of the permit or of this part or for other good cause. Any such action shall be communicated in writing to the permittee or applicant and shall set forth the reason(s) for the action taken. Procedures governing permit sanctions and denials for enforcement reasons are set forth in subpart D of 15 CFR part 904.

(g) It shall be a condition of any permit issued that the permit, or a copy thereof, be displayed on board all vessels or aircraft used in the conduct of the activity.

(h) The Director or designee may make it a condition of any permit issued that any information obtained under the permit be made available to the public.

(i) The Director or designee may make it a condition of any permit issued that a NOAA official be allowed to observe any activity conducted under the permit and/or that the permit holder submit one or more reports on the status, progress, or results of any activity authorized by the permit.

(j) The applicant for or holder of a National Marine Sanctuary permit may appeal the denial, conditioning, amendment, suspension, or revocation of the permit in accordance with the procedures set forth in § 925.11.

**§ 925.9 Certification of pre-existing leases, licenses, permits, approvals, other authorizations, or rights to conduct a prohibited activity.**

(a) The prohibitions set forth in § 925.5(a) (2) through (7) do not apply to any activity authorized by a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State, or local authority of competent jurisdiction, or by any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, provided that:

(1) The holder of such authorization or right notifies the Director or designee, in writing, within 90 days of the effective date of Sanctuary designation, of the existence of such authorization or right

and requests certification of such authorization or right;

(2) The holder complies with the other provisions of this section; and

(3) The holder complies with any terms and conditions on the exercise of such authorization or right imposed as a condition of certification, by the Director or designee, to achieve the purposes for which the Sanctuary was designated.

(b) The holder of a valid lease, permit, license, approval or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State or local authority of competent jurisdiction, or of any valid right of subsistence use or access in existence on the effective date of Sanctuary designation, authorizing an activity prohibited by § 925.5(a) (2) through (7) may conduct the activity without being in violation of § 925.5(a) (2) through (7), pending final agency action on his or her certification request, provided the holder is in compliance with this section.

(c) Any holder of a valid lease, permit, license, approval, or other authorization in existence on the effective date of Sanctuary designation and issued by any Federal, State or local authority of competent jurisdiction, may request the Director or designee to issue a finding as to whether the activity for which an authorization has been issued is prohibited under § 925.5(a) (2) through (7).

(d) Requests for findings or certifications should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. A copy of the lease, permit, license, approval or other authorization must accompany the request.

(e) The Director or designee may request additional information from the certification requester as or he deems necessary to condition appropriately the exercise of the certified authorization or right to achieve the purposes for which the Sanctuary was designated. The information requested must be received by the Director or designee within 45 days of the postmark date of the request. The Director or designee may seek the views of any persons on the certification request.

(f) The Director or designee may amend any certification made under this section whenever additional information

becomes available justifying such an amendment.

(g) The Director or designee shall communicate any decision on a certification request or any action taken with respect to any certification made under this section, in writing, to both the holder of the certified lease, permit, license, approval, other authorization or right, and the issuing agency, and shall set forth the reason(s) for the decision or action taken.

(h) Any time limit prescribed in or established under this section may be extended by the Director or designee for good cause.

(i) The holder may appeal any action conditioning, amending, suspending, or revoking any certification in accordance with the procedures set forth in § 925.11.

(j) Any amendment, renewal or extension not in existence as of the date of Sanctuary designation of a lease, permit, license, approval, other authorization or right is subject to the provisions of § 925.10.

**§ 925.10 Notification and review of applications for leases, licenses, permits, approvals, or other authorizations to conduct a prohibited activity.**

(a) The prohibitions set forth in § 925.5(a) (2) through (7) do not apply to any activity authorized by any valid lease, permit, license, approval or other authorization issued after the effective date of Sanctuary designation by any Federal, State or local authority of competent jurisdiction, provided that:

(1) The applicant notifies the Director or designee, in writing, of the application for (or for an amendment to, for a renewal of, or for an extension of) such authorization within fifteen (15) days of the date of application or of the effective date of Sanctuary designation, whichever is later;

(2) The applicant is in compliance with the other provisions of this section;

(3) The Director or designee notifies the applicant and authorizing agency that he or she does not object to issuance of (or the amendment to, the renewal of, or the extension of) the authorization; and

(4) The applicant complies with any terms and conditions the Director or designee deems necessary to protect Sanctuary resources and qualities.

(b) Any potential applicant for (or for an amendment to, for a renewal of, or for an extension of) a lease, permit, license, approval or other authorization from any Federal, State or local authority may request the Director or designee to issue a finding as to whether the activity for which an application is intended to be made is prohibited by § 925.5(a) (2) through (7).

(c) Notifications of filings for applications and requests for findings should be addressed to the Director, Office of Ocean and Coastal Resource Management; ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235. A copy of the application must accompany the notification.

(d) The Director or designee may request additional information from the applicant as he or she deems necessary to determine whether to object to issuance of such lease, license, permit, approval or other authorization (or to issuance of an amendment to, or to the extension or renewal of such authorization), or what terms and conditions are necessary to protect Sanctuary resources and qualities. The information requested must be received by the Director or designee within 45 days of the postmark date of the request. The Director or designee may seek the views of any persons on the application.

(e) The Director or designee shall notify, in writing, the agency to which application has been made of his or her review of the application and possible objection to issuance. After review of the application and information received with respect thereto, the Director or designee shall notify both the agency and applicant, in writing, whether he or she has an objection to issuance, extension, or renewal and what terms and conditions he or she deems necessary to protect Sanctuary resources and qualities. The Director or designee shall state the reasons for any objection or the reason(s) why any term(s) and condition(s) are deemed necessary to protect Sanctuary resources and qualities.

(f) The Director or designee may amend the terms and conditions deemed necessary to protect Sanctuary resources and qualities whenever additional information becomes available justifying such an amendment.

(g) Any time limit prescribed in or established under this section may be extended by the Director or designee for good cause.

(h) The applicant may appeal any objection by, or terms or conditions imposed by, the Director, to the Assistant Administrator or designee in accordance with the procedure set forth in § 925.11.

**§ 925.11 Appeals of administrative action.**

(a) Except for permit actions taken for enforcement reasons (*see* subpart D of

15 CFR part 904 for applicable procedures), an applicant for, or a holder of, a § 925.8 National Marine Sanctuary permit, an applicant for, or holder of, a section 310 of the Act Special Use permit, a § 925.9 certification requester, or a § 925.10 applicant (hereinafter appellant) may appeal to the Assistant Administrator or designee:

(1) The grant, denial, conditioning, amendment, suspension, or revocation by the Director or designee of a National Marine Sanctuary or Special Use permit;

(2) The conditioning, amendment, suspension, or revocation of a certification under § 925.9; or

(3) The objection to issuance or the imposition of terms and conditions under § 925.10.

(b) An appeal under paragraph (a) of this section should be in writing, state the action(s) appealed and the reason(s) for the appeal, and be received within 30 days of the action(s) by the Director or designee. Appeals should be addressed to the Assistant Administrator, Office of Ocean and Coastal Resource Management, ATTN: Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, NW., Washington, DC 20235.

(c) While the appeal is pending, appellants requesting certification pursuant to § 925.9 who are in compliance with such section may continue to conduct their activities without being in violation of the prohibitions in § 925.5(a) (2) through (7). All other appellants may not conduct their activities without being subject to the prohibitions in § 925.5(a).

(d) The Assistant Administrator or designee may request the appellant to submit such information as the Assistant Administrator or designee deems necessary in order for him or her to decide the appeal. The information requested must be received by the Assistant Administrator or designee within 45 days of the postmark date of the request. The Assistant Administrator may seek the views of any other persons. The Assistant Administrator or designee may hold an informal hearing on the appeal. If the Assistant Administrator or designee determines that an informal hearing should be held, the Assistant Administrator or designee may designate an officer before whom the hearing shall be held. The hearing officer shall give notice in the Federal Register of the time, place, and subject matter of the hearing. The appellant and

the Director or designee may appear personally or by counsel at the hearing and submit such material and present such arguments as deemed appropriate by the hearing officer. Within 60 days after the record for the hearing closes, the hearing officer shall recommend a decision in writing to the Assistant Administrator or designee.

(e) The Assistant Administrator or designee shall decide the appeal using the same regulatory criteria as for the initial decision and shall base the appeal decision on the record before the

Director and any information submitted regarding the appeal, and, if a hearing has been held, on the record before the hearing officer and the hearing officer's recommended decision. The Assistant Administrator or designee shall notify the appellant of the final decision and the reason(s) therefore in writing. The Assistant Administrator or designee's decision shall constitute final agency action for the purposes of the Administrative Procedure Act.

(f) Any time limit prescribed in or established under this section other than

the 30 day limit for filing an appeal may be extended by the Assistant Administrator, designee, or hearing officer for good cause.

#### **Appendix I to Part 925—Olympic Coast National Marine Sanctuary Boundary Coordinates**

**Note:** Appendix I will set forth the precise boundary based on the comments received on the DEIS/MP.

[FR Doc. 91-22565 Filed 9-19-91; 8:45 am]

**BILLING CODE 3510-08-M**

**DEPARTMENT OF COMMERCE****National Oceanic and Atmospheric Administration****Public Hearings on the Draft Environmental Impact Statement/Management Plan for the Proposed Olympic Coast National Marine Sanctuary**

**AGENCY:** Office of Ocean and Coastal Resource Management (OCRM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

**ACTION:** Notice.

**SUMMARY:** NOAA, pursuant to section 205(a)(4) of Public Law 100-627, and as required by section 304(a)(3) of Public Law 92-532, as amended, is proposing to designate an approximately 2,605 square nautical mile area of coastal and ocean waters, and the submerged lands thereunder, off the Olympic Peninsula of the State of Washington as a National Marine Sanctuary. This notice announces NOAA's intent to hold public hearings on a Draft Environmental Impact Statement/Management Plan (DEIS/MP) for the proposed Olympic Coast National Marine Sanctuary. The purpose of the hearings is to receive the views of interested parties on the proposed designation and the DEIS/MP. The views expressed at these hearings, as well as written comments received on the DEIS/MP, will be considered in the preparation of the Final Environmental Impact Statement/Management Plan (FEIS/MP).

**DATES:** The hearings will be held on November 6, 1991, from 7 to 10 p.m. at Peninsula Community College, 1502 East Lauridsen Blvd., Port Angeles, Washington; on November 7, 1991, from 7 to 10 p.m. at NOAA Administration Auditorium, Building 9, 7600 Sandpoint Way NE., Seattle, Washington; on November 12, 1991, from 7 to 10 p.m. at the General Administration Building, Auditorium, 11th and Columbia, Olympia, Washington; on November 13, 1991, from 7 to 10 p.m. at Grays Harbor Community College, 1620 E.P. Smith Drive, Room 220, Aberdeen, Washington; on November 14, 1991, from 7 to 10 p.m. at Peninsula Church Center, 5000 N Street, Seaview, Washington; and on November 20, 1991 from 1 to 4 p.m. at room 4830, U.S. Department of Commerce, 14th and Constitution Avenue NW., Washington, DC. All interested persons are invited to attend.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rafael V. Lopez, Regional Manager,

or Mr. Chris Ostrom, Senior Project Manager, Sanctuaries and Reserves Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 1825 Connecticut Avenue, N.W., Suite 714, Washington, DC 20235, (202/606-4126); or Ms. Linda Maxson, On-site Liaison, Sanctuaries and Reserves Division, National Oceanic and Atmospheric Administration, 7600 Sand Point Way, NE., Seattle, WA 98115, (206/526-6304). Copies of the DEIS/MP are available upon request to the Sanctuaries and Reserves Division.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* on March 13, 1989, NOAA announced the Western Washington Outer Coast as an active candidate for National Marine Sanctuary Designation and the intent to prepare a DEIS/MP and to hold public scoping meetings on the proposal to designate the Western Washington Outer Coast as a National Marine Sanctuary (54 FR 10398). The announcement also described the study area, the natural resources, human uses, existing protection of marine resources and the designation process for the proposed Sanctuary.

NOAA has prepared the DEIS/MP in accordance with the National Marine Sanctuary Program Regulations (15 CFR Part 922); and published in the *Federal Register* on September 20, 1991, a Notice of Public Availability of the DEIS/MP; and a Notice of Proposed Rule, Notice of Proposed Designation and Summary of Draft Management Plan. Based on the analysis of information collected from the public scoping meetings, consultations with Federal, State and local agencies and research scientists, among others, and literature review, NOAA intends to designate an approximately 2,605 square nautical mile (sq. nmi) area of coastal and ocean waters on the Western Washington Outer Coast, and the submerged lands thereunder, as the Olympic Coast National Marine Sanctuary. The preferred boundary alternative encompasses the coastal and ocean waters over the continental shelf off the Olympic Peninsula, extending from the U.S./Canada EEZ boundary, westward to the edge of the continental shelf (approximating the 100 fathom depth contour, but including the heads of submarine canyons), and southward to include the southern tip of the Copalis National Wildlife Refuge.

Five boundary alternatives (including the preferred alternative) are presented in the DEIS/MP. The smallest boundary alternative (approximately 392 sq. nmi)

encompasses the coastal waters adjacent to Olympic National Park and surrounding the Quillayute Needles, Flattery Rocks, and Copalis National Wildlife Refuges. The other boundary alternatives are based on seaward expansions to the 50 fathom and 100 fathom isobaths, and southerly expansions to the mouth of the Columbia River. The total areas encompassed range from approximately 1,000 to 4,400 square nautical miles. The environmental consequences of each of these five boundary alternatives are described in the DEIS/MP.

The designation of the Olympic Coast area as a National Marine Sanctuary would provide an integrated program of resource protection, research and education to assist in the long-term management and protection of its resources. Resource protection will involve cooperation with other agencies in formulating comprehensive resource protection policies and procedures including the enforcement of regulations.

Seven regulations are proposed governing: hydrocarbon and mineral activities; discharges and deposits (both from within and outside of Sanctuary boundaries); overflights; alteration of or construction on the seabed (including, but not limited to drilling or digging into, or dredging the seabed); historical resources; and marine mammals, marine reptiles, and seabirds. Commercial vessel traffic (other than fishing) is potentially subject to regulation. Alternatives to the proposed regulations include status quo and non-regulatory options.

Research planned for the Sanctuary will include conducting baseline studies, as well as monitoring, analysis and prediction projects to provide information needed to further understanding of marine ecosystems, and to aid in resolving management issues. Education programs planned for the Sanctuary will be directed at improving public awareness of the Sanctuary's resources and the need to manage them as wisely as possible to ensure their viability. The Sanctuaries and Reserves Division (SRD) is responsible for the overall management of the proposed Sanctuary. The SRD, represented by an on-site Sanctuary Manager, will coordinate its on-site activities through cooperative agreements with the State, regional, local and other Federal agencies. A Sanctuary Advisory Committee (SAC) will be established to assist the interested groups and agencies in participating in Sanctuary management, and advise the on-site Sanctuary Manager. The SRD will determine the

structure, composition and functions of the SAC. The general administrative framework and specific roles of each agency in Sanctuary management are described in the DEIS/MP.

Federal Domestic Assistance Catalog  
Number 11.429 Marine Sanctuary Program.

Dated: September 13, 1991.

**John J. Carey,**

*Acting Assistant Administrator for Ocean  
Services and Coastal Zone Management.*

[FR Doc. 91-22566 Filed 9-19-91; 8:45 am]

**BILLING CODE 3510-08-M**



**DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT**

**Office of the Assistant Secretary for  
Public and Indian Housing**

**24 CFR Parts 905 and 906**

[Docket No. R-91-1529; FR-2810-I-01]

RIN No. 2577-AA90

**Section 5(h) Homeownership Program  
for Public and Indian Housing**

**AGENCY:** Office of the Assistant  
Secretary for Public and Indian Housing,  
HUD.

**ACTION:** Interim rule.

**SUMMARY:** This interim rule adds a regulatory codification of the Section 5(h) Homeownership Program for public and Indian housing, under the United States Housing Act of 1937 (Act). It reflects the way in which, over the last 16 years, the Department has been implementing the Congressional mandate for homeownership opportunities for residents of public and Indian housing, under sections 5(h) and 6(c)(4)(D) of the Act, with the exception of changes in replacement housing requirements, as necessary to conform to legislation that was recently enacted by Congress. This rule emphasizes the fact that strong resident involvement in planning and implementation is a practical imperative for success, and that joint undertakings by Public Housing Agencies (PHAs) or Indian Housing Authorities (IHAs) and residents are encouraged.

This rule provides separate regulatory codifications for Indian housing and public housing, as appropriate for each. For IHAs, it adds a new subpart O to the Consolidated Program Regulations for Indian Housing (24 CFR part 905); for PHAs, a new part 906 to title 24. The language of these two versions is identical, excepting only appropriate distinctions in terminology and phrasing, and in references to applicable Federal statutes and regulations on nondiscrimination and civil rights. In general, the Section 5(h) Homeownership Program works the same way for both PHAs and IHAs.

**DATES:** Effective Date: October 21, 1991.

Comments Due Date: November 19, 1991.

**ADDRESSES:** Interested persons are invited to submit comments regarding this rule to the Rules Docket Clerk, Office of General Counsel, room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410. Communications should refer to the above docket number

and title. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk at the above address.

As a convenience to commenters, the Rules Docket Clerk will accept brief public comments transmitted by facsimile ("FAX") machine. The telephone number of the FAX receiver is (202) 755-2575. (This is not a toll-free number.) Only public comments of six or fewer *total* pages will be accepted via FAX transmittal. This limitation is necessary in order to assure reasonable access to the equipment. Comments sent by FAX in excess of six pages will *not* be accepted. Receipt of FAX transmittals will not be acknowledged, except that the sender may request confirmation of receipt by calling the Rules Docket Clerk (202) 708-2084.

**FOR FURTHER INFORMATION CONTACT:**  
C. Wayne Hunter, Senior Homeownership Programs Advisor, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 4118, Washington, DC 20410. Telephone number, voice (202) 709-4233, TDD (202) 708-0850. (These are not toll-free numbers.)

**SUPPLEMENTARY INFORMATION:**

**I. Paperwork Reduction Act Statement**

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced by separate notice in the *Federal Register*. Public reporting burden for this collection of information is estimated to include the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided under the preamble heading Other Matters. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., room 10276, Washington, DC 20410, and to the Office of Information and Regulatory Affairs,

Office of Management and Budget, Washington, DC 20503.

**II. Reason for Interim Rule**

The Department believes that it would be in the public interest to make this rule effective on an interim basis, subject to public comment, without the delay that would result from proposed rulemaking. This rule does not involve major changes in the existing requirements of the Section 5(h) Homeownership Program, except for the replacement housing provisions that are mandated by statute. It will not result in any significant change in the way that the program might affect PHAs, IHAs, residents, or others; consequently, there is no potential detriment to anyone. On the contrary, this regulatory codification will be beneficial to all interested parties by providing a definitive reference for their use. Participation in this program is at the discretion of each PHA or IHA, in consultation with residents, so that it imposes no requirements on those PHAs and IHAs that may not want to submit proposed homeownership plans. For those PHAs or IHAs that are interested, the program will facilitate development of their proposals, making that process less burdensome than it might otherwise be.

Because this program is already in effect, there is a need for this regulatory codification as an interim rule, for ready reference by PHAs, IHAs and residents that are interested in pursuing the possibilities for developing new homeownership proposals. Publication for effect will help to avoid uncertainty and will help to improve the quality of homeownership plans. In so doing, it will also result in cost savings to HUD, PHAs and IHAs, and resident organizations. Nevertheless, the Department recognizes that public comment on the procedures set out in this rule could improve program administration. Accordingly, HUD is inviting public comment for a period of 60 days. To assure prompt consideration of the public comments in a final rule, the interim rule published today will cease to be effective after July 20, 1992, unless before that date the Department has published a final rule in this proceeding. If a final rule is published on or before July 20, 1992, this rule will continue in effect until the published final rule's effective date.

**III. Background**

This rule represents a regulatory codification of the requirements of the Section 5(h) Homeownership Program. The primary statutory mandate for this program is section 5(h) of the United

States Housing Act of 1937 (Act), which provides that:

(h) Notwithstanding any other provision of law, a public housing agency may sell a low income housing project to its low income tenants, on such terms and conditions as the agency may determine, without affecting the Secretary's commitment to pay annual contributions with respect to that project, but such contributions shall not exceed the maximum contributions under subsection (a) of this section. Any such sale shall be subject to the restrictions contained in section 304(g).

(The last sentence of section 5(h), which is a cross-reference to new statutory requirements for replacement housing, was added in 1990 by section 417 of the National Affordable Housing Act.)

Secondary authority is found in section 6(c)(4)(D) of the Act, which, together with the pertinent introductory language of section 6(c), reads as follows:

6(c) Every contract for annual contributions shall provide that—

\* \* \* \* \*

(4) the public housing agency shall comply with such procedures and requirements as the Secretary may prescribe to assure that sound management practices will be followed in the operation of the project, including requirements pertaining to:

\* \* \* \* \*

(D) the development by local housing authority managements of viable homeownership opportunity programs for low income families capable of assuming the responsibilities of homeownership.

(Both sections 5(h) and 6(c)(4)(D) are applicable to Indian Housing Authorities (IHAs) as well as Public Housing Agencies (PHAs). For the sake of simplicity in the discussion that follows, references to "PHAs" include IHAs, and references to "public housing" include Indian housing, except where otherwise indicated.)

As the primary statutory mandate, section 5(h) authorizes PHAs to sell public housing to residents "on such terms and conditions as the (PHA) may determine." That emphasis on local initiative and discretion is reinforced by section 6(c)(4)(D), which speaks of "the development by local housing authority managements of viable homeownership opportunity programs." These two complementary portions of the Act constitute what is essentially one provision that established the statutory basis for local homeownership activities under the Section 5(h) Homeownership Program.

Over a period of more than 16 years since initial enactment of these provisions in 1974, the Department has implemented them by approving a number of homeownership proposals

that PHAs have chosen to submit on their own initiatives. The scale of those transactions has ranged from sales of a very small number of single-family homes to plans involving substantial numbers of single-family and multifamily units.

Examples of relatively large-scale Section 5(h) homeownership plans that have been approved are those submitted by the PHAs in New York City, Puerto Rico and Louisville, Kentucky. In 1977, HUD approved the New York City Housing Authority's "Project Home" plan for sale of 656 single-family, scattered-site houses. Responding to widespread resident interest in homeownership, the PHA in Puerto Rico obtained HUD approval of two homeownership plans in 1978 and 1984, involving sale of about 1,700 single-family homes. In Louisville, a 100-unit multifamily development was converted to a resident-owned condominium, under a plan approved in 1986. Among the other communities whose PHAs have obtained approvals for Section 5(h) sales are Poughkeepsie, New York (11 single-family houses); Baltimore, Maryland (five single-family houses); Selma, Alabama (50 single-family houses); and Fresno, California (22 single-family houses).

In addition, sales under HUD's Public Housing Homeownership Demonstration were approved under the authority of Section 5(h) in 1985. As of April, 1991, a total of 343 units had been sold under that demonstration by 13 of the participating PHAs: in Los Angeles; Denver; Washington, DC; Chicago; Baltimore; St. Mary's County, Maryland; Muskegon Heights, Michigan; Wyoming, Michigan; Tulsa, Oklahoma; McKeesport, Pennsylvania; Reading, Pennsylvania; Nashville, Tennessee; and Newport News, Virginia. The numbers of sales at these sites ranged from two to 88 units. While mostly single-family homes, they included some multifamily buildings.

(Case studies of several of these local Section 5(h) homeownership programs are included in a January, 1991 HUD publication entitled Homeownership and Affordable Housing—The Opportunities (Publication No. HUD-1291-PDR). Copies of that publication may be ordered through the HUD USER system, by telephoning 1-800-245-2691 (within the District of Columbia metropolitan area, call (202) 251-5154). Further information on these local homeownership programs may be obtained by contacting the PHAs involved or the appropriate HUD Regional or Field Offices.)

The flexible approach that the Department has taken in its

administration of the Section 5(h) Homeownership Program—affording PHAs maximum discretion in the details of their homeownership plans—reflects not only the statutory mandate but also the practical lessons of experience. No two situations are the same, so that a rigid programmatic formulation would be inadequate to accommodate the local realities. As Congress explicitly acknowledged in the language of both section 5(h) and section 6(c)(4)(D), feasibility requires flexibility.

This rule makes no major change in established policy and practice, except to incorporate the 1990 legislative amendment on replacement housing. Otherwise, it merely represents a regulatory codification of the way HUD has administered this program over the past 16 years, with special emphasis on the involvement of residents and their organizations in the development and implementation of homeownership plans.

One important reason for publishing a regulatory codification is simply to make sure that all PHAs, residents, and resident organizations are made aware of the existence of the Section 5(h) Homeownership Program, so that they will have due opportunity to determine whether they may want to pursue this option. There is a particular need to provide such information to Resident Management Corporations (RMCs) and other resident organizations, some of which have expressed interest in the opportunity that the Section 5(h) Program might afford for joint undertakings with PHAs to design homeownership programs which best suit local conditions and preferences. Regulatory codification thus makes the Section 5(h) Homeownership Program a more useful tool for realizing the Department's objectives for homeownership opportunities for public housing residents, in line with the concept of Secretary Jack Kemp's HOPE initiatives, as recently enacted by Congress. (The Section 5(h) Program is, however, separate from the HOPE for Public and Indian Housing Homeownership Program, under Subtitle A of Title IV of the National Affordable Housing Act of 1990 and the program guidelines (24 CFR subtitle A) published on February 4, 1990, 56 FR 4412.)

This rule is deliberately brief and simple, limited to a basic program framework of essential requirements and procedural instructions. No attempt is made to specify the details of everything that might be required or permitted in all the variety of local situations. In general, anything not specifically prohibited is permissible, if

consistent with the three fundamental program criteria stated in the rule.

To assist PHAs and residents in formulating homeownership plans that are best suited to local circumstances and objectives, the Department intends to develop additional guidance materials for use in connection with these regulations. That non-directive publication will include discussion of a variety of typical single-family and multifamily plans, the options that PHAs and residents may want to consider, and the specifics of what the regulations may require in different situations. The best way to address detailed questions that may be presented by the peculiar facts of each case is through preliminary consultation with HUD staff in the appropriate Regional or Field Office.

#### IV. Section-by-Section Analysis

(Because the texts of the IHA rule (part 905, subpart O) and the PHA rule (part 906) follow a parallel format, with provisions that are substantially the same, the following discussion applies to both, except as indicated. In most instances, dual section references are given, citing the section of IHA regulation, followed by the corresponding section of the PHA regulation: Sections 905.1001/906.1 through 905.1021/906.21. The only substantive difference between these two regulations is in their references to applicable Federal statutes and regulations on nondiscrimination and civil rights.)

The applicability provision (§ 905.1002/906.2) makes it clear that the rule is applicable to IHA-owned Indian housing or PHA-owned public housing that is subject to an Annual Contributions Contract (ACC) under the Act. (It is not applicable to any of the housing assistance payment programs under section 8 of the Act.)

In referring to housing properties, the term "development" is used synonymously with the definition of "project" under the Act and the ACC. Where "development" is used in another sense—such as the process of constructing or acquiring housing or developing a homeownership plan, the distinction is clear from the context. The term "resident" is used instead of the statutory "tenant", but with the same meaning, as its usage in various contexts makes clear.

The statement of general authority in § 905.1003/906.3 of the rule follows the statutory mandate of section 5(h), with clarification regarding the consequences for project debt. A PHA may, if it wishes, sell public housing to its eligible residents (as defined in the rule) for homeownership purposes, according to

the terms of a homeownership plan developed by the PHA (or jointly by the PHA and residents) and approved by HUD in accordance with this rule, pursuant to a PHA-HUD implementing agreement. Subject to possible exception for developments with special financing restrictions, unforgiven project debt, if any, is not an impediment to sale or an encumbrance on the property after sale.

(There are, however, still some developments which are subject to special financing restrictions that may require exceptions to this general sale authority. For example, in the case of a development that remains subject to bonded indebtedness, the bond indenture may preclude sale or impose special conditions not addressed in the proposed rule. Because it is likely that there will be few, if any, instances where this issue will arise as a practical matter, and because review by counsel of the particular financing terms would be required, the Department intends to leave this kind of special situation for case-to-case review.)

Upon conveyance of title by the PHA, the property will no longer be subject to the ACC. HUD will release the Declaration of Trust in order to remove the title restrictions required by the ACC. The property will no longer be eligible for further funding under the ACC, including operating subsidy or modernization funds. The unavailability of those subsidies after transfer of title from the PHA is of major importance with regard to the capability of individual families to assume the responsibilities of homeownership, and thus to the overall feasibility of the homeownership plan.

This would not preclude any other type of subsidy that might be available under other Federal, State, Tribal, or local programs (such as the possibility of assistance under a Section 8 program, where the property is converted to a resident-owned cooperative). It should be clearly understood, however, that there is presently no available funding as a part of the Section 5(h) Homeownership Program, as such, other than such funds as may be generated from sale proceeds and any other payments that may be called for under the homeownership plan. Any additional funds needed to support planning and implementation must be obtained from other sources, by separate application. If funding through other Federal, State, Tribal, or local programs is to be obtained, that must be done according to the procedures and standards that are separately prescribed for those programs.

(Note, especially, that the availability of section 8 funds is subject to Congressional appropriations and to the HUD regulations that govern the various forms of Section 8 assistance. Nothing in this rule is intended to supersede or modify those section 8 requirements, whose effect will differ among the various types of uses that might be linked to a Section 5(h) homeownership plan: (1) Post-sale assistance to purchasers in cases involving conversion to cooperative ownership; (2) assistance to nonpurchasing residents; and (3) replacement housing.)

The section 8 program requirements presently in effect restrict assistance to eligible families from the PHA's Section 8 waiting list, in accordance with regular selection policies. A PHA is prohibited establishing a selection preference for certificates or housing vouchers based on the identity of housing occupied by the applicant. These Section 8 requirements must be adhered to unless HUD provides the PHA a special allocation of housing vouchers expressly for homeownership purposes pursuant to a specific appropriation permitting that use. To assess the availability of Section 8 assistance, and the pertinent requirements for obtaining and administering such assistance in its various forms and for the various types of uses that might be related to a homeownership plan, the PHA should consult the HUD Regional or Field Office.)

Where funding is needed to meet certain requirements for the practical workability of a homeownership plan (e.g., for assistance to purchasers or nonpurchasing residents, modernization of the units to be sold, counseling and training, planning, and administration) the PHA's submission under this rule would have to include evidence that a funding commitment has been obtained under another Federal, State, Tribal, or local program, or a nongovernmental grant. To avoid a chicken-and-egg impasse in regard to funding commitments that are essential for final HUD approval of a complete Section 5(h) homeownership plan, conditional approval may be justified, pending receipt of the specified funding commitments. See §§ 906.1018(c)/906.18(c). (With regard to the replacement housing plan, however, a funding commitment is a prerequisite for the PHA's transfer of ownership, and not for approval of the homeownership plan. See §§ 905.1016/906.16 and 905.1020(m)/906.20(m).)

If the funds are to be provided under another HUD program, the fact that the commitment has been obtained would be sufficient to satisfy the requirements of Federal statutes and regulations that are pertinent to the other program. Consequently, it would not be necessary to include in the proposed homeownership plan or supporting documentation redundant materials

about those requirements. For example, a homeownership plan might include evidence of a commitment of modernization funds to rehabilitate the buildings to be sold (HUD's commitment of Comprehensive Improvement Assistance Program (CIAP) funds or the PHA's commitment of its Comprehensive Grant funds, under 24 CFR part 905 or part 968). Another example is a HUD commitment of funds for replacement housing—for development of additional public or Indian housing (under 24 CFR part 905 or part 941) or for Section 8 certificates or vouchers (under applicable provisions of chapter VIII of title 24 of the Code of Federal Regulations). Such a commitment would, of itself, be sufficient to show that the applicable requirements for modernization, public housing development, or Section 8 assistance—in such areas as environmental review, site selection, relocation, and fair housing—have already been met, or will be met, in the manner prescribed by the Federal statutes and regulations that govern the particular type of funding involved.

The HUD-approved homeownership plan, as incorporated in the PHA-HUD agreement required by the rule, would serve as the working document for local program activity. Each plan must be tailored to the particular situation, however simple or complex. See discussion of items to be included in the plan and supporting documentation under § 905.1020/906.20 and 905.1021/906.21.

The most important factors in determining what is required are the scale of the plan (number of units) and the type of structures (single-family or multifamily). The simplest case would be sale of one single-family home to a family in occupancy whose income has increased to the point where it can afford to pay fair market value and obtain its own mortgage financing from a private lender. That would be much like an ordinary sale of a privately-owned residence and the core content of the homeownership plan would need to do little more than describe the terms of the proposed sale contract. Toward the other end of the spectrum, conversion of a large multifamily development to a resident-owned cooperative or condominium would require a plan of appropriate complexity.

In all cases—however simple or complex whatever the number of dwellings involved, the characteristics of the property, or the terms of sale—HUD's review of a PHA's proposed homeownership plan will be based on the three fundamental criteria stated in

§ 905.1004/906.4: (a) Practical workability; (b) consistency with applicable law and regulations; and (c) the sufficiency of the homeownership plan as a working document for review and implementation.

These three criteria are central to the entire Section 5(h) Homeownership Program. All other provisions of the proposed rule should be read in the context of these fundamental criteria.

The emphasis on practical workability (§ 905.1004(a)/906.4(a)) mirrors the statutory language of section 6(c)(4)(D): "Viable homeownership opportunity programs for low income families capable of assuming the responsibilities of homeownership." This is a matter for a businesslike determination, based on a common-sense analysis of the facts of each case. Will it really work? Are all essential pieces in place or likely to be assembled in due time? Are there enough eligible residents who may want to buy and have realistic capabilities for assuming homeownership responsibilities? Do the dollars work? Is there a sound expectation that the necessary financing will be available, for any repair or rehabilitation required, as well as for purchase itself? Do the PHA and any other entities with substantial responsibilities have the commitment and capability to do the job well? Will adequate counseling, training, and technical assistance be provided? Is the plan likely to succeed, not only for the initial purchase phase, but also for successful homeownership over the long term? These are the kinds of questions—though by no means the only ones—that must be convincingly addressed in the feasibility analysis to be submitted as backup for the proposed plan.

The requirement for consistency with applicable law and regulations (§ 905.1004(b)/906.4(b)) recognizes that legal requirements (including, very importantly, the requirements of State, Tribal and local real estate law) will depend on the location and characteristics of the property, as well as the terms of sale, financing, and form of ownership. The rule does not attempt to identify everything that all of the pertinent Federal, State, Tribal and local statutes and regulations may require or permit in various situations. The further requirement for the PHA to back up its proposed plan with an opinion by its own legal counsel (see § 905.1020(g)/906.20(g)) places the primary burden on the PHA itself to ascertain and address what the statutes and regulations require in each situation.

This language on legal requirements emphasizes the PHA's statutory prerogative to decide for itself about the

content of its homeownership plan. Any provision that is permitted by the statutes and regulations may be included in a homeownership plan, at the discretion of the PHA, as long as the other two criteria under this section are also satisfied. This permissive policy is further emphasized by the introductory clause of this section, which says, "HUD will approve \* \* \* if \* \* \*", rather than "HUD will *not* approve \* \* \* unless \* \* \*".

The third criterion (§ 905.1004(c)/906.4(c)) requires that the plan be sufficiently clear and complete, not only for HUD review, but as a working document to govern actual implementation. Although the PHA is afforded wide latitude for choice among the available options, its choices must be clearly stated in writing and it will be contractually obligated to follow its own plan, as finally approved by HUD.

Section 905.1005/906.5 addresses the essential role of residents—and the resident organization, where one exists—in developing and carrying out a homeownership plan. Although the statute vests final authority in the PHA, the regulatory requirement for consultation with residents and their organizations reflects the practical imperative for general agreement between PHA and residents, because the residents are the market. Whether the plan involves individual negotiation for sale of one single-family dwelling to the family in occupancy or conversion of multifamily housing to cooperative ownership, its success must depend on the receptivity of the residents who make up the potential market. That will tend to dictate the form and extent of consultation that the PHA and residents find mutually satisfactory in each situation.

The rule encourages joint PHA-resident development and submission of proposed homeownership plans, and a strong role for residents at the implementation stage. A qualified Resident Management Corporation (RMC) or other resident organization may undertake major responsibilities for carrying out the plan.

If the plan involves sale of a substantial number of dwellings—50 units, or more than 10 percent of the total number of units in the PHA's public housing inventory—the rule requires advance notice to residents and a public hearing prior to submission of the proposed homeownership plan to HUD. It would not be necessary for the PHA to have all details of its proposal worked out at this point in the planning process; in most instances, it would probably be neither possible nor

desirable to do so. Nevertheless, the hearing should cover the options under consideration, and the essential information that residents must have to assess the options and give the PHA well-informed comments and recommendations.

Section 905.1006/906.6 makes it clear that the statute authorizes sale of any one or more dwellings—single-family houses or multifamily buildings—comprising all or a portion of a public housing development owned by a PHA. This is subject to practical workability and appropriateness, in consideration of the characteristics of the particular property. In addition to conversion of existing rental housing to homeownership, newly-developed public housing may be designated for homeownership from the outset. This section also requires that the property meet prescribed physical standards, including those on elimination of lead-based paint hazards, under 24 CFR part 35.

As stated in § 905.1007(a)/906.7(a), any method of sale and ownership that is workable and appropriate could be used, *e.g.*, fee-simple conveyance of single-family homes or conversion of multifamily buildings to cooperative or condominium ownership. (For Indian housing, the form of ownership may be adapted to fit restrictions on Indian lands; for example, it could be a long-term leasehold interest, in the case of trust land.)

Section 905.1007(b)/906.7(b) authorizes sale to residents via an entity established and controlled by, and solely composed of, public housing residents, where specified conditions are met. The arrangement would have to be covered in the homeownership plan, consistent with all applicable statutory and regulatory requirements. (Differences in applicable IHA/PHA civil rights requirements are reflected in the respective versions of subparagraph (2)(viii).)

The standards for purchaser eligibility and selection (§ 905.1008/906.8) afford maximum flexibility within the boundaries set by statute. Section 5(h) says merely that a PHA may sell to "its low income tenants." The rule allows sale to lawful residents of public housing owned or leased by the seller PHA, and to recipients of Section 8 assistance that is administered by the seller PHA, subject to a minimum period of residence to be specified by the PHA in its homeownership plan (not less than 30 days).

Within this overall range of permissible eligibility, first preference must be given to the present occupant of the dwelling, followed by successive

preferences for residents of the same building or development, the residents of the PHA's other public housing developments, and recipients of Section 8 assistance. In addition, otherwise eligible applicants who are not public housing residents or Section 8 recipients at the time of their applications could be selected, on condition that they complete the prescribed period of rental occupancy before becoming eligible to purchase. Such applicants would, of course, have to meet the threshold test of eligibility for admission to public housing, according to the generally-applicable admission standards for public housing. Within each of these categories, preference must also be given to residents who have completed self-sufficiency or job-training programs, or who meet equivalent standards of economic self-sufficiency, such as actual employment experience, as specified in the homeownership plan.

A homeownership plan could cut off eligibility at any point in this list of residential preferences, as appropriate for the particular market projection, taking account of the number of dwellings to be offered for sale and estimates of eligible applicants in the successive preference categories. For example, eligibility might be restricted to the existing resident of each dwelling, or (if vacated dwellings are to be offered) to the existing residents of the building or development, or to the general body of public housing residents.

In selecting the purchasers, a separate application and selection process is required. If the plan is limited to sale to the existing residents of all of the dwellings involved, that would be relatively simple, with no need for selection among competing applicants. Where vacated units are to be offered, however, the plan must provide a fair opportunity for interested persons to apply and a fair and orderly method for selection among eligible applicants. All other factors being equal, selection must follow the order of application.

Applicants who meet these basic eligibility standards would be subject to the further eligibility and preference standards stated in the homeownership plan. These must include an affordability standard that is consistent with the requirements of § 905.1008(e)/906.8(e), along with a restriction to residents who have been current in all of their lease obligations for at least six months, subject to the options for the plan to provide opportunities to pay back rent owing as a result of underreporting of income. A plan may also include any other standards for eligibility or preference that are not

contrary to law, at the discretion of the PHA.

The affordability standard requires that no more than 30 percent of the applicant's adjusted income be needed to cover payments for mortgage principal and interest, plus insurance and real estate taxes (PITI), unless there is special justification for a higher percentage of income (no more than 35 percent in any case). If some sort of subsidy can be counted on to help make the mortgage payments, the formula allows that to be included in the affordability calculation. Expenses such as utilities, maintenance, and other debt must also be taken into account.

(The statutory reference to "low income tenants" does not exclude existing public housing residents whose incomes have increased to the point where they exceed the statutory maximum for admission to public housing. If still residing in public housing, they are considered "low income," for purposes of the Section 5(h) Homeownership Program.)

The critical element of counseling, training, and technical assistance is addressed in § 905.1009/906.9. Program experience over the years has demonstrated that counseling of residents at both the application and post-occupancy stage is essential for the success of a homeownership program. Where a homeownership plan calls for conversion to cooperative or condominium ownership, or involves any other type of entity (such as a RMC) that has substantial responsibilities for implementation, the plan must also address the requirements for organizational training and technical assistance.

(There may be income tax consequences associated with the purchase of public housing by residents under particular homeownership plans. The Department recommends that residents considering purchase under this program consult a tax advisory. Possible Federal, State and local tax consequences to purchasers are among the matters that should be addressed in connection with the legal opinion that must be submitted to HUD as a part of the supporting documentation for the proposed homeownership plan.)

Section § 905.1010/906.10 addresses situations where an existing resident of a dwelling that is designated for sale under a homeownership plan does not meet the eligibility requirements for purchase, or is eligible but does not choose to purchase. Involuntary displacement, in order to make a dwelling available for sale, is prohibited. Such residents must be

afforded the options to relocate to other suitable housing at no cost, or to remain in their present dwellings on a rental basis. (The option to remain on a rental basis is most likely to be pertinent to conversion of multifamily buildings to cooperative or condominium ownership.) It should be noted that, with respect to purchasing as well as nonpurchasing residents, temporary relocation to permit rehabilitation would be subject to the pertinent requirements of the modernization regulations (24 CFR 905.605(c)(1) or 24 CFR 968.110(g)).

Under either option, the rent must be no more than would be permitted for public housing. If existing residents are to remain on a rental basis, it would probably be necessary to provide subsidies (e.g., Section 8 rental assistance, if available) to keep their rent burdens within the mandated limits. As between the IHA and PHA rules, appropriate distinction is made between the applicable civil rights requirements. Residents who choose to relocate under § 905.1008/906.8 are not considered "displaced persons" under the The Uniform Relocation Assistance and Real Property Acquisition Act of 1970 and implementing regulations (49 CFR part 24).

Section 905.1011/906.11 makes it clear that the prime consideration for terms relating to the purchase price and financing is affordability, based on the plan's basic financial standard for purchaser eligibility, according to § 905.1008(e)/906.8(e). To make purchase affordable to potential purchasers in the income range that is targeted by that eligibility formulation, a homeownership plan may provide for purchase prices below fair market value or for below-market terms for financing, or any combination of the two, subject to protection against windfall profit upon resale.

The general principle is that basic homeownership costs should be no more and no less than what is reasonably affordable, as measured against the § 905.1008(e)/906.8(e) standard. If, under that affordability standard, a purchaser's income is sufficient to qualify for financing based on fair market value, then that value should be the purchase price, and there should be no discount. Otherwise, however, the purchase price may be discounted as much as may be required for affordability.

The rule thus continues to allow Section 5(h) homeownership plans to make homeownership available for families that can afford only a modest mortgage payment, although the decision on just where to set the income floor is a matter of PHA discretion.

giving due consideration to the minimum level that is consistent with sound homeownership potential over the long term. No public housing subsidy would be available, but if some other form of subsidy can be obtained, that subsidy might mitigate the need for discounting the purchase price.

A homeownership plan could use any fair and reasonable method for determining below-market purchase prices. The purchase price could be calculated on an individual purchaser basis, e.g., the principal amount of a mortgage loan for which the particular purchaser could qualify, under the basic affordability standard adopted according to § 905.1008(e)/906.8(e). Another permissible approach would be to offer comparable units at the same price, for purchasers with different incomes, but within a range that is consistent with the basic affordability standard.

Any type of financing arrangement that might be available from private or public lenders could be used. A homeownership plan could rely on a special financing arrangement, designed specifically for its purpose (e.g., a special loan fund) or could leave it to each purchaser to obtain the necessary financing, by whatever available method the purchaser might choose. The purchaser might obtain a conventional mortgage loan or financing under Federal Housing Administration (FHA), Department of Veterans Affairs (VA) or Farmers Home Administration (FmHA) programs. State or local mortgage financing programs are other possibilities.

It is usually simpler to address affordability through a below-market purchase price, rather than through below-market financing. The below-market price could be set at an amount that is low enough to enable the purchaser to afford private mortgage financing at market-rate interest, with the kind of windfall profit restrictions described in § 905.1013/906.13 for the balance of the fair market value in excess of the discounted purchase price. From the point of view of both the PHA and the purchaser, that is the cleanest type of arrangement, avoiding PHA involvement in the mortgagee-mortgagor relationship with respect to the loan to finance the discounted purchase price and resulting in cash payment to the PHA of the full amount of the discounted purchase price at the time of closing. A below-market loan under a State, Tribal, or local program would provide a similarly clean arrangement, while mitigating the degree to which the purchase price would have to be discounted.

Nevertheless, the rule permits the PHA to assist in financing the discounted purchase price. For example, the PHA could provide all or a part of the financing to cover the discounted purchase price, through purchase-money mortgage, requiring no actual cash loan from the PHA or from an outside lender. Under this type of financing, the PHA—as the present owner of the property—would give the purchaser a deed conveying title and the purchaser would give back a promissory note in the amount of the discounted purchase price, secured by a purchase-money mortgage. That would transform the tenant-landlord relationship into that of homeowner-lender, with the homeowner making the monthly mortgage payments to the PHA.

Another possibility is for the PHA to assist the purchaser in obtaining a mortgage loan from another lender, by a PHA guaranty of some portion of the loan. Where that is done, the homeownership plan must provide for the reasonable protection of the PHA against its contingent liabilities (e.g., establishment of a reserve for that purpose, to be funded out of sale proceeds). In that connection, and any other that might create financial obligations or risks to the PHA, the homeownership plan must be structured to avoid creating a basis for claims against the PHA's public housing assets that remain subject to the requirements of ACCs, in violation of the ACC covenant against encumbrances.

Examples of other permissible financing techniques are shared equity and lease-purchase arrangements (lease with option to purchase, similar to the concept on which the Turnkey III and Mutual Help Homeownership Opportunity Programs are based).

Section 905.1012/906.12 covers requirements for a maintenance reserve, as a source of reserve funding for nonroutine maintenance, repairs and replacements. A maintenance reserve is required for all multifamily buildings. In the case of single-family dwellings, such a reserve would not be required if the affordability requirements for purchaser eligibility provide reasonable assurance that the purchaser will be able to meet the maintenance costs of homeownership.

Section 905.1013/906.13 requires the homeownership plan to include protection against any significant risks of fraud and abuse on the part of purchasers and others. Collusive purchase and resale transactions that would result in profit to silent partners are prime examples. Since the purpose of the program is to enable eligible

residents to become *bona fide* owner-occupants, extended use as rental property must be prohibited. An example of a technique that might be used for that purpose is inclusion in the windfall profit restrictions under § 905.1014(b)/906.14(b) of a further condition that would make payment under the promissory note required by that provision fall due in the event that the property ceases to be used as the purchaser's family residence, except as approved by the PHA for a limited time and reasonable cause, such as temporary residence in another locality. These kinds of protections would have to be written into the title documents, as appropriate for the types of risks and form of ownership involved in a particular homeownership plan.

Where property is sold to the initial purchaser for less than fair market value, § 905.1014/906.14 requires appropriate measures to preclude realization of windfall profit upon resale—profit attributable to the "purchase price discount," which is defined as the fair market value at date of purchase less the discounted purchase price. A homeownership plan may use one of the three methods described in this section, as appropriate to the objectives of the particular plan. (Further guidance on how these methods may be structured in various situations will be provided by HUD in the forthcoming publication mentioned above.)

The promissory note method described in § 905.1014(b)/906.14(b) is mandatory for cases in which the resale price is not subject to a continuing limited equity arrangement designed to restrict subsequent purchase to lower-income families, so that there is no limit on the amount of the resale price upon resale by the initial purchaser. (This method applies to resale by the initial purchaser only; if the aim is to place continuing restrictions on resale by successive purchasers as well, the limited equity method under § 905.1014(c)/906.14(c), or a method authorized by § 904.1014(d)/906.14(d) should be used instead.)

(This promissory note method is similar to the recapture technique under the Turnkey III Homeownership Opportunities Program (see 24 CFR 904.114). The Section 5(h) regulations, however, afford PHAs/IHAs considerable flexibility about their specifications for the exact terms of the promissory note.)

The initial purchaser's promissory note would be secured by a "silent second" mortgage, subordinate to the first mortgage under which payment of the discounted purchase price is

financed, so that the PHA would be entitled to receive a portion of the resale proceeds that is attributable to the purchase price discount. The amount payable would be determined by a formula to be stated in the promissory note, rather than as a fixed dollar amount. Depending upon the actual amount of the resale price, the principal amount of the note would be either the full purchase price discount or, for the protection of the purchaser in the event of a decline in value, a lesser amount that does not exceed the actual resale profit that is fairly attributable to the purchase price discount. The homeownership plan should permit retention of the amount fairly attributable to appreciation in value or improvements made by the purchaser after purchase.

As protection against collusive sale at less than fair market value, resale would be subject to the PHA's approval, based solely on its determination that the resale price represents fair market value or a lesser amount that will result in payment to the PHA of the full purchase price discount. If so determined, however, the PHA would be obligated to approve the resale.

The rule allows (but does not require) a homeownership plan to provide for reduction of the principal amount of the promissory note over a prescribed period of occupancy (minimum of five years). It is silent as to interest, leaving it to the discretion of the PHA whether to attach interest charges or not. The rule also permits the PHA to agree to subordination in favor of a lien securing a home improvement loan.

As a second option § 905.1014(c)/906.14(c) allows the use of a limited-equity arrangement to preclude windfall profit by successive purchasers, as well as the initial purchaser. This technique is appropriate for plans designed to restrict resale to lower-income families on affordable terms (over such period of time as the PHA may choose to specify in its homeownership plan), passing along to the successive purchasers the benefits of the purchase price discount to the initial purchaser. Because limited equity arrangements may differ, this provision does not mandate the form of the legal documents required, and allows due flexibility for designing terms to suit the particular case, as long as they are sufficient to accomplish the essential purpose of precluding a windfall profit fairly attributable to the purchase price discount at the time of initial purchase, as well as assuring that purchase will be affordable to successive lower-income purchasers. Paragraph (d) of this section provides a third option, allowing use of any other

method that meets the prescribed standards.

Under § 905.1015/906.15, the rule allows the PHA to retain all sale proceeds, as defined in that section. After provision for costs of sale and program administration (including such items as counseling costs), the PHA may use net sale proceeds for any one or more types of housing assistance for low-income families. The funds may be used for any form of homeownership or rental housing assistance, under any Federal, State, Tribal, or local program (including a local program created by the PHA for the specific use of these funds), so long as the beneficiaries are low-income families, as defined in the Act.

If sale proceeds are used for a housing program that is subject to the Act (rental or homeownership), their use would be subject to the Federal requirements for that program. For example, addition to the operating funds for public housing would permit use for any type of operating expense that is authorized under that program (but would not result in the reduction of operating subsidy otherwise payable under 24 CFR part 905 or part 990). If used for a State, Tribal or local housing program, the requirements of the Act (including ACC requirements and implementing program regulations) would not be applicable.

The choice among the various types of permissible uses of sale proceeds is a matter of PHA discretion, but must be stated in the homeownership plan. The PHA will be contractually obligated to adhere to the HUD-approved plan in the actual use of the funds, and accountable to HUD under the recordkeeping, reporting, and audit requirements of § 905.1017/906.17.

The replacement housing requirements are stated in § 905.1016/906.16. As mandated by the 1990 amendment to section 5(h) of the Act, this incorporates the replacement requirements that are prescribed for the separate HOPE for Public and Indian Housing Homeownership Program under section 304(g) of the Act. (As stated in paragraph (d) of this section of the regulation, the statute says that these replacement requirements shall not apply to Section 5(h) applications submitted prior to October 1, 1990.) Funding options for replacement housing include HUD programs and other Federal, State, Tribal, and local programs (including local programs funded out of sale proceeds derived from the homeownership plan), subject to the conditions stated in this section.

Section 905.1017/906.17 of the rule requires the PHA to keep records and

submit to HUD periodic reports on the implementation of the homeownership plan. Books and records are subject to audit and inspection.

Procedural instructions for preparation, submission, and review of proposed homeownership plans are covered in §§ 905.1018/906.18 through 905.1021/906.21. The importance of preliminary consultation with HUD is highlighted, because experience with the Section 5(h) Homeownership Program over past years has demonstrated that early consultation can facilitate the process and avoid wasteful effort and expense on the part of all concerned.

These procedures call for PHA submission of a proposed homeownership plan, together with appropriate supporting documentation. If HUD finds the plan approvable, in complete and final form that satisfies all of the applicable requirements of this rule, the PHA and HUD will then execute an implementing agreement, consisting of a contractual form with a copy of the approved homeownership plan attached and incorporated by reference.

As appropriate for a contractual document, the homeownership plan itself would be limited to a plan of action: The content that is necessary for a definitive description of the plan's objectives, the specific steps to be undertaken, and the essential terms and conditions to be employed. The supporting documentation would stand apart from the plan itself, serving primarily as backup information for HUD review at the proposal stage. If agreed, however, particular items could be incorporated in the plan and thus become a part of the PHA-HUD agreement. For the nondiscrimination certification required by § 905.1021(f)/906.21(f), appropriate distinction is made between the applicability of Federal civil rights requirements for IHAs and PHAs.

The regulatory listing of the content of the homeownership plan (§ 905.1020/906.20) is designed to be adaptable to the facts of the particular proposal—however simple or complex. It is a self-simplifying menu, elaborate enough for the most complicated plan for conversion of a large multifamily development into a resident-owned cooperative or condominium, but susceptible of simplification to fit small-scale plans for sale of single-family houses.

Some of the items listed in § 905.1020/906.20 may not be applicable at all to the facts of some plans. For example, if the property is already in good physical condition, satisfying the standards of § 905.1006/906.6, then the

homeownership plan need not include a plan for repair or rehabilitation, as described in § 905.1020(b)/906.20(b). (In that case, the supporting documentation would nevertheless have to include an assessment of the physical condition (see § 905.1021(b)) sufficient to demonstrate that repair or rehabilitation is not necessary.) Another "if applicable" item is § 905.1020(h)/906.20(h), which is required only if the plan contemplates sale to residents via an entity other than the PHA. Similarly, where there is a reliable expectation that all existing residents will purchase their present units, there would be no need to include a plan for nonpurchasing residents, under § 905.1020(j)/906.20(j).

For those items that must be included, the extent of the information required will depend on the relevant facts—especially the number of units involved and whether they are single-family or multifamily housing. For example, while a description of the property (§ 905.1020(a)/906.20(a)) is a basic requirement for all plans, it may range from a very brief identification of one single-family house to the extensive information that would be necessary for a clear description of a large multifamily project with common grounds and facilities. Similarly, the information required for other items listed in § 905.1020/906.20—consultation with residents, the budget estimate, counseling, administration, sale proceeds, accounting and reporting, replacement housing plan, and the implementation timetable—will vary according to the scale and other particulars of each undertaking.

What is required for supporting documentation under § 905.1021/906.21 will depend on the complexity of the plan itself. While items (a) through (h) of that section must be included in all cases, none of those items contemplate a uniform formulation, except for the nondiscrimination certification (§ 905.1021(f)/906.21(f)). Both the plan and the supporting documentation must be tailored to the facts of each case, with no less and no more than is required in each instance to meet the specified requirements of the proposed undertaking.

Forms of documents to be prepared by the PHA for use in implementing the plan (such as contracts, applications, deeds, mortgages, promissory notes, and cooperative or condominium agreements) need not be submitted for HUD approval, either as a part of the plan itself or the supporting documentation, if their essential provisions are described in the plan. The PHA will be responsible for having its

own legal counsel review such documents. That is not, however, intended to preclude submission of particular documents, in lieu of a description, if the PHA and HUD find that a more expeditious option. (This provision does not apply to the PHA-HUD implementing agreement or any other form to be prescribed by HUD under this rule.)

In the context of these instructions for submission, review and approval of the homeownership plan, § 905.1018(c)/906.18(c) authorizes conditional HUD approval of a plan that may be lacking in some of the required elements for final approval. The intent is reasonable flexibility in the process of working out a complete plan, bearing in mind that large-scale undertakings with many complexities may require an extended process to assemble all of the components that are necessary for final HUD approval. In particular, this paragraph recognizes the possibility that, even for relatively simple plans, conditional approval of the plan's basic framework may be necessary before the PHA can obtain funding commitments for such essential elements as administration, counseling, and rehabilitation.

#### Findings and Certifications

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection between 7:30 a.m. and 5:30 p.m. weekdays in the Office of the Rules Docket Clerk, Office of the General Counsel, Department of Housing and Urban Development, room 10276, 451 Seventh Street, SW., Washington, DC 20410.

This rule does not constitute a "major rule" as that term is defined in section 1(d) of the Executive Order on Federal Regulations issued by the President on February 17, 1981. An analysis of the rule indicates that it would not (1) have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, Tribal, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities. The rule creates homeownership opportunities for residents of public and Indian housing with, at most, an incidental effect on small businesses.

The extent of activity under the Section 5(h) Homeownership Program depends first of all on the decisions of PHAs and residents to initiate homeownership proposals. The volume of sales then depends on whether the proposals that are submitted meet the requirements for HUD approval. To date, nine homeownership plans have been approved by HUD under this program, authorizing sale of a total of approximately 2,620 housing units. As of May, 1991, 30 additional proposals, involving 2,340 units, were in various stages of HUD review.

(In addition, sale of 1,197 units was approved for the 16 PHAs that participated in the Public Housing Homeownership Demonstration Program, based on the authority of Section 5(h). No further approvals will be made under that one-time demonstration.)

It is difficult to predict the volume of future program activity, either as to

submissions or approvals, especially in view of the fact that the decision to submit a proposed homeownership plan under this program, and the timing of submission, is at the discretion of the PHA. Moreover, as noted above, the number of units is likely to vary greatly among the proposals that may be submitted. The Department's best estimate at this time is that an annual average of about 1,500 units might be approved for sale under the Section 5(h) program over the next five years.

*Executive Order 12606, the Family.* The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule would not have potential significant impact on family formation, maintenance, and general well-being, and, therefore, is not subject to review under the order. The rule would have a positive impact on families to the extent that it would provide opportunities for families residing in public and Indian housing to own their own housing units or homes.

*Executive Order 12612, Federalism.* The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that this rule would not have substantial, direct effects on States, on their political subdivisions, or on their relationship with the Federal

government, or on the distribution of power and responsibilities between them and other levels of government. The rule's major effects would be on individuals; any involvement of States or their political subdivisions is limited to their cooperative efforts in promoting homeownership among public housing residents.

This rule was listed as Item No. 1383 in the Department's Semiannual Agenda of Regulations published on April 22, 1991 (56 FR 17360, 17404) pursuant to Executive Order 12291 and the Regulatory Flexibility Act.

The Catalog of Federal Domestic Assistance program numbers are 14.146 and 14.147.

The information collection requirements contained in this rule have been submitted to the Office of Management and Budget for review under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501-3520). No person may be subjected to a penalty for failure to comply with these information collection requirements until they have been approved and assigned an OMB control number. The OMB control number, when assigned, will be announced in the Federal Register.

ANNUAL REPORTING BURDEN

Description	No. of respondents	No. of responses per respondent	Total annual responses	Hours per response	Total
Resident consultation, §§ 905.1005 and 906.5	50	1	50	4	200
Purchaser application, §§ 905.1008 and 906.8	50	1	50	4	200
Written agreement, §§ 905.1019 & 906.19	50	1	50	2	100
Homeownership plan, §§ 905.1018, 906.18, 905.1020 & 906.20	50	1	50	40	2,000
Supporting documents, §§ 905.1021 & 906.21	50	1	50	20	1,000
Annual Recordkeeping Burden					
Records, §§ 905.1017 & 906.17	50	1	50	4	200
<b>Total Annual Burden</b>					<b>3,700</b>
Total estimated burden hours: 3,700					

Accordingly, Title 24 of the Code of Federal Regulations, is amended to read as set forth below.

1. Part 905 is amended to add a new subpart O, consisting of §§ 905.1001 thru 905.1021, to read as follows:

**Subpart O—Section 5(h) Homeownership Program**

- Sec. 905.1001 Purpose.
- 905.1002 Applicability.
- 905.1003 General authority for sale.

- Sec. 905.1004 Fundamental criteria for HUD approval.
- 905.1005 Resident consultation and involvement.
- 905.1006 Property that may be sold.
- 905.1007 Methods of sale and ownership.
- 905.1008 Purchaser eligibility and selection.
- 905.1009 Counseling, training, and technical assistance.
- 905.1010 Nonpurchasing residents.
- 905.1011 Maintenance reserve.
- 905.1012 Purchase prices and financing.
- 905.1013 Protection against fraud and abuse.
- 905.1014 Limitation on resale profit.

- Sec. 905.1015 Use of sale proceeds.
- 905.1016 Replacement housing.
- 905.1017 Records, reports, and audits.
- 905.1018 Submission and review of homeownership plan.
- 905.1019 HUD approval and IHA-HUD implementing agreement.
- 905.1020 Content of homeownership plan.
- 905.1021 Supporting documentation.

**Subpart O—Section 5(h) Homeownership Program**

Authority: Sec. 5(h) and 6(c)(4)(D), United States Housing Act of 1937 (42 U.S.C. 1437c)

and 1437d(c)(4)(D)); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

**§ 905.1001 Purpose.**

This subpart codifies the provisions of the Section 5(h) Homeownership Program for Indian housing, as authorized by sections 5(h) and 6(c)(4)(D) of the United States Housing Act of 1937 (Act).

**§ 905.1002 Applicability.**

This subpart applies to low-income housing owned by Indian Housing Authorities (IHAs), subject to Annual Contributions Contracts (ACCs) under the Act. The terms "housing" or "low-income housing", as used in this subpart, refer to the types of properties described in the preceding sentence, except as otherwise indicated by the particular context. In reference to housing properties, "development" means the same as "project" (as defined in the Act), rather than the statutory definition of "development". Except where otherwise indicated by the context, "resident" means the same as "tenant", as the latter term is used in the Act.

**§ 905.1003 General authority for sale.**

An IHA may sell all or a portion of a development to eligible purchasers, as defined under § 905.1008, for purposes of homeownership, according to a homeownership plan approved by the Department of Housing and Urban Development (HUD) under this subpart. If the development is subject to indebtedness under the ACC, HUD will continue to make any debt service contributions for which it is obligated under the ACC, and the property sold will not be subject to the encumbrance of that indebtedness. (In the case of a development with financing restrictions (such as a bond-financed development), however, sale is subject to the terms and conditions of the applicable restrictions.) Upon sale in accordance with the HUD-approved homeownership plan, HUD will execute a release of the title restrictions prescribed by the ACC. Because the property will no longer be subject to the ACC after sale, it will cease to be eligible for further HUD funding for operating subsidies or modernization under the Act, upon conveyance of title by the IHA. (That does not preclude any other types of post-sale subsidies that may be available, under other Federal, Tribal, State, or local programs, such as the possibility of available assistance under Section 8 of the Act, in connection with a plan for cooperative homeownership.)

**§ 905.1004 Fundamental criteria for HUD approval.**

HUD will approve an IHA's homeownership plan if it meets all four of the following criteria:

(a) The plan must be practically workable, with sound potential for long-term success. Financial viability, including the capability of purchasers to meet the financial obligations of homeownership, is a critical requirement.

(b) The plan must be consistent with law, including the requirements of this part and any other applicable Federal, Tribal, State, and local statutes and regulations, and existing contracts. Subject to the other three criteria stated in this section, any provision that is not contrary to those legal requirements may be included in the plan, at the discretion of the IHA, whether or not expressly authorized in this subpart.

(c) The plan must be clear and complete enough to serve as a working document for implementation, as well as a basis for HUD review. See §§ 905.1018 through 905.1021.

**§ 905.1005 Resident consultation and involvement.**

(a) In developing a proposed homeownership plan, and in carrying out the plan after HUD approval, the IHA shall consult with residents of the development involved, and with any resident organization that represents them, as necessary and appropriate to provide them with information and a reasonable opportunity to make their views and recommendations known to the IHA. While the Act gives the IHA sole legal authority for final decisions, as to whether or not to submit a proposed homeownership plan and the content of such a proposal, the IHA shall give residents and their resident organizations full opportunity for input in the homeownership planning process, and full consideration of their concerns and opinions.

(b) Where individual residents, a Resident Management Corporation (RMC), or another form of resident organization may wish to initiate discussion of a possible homeownership plan, the IHA shall negotiate with them in good faith. Joint development and submission of the plan by the IHA and RMC, or other resident organization, is encouraged. In addition, participation of a RMC or other resident organization in the implementation of the plan is encouraged.

(c) If the plan involves sale of 50 or more dwellings, or more than 10 percent of the total number of dwellings in the inventory of low-income housing that is owned or leased by the IHA, the IHA

shall provide advance notice to residents and hold a public hearing prior to submission of the homeownership plan to HUD.

**§ 905.1006 Property that may be sold.**

Subject to the workability criterion of § 905.1004(a) (including, for example, consideration of common element and other characteristics of the property), a homeownership plan may provide for sale of one or more dwellings, along with interests in any common elements, comprising all or a portion of one or more housing developments. A plan may provide for conversion of existing rental housing to homeownership or for homeownership sale of newly-developed housing. The property must meet local code requirements and the pertinent requirements for the elimination of lead-based paint hazards for HUD-associated housing, under subpart C of 24 CFR part 35. Further, the property must be in good repair, with the major components having a remaining useful life that is sufficient to justify a reasonable expectation that homeownership will be affordable by the purchasers. This standard must be met as a condition for sale of a dwelling to an individual purchaser, unless the terms of sale include measures to assure that the work will be completed within a reasonable time after purchase (e.g., as a part of mortgage financing package that provides the purchaser with a home improvement loan).

**§ 905.1007 Methods of sale and ownership.**

(a) Any appropriate method of sale and ownership may be used, such as fee-simple conveyance of single-family dwellings or conversion of multifamily buildings to resident-owned cooperatives or condominiums.

(b) An IHA may sell dwellings to residents directly or (with respect to multifamily buildings or a group of single-family dwellings) through another entity established and governed by, and solely composed of, residents of the IHA's low-income housing; provided that:

(1) The other entity has the necessary legal capacity and practical capability to carry out its responsibilities under the plan.

(2) The respective rights and obligations of the IHA and the other entity will be specified by a written agreement that includes:

(i) Assurances that the other entity will comply with all provisions of the HUD-approved homeownership plan.

(ii) Assurances that the IHA's conveyance of the property to the

residents (through a resident entity) will be subject to a title restriction providing that the property may be resold or otherwise transferred only by conveyance of individual dwellings to eligible residents, in accordance with the HUD-approved homeownership plan, or by reconveyance to the IHA, and that the property will not be encumbered without the written consent of the IHA.

(iii) Protection against fraud or misuse of funds or other property on the part of the other entity, its employees, and agents.

(iv) Assurances that the resale proceeds will be used only for the purposes specified by the HUD-approved homeownership plan. (See § 905.1015.)

(v) Limitation of the other entity's administrative and overhead costs, and of any compensation or profit that may be realized by the entity, to amounts that are reasonable in relation to its responsibilities and risks.

(vi) Accountability to the IHA and residents for the recordkeeping, reporting and audit requirements of § 905.1017.

(vii) Assurances that the other entity will administer its responsibilities under the plan in accordance with applicable civil rights statutes and implementing regulations, as described in § 905.115.

(viii) Adequate legal remedies for the IHA and residents, in the event of the other entity's failure to perform in accordance with the agreement.

#### § 905.1008 Purchaser eligibility and selection.

Standards and procedures for eligibility and selection of the initial purchasers of individual dwellings shall be consistent with the following provisions:

(a) Subject to any additional eligibility and preference standards that are required or permitted under this section, a homeownership plan may provide for the eligibility of residents of low-income housing owned or leased by the seller IHA, subject to an ACC under the Act, and residents of other housing who are receiving housing assistance under Section 8 of the Act, under an ACC administered by the seller IHA; provided that the resident has been in lawful occupancy for a minimum period specified in the plan (not less than 30 days prior to conveyance of title to the dwelling to be purchased). Within that overall range of permissible eligibility, the following order of preference shall be observed:

(1) The existing residents of each of the dwellings to be sold.

(2) Other residents of the building or development in which the dwellings to be sold are located.

(3) Residents of the IHA's other low-income housing developments (owned or leased by the seller IHA).

(4) Residents of other housing who are receiving housing assistance under Section 8 of the Act, under an ACC administered by the seller IHA.

(5) Other persons who do not meet any of the types of residency requirements listed in paragraphs (a) (1) through (4) of this section at the time of their selection as purchasers, provided that they are eligible for admission to low-income housing and their selection is conditioned on completion of the specified minimum period of rental tenancy prior to conveyance of title.

(b) A homeownership plan may restrict eligibility to one or more of the preference categories listed in paragraph (a), of this section as may be reasonable in view of the number of units to be offered for sale and the estimated number of eligible applicants in successive categories, provided that the specified order of those preferences is observed.

(c) Within each of the categories under paragraph (a) of this section, a preference shall be given to those residents who have completed self-sufficiency and job training programs, as identified in the homeownership plan, or who meet equivalent standards of economic self-sufficiency, such as actual employment experience, as specified in the homeownership plan.

(d) Residents who are interested in purchase must submit applications for that specific purpose, and those applications shall be handled separately from applications for other IHA programs. Applications shall be dated as received by the IHA, and, subject to eligibility and preference factors, selection shall be made in the order of receipt. Application for homeownership shall not affect an applicant's place on any other IHA waiting list.

(e) Eligibility shall be limited to residents who are capable of assuming the financial obligations of homeownership, under minimum income standards for affordability, taking into account the unavailability of operating subsidies and modernization funds after conveyance of the property by the PHA. A homeownership plan may, however, take account of any available subsidy from other sources (e.g., if available, assistance under Section 8 of the Act, in connection with a plan for cooperative ownership). Under this affordability standard, an applicant must meet both of the following requirements:

(1) On an average monthly estimate, the amount of the purchaser's payments for mortgage principal and interest, plus insurance and real estate taxes, will not exceed the sum of (i) 30 percent of the applicant's adjusted income, as defined in this part, and (ii) any subsidy that will be available for such payments. Where justified, a higher percentage of adjusted income may be used, up to a maximum of 35 percent. In addition, expenses such as utilities, maintenance, and other debt must be taken into account.

(2) The applicant can pay any amounts required for closing, such as a downpayment (if any) and closing costs chargeable to the purchaser, as may be specified in the homeownership plan.

(f) Eligibility shall be limited to residents who have been current in all of their lease obligations over a period of not less than six months prior to conveyance of title, including, but not limited to, payment of rents and other charges and reporting of all income that is pertinent to determination of rental charges. At the IHA's discretion, the homeownership plan may allow a resident to remedy underreporting of income by payment of the resulting underpayments for rent (back rent owing) prior to conveyance of title to the homeownership dwelling, either in a lump-sum or in installments over a reasonable period. Alternatively, the plan may permit payment within a reasonable period after conveyance of title, under an agreement secured by a mortgage on the property.

(g) If consistent with paragraphs (a) through (f) of this section, a homeownership plan may include any other standards for eligibility or preference, or both, that are not contrary to law, at the discretion of the IHA.

#### § 905.1009 Counseling, training, and technical assistance.

Appropriate counseling shall be provided to prospective and actual purchasers, as necessary for each stage of implementation of the homeownership plan. Particular attention must be given to the terms of purchase and financing, along with the other financial and maintenance responsibilities of homeownership. In addition, where applicable, appropriate training and technical assistance shall be provided to any entity (such as a RMC, other resident organization, or a cooperative or condominium entity) that has responsibilities for carrying out the plan.

#### § 905.1010 Nonpurchasing residents.

(a) If an existing resident of a dwelling authorized for sale under a

homeownership plan is ineligible for purchase, or declines to purchase, the resident shall be given the choice of relocation to other suitable and affordable housing or continued occupancy of the present dwelling on a rental basis, at a rent no higher than that permitted by the Act. Displacement (permanent, involuntary move), in order to make a dwelling available for sale, is prohibited. In addition to applicable program sanctions, a violation of the displacement prohibition may trigger a requirement to provide relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 and implementing governmentwide regulations (49 CFR part 24). Where continued rental occupancy is contemplated, the homeownership plan must include provision for any rental subsidy required (e.g., Section 8 assistance, if available). As soon as feasible after they can be identified, all nonpurchasing residents shall be given written notice of their options under this section.

(b) A resident who chooses to relocate pursuant to this section shall be offered the opportunity to relocate to another decent, safe, sanitary and affordable dwelling of suitable size, which is, to the maximum extent practicable, of the resident's choice, in accordance with applicable civil rights statutes and implementing regulations, as specified in § 905.115. This requirement will be met if the resident is offered the opportunity to relocate to a suitable dwelling in other low-income housing owned or leased by the IHA, any of the housing assistance programs under Section 8 of the Act, or any other Federal, Tribal, State, or local program that is comparable, as to standards for housing quality, admission and rent, to the programs under the Act, and provides a term of assistance of at least five years.

(c) A resident who chooses to relocate pursuant to this section shall be offered the following relocation assistance:

(1) Counseling and advisory services to assure full choices and real opportunities to obtain relocation within a full range of neighborhoods where suitable housing may be found, including and outside areas of minority concentration, including timely information, an explanation of the resident's rights under the applicable civil rights statutes and regulations, and referrals to other housing that meets the standards of paragraph (b) of this section; and

(2) Payment for actual, reasonable moving expenses.

#### § 905.1011 Maintenance reserve.

(a) A maintenance reserve shall be established for multifamily housing sold under a homeownership plan. For single-family dwellings, a maintenance reserve shall not be required, if the availability of the funds needed for maintenance is adequately addressed under the affordability standard adopted in accordance with § 905.1008(e).

(b) The purpose of the maintenance reserve shall be to provide a source of reserve funds for maintenance, repair and replacement, as necessary to ensure the long-term success of the plan, including protection of the interests of purchasers and the IHA. The amounts to be set aside, and other terms of this reserve, shall be as necessary and appropriate for the particular homeownership plan, taking into account such factors as prospective needs for nonroutine maintenance and replacement, the homeowners' financial resources, and any special factors that may aggravate or mitigate the need for a maintenance reserve.

#### § 905.1012 Purchase prices and financing.

(a) To ensure affordability by eligible purchasers, by the standard adopted under § 905.1008(e), a homeownership plan may provide for below-market purchase prices or below-market financing, or a combination of the two. Discounted purchase prices may be determined on a unit-by-unit basis, based on the particular purchaser's ability to pay, or may be determined by any other fair and reasonable method (e.g., uniform prices for a group of comparable dwellings, within a range of affordability by a group of potential purchasers).

(b) Any type of private or public financing may be used (e.g., conventional, Federal Housing Administration (FHA), Department of Veterans Affairs (VA), Farmers' Home Administration (FmHA), or a Tribal, State or local program). An IHA may finance or assist in financing purchase by any methods it may choose, such as purchase-money mortgages, guarantees of mortgage loans from other lenders, shared equity, or lease-purchase arrangements.

#### § 905.1013 Protection against fraud and abuse.

A homeownership plan shall include appropriate protections against any risks of fraud or abuse that are presented by the particular plan, such as collusive purchase for the benefit of nonresidents, extended use of the dwelling by the purchaser as rental property, or collusive sale that would

circumvent the resale profit limitation of § 905.1014.

#### § 905.1014 Limitation on resale profit.

(a) *General.* If a dwelling is sold to the initial purchaser for less than fair market value, the homeownership plan shall provide for appropriate measures to preclude realization of windfall profit on resale. *Windfall profit* means all or a portion of the resale proceeds attributable to the purchase price discount (the fair market value at date of purchase from the IHA less the below-market purchase price), as determined by one of the methods described in paragraphs (b) through (d) of this section. Subject to that requirement, however, purchasers should be permitted to retain any resale profit attributable to appreciation in value after purchase, along with any portion of the sale proceeds fairly attributable to improvements made by them after purchase.

(b) *Promissory note method.* Where there is no limit on the amount of the resale price, the initial purchaser shall execute a promissory note, payable to the IHA, along with a mortgage securing the obligation of the note, on the following terms and conditions:

(1) The principal amount of indebtedness shall be the lesser of: (i) The purchase price discount, as determined by the definition in paragraph (a) of this section and stated in the note as a dollar amount; or (ii) the net resale profit, in an amount to be determined upon resale by a formula stated in the note. That formula shall define net resale profit as the amount by which the gross resale price exceeds the sum of: (A) The discounted purchase price; (B) reasonable sale costs charged to the initial purchaser upon resale; and (C) any increase in the value of the property that is attributable to improvements paid for or performed by the initial purchaser during tenure as a homeowner.

(2) At the option of the IHA, the note may provide for automatic reduction of the principal amount over a specified period of ownership while the property is used as the purchaser's family residence. At maximum, this may result in total forgiveness of the indebtedness over a period of not less than five years from the date of conveyance, in annual increments of not more than 20 percent. This does not require an IHA's plan to provide for any such reduction at all, or preclude it from specifying terms that are less generous to the purchaser than those stated in the foregoing sentence.

(3) To preclude collusive resale that would circumvent the intent of this

section, the IHA shall (by an appropriate form of title restriction) condition the initial purchaser's right to resell upon approval by the IHA, to be based solely on the IHA's determination that the resale price represents fair market value or a lesser amount that will result in payment to the IHA, under the note, of the full amount of the purchase price discount (subject to any accrued reduction, if provided for under paragraph (b)(2) of this section). If so determined, the IHA shall be obligated to approve the resale.

(4) The IHA may, in its sole discretion, agree to subordination of the mortgage that secures the promissory note, in favor of an additional mortgage given by the purchaser as security for a home improvement loan.

(c) *Limited equity method.* As a second option, the requirement of this section may be satisfied by an appropriate form of limited equity arrangement, restricting the amount of net resale profit that may be realized by the seller (the initial purchaser and successive purchasers over a period prescribed by the homeownership plan) to the sum of: (1) The seller's paid-in equity; (2) the portion of the resale proceeds attributable to any improvements paid for or performed by the seller during homeownership tenure; and (3) an allowance for appreciation in value, calculated by a fair and reasonable method specified in the homeownership plan (e.g., according to a price index factor or other measure).

(d) *Third option.* The requirements of this section may be satisfied by any other fair and reasonable arrangement that will accomplish the essential purposes stated in paragraph (a) of this section.

(e) *Appraisal.* Determinations of fair market value under this section shall be made on the basis of appraisal by an independent appraiser, to be selected by the IHA.

#### § 905.1015 Use of sale proceeds.

(a) *General authority for use.* Sale proceeds may, after provision for sale and administrative costs that are necessary and reasonable for carrying out the homeownership plan, be retained by the IHA and used for housing assistance to low-income families (as such families are defined under the Act). The term "sale proceeds" includes all payments made by purchasers for credit to the purchase price (e.g., earnest money, down payments, payments out of the proceeds of mortgage loans, and principal and interest payments under purchase-money mortgages), along with any amounts payable upon resale under

§ 905.1013, and interest earned on all such receipts. (Residual receipts, as defined in the ACC, shall not be treated as sale proceeds.)

(b) *Permissible uses.* Sale proceeds may be used for any one or more of the following forms of housing assistance for low-income families, at the discretion of the IHA and as stated in the HUD-approved homeownership plan:

(1) In connection with the homeownership plan from which the funds are derived, for special purposes that are justified to ensure the success of the plan, and to protect the interests of the IHA and residents. Examples include a reserve for use to prevent or cure default; a reserve for emergency loans to homeowners; a reserve for any contingent liabilities (such as guaranty of mortgage loans); and a reserve for repurchase, repair and resale of homes in the event of defaults.

(2) In connection with another HUD-approved homeownership plan under this part, for assistance to purchasers and for reasonable planning and administrative costs.

(3) In connection with a Tribal, State, or local homeownership program for low-income families, for assistance to purchasers and for reasonable planning and administrative costs. Under such programs, sales proceeds may be used to construct or acquire additional dwellings for sale to low-income families, or to assist such families in purchasing other dwellings from public or private owners. Where this kind of use is proposed, the homeownership plan must include a description of the Tribal, State, or local homeownership program.

(4) In connection with the IHA's other low-income housing (developments that remain under ACC), for any purposes authorized for the use of operating funds under the ACC and applicable provisions of the Act and regulations, as included in the HUD-approved operating budgets. Examples include maintenance and modernization, augmentation of operating reserves, protective services, and resident services. Such use shall not result in the reduction of the operating subsidy otherwise payable to the IHA for its other low-income housing.

(5) In connection with any other type of Federal, Tribal, State, or local housing program for low-income families.

#### § 905.1016 Replacement housing.

(a) As a condition for transfer of ownership of any property under a HUD-approved homeownership plan, the IHA must obtain a funding commitment, from HUD or another source, for the replacement of each of

the dwellings to be sold under the plan. Replacement housing may be provided by one or any combination of the following methods:

(1) Development by the IHA of additional low-income housing (by new construction or acquisition).

(2) Rehabilitation of vacant low-income housing owned by the IHA.

(3) Use of five-year, tenant-based certificate or voucher assistance under Section 8 of the Act.

(4) If the homeownership plan is submitted by the IHA for sale to residents through a RMC, resident council or cooperative association which is otherwise eligible to participate under this part, acquisition of nonpublicly owned housing units, which the RMC, resident council or cooperative association will operate as rental housing, comparable to IHA-owned low-income housing as to term of assistance, housing standards, eligibility and contribution to rent.

(5) Any other Federal, Tribal, State, or local housing program that is comparable, as to housing standards, eligibility and contribution to rent, to any of the programs referred to in paragraphs (a) (1) through (3) of this section, and provides a term of assistance of not less than five years.

(b) Although a HUD funding commitment is required if the replacement housing requirement is to be satisfied through any of the HUD programs listed in paragraph (a) of this section, HUD shall not be obligated to provide such funding until the commitment is issued. Where the requirement is to be satisfied under a Tribal, State or local program, or a Federal program not administered by HUD, a funding commitment shall be required from the proper authority. Sale proceeds may be used for some of the replacement housing options under paragraph (a) of this section (e.g., rehabilitation of vacant IHA-owned housing, or an eligible local program). Where a homeownership plan provides for use of sale proceeds, HUD approval of the plan and execution of the IHA-HUD implementing agreement under § 905.1019 shall satisfy the funding commitment requirement of paragraph (a) of this section, with regard to the amount of replacement housing to be funded out of sale proceeds.

(c) Replacement housing may differ from the dwellings sold under the homeownership plan, as to unit sizes or family or elderly occupancy, as consistent with local housing needs for low-income families.

(d) This section shall not apply to applications submitted under the

Section 5(h) Homeownership Program prior to October 1, 1990.

**§ 905.1017 Records, reports, and audits.**

The IHA shall be responsible for the maintenance of records (including sales and financial records) for all activities incident to implementation of the HUD-approved homeownership plan. Until all planned sales of individual dwellings have been completed, the IHA shall submit to HUD annual sales reports, in a form prescribed by HUD. The receipt, retention, and use of the sale proceeds shall be covered in the regular independent audits of the IHA's low-income housing operations, and any supplementary audits that HUD may find necessary for monitoring. Where another entity is responsible for sale of individual units, pursuant to § 905.1007(b), the IHA must ensure that the entity's responsibilities include proper recordkeeping and accountability to the IHA, sufficient to enable the IHA to monitor compliance with the approved homeownership plan, to prepare its reports to HUD, and to meet its audit responsibilities. All books and records shall be subject to inspection and audit by HUD and the General Accounting Office (GAO).

**§ 905.1018 Submission and review of homeownership plan.**

Whether to develop and submit a proposed homeownership plan is a matter within the discretion of each IHA. An IHA may initiate a proposal at any time, according to the following procedures:

- (a) Before submission of a proposed plan, the IHA shall consult informally with the appropriate HUD Regional or Field Office to assess feasibility and the particulars to be addressed by the plan.
- (b) The IHA shall submit the proposed plan, together with supporting documentation, to the appropriate HUD Regional or Field Office.
- (c) Conditional approval may be given, at HUD discretion, in instances where HUD determines that to be justified. For example, conditional HUD approval might be a necessary precondition for the IHA to obtain the funding commitments required to satisfy all of the requirements for final HUD approval of a complete homeownership plan. Where conditional approval is granted, HUD will specify the conditions in writing.

**§ 905.1019 HUD approval and IHA-HUD implementing agreement.**

Upon HUD notification to the IHA that the homeownership plan is approvable (in final form that satisfies all applicable requirements of this

subpart), the IHA and HUD will execute a written agreement, in a form prescribed by HUD, to evidence HUD approval and authorization for implementation. The plan itself, as approved by HUD, shall be considered to be part of the agreement. Any of the items of supporting documentation may also be incorporated, if agreeable. The IHA shall be obligated to carry out the approved plan without modification, except with written approval by HUD.

**§ 905.1020 Content of homeownership plan.**

The homeownership plan must address the following matters, as applicable to the particular factual situation:

- (a) A description of the property, including identification of the development and the specific dwellings to be sold.
- (b) If applicable, a plan for any repair or rehabilitation required under § 905.1006, based on the assessment of the physical condition of the property that is included in the supporting documentation.
- (c) Purchaser eligibility and selection (see § 905.1008).
- (d) Terms and conditions of sale (see, particularly, §§ 905.1011 through 905.1014).
- (e) A plan for consultation with residents during the implementation stage. (See § 905.1005). If appropriate, this may be combined with the plan for counseling.
- (f) A budget estimate, showing the costs of implementing the plan, and the sources of the funds that will be used.
- (g) Counseling, training, and technical assistance to be provided in accordance with § 905.1009.
- (h) If the plan contemplates sale to residents via an entity other than the PHA, a description of that entity's responsibilities and information demonstrating that the requirements of § 905.1007(b) have been met or will be met in a timely fashion.
- (i) If applicable, a plan for nonpurchasing residents, in accordance with § 905.1010.
- (j) An administrative plan, including estimated staffing requirements.
- (k) An estimate of the sale proceeds and an explanation of how they will be used, in accordance with § 905.1015.
- (l) A description of the accounting and reporting procedures to be used, including those required to meet the requirements of § 905.1017.
- (m) A replacement housing plan, in accordance with § 905.1016.
- (n) An estimated timetable for the major steps required to carry out the plan.

**§ 905.1021 Supporting documentation.**

The following supporting documentation shall be submitted to HUD with the proposed homeownership plan, as appropriate for the particular plan:

- (a) An estimate of the fair market value of the property, including the range of fair market values of individual dwellings, supported by such information as HUD finds sufficient to support the estimate.
- (b) An assessment of the physical condition of the property, based on the standards specified in § 905.1006.
- (c) A statement demonstrating the practical workability of the plan, based on analysis of data on such elements as purchase prices, costs of repair or rehabilitation, homeownership costs, family incomes, availability of financing, and the extent to which there are eligible residents who are expected to be interested in purchase. (See § 905.1004(a).)
- (d) Information to substantiate the commitment and capability of the IHA and any other entity with substantial responsibilities for implementing the plan.
- (e) A description of resident consultation activities carried out pursuant to § 905.1005 before submission of the plan (including public hearing, if required), with a summary of the views and recommendations of residents and copies of any written comments that may have been submitted to the IHA by individual residents, resident organizations, and any other individuals and organizations.
- (f) The IHA's certification that it will administer the plan in accordance with applicable civil rights laws and implementing regulations, as described in § 905.115 of this part, and will assure compliance with those requirements by any other entity that may assume substantial responsibilities for implementing the plan.
- (g) An opinion by legal counsel to the IHA, stating that counsel has reviewed the plan and finds it consistent with all applicable requirements of Federal, Tribal, State, and local law, including regulations as well as statutes. In addition, counsel must identify the major legal requirements that remain to be met in implementing the plan, indicating an opinion about whether those requirements can be met without special problems that may disrupt the timetable or other features contained in the plan.
- (h) A resolution by the IHA's Board of Commissioners, evidencing its approval of the plan.

(i) Any other information that may reasonably be required for HUD review of the plan. Except for the IHA-HUD implementing agreement under § 905.1019, HUD approval is not required for documents to be prepared and used by the IHA in implementing the plan (such as contracts, applications, deeds, mortgages, promissory notes, leases, and cooperative or condominium documents), if their essential terms and conditions are described in the plan. Consequently, those documents need not be submitted as part of the plan or the supporting documentation.

2. A new Part 906 is added to read as follows:

**PART 906—SECTION 5(h)  
HOMEOWNERSHIP PROGRAM**

Sec.	
906.1	Purpose.
906.2	Applicability.
906.3	General authority for sale.
906.4	Fundamental criteria for HUD approval.
906.5	Resident consultation and involvement.
906.6	Property that may be sold.
906.7	Methods of sale and ownership.
906.8	Purchaser eligibility and selection.
906.9	Counseling, training, and technical assistance.
906.10	Nonpurchasing residents.
906.11	Maintenance reserve.
906.12	Purchase prices and financing.
906.13	Protection against fraud and abuse.
906.14	Limitation on resale profit.
906.15	Use of sale proceeds.
906.16	Replacement housing.
906.17	Records, reports, and audits.
906.18	Submission and review of homeownership plan.
906.19	HUD approval and PHA-HUD implementing agreement.
906.20	Content of homeownership plan.
906.21	Supporting documentation.

**Authority:** Sec. 5(h), 6(c)(4)(D), United States Housing Act of 1937 (42 U.S.C. 1437c and 1437d); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

**§ 906.1 Purpose.**

This part codifies the provisions of the Section 5(h) Homeownership Program for public housing, as authorized by sections 5(h) and 6(c)(4)(D) of the United States Housing Act of 1937 (Act).

**§ 906.2 Applicability.**

This part applies to public housing owned by public housing agencies (PHAs) (excluding Indian Housing Authorities (IHAs)), subject to Annual Contributions Contracts (ACCs) under the Act. In reference to housing properties, "development" means the same as "project" (as defined in the Act), rather than the statutory definition of "development". Except where

otherwise indicated by the context, "resident" means the same as "tenant", as the latter term is used in the Act.

**§ 906.3 General authority for sale.**

A PHA may sell all or a portion of a public housing development to eligible residents, as defined under § 906.8, for purposes of homeownership, according to a homeownership plan approved by the Department of Housing and Urban Development (HUD) under this part. If the development is subject to indebtedness under the ACC, HUD will continue to make any debt service contributions for which it is obligated under the ACC, and the property sold will not be subject to the encumbrance of that indebtedness. (In the case of a development with financing restrictions (such as a bond-financed development), however, sale is subject to the terms and conditions of the applicable restrictions.) Upon sale in accordance with the HUD-approved homeownership plan, HUD will execute a release of the title restrictions prescribed by the ACC. Because the property will no longer be eligible for further HUD funding for operating subsidies or modernization under the Act upon conveyance of title by the PHA. (That does not preclude any other types of post-sale subsidies that may be available, under other Federal, State, or local programs, such as the possibility of available assistance under Section 8 of the Act, in connection with a plan for cooperative homeownership.)

**§ 906.4 Fundamental criteria for HUD approval.**

HUD will approve a PHA's homeownership plan if it meets all four of the following criteria:

(a) The plan must be practically workable, with sound potential for long-term success. Financial viability, including the capability of purchasers to meet the financial obligations of homeownership, is a critical requirement.

(b) The plan must be consistent with law, including the requirements of this part and any other applicable Federal, State, and local statutes and regulations, and existing contracts. Subject to the other three criteria stated in this section, any provision that is not contrary to those legal requirements may be included in the plan, at the discretion of the PHA, whether or not expressly authorized in this part.

(c) The plan must be clear and complete enough to serve as a working document for implementation, as well as a basis for HUD review. See §§ 906.18 through 906.21.

**§ 906.5 Resident consultation and involvement.**

(a) In developing a proposed homeownership plan, and in carrying out the plan after HUD approval, the PHA shall consult with residents of the development involved, and with any resident organization that represents them, as necessary and appropriate to provide them with information and a reasonable opportunity to make their views and recommendations known to the PHA. While the Act gives the PHA sole legal authority for final decisions, as to whether or not to submit a proposed homeownership plan and the content of such a proposal, the PHA shall give residents and their resident organizations full opportunity for input in the homeownership planning process, and full consideration of their concerns and opinions.

(b) Where individual residents, a Resident Management Corporation (RMC), or another form of resident organization may wish to initiate discussion of a possible homeownership plan, the PHA shall negotiate with them in good faith. Joint development and submission of the plan by the PHA and RMC, or other resident organization, is encouraged. In addition, participation of a RMC or other resident organization in the implementation of the plan is encouraged.

(c) If the plan involves sale of 50 or more dwellings, or more than 10 percent of the total number of dwellings in the PHA's public housing inventory, the PHA shall provide advance notice to residents and hold a public hearing prior to submission of the homeownership plan to HUD.

**§ 906.6 Property that may be sold.**

Subject to the workability criterion of § 906.4(a) (including, for example, consideration of common elements and other characteristics of the property), a homeownership plan may provide for sale of one or more dwellings, along with interests in any common elements, comprising all or a portion of one or more public housing developments. A plan may provide for conversion of existing rental housing to homeownership or for homeownership sale of newly developed public housing. The property must meet local code requirements and the requirements for elimination of lead-based paint hazards in HUD-associated housing, under subpart C of 24 CFR part 35. Further, the property must be in good repair, with the major components having a remaining useful life that is sufficient to justify a reasonable expectation that homeownership will be affordable by

the purchasers. These standards must be met as a condition for sale of a dwelling to an individual purchaser, unless the terms of sale include measures to assure that the work will be completed within a reasonable time after purchase (e.g., as a part of a mortgage financing package that provides the purchaser with a home improvement loan).

**§ 906.7 Methods of sale and ownership.**

(a) Any appropriate method of sale and ownership may be used, such as fee-simple, conveyance of single-family dwellings or conversion of multifamily buildings to resident-owned cooperatives or condominiums.

(b) A PHA may sell dwellings to residents directly or (with respect to multifamily buildings or a group of single-family dwellings) through another entity established and governed by, and solely composed of, residents of the PHA's public housing; provided that:

(1) The other entity has the necessary legal capacity and practical capability to carry out its responsibilities under the plan.

(2) The respective rights and obligations of the PHA and the other entity will be specified by a written agreement that includes:

(i) Assurances that the other entity will comply with all provisions of the HUD-approved homeownership plan.

(ii) Assurances that the PHA's conveyance of the property to the residents (through a resident entity) will be subject to a title restriction providing that the property may be resold or otherwise transferred only by conveyance of individual dwellings to eligible residents, in accordance with the HUD approved homeownership plan, or by reconveyance to the PHA, and that the property will not be encumbered without the written consent of the PHA.

(iii) Protection against fraud or misuse of funds or other property on the part of the other entity, its employees, and agents.

(iv) Assurances that the resale proceeds will be used only for the purposes specified by the HUD-approved homeownership plan.

(v) Limitation of the other entity's administrative and overhead costs, and of any compensation or profit that may be realized by the entity, to amounts that are reasonable in relation to its responsibilities and risks.

(vi) Accountability to the PHA and residents for the recordkeeping, reporting and audit requirements of § 906.17.

(vii) Assurances that the residents (through a resident entity) will administer their responsibilities under

the plan on a nondiscriminatory basis, in accordance with the Fair Housing Act and implementing regulations.

(viii) Adequate legal remedies for the PHA and residents, in the event of the other entity's failure to perform in accordance with the agreement.

**§ 906.8 Purchaser eligibility and selection.**

Standards and procedures for eligibility and selection of the initial purchasers of individual dwellings shall be consistent with the following provisions:

(a) Subject to any additional eligibility and preference standards that are required or permitted under this section, a homeownership plan may provide for the eligibility of residents of public housing owned or leased by the seller PHA, and residents of other housing who are receiving housing assistance under Section 8 of the Act, under an ACC administered by the seller PHA; provided that the resident has been in lawful occupancy for a minimum period specified in the plan (not less than 30 days prior to conveyance of title to the dwelling to be purchased). Within that overall range of permissible eligibility, the following order of preference shall be observed:

(1) The existing residents of each of the dwellings to be sold.

(2) Other residents of the building or development in which the dwellings to be sold are located.

(3) Residents of the PHA's other public housing developments (owned or leased by the seller PHA).

(4) Residents of other housing who are receiving housing assistance under Section 8 of the Act (under an ACC administered by the seller PHA).

(5) Other persons who do not meet any of the types of residency requirements listed in paragraphs (a) (1) through (4) of this section at the time of their selection as purchasers, provided that they are eligible for admission to public housing and their selection is conditioned on completion of the specified minimum period of rental tenancy prior to conveyance of title.

(b) A homeownership plan may restrict eligibility to one or more of the preference categories listed in paragraph (a) of this section, as may be reasonable in view of the number of units to be offered for sale and the estimated number of eligible applicants in various categories, provided that the specified order of those preferences is observed.

(c) Within each of the categories under paragraph (a) of this section, a preference shall be given to those residents who have completed self-sufficiency and job training programs, as

identified in the homeownership plan, or who meet equivalent standards of economic self-sufficiency, such as actual employment experience, as specified in the homeownership plan.

(d) Persons who are interested in purchase must submit applications for that specific purpose, and those applications shall be handled separately from applications for other PHA programs. Applications shall be dated as received by the PHA, and, subject to eligibility and preference factors, selection shall be made in the order of receipt. Application for homeownership shall not affect an applicant's place on any other PHA waiting list.

(e) Eligibility shall be limited to residents who are capable of assuming the financial obligations of homeownership, under minimum income standards for affordability, and taking into account the unavailability of public housing operating subsidies and modernization funds after conveyance of the property by the PHA. A homeownership plan may, however, take account of any available subsidy from other sources (e.g., if available, assistance under Section 8 of the Act, in connection with a plan for cooperative ownership). Under this affordability standard, an applicant must meet both of the following requirements:

(1) On an average monthly estimate, the amount of the purchaser's payments for mortgage principal and interest, plus insurance and real estate taxes, will not exceed 30 percent of the applicant's adjusted income as defined in 24 CFR part 913, except that, where justified, a higher percentage of adjusted income may be used, up to a maximum of 35 percent. In addition, expenses such as utilities, maintenance, and other debt must be taken into account.

(2) The applicant can pay any amounts required for closing, such as a downpayment (if any) and closing costs chargeable to the purchaser, as may be specified in the homeownership plan.

(f) Eligibility shall be limited to residents who have been current in all of their lease obligations over a period of not less than six months prior to conveyance of title, including, but not limited to, payment of rents and other charges and reporting of all income that is pertinent to determination of rental charges. At the PHA's discretion, the homeownership plan may allow a resident to remedy underreporting of income by payment of the resulting underpayments for rent (back rent owing) prior to conveyance of title to the homeownership dwelling, either in a lump-sum or in installments over a reasonable period. Alternatively, the

plan may permit payment within a reasonable period after conveyance of title, under an agreement secured by a mortgage on the property.

(g) If consistent with paragraphs (a) through (f) of this section, a homeownership plan may include any other standards for eligibility or preference, or both, that are not contrary to law, at the discretion of the PHA.

**§ 906.9 Counseling, training, and technical assistance.**

Appropriate counseling shall be provided to prospective and actual purchasers, as necessary for each stage of implementation of the homeownership plan. Particular attention must be given to the terms of purchase and financing, along with the other financial and maintenance responsibilities of homeownership. In addition, where applicable, appropriate training and technical assistance shall be provided to any entity (such as a RMC, other resident organization, or a cooperative or condominium entity) that has responsibilities for carrying out the plan.

**§ 906.10 Nonpurchasing residents.**

(a) If an existing resident of a dwelling authorized for sale under a homeownership plan is ineligible for purchase, or declines to purchase, the resident shall be given the choice of relocation to other suitable and affordable housing or continued occupancy of the present dwelling on a rental basis, at a rent no higher than that permitted by the Act. Displacement (permanent, involuntary move), in order to make a dwelling available for sale, is prohibited. In addition to applicable program sanctions, a violation of the displacement prohibition may trigger a requirement to provide relocation assistance in accordance with the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 and implementing government-wide regulations (49 CFR part 24). Where continued rental occupancy is contemplated, the homeownership plan must include provision for any rental subsidy required (e.g., Section 8 assistance, if available). As soon as feasible after they can be identified, all nonpurchasing residents shall be given written notice of their options under this section.

(b) A resident who chooses to relocate pursuant to this section shall be offered the opportunity to relocate to another decent, safe, sanitary and affordable dwelling of suitable size, which is, to the maximum extent practicable, of the resident's choice, on a nondiscriminatory basis, without regard

to race, color, religion (creed), national origin, handicap, age, or sex, in compliance with applicable Federal and State law. This requirement will be met if the resident is offered the opportunity to relocate to another suitable dwelling under the Public Housing Program, any of the housing assistance programs under Section 8 of the Act, or any other Federal, State, or local program that is comparable, as to standards for housing quality, admission and rent, to the programs under the Act, and provides a term of assistance of at least five years.

(c) A resident who chooses to relocate pursuant to this section shall be offered the following relocation assistance:

(1) Counseling and advisory services to assure full choices and real opportunities to obtain relocation within a full range of neighborhoods where suitable housing may be found, in and outside areas of minority concentration, including timely information, an explanation of the resident's rights under the Fair Housing Act, and referrals to other housing that meets the standards of paragraph (b) of this section; and

(2) Payment for actual, reasonable moving expenses.

**§ 906.11 Maintenance reserve.**

(a) A maintenance reserve shall be established for all multifamily buildings sold under a homeownership plan. For single-family dwellings, a maintenance reserve shall not be required, if the availability of the funds needed for maintenance is adequately addressed under the affordability standard adopted in accordance with § 906.8(e).

(b) The purpose of the maintenance reserve shall be to provide a source of reserve funds for maintenance, repair and replacement, as necessary to ensure the long-term success of the plan, including protection of the interests of purchasers and the PHA. The amounts to be set aside, and other terms of this reserve, shall be as necessary and appropriate for the particular homeownership plan, taking into account such factors as prospective needs for nonroutine maintenance and replacement, the homeowners' financial resources, and any special factors that may aggravate or mitigate the need for a maintenance reserve.

**§ 906.12 Purchase prices and financing.**

(a) To ensure affordability by eligible purchasers, by the standard adopted under § 906.8(e), a homeownership plan may provide for below-market purchase prices or below-market financing, or a combination of the two. Discounted purchase prices may be determined on a unit-by-unit basis, based on the

particular purchaser's ability to pay, or may be determined by any other fair and reasonable method (e.g., uniform prices for a group of comparable dwellings, within a range of affordability by a group of potential purchasers).

(b) Any type of private or public financing may be used (e.g., conventional, Federal Housing Administration (FHA), Department of Veterans Affairs (VA), Farmers' Home Administration (FmHA), or a State or local program). A PHA may finance or assist in financing purchase by any methods it may choose, such as purchase money mortgages, guarantees of mortgage loans from other lenders, shared equity, or lease-purchase arrangements.

**§ 906.13 Protection against fraud and abuse.**

A homeownership plan shall include appropriate protections against any risks of fraud or abuse that are presented by the particular plan, such as collusive purchase for the benefit of nonresidents, extended use of the dwelling by the purchaser as rental property, or collusive sale that would circumvent the resale profit limitation of § 906.14.

**§ 906.14 Limitation on resale profit.**

(a) *General.* If a dwelling is sold to the initial purchaser for less than fair market value, the homeownership plan shall provide for appropriate measures to preclude realization by purchasers of windfall profit on resale. "Windfall profit" means all or a portion of the resale proceeds attributable to the purchase price discount (the fair market value at date of purchase from the PHA less the below-market purchase price), as determined by one of the methods described in paragraphs (b) through (d) of this section. Subject to that requirement, however, purchasers should be permitted to retain any resale profit attributable to appreciation in value after purchase, along with any portion of the sale proceeds fairly attributable to improvements made by them after purchase.

(b) *Promissory note method.* Where there is no limit on the amount of the resale price, the initial purchaser shall execute a promissory note, payable to the PHA, along with a mortgage securing the obligation of the note, on the following terms and conditions:

(1) The principal amount of indebtedness shall be the lesser of: (i) The purchase price discount, as determined by the definition in paragraph (a) of this section and stated

in the note as a dollar amount; or (ii) the net resale profit, in an amount to be determined upon resale by a formula stated in the note. That formula shall define net resale profit as the amount by which the gross resale price exceeds the sum of: (A) The discounted purchase price; (B) reasonable sale costs charged to the initial purchaser upon resale; and (C) any increase in the value of the property that is attributable to improvements paid for or performed by the initial purchaser during tenure as a homeowner.

(2) At the option of the PHA, the note may provide for automatic reduction of the principal amount over a specified period of ownership while the property is used as the purchaser's family residence. At maximum, this may result in total forgiveness of the indebtedness over a period of not less than five years from the date of conveyance, in annual increments of not more than 20 percent. This does not require a PHA's plan to provide for any such reduction at all, or preclude it from specifying terms that are less generous to the purchaser than those stated in the foregoing sentence.

(3) To preclude collusive resale that would circumvent the intent of this section, the PHA shall (by an appropriate form of title restriction) condition the initial purchaser's right to resell upon approval by the PHA, to be based solely on the PHA's determination that the resale price represents fair market value or a lesser amount that will result in payment to the PHA, under the note, of the full amount of the purchase price discount (subject to any accrued reduction, if provided for under paragraph (b)(2) of this section). If so determined, the PHA shall be obligated to approve the resale.

(4) The PHA may, in its sole discretion, agree to subordination of the mortgage that secures the promissory note, in favor of an additional mortgage given by the purchaser as security for a home improvement loan.

(c) *Limited equity method.* As a second option, the requirement of this section may be satisfied by an appropriate form of limited equity arrangement, restricting the amount of net resale profit that may be realized by the seller (the initial purchaser and successive purchasers over a period prescribed by the homeownership plan) to the sum of: (1) The seller's paid-in equity; (2) the portion of the resale proceeds attributable to any improvements paid for or performed by the seller during homeownership tenure; and (3) an allowance for appreciation in value, calculated by a fair and reasonable method specified in the

homeownership plan (e.g., according to a price index factor or other measure).

(d) *Third option.* The requirements of this section may be satisfied by any other fair and reasonable arrangement that will accomplish the essential purposes stated in paragraph (a) of this section.

(e) *Appraisal.* Determinations of fair market value under this section shall be made on the basis of appraisal by an independent appraiser, to be selected by the PHA.

#### § 906.15 Use of sale proceeds.

(a) *General authority for use.* Sale proceeds may, after provision for sale and administrative costs that are necessary and reasonable for carrying out the homeownership plan, be retained by the PHA and used for housing assistance to low-income families (as such families are defined under the Act). The term "sale proceeds" includes all payments made by purchasers for credit to the purchase price (e.g., earnest money, down payments, payments out of the proceeds of mortgage loans, and principal and interest payments under purchase-money mortgages), along with any amounts payable upon resale under § 906.13, and interest earned on all such receipts. (Residual receipts, as defined in the ACC, shall not be treated as sale proceeds.)

(b) *Permissible uses.* Sale proceeds may be used for any one or more of the following forms of housing assistance for low-income families, at the discretion of the PHA and as stated in the HUD-approved homeownership plan:

(1) In connection with the homeownership plan from which the funds are derived, for special purposes that are justified to ensure the success of the plan, and to protect the interests of the PHA and any other entity with responsibility for carrying out the plan. Examples include a reserve for use to prevent or cure default; a reserve for emergency loans to homeowners; a reserve for any contingent liabilities (such as guaranty of mortgage loans); and a reserve for repurchase, repair and resale of homes in the event of defaults.

(2) In connection with another HUD-approved homeownership plan under this part, for assistance to purchasers and for reasonable planning and administrative costs.

(3) In connection with a State or local homeownership program for low-income families, for assistance to purchasers and for reasonable planning and administrative costs. Under such programs, sales proceeds may be used to construct or acquire additional

dwellings for sale to low-income families, or to assist such families in purchasing other dwellings from public or private owners. Where this kind of use is proposed, the homeownership plan must include a description of the State or local homeownership program.

(4) In connection with the PHA's other public housing (rental housing that remains under ACC), for any purposes authorized for the use of operating funds under the ACC and applicable provisions of the Act and Federal regulations, as included in the HUD-approved operating budgets. Examples include maintenance and modernization, augmentation of operating reserves, protective services, and resident services. Such use shall not result in the reduction of the operating subsidy otherwise payable to the PHA under 24 CFR part 990.

(5) In connection with any other type of Federal, State, or local housing program for low-income families.

#### § 906.16 Replacement housing.

(a) As a condition for transfer of ownership of any property under a HUD-approved homeownership plan, the PHA must obtain a funding commitment, from HUD or another source, for the replacement of each of the dwellings to be sold under the plan. Replacement housing may be provided by one or any combination of the following methods:

(1) Development by the PHA of additional public housing under the Act (by new construction or acquisition).

(2) Rehabilitation of vacant public housing owned by the PHA.

(3) Use of five-year, tenant-based certificate or voucher assistance under section 8 of the Act.

(4) If the homeownership plan is submitted by the PHA for sale to residents through a RMC, resident council or cooperative association which is otherwise eligible to participate under this part, acquisition of nonpublicly owned housing units, which the RMC, resident council or cooperative association will operate as rental housing, comparable to public housing as to term of assistance, housing standards, eligibility, and contribution to rent.

(5) Any other Federal, State, or local housing program that is comparable, as to housing standards, eligibility and contribution to rent, to the programs referred to in paragraphs (a) (1) through (3) of this section, and provides a term of assistance of not less than five years.

(b) Although a HUD funding commitment is required if the replacement housing requirement is to

be satisfied through any of the HUD programs listed in paragraph (a) of this section, HUD shall not be obligated to provide such funding until the commitment is issued. Where the requirement is to be satisfied under a State or local program, or a Federal program not administered by HUD, a funding commitment shall be required from the proper authority. Sale proceeds may be used under some of the replacement housing options under paragraph (a) of this section (e.g., rehabilitation of vacant public housing units, or an eligible local program). Where a homeownership plan provides for sale proceeds to be used for replacement housing, HUD approval of the plan and execution of the PHA-HUD implementing agreement under § 906.19 shall satisfy the funding commitment requirement of paragraph (a) of this section, with regard to the amount of replacement housing to be funded out of sale proceeds.

(c) Replacement housing may differ from the dwellings sold under the homeownership plan, as to unit sizes or family or elderly occupancy, as consistent with local housing needs for low-income families.

(d) This section shall not apply to applications submitted under the Section 5(h) Homeownership Program prior to October 1, 1990.

#### § 906.17 Records, reports, and audits.

The PHA shall be responsible for the maintenance of records (including sales and financial records) for all activities incident to implementation of the HUD-approved homeownership plan. Until all planned sales of individual dwellings have been completed, the PHA shall submit to HUD annual sales reports, in a form prescribed by HUD. The receipt, retention, and use of the sale proceeds shall be covered in the regular independent audits of the PHA's public housing operations, and any supplementary audits that HUD may find necessary for monitoring. Where another entity is responsible for sale of individual units, pursuant to § 906.7(b), the PHA must ensure that the entity's responsibilities include proper recordkeeping and accountability to the PHA, sufficient to enable the PHA to monitor compliance with the approved homeownership plan, to prepare its reports to HUD, and to meet its audit responsibilities. All books and records shall be subject to inspection and audit by HUD and the General Accounting Office (GAO).

#### § 906.18 Submission and review of homeownership plan.

Whether to develop and submit a proposed homeownership plan is a matter within the discretion of each PHA. A PHA may initiate a proposal at any time, according to the following procedures:

(a) Before submission of a proposed plan, the PHA shall consult informally with the appropriate HUD Regional or Field Office to assess feasibility and the particulars to be addressed by the plan.

(b) The PHA shall submit the proposed plan, together with supporting documentation, to the appropriate HUD Regional or Field Office.

(c) Conditional approval may be given, at HUD discretion, where HUD determines that to be justified. For example, conditional HUD approval might be a necessary precondition for the PHA to obtain the funding commitments required to satisfy the requirements for final HUD approval of a complete homeownership plan. Where conditional approval is granted, HUD will specify the conditions in writing.

#### § 906.19 HUD approval and PHA-HUD implementing agreement.

Upon HUD notification to the PHA that the homeownership plan is approvable (in final form that satisfies all applicable requirements of this part), the PHA and HUD will execute a written agreement, in a form prescribed by HUD, to evidence HUD approval and authorization for implementation. The plan itself, as approved by HUD, shall be considered to be part of the agreement. Any of the items of supporting documentation may also be incorporated, if agreeable. The PHA shall be obligated to carry out the approved plan without modification, except with written approval by HUD.

#### § 906.20 Content of homeownership plan.

The homeownership plan must address the following matters, as applicable to the particular factual situation:

(a) A description of the property, including identification of the development and the specific dwellings to be sold.

(b) If applicable, a plan for any repair or rehabilitation required under § 906.6, based on the assessment of the physical condition of the property that is included in the supporting documentation.

(c) Purchaser eligibility and selection (see § 906.8).

(d) Terms and conditions of sale (see, particularly, §§ 906.11 through 906.14).

(e) A plan for consultation with residents during the implementation

stage (See § 906.5). If appropriate, this may be combined with the plan for counseling.

(f) A budget estimate, showing the costs of implementing the plan, and the sources of the funds that will be used.

(g) Counseling, training, and technical assistance to be provided in accordance with § 906.9.

(h) If the plan contemplates sale to residents via an entity other than the PHA, a description of that entity's responsibilities and information demonstrating that the requirements of § 906.7(b) have been met or will be met in a timely fashion.

(i) If applicable, a plan for nonpurchasing residents, in accordance with § 906.10.

(j) An administrative plan, including estimated staffing requirements.

(k) An estimate of the sale proceeds and an explanation of how they will be used, in accordance with § 906.15.

(l) A description of the accounting and reporting procedures to be used, including those required to meet the requirements of § 906.17.

(m) A replacement housing plan, in accordance with § 906.16.

(n) An estimated timetable for the major steps required to carry out the plan.

#### § 906.21 Supporting documentation.

The following supporting documentation shall be submitted to HUD with the proposed homeownership plan, as appropriate for the particular plan:

(a) An estimate of the fair market value of the property, including the range of fair market values of individual dwellings, supported by such information as HUD finds sufficient to support the estimate.

(b) An assessment of the physical condition of the property, based on the standards specified in Sec. 906.6.

(c) A statement demonstrating the practical workability of the plan, based on analysis of data on such elements as purchase prices, costs of repair or rehabilitation, homeownership costs, family incomes, availability of financing, and the extent to which there are eligible residents who are expected to be interested in purchase. (See § 906.4(a).)

(d) Information to substantiate the commitment and capability of the PHA and any other entity with substantial responsibilities for implementing the plan.

(e) A description of resident consultation activities carried out pursuant to § 906.5 before submission of the plan (including public hearing, if

required) with a summary of the views and recommendations of residents and copies of any written comments that may have been submitted to the PHA by individual residents and resident organizations, and any other individuals and organizations.

(f) The PHA's certification that it will administer the plan on a nondiscriminatory basis, in accordance with the Fair Housing Act and implementing regulations, and will assure compliance with those requirements by any other entity that may assume substantial responsibilities for implementing the plan.

(g) An opinion by legal counsel to the PHA, stating that counsel has reviewed the plan and finds it consistent with all

applicable requirements of Federal, State, and local law, including regulations as well as statutes. In addition, counsel must identify the major legal requirements that remain to be met in implementing the plan, if approved by HUD as submitted, indicating an opinion about whether those requirements can be met without special problems that may disrupt the timetable or other features contained in the plan.

(h) A resolution by the PHA's Board of Commissioners, evidencing its approval of the plan.

(i) Any other information that may reasonably be required for HUD review of the plan. Except for the PHA-HUD agreement under § 906.19, HUD

approval is not required for documents to be prepared and used by the PHA in implementing the plan (such as contracts, applications, deeds, mortgages, promissory notes, and cooperative or condominium documents), if their essential terms and conditions are described in the plan. Consequently, those documents need not be submitted as part of the plan or the supporting documentation.

Dated: August 20, 1991.

**Joseph G. Schiff,**

*Assistant Secretary for Public and Indian Housing.*

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REGISTRATION  
FOR  
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Friday  
September 20, 1991

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**Part IV**

**Department of  
Health and Human  
Services**

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**Social Security Administration**

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**Supplemental Security Income Outreach  
Demonstration Program for Aged, Blind  
and Disabled; Notice of Availability of  
Funds and Request for Applications**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Social Security Administration

#### Supplemental Security Income (SSI) Program for the Aged, Blind, and Disabled; Outreach Demonstration Program; Announcement of Fiscal Year (FY) 1992 Availability of Cooperative Agreement Funds and Request for Applications

**AGENCY:** Social Security Administration, HHS.

**ACTION:** Announcement of the availability of FY 1992 funds and a request for applications under the SSI Outreach Demonstration Program.

**SUMMARY:** The Commissioner of Social Security announces the opening of the SSI Outreach Demonstration Program for FY 1992. Applications will be accepted for cooperative agreements which increase outreach efforts to needy aged, blind, and disabled individuals who are potentially eligible for the SSI program. By outreach, we mean identifying potentially eligible individuals, helping them understand the benefits of participating in the SSI program and assisting them in the application process.

This announcement consists of three sections:

- Section I provides background information, discusses the purpose of the SSI Outreach Demonstration Program and briefly describes the application process.
- Section II describes the programmatic priorities under which the Social Security Administration (SSA) is requesting applications for funding.
- Section III describes in detail the application process.

All the forms and instructions necessary to submit an application may be obtained by calling or writing Grants Management Staff, Mr. Lawrence H. Pullen, Chief, Division of Contract and Grant Operations, OAG, DCFAM; Social Security Administration; 1-E-4 Gwynn Oak Building; 1710 Gwynn Oak Avenue; Baltimore, MD 21207; telephone (301) 965-9500; please refer to section III for complete instructions. In addition, we have included an overview of SSA's organization in the application kit. We encourage applicants to become knowledgeable about SSA's operations as well as the eligibility rules of the SSI and the Qualified Medicare Beneficiary (QMB) programs. Pamphlets and other public information materials may be obtained from any local Social Security field office.

**DATES:** The closing date for receipt of cooperative agreement applications under this announcement is November 19, 1991.

**FOR FURTHER INFORMATION CONTACT:** SSA, Office of Supplemental Security Income, Division of Program Management and Analysis, SSI Outreach Branch, 3-R-1 Operations Building, 6401 Security Boulevard, Baltimore, MD 21235, (301) 965-9798. Linda Thibodeaux, Lynn Brown, or Mary Wiz are available to provide you with general program information and the location of a servicing SSA field office, and schedule attendance at a Technical Assistance Workshop.

#### SUPPLEMENTARY INFORMATION:

##### Section I

##### A. The SSI Program

SSI is a Federal program administered by SSA. The program is financed from general revenue funds of the U.S. Treasury and provides monthly benefit payments to aged, blind, and disabled people who have limited resources and income. In 1991, the Federal benefit rate for an individual is \$407 per month and \$610 per month for a couple. In addition, many States supplement the Federal benefit; the supplementary benefit amounts and the categories of persons eligible for these benefits vary from State to State. In most States, eligibility for SSI means eligibility for Medicaid; the extent of the Medicaid coverage package varies by State. SSI recipients may also be eligible to receive Food Stamps in all States but California and Wisconsin, where the State's supplementary payments are considered to include the value of Food Stamps.

To be eligible for SSI benefits, a person must be age 65 or older or disabled or blind, have limited resources and income, and meet certain other requirements. An adult (age 18 or over) is considered disabled if a physical or mental impairment or combination of impairments prevents the person from doing any substantial gainful work and is expected to last for at least 12 months or result in death. A child (under age 18) is considered disabled if he or she suffers from a physical or mental impairment of comparable severity to that which would make an adult disabled. SSA works cooperatively with the States, who are responsible for making disability and blindness determinations through their Disability Determination Services (DDS). SSA takes a detailed medical history from the applicant during the initial interview and sends that information to the DDS. The DDS then secures medical records and, if needed, arranges an additional

medical examination. Based upon this evidence, a disability or blindness determination is then made.

In addition to age, disability or blindness, an individual or couple must meet resource, income, and residency requirements. In 1991, the resource limits are \$2,000 for an individual and \$3,000 for a couple. If a disabled or blind child lives with a parent, some of the parent's income and resources may be counted as the child's. However, not everything that a person owns is counted.

An individual or couple may have earned or unearned income and still be eligible for the SSI program. A certain amount of income is disregarded in determining eligibility and computing the SSI benefit amount. People who live in a State that supplements the Federal payment may have higher amounts of income and still may qualify for State supplementary benefits.

Except for some children of military personnel, to be eligible for SSI a person must reside in the U.S. or the Northern Mariana Islands and be a U.S. citizen, an alien lawfully admitted for permanent residence, or an alien permanently residing in the U.S. under "color of law" (PRUCOL). PRUCOL is defined in the Code of Federal Regulations at title 20, § 416.1618.

Approximately 4.8 million persons received a Federal SSI benefit or a federally administered State supplement in December 1990. Of these, 1.3 million were aged recipients (eligibility based on being age 65 or over) and 3.5 million were blind or disabled recipients. Of the 3.5 million blind or disabled recipients, there were approximately 600,000 who were age 65 or over, and 350,000 who were under age 18 (disabled children). Since eligibility is determined on a monthly basis, the number of persons receiving benefits for at least 1 month in the year will exceed the monthly totals. SSA estimates that over 5.6 million persons will receive at least 1 month of benefits during 1991.

##### B. Qualified Medicare Beneficiary (QMB) Program

Applicants need to be familiar with the QMB program and the eligibility process. Since the eligibility rules are similar to the SSI program rules, but the income and resource limits are higher, in certain cases it may be appropriate to refer individuals for QMB eligibility determinations when SSI eligibility is precluded.

QMB's are Medicare beneficiaries who also meet certain income and resources tests. The QMB program is administered by the States under the

oversight of the Health Care Financing Administration. In most States, the QMB program became effective in January 1989. If an individual qualifies as a QMB, the State will pay Medicare premiums, deductibles and coinsurance. Recent studies suggest that many individuals who might qualify are not aware of these benefits. For additional information, see the fact sheet on QMB's in the application kit.

#### *C. Purpose of the SSI Outreach Demonstration Program*

In FY 1992, SSA will award a series of SSI outreach demonstration projects. The goal of these projects will be to demonstrate effective, efficient, ongoing, and transferable approaches for identifying potentially eligible needy aged, blind, and disabled individuals and assisting these individuals in the application process. By effective, we mean methods that result in significant increases in SSI awards to underserved populations. By efficient, we mean those methods that find the most people potentially eligible for benefits and assist them to apply while conserving both public and private resources and minimizing the burden of application for clients. These projects will either target additional underserved populations or expand upon ideas being tested in the cooperative agreements previously funded.

The SSI Outreach Demonstration Program was first announced in April 1990. Following an independent review process, 33 cooperative agreements were approved for the development of models of SSI outreach in 44 sites. The projects use a wide range of methodologies and concentrate on several target populations: urban and rural elderly, the disabled in general, people with AIDS, the homeless, and minority and ethnic communities. Final results from these projects will not be available for some time.

The projects funded in FY 1990 are still actively engaged in SSI outreach activities and have not entered an evaluation phase. In FY 1992, SSA is soliciting proposals which establish permanent linkages that can continue beyond the funded period to identify potential SSI eligibles, facilitate the application process, and help individuals to continue to receive SSI benefits as long as they remain eligible. The linkage can be achieved through a network of contacts, the creation of an organization that becomes self-supporting, et cetera. As a part of SSI outreach, we are interested in projects that link potential SSI-eligible people with other available and appropriate financial benefits and social services

that will improve the quality of their lives, and help them obtain the greatest possible measure of independence. (Outreach in the context of this demonstration program refers to initial claim filing only and not the appellate process.)

SSA is also interested in proposals for cooperative agreements that enhance current outreach efforts conducted by SSA's field offices or other organizations such as State or local governments or private entities. The application kit contains background information on the 33 projects awarded from the FY 1990 announcement. We are seeking effective approaches which fill gaps in existing programs or create new outreach mechanisms. SSA will not fund proposals which replicate existing community efforts unless such proposals include a new component which will lead to significant increases in the numbers of people being reached and approved for benefits. An important consideration is whether the knowledge to be gained from the project has the potential to be transferable from the local community to other similar communities on either a regional or national basis.

#### *D. Cooperative Agreements*

Legislative authority for the Outreach Demonstration Program is contained in section 1110 of the Social Security Act, which provides, in part, for projects that assist in promoting the objectives or facilitate the administration of the SSI program. The regulatory requirements that govern the administration of all Department of Health and Human Services (DHHS) cooperative agreements are located in the Code of Federal Regulations at title 45, parts 74 and 92. Applicants are urged to review the requirements in the applicable regulations.

SSA may suspend or terminate any cooperative agreement in whole or in part at any time before the date of expiration, whenever it determines that the awardee has materially failed to comply with the terms of the cooperative agreement. SSA will promptly notify the awardee in writing of the determination and the reasons for the suspension or termination together with the effective date.

A cooperative agreement anticipates substantial involvement between SSA and the applicant during the performance of the project. This involvement will include collaboration or participation by SSA in the management of the activity as determined at the time of the award. For example, SSA will be involved in decisions involving strategy, hiring of

personnel, deployment of resources, selection of contractors, release of public information materials, et cetera. To this end, SSA strongly encourages all applicants to contact their local Social Security field office to obtain additional information on the SSI program and on local outreach efforts. However, letters of commitment should not be requested from Social Security field offices or State Disability Determination Services. For information regarding the location of the appropriate Social Security field office, please contact the SSI Outreach Branch on (301) 965-9798. The Social Security field office will provide SSI program training and ongoing technical assistance to those organizations awarded cooperative agreements in order to establish workable referral procedures. All awards made under this program will be made in the form of cooperative agreements to ensure that outreach efforts by a social service agency, advocacy group, or State or local government are integrated with SSA activities.

#### *E. Number, Size, and Duration of Projects*

Approximately \$4 million is available for the awarding of cooperative agreements under this announcement. SSA generally expects to fund up to 40 demonstration projects (an even higher number may be awarded should additional funding be provided) that cost between \$100,000 and \$250,000 and can be completed within 12 to 17 months. SSA may, however, fund some projects at higher or lower amounts and for shorter periods of time. Applicants should be aware that the awarding of cooperative agreements is subject to the availability of funds.

#### *F. Fiscal Year 1992 Cooperative Agreement Application Process*

The cooperative agreement application process for FY 1992 will consist of a one-stage, full application. The program narrative (part III of SSA-96-BK) is limited to 20 double-spaced pages (excluding resumes, forms, et cetera.) and will be reviewed by independent reviewers against the evaluation criteria established for review of applications (see section III). Applications will also be reviewed against others targeting the same population; for example, all applications focusing on Native Americans will be competitively reviewed against each other.

In making the funding award decisions, SSA will pay particular attention to applications which seek to eliminate multiple barriers to eligibility

as well as target areas of the United States with a high incidence of individuals with incomes at or below the Federal poverty level. In making decisions, SSA will also try to equitably distribute assistance among the priority areas and target population subgroups described in section II, part B.

Each project will work with one or more local Social Security field offices to carry out the approved methodology. Local offices process the applications for benefits resulting from outreach efforts. Therefore, geographic dispersion will be a factor in the selection process to minimize the administrative burden to any one Social Security field office or State Disability Determination Service.

### G. Technical Assistance Workshops for Prospective Applicants

SSA will hold workshops to provide guidance and technical assistance to prospective applicants. Please call the SSI Outreach Branch at (301) 965-9798 no later than 7 days prior to the workshop for further information.

Date	Location
October 16, 1991 .....	Cleveland, OH.
October 18, 1991 .....	St. Louis, MO.
October 22, 1991 .....	Boston, MA.
October 29, 1991 .....	Los Angeles, CA.
October 31, 1991 .....	Seattle, WA.
November 6, 1991 .....	Atlanta, GA.
November 6, 1991 .....	Salt Lake City, UT.

## Section II

### A. Overview

The Outreach Demonstration Program will help SSA demonstrate the feasibility of special approaches and services to identify and assist needy individuals in filing for SSI benefits. SSA is most interested in approaches that will result in significant numbers of potentially eligible individuals being awarded SSI benefits. The project methodology should describe how referrals to social services or other benefit programs, e.g., QMB's, will be made, when they are appropriate.

This section of the program announcement lists the target populations to be reached, the barriers to be reduced or eliminated, and some of the types of approaches that may be tested.

### B. Priority Areas

SSA estimates that a significant number of people are potentially eligible for SSI benefits but, for a variety of reasons, have not filed for them. These potentially eligible individuals fall into all SSI eligibility groups; i.e., aged, blind, or disabled, adults, and children and

span the gamut of racial and ethnic groups. This announcement targets six population groups and provides a seventh category, "other." Applications should be filed under categories 001 through 006 whenever possible. File applications under priority area 007 "other" only when they cannot fit into priority areas 001 through 006. Applications which target multiple populations, e.g., African-Americans and Hispanics, should identify a primary target group and file under that priority area.

SSA is interested in receiving applications from social service providers, State or local governments, or advocacy groups who provide services to hard to access populations. We are particularly interested in organizations that employ workers under the Department of Labor's Senior Community Service Employment Program authorized under title V of the Older American's Act who could be used to do peer outreach activities. Also, SSA is interested in projects which target groups of individuals who are not already connected to existing advocacy and social networks. For such applications, please explain why the target group is not linked to existing social networks and how the project will establish such a link.

**001: African-Americans**—SSA desires applications from a wide range of groups targeting outreach to African-Americans. Of particular interest are Historically Black Colleges and Universities (HBCU's) because of their strong connections to the minority communities in which they exist. They are uniquely situated to do hands-on outreach to elderly and disabled individuals and to build/strengthen linkages with Social Security field offices and other community organizations. HBCU's which grant a master's degree in programs in social work (MSW) and those institutions which have strong programs in social work, sociology, or gerontology, but do not grant a MSW have proven experience in overcoming barriers faced by African-American elderly and disabled individuals to full participation in American life. Therefore, SSA is particularly interested in receiving applications from HBCU's with such programs.

**002: Native Americans**—SSA is interested in applications from tribal governments, including Alaskan native corporations, as well as from national and regional Native American service organizations which work through tribal governments and/or serve urban/off-reservation Native Americans. Project proposals should focus on linkages with

Social Security field offices by overcoming language barriers, geographic isolation, and other barriers to SSI program participation. Proposals may target any aged or disabled Native American populations. SSA is particularly interested in projects which target fetal alcohol syndrome and substance abuse in Native American communities.

**003: Other Minority/Ethnic Groups**—SSA is interested in projects which target ethnic or minority groups other than African-Americans and Native Americans. For example, projects which target language minorities or particular nationality groups could be submitted under this priority area. These projects should employ culturally sensitive approaches to overcoming such barriers as English and/or native language illiteracy, social isolation, fear, or distrust of government institutions.

**004: Disabled Children**—SSA is interested in proposals from organizations serving children such as: foster care agencies, Head Start program affiliates (including Indian Head Start affiliates), school districts, children's hospitals and clinics, tertiary care medical institutions, State title V Children with Special Health Care Needs Agencies, and State agencies which administer programs under Part H of the Individuals with Disabilities Education Act. For example, we would encourage school districts or other organizations to propose a "linkage worker model;" that is, a worker who would identify potentially eligible children transitioning from an educational to a work setting and assist them with the SSI application process. Wherever appropriate, a work incentives component should be part of the project proposal (for more information about the work incentives provisions, please refer to the application kit).

**005: Severely Mentally Ill Adults**—SSA wishes to test outreach methods for integrated service delivery with the mental health service community, i.e., hospitals, outpatient centers, community mental health centers, and others. We are not only interested in finding potential eligibles among the severely mentally ill, but in joining with other organizations in linking SSA's services with case management and related types of services that consider the long range interests of the individual, including the eventual entry or return of the severely mentally ill individual to a productive and economically self-sufficient lifestyle. SSA is particularly interested in projects which include a representative payee component.

Effective outreach must ensure that benefits will continue once established. A representative payee (if required) will help provide that assurance. Wherever appropriate, a work incentives component should also be part of the project proposal. For more information on work incentives, please refer to the application kit. Applications which target individuals with severe mental illness who are *not homeless* should be submitted under this category.

Applications which target homeless individuals with severe mental illness should be submitted under category 006.

**006: Homeless Adults:** SSA believes that it is imperative that we develop a variety of methods of reaching this hard-to-serve population. SSA is interested in case management approaches linking existing homeless service activities (e.g., Health Care for the Homeless facilities) to the SSI program. Such approaches should include: identifying homeless individuals potentially eligible for SSI, taking applications for benefits, obtaining medical evidence, facilitating/providing any necessary consultative medical examinations, working closely with the servicing Social Security office and the Disability Determination Service to obtain all required evidence, and maintaining contact with the client to facilitate all steps in the application process. Case management must include providing or arranging representative payee services, when needed.

**007: Other**—This category is designed to allow for projects to underserved populations not covered by the other six categories.

For example, applications which target specific categories of disabled adults such as:

- (1) Blind individuals;
- (2) Deaf individuals;
- (3) Individuals with Acquired Immunodeficiency Syndrome (AIDS);
- (4) Individuals who are mentally retarded; and
- (5) Individuals with any other type of disability

may be submitted under this priority area if they do not fit into another priority area (e.g., the homeless).

Also, applications which target the elderly, especially the frail elderly, may be submitted under this priority area if they do not fit into another priority area.

All applications should state clearly the priority area to be targeted. Applications which target multiple populations should identify a primary target group and file under that one priority area.

#### C. Barriers to Filing for Benefits

SSA is aware that barriers exist that prevent potentially eligible individuals

and couples from filing for SSI benefits. Some of the barriers identified are (not in priority order):

- Lack of correct information about the SSI program by the target population and by outside organizations that provide services to these persons,
- Inability to handle one's own financial affairs, which may require another individual to assist in making application and, when an applicant is eligible, to receive the benefits as a representative payee,
- English language illiteracy,
- Limited exposure to traditional communications media,
- Disabilities which limit mobility and connection with social services organizations,
- Reluctance to accept/admit disability as a permanent condition,
- Fear/stigma associated with disability, such as AIDS/ARC, cancer, mental illness, mental retardation, and substance abuse,
- Homelessness often coupled with mental illness or drug addiction/alcoholism,
- Perceived welfare stigma of receiving SSI benefits,
- Distrust or fear of government bureaucracy,
- Concern that eligibility will preclude work or future work attempts,
- Lack of transportation and/or access to a telephone,
- Lack of understanding about how to contact Social Security field offices,
- Lack of current connection with social service organizations, and
- Homebound status due to age or infirmity.

All applicants should clearly state which barriers to filing for benefits will be reduced or eliminated through the demonstration project.

#### D. Approaches to Outreach

SSA is not interested in applications which simply propose the production of pamphlets; nor in proposals for training or general public information initiatives which are not followed by hands-on outreach.

SSA is interested in proposals for cooperative agreements featuring approaches which accomplish two related tasks: (1) reach the priority areas and target population subgroups described above, and (2) facilitate the eligibility process for the individuals identified. Each proposal should address both of these key areas. It should be clear in the proposal how individuals will be identified *and*, once identified, the methodologies to be used to facilitate the application process and maintain eligibility status once benefits are awarded.

Some examples of such approaches to SSI outreach are (not in priority order):

- Public/Private Coalition and Multi-Agency Agreements—establish coalitions between public and private organizations and agreements between various Federal, State, and local agencies of government that will establish working relationships linking SSA with other organizations and agencies to identify potentially eligible individuals and to assist those individuals with the SSI application process. For example, in regard to outreach to disabled children, an applicant might propose a coalition between a children's hospital and/or other health care and social service providers that serve low income young adults or children.
- Case Management—identify potential SSI eligibles and assisting them to negotiate the SSI application process, including collecting information to complete the eligibility determination process, securing the necessary supporting documentation, and, when necessary, providing transportation to medical examinations. If the individual is awarded SSI benefits and is unable to handle his/her financial affairs, identify a suitable representative payee. Refer the individual for vocational rehabilitation services whenever possible.
- Door-to-Door Contacts—target communities which have large numbers of low income people and using trained staff or volunteers, systematically go door-to-door in search of potentially eligible adults and children. Assist those applicants in the SSI application process.
- Public/Private Organizational Listings (e.g., food stamps, low income home energy assistance, school district enrollment, Head Start affiliates, etcetera.)—use such mailings for door-to-door contact, telephone contact, and/or targeted mailings to identify potentially eligible individuals. Assist those applicants in the SSI application process.
- Linkage Workers—utilize an individual whose specific task is to identify individuals applying for or receiving a non-SSA benefit or service and link them with the SSI application process. Facilitate the application process by overcoming the barriers caused by distance from SSA field facilities and lack of/poor transportation or telephone access. Also provide transportation to potentially eligible individuals to required medical examinations.

—Volunteers—any use of the peer concept with unpaid community volunteers. Identify individuals who need assistance applying for SSI benefits or managing finances and match them to trained volunteers from State and local community organizations (such as groups affiliated with churches, synagogues, community action centers, service clubs, and others). The volunteers will assist individuals in filing for and pursuing SSI benefits including providing translation and transportation services. They will be available for appointments as representative payees to manage monthly payments for newly eligible recipients and to assist currently entitled recipients to report changes in status.

All proposals requiring new public information materials must identify what need will be met by the new material and justify why current SSA materials are inadequate to meet that need. SSA is not interested in applications which simply propose the production of pamphlets; nor in proposals for training or general public information initiatives which are not followed by hands-on outreach (all SSI technical training on SSA-administered programs for the Outreach Demonstration projects will be provided by SSA).

#### *E. Content of Proposals*

All cooperative agreement proposals must include a priority area with supporting demographic information; the method of outreach; the barriers that will be reduced or eliminated; and the approaches to be tested.

All projects must use the SSA evaluation protocol, which is included in the application kit. The SSA protocol is the minimum amount of required project information. Projects are responsible for screening for SSI eligibility, collecting data according to the guidelines provided and producing a final evaluation report which analyzes the successes and/or failures of the methodology used to identify potentially eligible individuals and assist them in obtaining benefits. The data collection requirement includes providing to SSA ongoing data on the number of contacts of potentially eligible individuals by project personnel, and the number of individuals referred to Social Security field offices. All projects must agree to use SSA-designed consent forms (consent forms permit SSA to provide person-specific benefit status information to project personnel) and intake forms. Samples of both forms are in the application kit. SSA will provide

feedback to each approved project on a regular basis of the number of applications received through project efforts, and, of those applications, the number awarded benefits. SSA will not provide feedback on eligibility for other program benefits which result from project referrals since such records are maintained by the States or other organizations, e.g., QMB referrals.

Information must be provided showing how collaborative activities will continue once the cooperative agreement terminates. In addition, the information should show, if applicable, how these activities will be permanently integrated with local SSA field office activities.

### **Section III**

#### *A. Eligible Applicants*

Organizations eligible to apply for projects under priority area 001 of this announcement fall into two groups. The organization may be any State or local government and public or private organization or agency that has well established linkages at the local level or be among those institutions of higher education that are recognized by the Federal Government as HBCU's. HBCU's that (1) confer the degree of Master's of Social Work, (2) have centers on gerontology, or (3) offer programs or curricula in gerontology will be given special consideration.

The organizations eligible to apply under priority area 002 are: tribal governments, including Alaskan native corporations, as well as national and regional Native American service organizations which work through tribal governments or serve urban/off-reservation Native Americans.

For all other priority areas, any State or local government, public or private organization nonprofit or for-profit organization, or agency, hospital, or educational institution may apply for a cooperative agreement under this announcement. Applications will not be accepted from applicants which do not meet the above eligibility criteria at the time of submission of applications.

Individuals are not eligible to apply in any of the priority areas. For-profit organizations may apply in any priority area with the understanding that no cooperative agreement funds may be paid as profit to any cooperative agreement recipient. Profit is considered as any amount in excess of the allowable costs of the grant recipient. A for-profit organization is a corporation or other legal entity which is organized or operated for the profit or benefit of its shareholders or other owners and must be distinguishable or legally separable

from that of an individual acting on his/her own behalf.

#### *B. Reimbursement of Costs*

Federal cooperative agreement funds may be requested for reimbursement of allowable costs incurred by awardees in conducting the demonstrations. These funds, however, are not intended to cover costs that are reimbursable under an existing public or private program.

#### *C. Grantee Share of the Project Cost*

Recipients of a cooperative agreement are required to contribute towards the cost of each project. Generally, 5 percent of the total cost is considered acceptable. Recipients' contributions may be cash or in-kind (property or services) or third party cash or in-kind contributions. SSA will not provide total funding for any project.

#### *D. Availability of Forms*

An application kit containing all instructions and forms needed to apply for a cooperative agreement under this announcement may be obtained by writing or telephoning Grants Management Staff, Mr. Lawrence H. Pullen, Chief, Division of Contract and Grant Operations, OAG, DCFAM; Social Security Administration; 1-E-4 Gwynn Oak Building; 1710 Gwynn Oak Avenue; Baltimore, MD 21207; telephone (301) 965-9500.

When requesting an application kit, the applicant should refer to project announcement number SSA-OSSI-92-1 and the date of this announcement to ensure receipt of the proper kit.

#### **Resource Material**

The following resource materials are available in the application kit for use in preparing an application:

- All necessary forms and instructions;
- The SSI Outreach Demonstration program evaluation protocol;
- Report formats for progress and final reports;
- Description of current outreach demonstration projects; and
- A list of existing public information materials.

In addition, "Understanding SSI," a seminar package prepared for training outside organizations and agencies about SSI, can be obtained by calling the SSI Outreach Branch at (301) 965-9798.

#### *E. Application Submission*

All applications requesting Federal funds for cooperative agreement projects must be submitted on the standard forms provided in the

application kit. The application shall be executed by an individual authorized to act for the applicant organization and to assume for the applicant organization the obligations imposed by the terms and conditions of the cooperative agreement award.

An original and a minimum of two signed copies of the application material must be submitted to the address indicated.

Submittal of six additional copies is optional but will expedite processing; there is no penalty for not submitting the additional copies.

#### *F. Application Consideration*

Applications are initially screened for relevance to this announcement. If judged irrelevant, the applications are returned to the applicants.

Applications that are complete and conform to the requirements of this announcement will be reviewed competitively against the evaluation criteria specified in section III, part H, of this announcement and evaluated by Federal and non-Federal personnel. The results of this review and evaluation will assist the Social Security Administration in considering competing applications. Although the results of this review are a primary factor considered in making the decisions about applications, review scores are not the only factor used.

This program announcement is designed to fill in gaps in the current demonstration program and to expand its scope. Accordingly, the degree to which a proposal fills in gaps in SSA's current outreach activities (e.g., methodology, target population) is a factor in final selection. Also, geographic dispersion is required to expand the program throughout the nation as well as to equalize the resulting workload on SSA field facilities and will be considered in the final selection.

#### *G. Application Approval*

Cooperative agreement awards will be issued within the constraints of available Federal funds. The official award document is the "Notice of Cooperative Agreement Award." It will provide the amount of funds awarded, the purpose of the award, the budget period for which the funding is given, the total project period for which support is contemplated, the amount of grantee financial participation, and any special terms and conditions of the cooperative agreement. All projects must be operational within 60 days from the date of the issuance of the cooperative agreement award.

#### *H. Criteria for Screening and Review of Applications*

All applications that meet the deadline will be screened to determine completeness and conformity to the requirements of this announcement. Complete and conforming applications will then be reviewed and evaluated.

(1) *Application Screening Requirements:* In order for an application to be in conformance, it must meet all of the following requirements:

(A) *Number of Copies:* An original signed application and two signed copies must be submitted. Six additional copies are optional but will expedite processing.

(B) *Length:* The program narrative portion of the application (Part III of SSA-96-BK) may not exceed 20 double spaced pages (or 10 single spaced pages) typewritten on one side of the paper only using standard size (8½" x 11") paper. Attachments that support the program narrative count within the 20-page limit.

(2) *Application Evaluation Criteria:* Applications which pass the screening will be reviewed by individuals who will score the applications, basing their scoring decisions on the following criteria (relative weights are shown in parenthesis):

(A) *Project Objective and Expected Benefit (15 points):*

1. How closely do the project objectives fit with the approaches to outreach (see Section II.D) specified in the application?

2. Are the expected project benefits clearly described and related to the objectives of the project? Are the benefits quantifiable and realistic?

3. What is the universe of potential eligibles? (Provide demographic data to support these estimates.)

4. Does the project take into account prior and ongoing outreach efforts by SSA and other organizations in the geographic area?

5. If the proposal replicates an existing community effort, describe the new component which will lead to significant increases in the number of people reached and approved for benefits.

(B) *Project Design (35 points):*

1. Does the proposal contain a logical and detailed plan for accomplishing the objectives of the project?

2. Does the proposed approach offer a reasonable prospect of success in achieving the project's objectives and expected results? Are there any weaknesses in this approach? Are there any unnecessary or inappropriate objectives, tasks, sub-tasks?

3. Is a time-line chart provided? Are the time sequences, including beginning and ending dates for tasks, and project deadlines clearly identified? Are they logical in terms of their order and placement?

4. Does the proposal demonstrate an understanding of SSA's organizational structure and SSI application process?

5. Does the proposal demonstrate familiarity with the QMB program? If the target population includes disabled children or adults, does the proposal demonstrate familiarity with the State Disability Determination Service's role and responsibilities?

6. Are proposed public information materials clearly described regarding both the need and the approach? Is it clear why existing SSA materials cannot be utilized? (SSA is not interested in the development of pamphlets [see section II.D].)

7. Does the proposed approach incorporate the SSA evaluation protocol? Does the time-line list dates for quarterly progress reports and a final report? Will additional project-specific data be gathered? If so:

a. Are the criteria for evaluation linked to the objectives of the project?

b. Are the evaluation measures and instruments appropriate, practical, and complete? Are the measures statistically sound?

c. Does the proposal explain in detail how the additional data will be gathered?

C. *Organization and Budget (30 points):*

1. Is the project management plan adequate to ensure appropriate control and oversight? Is a member of the applicant organization responsible for overall project management? Will that individual work full time on the project and will he/she be based at the site where outreach will be done?

2. Does the applicant show evidence of demonstrated knowledge and experience with the SSI program and related social services programs (including the QMB program) for older persons and/or disabled adults or children? Does the applicant show evidence of demonstrated experience working with and mobilizing private sector resources?

3. Are the key staff qualified to do their assigned tasks? Are resumes included for key staff? Are consultants and advisors used appropriately?

4. Does the budget justification adequately describe the resources necessary to conduct the project? Is the budget reasonable as measured against the intended results? If subcontractors are to be used, does the budget justify

the need and state why the work cannot be done by the applicant? If the subcontractors will further subcontract part of their work, is the reason, cost, and identity of the individual or company clearly shown (if known)?

5. Is the use of volunteers proposed and are they to be used appropriately, with supervision, training, and support from project staff?

6. Are collaborative efforts with other agencies or organizations clearly identified and documented? How will these efforts enhance the project? (Letters of Commitment must be included with the application.)

7. Has the local Social Security field office been contacted for programmatic and organizational information? Is the role of SSA in the daily outreach activities of the cooperative agreement clearly defined? (Letters of commitment should NOT be requested from Social Security field offices or State Disability Determination Services.)

**(D) Expected Outcomes (20 points):**

1. Is the project effective? How many contacts are estimated to be made by the applicant organization with potential eligibles? How many inquiries to the applicant organization as well as SSI program applications, and awards of benefits are estimated to result from the project? (SSA is not interested in percentage increases over prior SSI application rates without concomitant increases in awards.)

2. Is the project replicable? Does the proposal explain adequately how the project activities will be continued in the project site? Once the project has

been terminated, what additional sources of funding will be sought to continue the project once Federal funding ceases at the conclusion of the cooperative agreement?

3. Is the project transferable? Does the proposal explain adequately how the project activities will be replicated in other areas once the project has been terminated?

4. Is the project efficient? In addition to the anticipated number of new awards and the regional and/or national transferability of the project design, what other outcomes are expected?

**(E) Closing Date for Receipt of Applications:**

The closing date for submittal of applications under this announcement is November 19, 1991. Applications must be mailed or hand-delivered to: Grants Management Staff, Division of Contract and Grant Operations, OAG, DCFAM, Social Security Administration; Attention: SSA OSSI-92-1; Priority Area: \_\_\_\_\_, 1-E-4 Gwynn Oak Building, 1710 Gwynn Oak Avenue, Baltimore, MD 21207.

Hand-delivered applications are accepted during the hours of 8:00 a.m. to 5:00 p.m., Monday through Friday. An application will be considered as meeting the deadline if it is either:

1. Received on or before the deadline date at the above address; or
2. Mailed through the U.S. Postal Service or sent by commercial carrier on or before the deadline date and received in time to be considered during the competitive review and evaluation process. Applicants are cautioned to

request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier as evidence of timely mailing. Private metered postmarks are not acceptable as proof of timely mailing.

Applications which do not meet the above criteria are considered late applications. SSA will notify each late applicant that its application will not be considered.

**Note:** Facsimile copies will not be accepted.

**Paperwork Reduction Act**

This notice contains reporting requirements in "The Application Process" section. However, the information is collected using Form SSA-96-BK, Federal Assistance, which has Office of Management and Budget clearance number 0960-0184.

**Executive Order 12372—  
Intergovernmental Review of Federal Programs**

This program is not covered by the requirements of Executive Order 12372 relating to the Federal policy for consulting with State and local elected officials on proposed Federal financial assistance.

(Catalog of Federal Domestic Assistance: Program No. 93.812, Social Security—Research and Demonstration.)

Approved: September 13, 1991.

**Gwendolyn S. King,**

*Commissioner of Social Security.*

[FR Doc. 91-22650 Filed 9-19-91; 8:45 am]

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**Federal Register**

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**Friday  
September 20, 1991**

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**Part V**

**Department of  
Agriculture**

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**Cooperative State Research Service**

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**7 CFR Part 3403  
Small Business Innovation Research  
Grants Program; Administrative  
Provisions; Final Rule**

**DEPARTMENT OF AGRICULTURE****Cooperative State Research Service****7 CFR Part 3403****Small Business Innovation Research Grants Program; Administrative Provisions**

**AGENCY:** Cooperative State Research Service, USDA.

**ACTION:** Final rule.

**SUMMARY:** This final rule amends the Cooperative State Research Service (CSRS) regulations relating to the administration of the Small Business Innovation Research (SBIR) Grants Program on the procedures to be followed annually in the solicitation of research grant proposals, the evaluation of such proposals, and the award of competitive research grants under this program. This rule amends those regulations by requiring that the space used by a small business awardee to conduct research be space over which it has exclusive control, that proposals include letters of consent from consultants and subcontractors in order for their participation to be evaluated during the review process, limiting equipment in a phase I grant to 10% of the budget, lengthening the period of phase I research in special cases, by offering an incentive to firms with prior USDA-SBIR grant support who summarize their progress in commercializing the results of the research, revising the "proprietary information" and "phase I results" sections, and by making a few additional changes. CSRS is publishing these regulations in their entirety in order to enhance their use by the public and to ensure expeditious submission and processing of grant proposals.

**EFFECTIVE DATE:** September 20, 1991.

**FOR FURTHER INFORMATION CONTACT:** Terry J. Pacovsky, Director, Awards Management Division, Office of Grants and Program Systems, Cooperative State Research Service, U.S. Department of Agriculture, Washington, DC 20250-2200. (Telephone (202)-401-5024).

**SUPPLEMENTARY INFORMATION:****Paperwork Reduction**

Under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. chapter 35), the collection of information requirements contained in this final rule have been approved under OMB Document Nos. 0524-0022, 0524-0025, and 0524-0028.

**Classification**

This rule has been reviewed under Executive Order 12291, and it has been determined that it is not a major rule because it does not involve a substantial or major impact on the Nation's economy or on large numbers of individuals or businesses. There will be no major increase in cost or prices for consumers, individual industries, Federal, State, or local governmental agencies, or geographic regions. It will not have a significant economic impact on competitive employment, investment, productivity, innovation, or on the ability of U.S. enterprises to compete with foreign-based enterprises in domestic or export markets. In addition, it will not have a significant impact on a substantial number of small entities as defined in the Regulatory Flexibility Act, Public Law No. 96-534 (5 U.S.C. 601).

**Regulatory Analysis**

Not required for this rulemaking.

**Environmental Impact Statement**

This regulation does not significantly affect the environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969, as amended.

**Catalog of Federal Domestic Assistance**

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.212, Small Business Innovation Research (SBIR Program). For the reasons set forth in the Final Rule-related Notice to 7 CFR part 3015, subpart V, 48 FR 29115, June 24, 1983, and pursuant to the Notice found at 52 FR 22831, June 16, 1987, this program is excluded from the scope of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

**Background and Purpose**

On June 10, 1988, the Department published a Final Rule in the Federal Register (53 FR 21966-21972), which established part 3403 of title 7, subtitle B, chapter XXXIV of the Code of Federal Regulations, for the purpose of administering the U.S. Department of Agriculture's Small Business Innovation Research (SBIR) Grants Program conducted under the authority of the Small Business Innovation Development Act of 1982, as amended (15 U.S.C. 638) and section 630 of the Act making appropriations for Agriculture, Rural Development, and Related Agencies' programs for fiscal year ending September 30, 1987, and for other purposes, as made applicable by section 101(a) of Public Law No. 99-591, 100

Stat. 3341. This rule established and codified the procedures to be followed in the solicitation of competitive small business innovation research proposals, the evaluation of such proposals, and the award of grants under this program. On June 4, 1991, the Department published a Notice in the Federal Register (56 FR 25600-25608) proposing the amendment of this Rule and inviting comments from interested individuals and organizations. Written comments were requested by July 5, 1991. No comments were received.

**List of Subjects in 7 CFR Part 3403**

Grant programs—agriculture, Grant administration.

For the reasons set out in the preamble, title 7, subtitle, B, chapter XXXIV, part 3403 of the Code of Federal Regulations is revised to read as follows:

**PART 3403—SMALL BUSINESS INNOVATION RESEARCH GRANTS PROGRAM****Subpart A—General Information**

- Sec.  
3403.1 Applicability of regulations.  
3403.2 Definitions.  
3403.3 Eligibility requirements.

**Subpart B—Program Description**

- 3403.4 Three-phase program.

**Subpart C—Preparation and Submission of Proposals**

- 3403.5 Requests for proposals.  
3403.6 General content of proposals.  
3403.7 Proposal format for phase I applications.  
3403.8 Proposal format for phase II applications.  
3403.9 Submission of proposals.

**Subpart D—Proposal Review and Evaluation**

- 3403.10 Proposal review.  
3403.11 Phase I evaluation criteria.  
3403.12 Phase II evaluation criteria.  
3403.13 Availability of information.

**Subpart E—Supplementary Information**

- 3403.14 Terms and conditions of grant awards.  
3403.15 Notice of grant awards.  
3403.16 Use of funds; changes.  
3403.17 Other Federal statutes and regulations that apply.  
3403.18 Other Conditions.  
Authority: 5 U.S.C. 301.

**Subpart A—General Information****§ 3403.1. Applicability of regulations.**

(a) The regulations of this part apply to small business innovation research grants awarded under the general authority of section 630 of the Act making appropriations for Agriculture,

Rural Development, and Related Agencies' programs for fiscal year ending September 30, 1987, and for other purposes, as made applicable by section 101(a) of Public Law Number 99-591, 100 Stat. 3341, and the provisions of the Small Business Innovation Development Act of 1982, as amended (15 U.S.C. 638). The Small Business Innovation Development Act of 1982, as amended, mandates that each Federal agency with an annual extramural budget for research or research and development in excess of \$100 million participate in a Small Business Innovation Research (SBIR) program by reserving a statutory percentage of its annual extramural budget for award to small business concerns for research or research and development in order to stimulate technological innovation, use small business to meet Federal research and development needs, increase private sector commercialization of innovations derived from Federal research and development, and foster and encourage minority and disadvantaged participation in technological innovation. The U.S. Department of Agriculture (USDA) will participate in this program through the issuance of competitive research grants which will be administered by the Office of Grants and Program Systems, Cooperative State Research Service (CSRS).

(b) The regulations of this part do not apply to research grants awarded by the Department of Agriculture under any other authority.

#### § 3403.2 Definitions.

As used in this part:

(a) *Ad hoc reviewers* means experts or consultants, qualified by training and experience in particular scientific or technical fields to render expert advice on the scientific or technical merit of grant applications in those fields, who review on an individual basis one or several of the eligible proposals submitted to this program in their area of expertise and who submit to the Department written evaluations of such proposals.

(b) *Awarding official* means any officer or employee of the Department who has the authority to issue or modify research project grant instruments in behalf of the Department.

(c) *Budget period* means the interval of time into which the project period is divided for budgetary and reporting purposes.

(d) *Department* means the Department of Agriculture.

(e) *Funding agreement* is any contract, grant, or cooperative agreement entered into between any Federal agency and any small business for the performance

of experimental, developmental, or research work funded in whole or in part by the Federal Government.

(f) *Grantee* means the small business concern designated in the grant award document as the responsible legal entity to whom a grant is awarded under this part.

(g) *Minority and disadvantaged small business* is a concern:

(1) Which is at least 51 percent owned by one or more minority and disadvantaged individuals or, in the case of any publicly owned business, one in which at least 51 percent of the voting stock is owned by one or more minority and disadvantaged individuals; and

(2) Whose management and daily business operations are controlled by one or more such individuals. For purposes of this program, a minority and disadvantaged individual is defined as a member of any of the following groups: Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, or Subcontinent Asian Americans.

(h) *Peer review group* means experts or consultants, qualified by training and experience in particular scientific or technical fields to give expert advice on the scientific and technical merit of grant applications in those fields, who assemble as a group to discuss and evaluate all of the eligible proposals submitted to this program in their area of expertise.

(i) *Principal investigator* means a single individual designated by the grantee in the grant application and approved by the Department who is responsible for the scientific and technical direction of the project.

(j) *Program solicitation* is a formal request for proposals whereby an agency notifies the small business community of its research or research and development needs and interests in selected areas and invites proposals from small business concerns in response to those needs.

(k) *Project* means the particular activity within the scope of one of the research topic areas identified in the annual solicitation of applications, which is supported by a grant award under this part.

(l) *Project period* means the total length of time that is approved by the Department for conducting the research project as outlined in an approved grant application.

(m) *Research or research and development (R&D)* means any activity which is:

(1) A systematic, intensive study directed toward greater knowledge or understanding of the subject studied;

(2) A systematic study directed specifically toward applying new knowledge to meet a recognized need; or

(3) A systematic application of knowledge toward the production of useful materials, devices, and systems or methods, including design, development, and improvement of prototypes and new processes to meet specific requirements.

(n) *Research project grant* means the award by the Department of funds to a grantee to assist in meeting the costs of conducting for the benefit of the public an identified project which is intended and designed to establish, discover, elucidate, or confirm information or the underlying mechanisms relating to a research topic area identified in the annual solicitation of applications.

(o) *Small business* means a concern which at the time of award of phase I and phase II funding agreements meets the following criteria:

(1) Is organized for profit, independently owned or operated, is not dominant in the field in which it is proposing, has its principal place of business located in the United States, has a number of employees not exceeding 500 (full-time, part-time, temporary, or other) in all affiliated concerns owned or controlled by a single parent concern, and meets the other regulatory requirements outlined in 13 CFR part 121. Business concerns, other than licensed investment companies, or State development companies qualifying under the Small Business Investment Act of 1958, 15 U.S.C. 661, et seq., are affiliates of one another when directly or indirectly one concern controls or has the power to control the other or third parties (or party) control or have the power to control both. Control can be exercised through common ownership, common management, and contractual relationships. The term "affiliates" is defined in greater detail in 13 CFR 121.401(a). The term "number of employees" is defined in 13 CFR 12.407. Business concerns include, but are not limited to, any individual, partnership, corporation, joint venture, association, or cooperative.

(2) Is at least 51 percent owned, or in the case of a publicly owned business at least 51 percent of its voting stock is owned, by United States citizens or lawfully admitted permanent resident aliens.

(p) *Subcontract* is any agreement, other than one involving an employer-employee relationship, entered into by a Federal Government funding agreement awardee calling for supplies or services

required solely for the performance of the original funding agreement.

(q) *United States* means the several States, the territories and possessions of the United States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the District of Columbia.

(r) *Women-owned small business* means a concern that is at least 51 percent owned by a woman or women who also control and operate it. "Control" as used in this context means exercising the power to make policy decisions. "Operate" as used in this context means being actively involved in the day-to-day management of the concern.

#### § 3403.3 Eligibility requirements.

(a) *Eligibility of firm.* Each organization submitting a proposal must qualify as a small business for research purposes, as defined in § 3403.2. Joint ventures and limited partnerships are eligible to apply for and to receive research grants under this program, provided that the entity created qualifies as a small business in accordance with section 2(3) of the Small Business Act (15 U.S.C. 632) and as defined in § 3403.2(o) of this part. For both phase I and phase II the research must be performed in the United States. A minimum of two-thirds of the research or analytical work, as determined by budget expenditures, must be performed by the proposing organization under phase I grants. For phase II awards, a minimum of one-half of the research or analytical effort must be conducted by the proposing firm. The space used by the SBIR awardee to conduct the research must be space over which it has exclusive control for the period of the grant.

(b) *Eligibility of principal investigator.* The primary employment of the principal investigator must be with the proposing firm at the time of award and during the conduct of the proposed research. Primary employment means that more than one-half of the principal investigator's time is spent in the employ of the small business. Primary employment with the small business applicant precludes full-time employment with another organization. If the proposed principal investigator is employed by another organization (e.g., university or another company) at the time of submission of the application, documentation must be submitted with the proposal from the principal investigator's current employer verifying that, in the event of an SBIR award, he/she will become a less-than half-time employee of such organization and will

remain so for the duration of the SBIR project.

#### Subpart B—Program Description

##### § 3403.4 Three-phase program.

The Small Business Innovation Research Grants Program will be carried out in three separate phase described below. The first two phases are designed to assist USDA in meeting its research and development objectives and will be supported with Federal funds. The purpose of the third phase is to pursue the commercial applications or objectives of the research carried out in phases I and II through the use of private, non-Federal funds.

(a) Phase I is the initial stage in which the scientific and technical merit and feasibility of an idea related to one of the research areas described in the program solicitation is evaluated, normally for a period not to exceed 6 months. In special cases, however, where a proposed research project requires more than 6 months to complete, a longer grant period may be considered. In such cases the phase I award will still be limited to \$50,000, and the submission of a Phase II proposal will be delayed by one year.

(b) Phase II is the principal research or research and development effort in which the results from Phase I are expanded upon and further pursued, normally for a period not to exceed 24 months. Only those small businesses previously receiving phase I awards are eligible to submit phase II proposals. For each phase I project funded the awardee may apply for a phase II award only once. Phase I awardees who for valid reasons cannot apply for phase II support in the next fiscal year funding cycle may apply for support not later than the second fiscal year funding cycle.

(c) Phase III is the pursuit of commercial objectives resulting from the Federally supported work carried out in phases I and II. This portion of the project is performed by the small business firm and privately funded by a non-Federal source through the use of a follow-on funding commitment. A follow-on funding commitment is an agreement between the small business firm and a provider of follow-on capital for a specified amount of funds to be made available to the small business for further development of their effort upon achieving certain mutually agreed upon technical objectives during phase II.

#### Supart C—Preparation and Submission of Proposals

##### § 3403.5 Requests for proposals.

(a) *Phase I.* A program solicitation requesting phase I proposals will be prepared each fiscal year in which funds are made available for this purpose. The solicitation will contain information sufficient to enable eligible applicants to prepare grant proposals and will include descriptions of specific research topic areas which the Department will support during the fiscal year involved, forms to be completed and submitted with proposals, and special requirements. A notice will be published in the *Federal Register* informing the public of the availability of the program solicitation.

(b) *Phase II.* For each fiscal year in which funds are made available for this purpose, the Department will send a letter requesting phase II proposals from the phase I grantees eligible to apply for phase II funding in that fiscal year. The letter will contain information sufficient to enable eligible applicants to prepare grant proposals and will include forms to be submitted with proposals as well as special requirements.

##### § 3403.6 General content of proposals.

(a) The proposed research must be responsive to one of the USDA program interests stated in the research topic descriptions of the program solicitation.

(b) Proposals must cover only scientific research activities. A firm must not propose product development, technical assistance, demonstration projects, classified research, or patent applications. Literature surveys should be conducted prior to preparing proposals for submission and must not be proposed as a part of the SBIR phase I or phase II effort. Proposals principally for the development of proven concepts toward commercialization or for market research should not be submitted since such efforts are considered the responsibility of the private sector and therefore are not supported by USDA.

(c) A proposal must be limited to only one topic. The same proposal may not be submitted under more than one topic. However, an organization may submit separate proposals on the same topic. Where similar research is discussed under more than one topic, the proposer should choose that topic whose description appears most relevant to the proposer's research concept. Duplicate proposals will be returned to the applicant without review.

(d) Phase I applicants should submit a research proposal of no more than 25 pages, including cover page, budget, and

all proposal-related enclosures or attachments. The text must be prepared on only one side of the page using standard 8½"×11" white paper, with no type smaller than elite regardless of whether it is single or double spaced. In the interest of equity to all proposers, no additional attachments, appendixes, or references beyond the 25-page limitation will be considered in the proposal evaluation process, and proposals in excess of the 25-page limitation will not be considered for review or award. In addition, supplementary materials, revisions, and/or substitutions will not be accepted after the due date for proposals. Phase II applicants should submit a research proposal of no more than 50 pages, including cover page, budget, and all proposal-related enclosures or attachments.

#### § 3403.7 Proposal format for phase I applications

(a) *Cover sheet.* Photocopy and complete Form CSRS-667 in the program solicitation. The original of the cover sheet must at a minimum contain the pen-and-ink signatures of the proposed principal investigator(s) and the authorized organizational official. A proposal which does not contain the signature of the authorized organizational official will not be considered a legal document and will be returned to the proposing small business firm without review. All other copies of the proposal must also contain a cover sheet, but facsimile or photocopied signatures will be accepted. The title should be a brief (80-character maximum), clear, specific designation of the research proposed. It will be used to provide information to Congress and also will be used in issuing press releases. Therefore, it should not contain highly technical words. In addition, phrases such as "investigation of" or "research on" should not be used.

(b) *Project summary.* Photocopy and complete form CSRS-668 in the program solicitation. The technical abstract should include a brief description of the problem or opportunity, project objectives, and a description of the effort. Anticipated results and potential commercial applications of the proposed research also should be summarized in the space provided. Keywords, to be provided in the last block on the page, should characterize the most important aspects of the project. The project summary of successful proposals may be published by USDA and, therefore, should not contain proprietary information.

(c) *Technical content.* The main body of the proposal should include:

(1) *Identification and significance of the problem or opportunity.* Clearly state the specific technical problem or opportunity addressed and its importance.

(2) *Background and rationale.* Indicate the overall background and technical approach to the problem or opportunity and the part that the proposed research plays in providing needed results.

(3) *Relationship with future research or research and development.* Discuss the significance of the phase I effort in providing a foundation for the phase II R&D effort. State the anticipated results of the approach if the project is successful (phases I and II). This should address: The technical, economic, social, and other benefits to the Nation and to users of the results such as the commercial sector, the Federal Government, or other researchers; the estimated total cost of the approach relative to benefits; and, if appropriate, any specific policy issues or decisions which might be affected by the results.

(4) *Phase I technical objectives.* State the specific objectives of the phase I research or research and development effort, including the technical questions it will try to answer to determine the feasibility of the proposed approach.

(5) *Phase I work plan.* This work plan must provide an explicit, detailed description of the phase I research or research and development approach. The plan should indicate the tasks to be performed as well as how and where the work will be carried out. The phase I effort should attempt to determine the technical feasibility of the proposed concept. The work plan should be linked with the technical objectives of the research and the questions the effort is designed to answer. Therefore, it should flow logically from § 3403.7(c)(4) of this part. This section should constitute a substantial portion of the total proposal.

(6) *Related research or research and development.* Describe the significant research or research and development activities from relevant literature that are directly related to the proposed effort, including any conducted by the principal investigator or by the proposing firm, how it relates to the proposed effort, and any planned coordination with outside sources. The proposer must persuade reviewers that he or she is aware of related research in the selected subject.

(d) *Key personnel and bibliography.* Identify key personnel involved in the effort, including information on their directly related education and experience. For each key person, provide a chronological list of the most recent representative publications in the

topic area during the preceding 5 years,<sup>9</sup> including those in press. List the authors (in the same order as they appear on the paper), the full title, and the complete reference as these usually appear in journals. Where vitae are extensive, summaries that focus on most relevant experience or publications may be necessary to meet the proposal size limitation in phase I and phase II.

(e) *Facilities and equipment.* Describe the types, location, and availability of instrumentation and physical facilities necessary to carry out the work proposed. Items of equipment to be purchased must be fully justified under this section.

(f) *Consultants.* Involvement of university or other consultants in the planning and research stages of the project is permitted and may be particularly helpful to small firms which have not previously received Federal research awards. If such involvement is intended, it should be described in detail. Proposals must include letters from proposed consultants indicating willingness to serve in order for such participation to be evaluated during the proposal review process.

(g) *Potential post application.* Briefly describe:

(1) Whether and by what means the proposed research appears to have potential commercial application; and

(2) Whether and by what means the proposed research appears to have potential use by the Federal Government.

Firms with prior USDA SBIR grant support should summarize their progress in commercializing the results of that research. Past performance in the commercialization process may be a consideration in award decisions.

(h) *Current and pending support.* If a proposal, substantially the same as the one being submitted, has been previously funded or is currently funded, pending, or about to be submitted to another Federal agency or to USDA in a separate action, the proposer must provide the following information:

(1) Name and address of the agency(s) to which a proposal was submitted, or will be submitted, or from which an award is expected or has been received.

(2) Date of actual or anticipated proposal submission or date of award, as appropriate.

(3) Title of proposal or award, identifying number assigned by the agency involved, and the date of program solicitation under which the proposal was submitted or the award was received.

(4) Applicable research topic area for each proposal submitted or award received.

(5) Title of research project.

(6) Name and title of principal investigator for each proposal submitted or award received. USDA will not make awards that duplicate research funded (or to be funded) by other Federal agencies.

(i) *Cost breakdown on proposal budget.* Photocopy and complete Form CSRS-55 in the program solicitation only for the phase under which you are currently applying. (An applicant for phase I funding should not submit both phase I and II budgets.) Please note the following in completing the budget:

(1) *Salaries and wages.* Indicate the number and kind of personnel for whom salary support is sought. For key personnel, also indicate the number of work months of involvement to be supported with USDA funds (see blocks labeled "CSRS Funded Work Months").

(2) *Equipment.* Performing organizations are expected to have appropriate facilities, suitably furnished and equipped. Items of equipment may be requested provided that they are specifically identified and adequately justified, but such requests should normally not exceed 10% of the budget for phase I. Equipment is defined as an article of nonexpendable, tangible personal property having a useful life of more than 2 years and an acquisition cost of \$500 or more per unit. Vesting of title to equipment purchased with funds provided under an SBIR funding agreement will be determined by USDA. Awardees should plan to lease expensive equipment.

(3) *Travel.* The inclusion of travel will be carefully reviewed with respect to need and appropriateness for the research proposed. Foreign travel may not be included in the phase I budget.

(4) *Subcontracting limits.* Subcontracting may not exceed one-third of the research or analytical effort during phase I. In addition, subcontractors must perform their portion of the work in the United States. If subcontracting costs are anticipated, they should be indicated in block I, "All Other Direct Costs," on the budget sheet. A breakdown of subcontractual costs is required. For proposals involving subcontractual arrangements, the applicant must submit an agreement or letter of consent signed by the subcontractor in order for such participation to be evaluated during the proposal review process.

(5) *Fee.* A reasonable fee not to exceed 7% is permitted under this program. All fees are subject to negotiation with USDA. If a fee is

requested, the amount should be indicated in block M on the budget sheet.

(6) *Indirect costs.* If available, the current rate negotiated with the cognizant Federal negotiating agency should be used, unless restricted by statute. If no rate has been negotiated, a reasonable dollar amount in lieu of indirect costs may be requested, which will be subject to approval by USDA. A proposer may elect not to charge indirect costs and, instead, use all grant funds for direct costs. If a negotiated rate is used, the percentage and base should be indicated in the space allotted under item K on the budget sheet. If indirect costs are not charged, the phrase "None requested" should be written in this space.

(7) *Cost-sharing.* Cost-sharing is permitted for proposals under this program; however, cost-sharing is not required nor will it be an evaluation factor in considering the competitive merit of proposals submitted.

(j) *Research involving special considerations.*

(1) If the proposed research will involve either recombinant DNA molecules, laboratory animal care, or human subjects at risk, the proposal must so indicate. In the event that the project is funded, the proposer may be required to have the research plan reviewed and approved by an appropriate "Institutional Review Board" prior to commencing actual substantive work. It is suggested that proposers contact local universities, colleges, or nonprofit research organizations which have established such reviewing mechanisms to have this service performed.

(2) Guidelines to be applied and observed when conducting such research are:

(i) *Recombinant DNA Molecules.* "Guidelines for Research Involving Recombinant DNA Molecules" issued by the National Institutes of Health, as revised.

(ii) *Human Subjects at Risk.* Regulations issued by the Department of Agriculture. (See 7 CFR part 1c.)

(iii) *Laboratory Animal Care.* Regulations issued by the Department of Agriculture. (See 9 CFR parts 1, 2, 3, and 4.)

(k) *Proprietary information.*

(1) If a proposal contains proprietary information that constitutes a trade secret, proprietary commercial or financial information, confidential personal information, or data affecting the national security, it will be treated in confidence to the extent permitted by law, provided the information is clearly marked by the proposer with the term

"confidential proprietary information" and provided the following legend also appears in the designated area at the bottom of the proposal's cover sheet (Form CSRS-667) and is confined to a separate page or pages:

*Following is proprietary (specify information which (name of proposing organization) requests not be released to persons outside the Government, except for purposes of evaluation.*

(2) USDA by law is required to make the final decision as to whether the information is required to be kept in confidence. Information contained in unsuccessful proposals will remain the property of the proposer. However, USDA will retain for one year one file copy of all proposals received; extra copies will be destroyed. Public release of information for any proposal submitted will be subject to existing statutory and regulatory requirements. Any proposal which is funded will be considered an integral part of the award and normally will be made available to the public upon request except for designated proprietary information.

(3) The inclusion of proprietary information is discouraged unless it is necessary for the proper evaluation of the proposal. If proprietary information is to be included, it should be limited, set apart from other text on a separate page, and keyed to the text by numbers. It should be confined to a few critical technical items which, if disclosed, could jeopardize the obtaining of foreign or domestic patents. Trade secrets, salaries, or other information which could jeopardize commercial competitiveness should be similarly keyed and presented on a separate page. Proposals or reports which attempt to restrict dissemination of large amounts of information may be found unacceptable by USDA. Any other legend than that listed in paragraph (k)(1) of this section may be unacceptable to USDA and may constitute grounds for return of the proposal without further consideration. Without assuming any liability for inadvertent disclosure, USDA will limit dissemination of such information to its employees and, where necessary for the evaluation of the proposal, to outside reviewers on a confidential basis. Since technical reports by the principal investigator(s) may be made available to the public, such reports shall not contain any restrictive language purporting to limit their use other than that which is set off on a proprietary page. However, USDA, to the extent permitted by law, normally will honor a request to delay release of the report for 6 months, or

longer if reasonable, so the proposer may seek patent protection or follow-on funding where appropriate.

(f) *Organizational management information.* Before the award of an SBIR funding agreement, USDA requires the submission of certain organizational management and financial information to assure the responsibility of the proposer. Form CSRS-866 ("Organizational Information") and Form CSRS-865 ("Assurance of Compliance with the Department of Agriculture Regulations Under Title VI of the Civil Rights Act of 1964, as amended") are used for this purpose. This information is not required unless a project is recommended for funding, and then it is submitted on a one-time basis only.

**§ 3403.8 Proposal format for phase II applications.**

(a) *Cover sheet.* Follow instructions found in § 3403.7(a) of this part.

(b) *Project summary.* Follow instructions found in § 3403.7(b) of this part.

(c) *Phase I results.* The proposal should contain an extensive section that lists the phase I objectives and makes detailed presentation of the phase I results. This section should establish the degree to which phase I objectives were met and feasibility of the proposed research project was established.

(d) *Proposal.* Since phase II is the principal research and development effort, proposals should be more comprehensive than those submitted under phase I. However, the outline contained in § 3403.7(c) of this part should be followed, tailoring the information requested to the phase II project.

(e) *Cost breakdown on proposal budget.*

(1) For phase II, a detailed budget is required for each year of requested support. In addition, a summary budget is required detailing the requested support for the overall project period. Form CSRS-55, "Proposal Budget," is to be used for this purpose and may be photocopied as necessary.

(2) *Travel.* Foreign travel may be included as necessary in the phase II budget. Such a request will be reviewed with respect to need and appropriateness for the research proposed and therefore should be adequately justified in the proposal.

(3) *Subcontracting limits.* The instructions found in § 3403.7(i)(4) of this part apply to phase II proposals except that the subcontracting limit is changed from one-third to one-half of the research or analytical effort.

(f) *Organizational management information.* Each phase II awardee will be asked to submit an updated statement of financial condition.

(g) *Follow-on funding commitment.* If the proposer has obtained a contingent commitment for phase III follow-on funding, it should be forwarded with the phase II application. It will not count as part of the 60-page limit for a phase II application.

**§ 3403.9 Submission of proposals.**

The program solicitation for phase I proposals and the letter requesting phase II proposals will provide the deadline date for submitting proposals, the number of copies to be submitted, and the address where proposals should be mailed or delivered.

**Subpart D—Proposal Review and Evaluation**

**§ 3403.10 Proposal review.**

(a) All research grant applications will be acknowledged.

(b) Phase I and phase II proposals will be judged competitively in a two-stage process, based primarily upon scientific or technical merit. First, each proposal will be screened by USDA scientists to ensure that it is responsive to stated requirements contained in the program solicitation. Proposals found to be responsive will be technically evaluated by peer scientists knowledgeable in the appropriate scientific field using the criteria listed in § 3403.11 or § 3403.12 of this part, as appropriate. Proposals found to be nonresponsive will be returned to the proposing firm without review.

(c) Both internal and external peer reviewers may be used during the technical evaluation stage of this process. Selections will be made from among recognized specialists who are uniquely qualified by training and experience in their respective fields to render expert advice on the merit of proposals received. It is anticipated that such experts will include those located in universities, Government, and non-profit research organizations. If possible, USDA intends that peer review groups shall be balanced with minority and female representation and with an equitable age distribution.

(d) Technical reviewers will base their conclusions and recommendations on information contained in the phase I or phase II proposal. It cannot be assumed that reviewers are acquainted with any experiments referred to within a proposal, with key individuals, or with the firm itself. Therefore, the proposal should be self-contained and written

with the care and thoroughness accorded papers for publication.

(e) Final decisions will be made by USDA based upon the ratings assigned by reviewers and consideration of other factors, including the potential commercial application, possible duplication of other research, any critical USDA requirements, program balance, and budget limitation. In addition, the follow-on funding commitment will be a consideration for phase II proposals.

**§ 3403.11 Phase I evaluation criteria.**

USDA plans to select for award those proposals offering the best value to the Nation, with approximately equal consideration given to each of the following criteria except for paragraph (a) of this section which will receive twice the value of any of the other items:

(a) The scientific/technical quality of the phase I research plan and its relevance to the stated objectives, with special emphasis on innovativeness and originality.

(b) Importance of the problem or opportunity and anticipated benefits of the proposed research, if successful.

(c) Adequacy of the phase I objectives to show incremental progress toward proving the feasibility of approach.

(d) Qualifications of the principal investigator(s), other key staff and consultants, and the probable adequacy of available or obtainable instrumentation and facilities.

**§ 3403.12 Phase II evaluation criteria.**

(a) A phase II proposal may be submitted only by a phase I awardee. The phase II proposal will be reviewed for overall merit based on the following criteria with each item receiving approximately equal weight except for paragraphs (a) (1) and (2) of this section, which will receive twice the value of any of the other items:

(1) The scientific/technical quality of the proposed research, with special emphasis on innovativeness and originality.

(2) Degree to which phase I objectives were met and feasibility was established.

(3) The technical, economic, and/or social importance of the problem or opportunity and anticipated benefits if phase II research is successful.

(4) The adequacy of the phase II objectives to meet the problem or opportunity.

(5) The qualifications of the principal investigator(s) and other key personnel to carry out the proposed work.

(6) Reasonableness of the budget requested for the work proposed.

(b) In the event that two or more phase II proposals are of approximately equal technical merit, the follow-on funding commitment for continued development in phase III will be an important consideration. The value of the commitment will depend upon the degree of commitment made by non-Federal investors, with the maximum value resulting from a signed agreement with reasonable terms for an amount at least equal to the funding requested from USDA in phase II.

**§ 3403.13 Availability of information.**

Information regarding the peer review process will be made available to the extent permitted under the Freedom of Information Act (5 U.S.C. 552), the Privacy Act (5 U.S.C. 552a), the SBIR Policy Directive, and implementing Departmental and other Federal regulations. Implementing Departmental Regulations are found at 7 CFR part 1.

**Subpart E—Supplementary Information**

**§ 3403.14 Terms and conditions of grant awards.**

Within the limit of funds available for such purpose, the awarding official shall make research project grants to those responsible, eligible applicants whose proposals are judged most meritorious in the announced program areas under the evaluation criteria and procedures set forth in this part. The beginning of the project period shall be no later than September 30 of the Federal fiscal year in which the project is approved for support. All funds granted under this part shall be expended solely for the purpose for which the funds are granted in accordance with the approved application and budget, the regulations of this part, the terms and conditions of the award, the Federal Acquisition Regulation (48 CFR part 31), and the Department's Uniform Federal Assistance Regulations (7 CFR part 3015).

**§ 3403.15 Notice of grant awards.**

(a) The grant award document shall include, at a minimum, the following:

- (1) Legal name and address of performing organization.
- (2) Title of project.
- (3) Name(s) and address(es) of Principal Investigator(s).
- (4) Identifying grant number assigned by the Department.
- (5) Project period, which specifies how long the Department intends to support the effort.
- (6) Total amount of Federal financial assistance approved during the project period.

(7) Legal authorities under which the grant is awarded.

(8) Approved budget plan for categorizing allocable project funds to accomplish the stated purpose of the grant award.

(9) Other information or provisions deemed necessary by the Department to carry out its granting activities or to accomplish the purpose of a particular research project grant.

(b) The notice of grant award, in the form of a letter, will provide pertinent instructions and information to the grantee which are not included in the grant award document described above.

**§ 3403.16 Use of funds; changes.**

(a) *Delegation of fiscal responsibility.* The grantee may not in whole or in part delegate or transfer to another person, institution, or organization the responsibility for use or expenditure of grant funds.

(b) *Change in project plans.*

(1) The permissible changes by the grantee, principal investigator(s), or other key project personnel in the approved research project grant shall be limited to changes in methodology, techniques, or other aspects of the project to expedite achievement of the project's approved goals. If the grantee and/or the principal investigator(s) are uncertain as to whether a change complies with this provision, the question must be referred to the Department for a final determination.

(2) Changes in approved goals, or objectives, shall be requested by the grantee and approved in writing by the Department prior to effecting such changes. In no event shall requests for such changes be approved which are outside the scope of the original approved project.

(3) Changes in approved project leadership or the replacement or reassignment of other key project personnel shall be requested by the grantee and approved in writing by the Department prior to effecting such changes.

(4) Transfers of actual performance of the substantive programmatic work in whole or in part and provisions for payment of funds, whether or not Federal funds are involved, shall be requested by the grantee and approved in writing by the Department prior to effecting such transfers.

(c) *Changes in project period.* The project period may be extended by the Department without additional financial support for such additional period(s) as the Department determines may be necessary to complete or fulfill the purposes of an approved project. Such extension shall be conditioned upon

prior request by the grantee and approval in writing by the Department.

(d) *Changes in approved budget.* Changes in an approved budget shall be requested by the grantee and approved in writing by the Department prior to instituting such changes if the revision will:

(1) Involve transfers of amounts budgeted for indirect costs to absorb increase in indirect costs;

(2) Involve transfers of amounts budgeted for direct costs to accommodate changes in indirect cost rates negotiated during a budget period and not approved when a grant was awarded;

(3) Result in a need or claim for the award of additional funds; or

(4) Involve transfers or expenditures of amounts requiring prior approval as set forth in the Departmental regulations or in the grant award.

**§ 3403.17 Other Federal statutes and regulations that apply.**

Several other Federal statutes and/or regulations apply to grant proposals considered for review or to research project grants awarded under this part. These include but are not limited to:

7 CFR part 1.1—USDA implementation of Freedom of Information Act.

7 CFR part 3—USDA implementation of OMB Circular A-129, Managing Federal Credit Programs.

7 CFR part 15, subpart A—USDA implementation of title VI of the Civil Rights Act of 1964, as amended.

7 CFR part 3015—USDA Uniform Federal Assistance Regulations, implementing OMB directives (i.e., Circular Nos. A-102, A-110, A-87, A-21, and A-122) and incorporating provisions of 31 U.S.C. 6301-6308 (formerly the Federal Grant and Cooperative Agreement Act of 1977, Public law 95-224), as well as general policy requirements applicable to recipients of Departmental financial assistance.

7 CFR part 3017, as amended—USDA implementation of Governmentwide Debarment and Suspension (Nonprocurement) and Governmentwide Requirements for Drug-Free Workplace (Grants), as amended.

7 CFR part 3018—USDA implementation of New Restrictions on Lobbying. Imposes new prohibitions and requirements for disclosure and certification related to lobbying on recipients of Federal contracts, grants, cooperative agreements, and loans.

46 CFR part 31—Contract Cost Principles and Procedures of the Federal Acquisition Regulation.

29 U.S.C. 794, section 504—Rehabilitation Act of 1973, and CFR part 15B (USDA implementation of statute), prohibiting discrimination based upon physical or mental handicap in Federally assisted programs.

35 U.S.C. 200 et seq.—Bayh-Dole Act, controlling allocation of rights to inventions made by employees of small business firms

and domestic nonprofit organizations, including universities, in Federally assisted programs (implementing regulations are contained in 37 CFR part 401).

**§ 3403.18 Other conditions.**

The Department may, with respect to any research project grant, impose

additional conditions prior to or at the time of any award when, in the Department's judgment, such conditions are necessary to assure or protect advancement of the approved project, the interests of the public, or the conservation of grant funds.

Done at Washington, DC, this 11th day of September, 1991.

**John Patrick Jordan,**

*Administrator, Cooperative State Research Service.*

[FR Doc. 91-22343 Filed 9-19-91; 8:45 a.m.]

**BILLING CODE 3410-22-M**



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Friday  
September 20, 1991

**REGISTRATION**

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**Part VI**

**Department of Labor**

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**Occupational Safety and Health  
Administration**

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**29 CFR Part 1910  
Occupational Exposure to Indoor Air  
Pollutants; Request for Information**

**DEPARTMENT OF LABOR****Occupational Safety and Health Administration****29 CFR Part 1910**

[Docket No. H-122]

RIN 1218-AB37

**Occupational Exposure to Indoor Air Pollutants; Request for Information****AGENCY:** Occupational Safety and Health Administration (OSHA), Labor.**ACTION:** Request for information.

**SUMMARY:** By this notice, OSHA requests comments and information on issues pertinent to indoor air quality (IAQ) in occupational environments. This notice raises major issues which the Agency needs to consider in determining whether regulatory action is appropriate and feasible to control health problems related to poor indoor air quality. The issues on which comment is requested are organized into five broad categories: (1) Definition of and Health Effects Pertaining to Indoor Air Quality; (2) Monitoring and Exposure Assessment; (3) Controls; (4) Local Policies and Practices; and (5) Potential Content of Regulation.

Specifically, information is requested on the definition of and the health effects attributable to poor indoor air quality; ventilation systems performance; protocols for assessing indoor air quality; mitigation methods; building maintenance programs; and the potential contents of a regulation should the Agency determine that such action is appropriate. In addition to seeking information regarding IAQ concerns in general, issues addressed in this notice also focus on specific indoor air contaminants such as passive tobacco smoke (PTS), radon and bioaerosols. With respect to these particular contaminants, information is requested on their relative contribution to the overall degradation of indoor air quality as well as associated health effects and methods of exposure assessment and mitigation.

This Notice invites interested parties to submit comments, recommendations, data and information on the issues detailed in this document as well as other pertinent issues. The information received in response to this Notice will be carefully reviewed and will assist OSHA to determine whether it is necessary and appropriate to pursue regulatory action concerning occupational exposures to indoor air contaminants.

**DATES:** Comments should be postmarked on or before January 21, 1992.

**ADDRESSES:** Comments should be submitted in quadruplicate to the Docket Officer, Docket No. H-122, room N-2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 523-7894.

**FOR FURTHER INFORMATION CONTACT:** Mr. James F. Foster, Occupational Safety and Health Administration, Office of Public Affairs, Room N-3649, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 523-8151.

**SUPPLEMENTARY INFORMATION:****I. Background**

Health complaints related to indoor air quality (IAQ) increased significantly following energy conservation measures instituted in the early seventies. Such measures have generally reduced the infiltration of outside air, allowing the build-up of indoor air contaminants.

Adverse health effects which may be associated with indoor air contaminants are classified as: (1) Sick building syndrome (sometimes called tight building syndrome), and (2) building-related illness.

Sick building syndrome is characterized by general complaints which may include headaches, fatigue, nausea, mucous membrane (eye, nose, and throat) irritation, coughs and muscle pain. These conditions generally are not traceable to a specific substance, but are sometimes attributable to exposure to a combination of substances or to individual susceptibility to lower concentrations of contaminants. Typically, the symptoms are reversible, disappearing or dissipating when the affected individuals leave the building.

The term "building-related illness" describes those specific medical conditions of known etiology which can often be documented by physical signs and laboratory findings. Such illnesses include respiratory allergies and Legionnaires' disease. Building-related illnesses are potentially severe and, in contrast to sick building syndrome complaints, are often traceable to a specific contaminant source such as mold infestation and microbial growth in cooling towers, air handling systems and water-damaged furnishings.

OSHA believes that the major sources of indoor air pollutants include the following:

- (1) Sources outside the building, e.g., contaminated ambient air and radon.
- (2) Emissions from nearby sources, e.g., vehicular emissions from garages, loading platforms and nearby roads.

(3) Equipment, e.g., contaminated HVAC systems and emissions from office equipment.

(4) Human activities, e.g., smoking, housekeeping activities, maintenance activities, and pest control.

(5) Building components and furnishings, e.g., emissions from new furnishings and carpets.

Analyses of specific pollutants in indoor workplaces have identified several hundred volatile organic chemicals (VOCs) as well as other compounds. Several chemicals have been identified for which OSHA has established permissible exposure limits (e.g., formaldehyde, acetic acid). However, investigations of employee complaints regarding indoor air quality have generally shown levels well below permissible exposure limits for OSHA-regulated substances.

Over the past decade, the National Institute for Occupational Safety and Health (NIOSH) has conducted approximately 500 Health Hazard Evaluations for indoor air quality. (Health Hazard Evaluations are workplace investigations conducted at the invitation of the employer to determine the presence of health hazards and to recommend measures to remove them.) The primary types of problems encountered in these investigations were categorized as: inadequate ventilation (52%); contamination from inside the building (17%); contamination from outside the building (11%); microbiological contamination (5%); contamination from building materials and furnishings (3%); and unknown sources (12%).

A particular concern in matters dealing with indoor air quality is exposure to passive tobacco smoke (PTS). A wide range of health effects caused by passive exposure to tobacco smoke has been reported by the Surgeon General, the National Research Council, the Environmental Protection Agency (EPA), and private researchers, as well as by persons reporting health effects due to exposure to passive smoke while at work. These effects range from acute annoyance and eye and respiratory tract irritation to the development of chronic pulmonary disease, cardiovascular disease, and lung cancer.

Tobacco smoke has been classified as a human carcinogen by the International Agency for Research on Cancer (IARC), the Surgeon General, and the EPA. Nonsmokers make up a majority of workers in the workforce (e.g., in 1985 only 33% of men and 28% of women smoked (Tager 1989)). OSHA has estimated, using experimental exposure data published by Cummings et al.

(1990), that up to 77% of the nonsmoking workforce, approximately 75 million men and women, is exposed to PTS while at work.

It has been established in many reports that tobacco smoking is one of the major factors causing poor indoor air quality and that nonsmoker exposure to PTS while at work can be significant. It has also been established that of the more than 3,800 compounds in PTS, 60 are known or suspect carcinogens (Repace and Lowrey 1985). Other PTS constituents are recognized as human teratogens and acute respiratory irritants (Tager 1990).

Public concern over exposure of nonsmokers to PTS while at work and the potential life-threatening health effects resulting from that exposure prompted two public interest groups to petition OSHA for an Emergency Temporary Standard (ETS) in May 1987 to prohibit smoking in all indoor workplaces except for certain specified areas. OSHA determined that available data did not demonstrate that a "grave danger" as defined in section 6(c) of the OSH Act existed due to workplace exposure to PTS. Since the available evidence would not support a "grave danger" finding, OSHA denied the petitions in September 1990.

In response to the OSHA denial, Action on Smoking and Health (ASH), one of the petitioners, filed a petition for review in the United States Court of Appeals for the District of Columbia Circuit in October 1989, seeking to compel the issuance of an ETS. The court upheld OSHA's decision not to issue an ETS in an unpublished decision issued May 10, 1991.

As part of this document asking questions about all major indoor air contaminants, the Agency is also requesting information on occupational exposure to radon. These questions refer not only to the documented health effects attributable to ionizing radiation given off by radon daughters, but also assessment strategies for evaluating ambient levels and mitigation methods for its abatement.

## II. Key Issues on which Comment Is Requested

### *Definition of and Health Effects Pertaining to Indoor Air Quality*

(1) How would you define poor indoor air quality?

(2) OSHA solicits the following information with respect to adverse health effects associated with poor indoor air quality:

(a) What data are available that associate adverse health effects with

exposure to the following types of indoor air contaminants?

- (i) Chemical agents.
- (ii) Bioaerosols.
- (iii) Passive tobacco smoke.
- (iv) Radon.

(b) Based on observations in your workplace or your knowledge of research results, describe the adverse effects that you believe may be attributable to the quality of indoor air.

(c) What percent of the workforce suffers adverse health effects due to poor indoor air quality in their workplace? What is the basis for your estimates?

(d) Based on observations in your workplace or your knowledge from other sources, how much lost work time and decreased productivity may be traceable to illnesses related to poor indoor air quality? What is the basis for your estimate?

(e) Are there any other indicators of workers' illness related to poor indoor air quality?

(3)(a) What correlation, if any, can be made between symptoms presented in IAQ complaints and type of causative agent? For example, are certain symptoms more indicative of exposure to chemical contaminants as opposed to biological contaminants? Please give examples.

(b) If such a correlation has been made, how effective is this information in identifying sources of contaminants?

(4) At least one report (Woods 1989) estimates that between 800,000 and 1,200,000 commercial buildings in the United States have problems that may be classified as Sick Building Syndrome, potentially affecting some 30 to 70 million occupants. The Agency solicits additional data relevant to the development of more precise estimates of the number of workplaces with indoor air quality problems and the number of employees adversely affected.

The following questions are designed to solicit information regarding bioaerosols as a specific source of indoor air contamination:

(5) In cases where IAQ investigations have identified a bioaerosol as the etiologic cause of a building-related illness:

(a) Did complaints occur within a specific length of time?

(b) Were there similarities in symptoms among affected individuals which suggested exposure to a specific agent, e.g., *Legionella pneumophila*? Was the etiologic agent identified?

(c) What laboratory tests were performed to confirm that a specific bioaerosol was responsible for health complaints?

(d) How was the problem resolved?

(6) IAQ investigations conducted by NIOSH indicate that some type of biological contaminant was involved in five percent of the cases.

(a) Are there other data available which indicate the prevalence of biological contaminants as the cause of adverse health effects? If so, please indicate the source of such data.

(b) Are data available which indicate the likelihood that health complaints are related to a specific bioaerosol contaminant? If so, please indicate the source of such data.

A wide spectrum of health effects, including headaches, upper respiratory tract irritation, low birthweight, cardiovascular disease, and lung cancer has been associated with nonsmoker exposure to passive tobacco smoke (PTS). Response to the following questions is requested to enable OSHA to identify specific worker populations that may be sensitive to passive tobacco smoke exposure in the workplace.

(7) Persons with underlying health problems or chemical sensitivities often cannot work in industries where physical strength and endurance or exposure to chemicals occur in the normal job experience.

(a) Is there evidence to suggest that these persons are more susceptible to developing health effects due to short-term exposure to PTS, such as eye and respiratory tract irritation?

(b) Is there evidence to suggest that these persons are more susceptible to developing health effects due to long-term exposure to PTS, such as cardiovascular disease and lung cancer?

(8) Some people may develop an increased sensitivity to chemical pollutants, such as found in PTS, during pregnancy or treatment with certain medications (Calabrese 1978). What additional studies pertain to this sensitivity?

(9) OSHA requests data on the annual incidence rate of chronic obstructive lung disease, asthma, and allergies in the general population. If available, these data will assist the Agency in estimating accurate risk numbers.

(10) OSHA requests the latest, most accurate data on smoking behavior in the working population, with as much detail as possible with respect to age group, sex, race, and occupation.

(11) To your knowledge, have PTS exposures been associated with specific adverse health endpoints in humans?

(12) To your knowledge, have PTS exposures been associated with specific adverse health endpoints in experimental animals?

With respect to IAQ problems, certain reports indicate that multiple factors

may influence health complaints. Such factors may include psychosocial considerations, physical stressors such as temperature, lighting and noise and ergonomics.

(13)(a) Have these factors been considered in instances where IAQ investigations have failed to identify a specific contaminant source?

(b) If yes, was remedial action taken to improve these conditions? Please explain what that action was.

(c) Did health complaints decline?

#### *Monitoring and Exposure Assessment*

(14) If your company keeps records of employee IAQ complaints, can you summarize your experience, emphasizing your efforts to localize the problem, identify the contaminants, determine the adverse health effects, and action taken?

(15) Considering the wide variation in individual responses to chemical or biological exposures and other factors related to indoor air quality, what events should trigger an IAQ investigation?

(16) What physical evidence which might trigger an IAQ investigation (such as stagnant water, mold, broken fans, dirty vents, barriers to good air mixing, new carpeting/insulation) have been identified by you or your employees?

(17) Dust mite infestations in indoor environments are implicated as a cause of allergic reactions and exacerbation of asthma. Recognized as a significant problem in residences, such infestations may be associated with similar complaints in occupational settings.

(a) Has your workplace ever monitored for dust mites?

(b) If yes, why was the monitoring conducted?

(c) Did the results of the monitoring indicate a dust mite infestation?

(d) What methods were used to determine the presence of dust mites?

(18) Colony forming units (cfu) are the usual units used to express measurements of bioaerosols. What correlation, if any, can be made between the number of cfu per cubic meter of air and the potential to cause adverse health effects in susceptible individuals exposed to such contaminants?

(19) What data, if any, are available that suggest that the effects of bioaerosols are influenced by seasonal changes?

(20) Have you made measurements of ventilation rates (in terms of air exchanges or CFM)?

(a) If so, what were the measurement results?

(b) Have you sampled for bioaerosols or other contaminants, e.g., respirable suspended particles?

(c) Was there any correlation between the ventilation measurements and sampling results?

According to the American Society of Heating, Refrigerating, and Air-Conditioning Engineers (ASHRAE), two fundamental procedures are used to improve indoor air quality: (1) Increase ventilation, thereby increasing fresh air introduction and

(2) Measure air contaminant levels and contain them below specified levels (ASHRAE 1989). Thus, air quantity and quality are important considerations in ensuring clean indoor air. The following questions cover ventilation systems and their relative effectiveness.

(21) Please describe the industry you are part of and the type(s) of ventilation system(s) used currently in your workplace?

(a) Natural—wind through open doors or windows

(b) General Exhaust—strategic placement of fans

(c) HVAC System—centrally controlled heating, ventilating, and air conditioning system

(22) Do you have specific data indicating that Variable Air Volume (VAV) systems are associated with more IAQ complaints than Constant Volume (CV) systems?

(23) What monitoring techniques other than ventilation rates do you use to measure indoor air quality in your workplace?

(24) Current IAQ investigations indicate that ambient levels for specific substances are typically found to be within occupational exposure limits.

(a) If your workplace has conducted air monitoring for specific substances, why was such sampling done?

(b) For what substances did you monitor?

(c) What were the concentrations for each substance?

(d) What types of instruments were used in conducting the sampling?

(e) How often did you conduct the sampling?

(25) Specifically, carbon dioxide at levels of 800 to 1,000 ppm has been a traditional indicator of poor indoor air quality due to poor air exchange.

(a) Have you conducted any carbon dioxide monitoring?

(b) If so, what concentrations were found?

(26)(a) Is there any evidence to suggest that IAQ complaints coincide with specific amounts of specific volatile organic chemicals (VOCs) in air (e.g., formaldehyde)? That is, can VOCs in mg/m<sup>3</sup> be used as a measure of IAQ?

(b) Are there practical sampling methods available for estimating total VOCs in air?

(27) NIOSH has developed guidelines for IAQ investigations (NIOSH 1987). If your workplace has conducted investigations:

(a) Did you try an approach different from NIOSH's in your investigation?

(b) If yes, please explain how your approach differed from the NIOSH guidelines.

(28) Did you use existing staff (e.g., a staff industrial hygienist), or external assistance (e.g., OSHA consultative services or a private consultant), in conducting the monitoring?

(29) What were the costs of the survey? Please separate them, if possible, into direct costs (such as detector tubes and labor costs), and indirect costs (such as durable item equipment and clerical support).

(30) In the laboratory evaluation of monitoring samples, did you use laboratory staff or contract with an outside analytical service?

(31) What were the laboratory costs associated with the samples?

(32) In the absence of visible indicators of potential microbial growth such as water-damaged carpeting or furnishings and accumulation of water and slime in HVAC components, what conditions would indicate the need for bioaerosol monitoring?

(33) (a) If you suspect bioaerosol contamination, what sampling techniques do you use to determine the presence or concentration of such contaminants?

(b) What have been the results?

(c) Were any remedial actions necessary?

(d) If so, what actions did you take?

(e) Did you resample following the initial actions?

(f) Did it make a difference?

The following questions specifically ask for information on exposure assessment of workers exposed to PTS and on smoking policies adopted by various employers:

(34)(a) Have you conducted IAQ assessments relative to tobacco smoke contamination?

(b) If yes, for what substance(s) did you measure and what were your results?

(c) What was the cost in terms of personnel and laboratory services?

(35)(a) Is information available on the concentration of PTS components, such as nicotine and particulate matter, detected in the air of indoor workplaces?

(b) If you know of such information, please provide available references.

(36) Are data available that demonstrate specific ranges of concentrations of cotinine or other

biomarkers in biological tissues that are associated with specific levels of exposure to nicotine in PTS?

(37)(a) What is the relationship between inhaled nicotine and cotinine levels in body fluids?

(b) How does this relationship differ for smokers versus nonsmokers?

(38) Are there identifiable biological markers for cumulative exposure which would facilitate investigation of chronic diseases associated with exposure to PTS?

(39)(a) In workplaces where a restricted smoking policy has been implemented, has monitoring and evaluation been performed to determine its effectiveness in reducing levels of PTS components?

(b) If so, what substances are monitored?

(c) How is this monitoring conducted and how frequently is the policy evaluated?

The following questions deal with radon as an indoor air pollutant:

(40) Have you ever monitored for radon in your workplace?

(41) If you have:

(a) Why did you?

(b) Who did the monitoring?

(c) What was the resulting radon level?

(d) Where was the monitoring done (basement, main floor, higher floors)?

(e) What type of monitoring was used (alpha track, charcoal, etc.)? How much did the monitoring cost?

(f) Over what period of time did monitoring take place?

(g) How long was each monitor left in place?

#### Controls

(42) Some citations in the literature state that the primary source of bacteria released into the indoor environment is the human body. Has your workplace addressed spatial considerations to prevent overcrowding, and thus reduce the person to person spread of disease? How did you do this?

(43) Do you have evidence to show that overcrowding is a source of bioaerosol formation?

(44) Do you increase ventilation flow in particularly crowded worksites or conversely reduce ventilation during non-work hours?

(45) Is it part of your company's or building owner's policy to follow the ASHRAE Standard 62-1989 regarding the introduction of fresh outdoor air into the ventilation system?

(46) If the answer to question 45 is yes, do you consider the specific type of work environment in determining the appropriate quantity of fresh air to introduce? For example, the ASHRAE

recommended level for smoking lounges is 60 Cubic Feet per Minute per person (CFM/person) as opposed to 20 CFM/person for regular office space.

(47)(a) If you do not follow the ASHRAE guidelines, do you believe one minimum acceptable CFM/person threshold exists for all indoor work environments which would successfully alleviate all health effects?

(b) What would you recommend that level to be? Please provide supporting information.

(48) What data are available correlating PTS concentrations to ventilation rates and density of smokers?

(49) If you believe there is an acceptable level of passive tobacco smoke in indoor air, how would you maintain this level in your building? What ventilation rate would be appropriate to solve this PTS problem?

(50)(a) Have you found that redesigning the workplace interior (e.g., as in renovation), leaving the ventilation system alone, results in improper distribution of air?

(b) If so, what types of problems ensue after the remodeling?

(51) ASHRAE set its recommendations assuming 100% fresh outdoor air introduction, but states that properly filtered, recirculated air at the same flow rates will adequately remove contaminants to acceptable levels.

(a) Do you agree with this statement?

(b) If yes, please provide information which supports recirculating filtered air as a healthy alternative to 100% fresh air introduction.

(c) If not, what types of problems are associated with recirculated air?

(52)(a) If you recirculate indoor air, do you seasonally adjust the amount of outdoor air your system takes in?

(b) If so, have you observed any trends in illnesses or complaints which parallel the adjustments?

(c) Have you observed any seasonal trends regarding illnesses or complaints independent of adjustment to the system?

(53) Is the current ventilation system the original design or has your company retrofitted a system to improve indoor air quality?

(54) Is it possible to mitigate IAQ problems due to bioaerosol contamination just by properly maintaining the ventilation systems in respect to microbial growth, fungal growth, etc.?

(55) What are the operating costs, exclusive of maintenance, for your ventilation system?

(56) What is your average cost per year for maintenance (in terms of

cleaning, repairing, and replacement parts)?

(57) If changes have been made to upgrade the ventilation system, why were they made and what were the costs associated with the mechanical improvements?

(58)(a) Did the operating costs including those for energy and maintenance change after the upgrade?

(b) If so, did they increase or decrease, and by how much?

Some insurance carriers have been said to increase premiums of companies with inadequate ventilation systems due to potential law suits by employees whose health has been adversely affected by poor indoor air quality.

(59) Has your company experienced an increased insurance premium directly or indirectly attributable to poor indoor air quality?

(60) If so, please describe the situation.

The following questions address means of limiting worker exposure to PTS:

(61) If you use smoke reduction methods:

(a) What types do you use?

(b) What is the yearly cost of the program (1) per employee and (2) per cubic foot of workplace space?

(62) If smoking is allowed in indoor work areas, what should be done to assure that nonsmokers are protected from exposure to PTS?

(63) In your opinion, should smoking control policies differ for different types of workplaces (e.g., factories, offices, stores, restaurants)? If your answer is yes, please state your reasons why you believe this.

(64)(a) If your company confines smoking to designated areas, is the ventilation in such areas mixed with outside air and distributed to nonsmoking areas?

(b) Has monitoring ever been conducted to determine the transfer of smoke constituents from the designated smoking areas to nonsmoking areas? If so, can you supply the results or describe them.

(65) In companies that allow smoking throughout the workplace, describe what, if anything, is done to reduce nonsmoker's exposure to PTS?

(66)(a) In your experience or opinion, is it feasible to reduce PTS contaminant levels to adequate levels just by increasing ventilation?

(b) If so, are costs in equipment and maintenance any different than those required for maintaining good indoor air quality?

(c) If the answer to (b) is yes, what is the cost difference?

(67)(a) Is it necessary to use separate ventilation in smoking areas to reduce the possibility of cross-contamination during air recirculation from smoking areas to nonsmoking areas?

(b) If not, explain why cross-contamination of recirculated air is not a problem.

(68)(a) In smoking areas, what types of commercial room air cleaners (e.g., desk top air cleaners, ionizers) other than ventilation are used to reduce levels of PTS?

(b) How do you know they are effective in removing smoke from the air?

(c) List other commercial air cleaners which are effective in removing PTS-related gases and particulates from the ambient air.

ASHRAE has specified a series of recommended indoor air quality standards to control common indoor contaminants. Commonly mentioned control techniques other than increasing ventilation flow include product improvement (e.g., lead-free paint), filters and electrostatic precipitators (for particulates), and absorbing charcoal beds (to remove gaseous contaminants).

(69) Have you employed any of these devices or techniques to improve overall air quality inside your facility?

(70) If yes, please describe the devices or techniques that you have employed?

(71)(a) If you believe that OSHA should adopt the ASHRAE standards for controlling occupational exposures to indoor air contaminants, please provide any quantitative information you have to support their effectiveness in improving air quality.

(b) If you do not believe that the ASHRAE standards are sufficient, please recommend what other actions should be taken.

(72) Please estimate what you believe the capital costs would be of incorporating the ASHRAE standard into your building's design and how doing so would affect the cost of renovation projects.

(73) How effective have modifications in ventilation systems and IAQ monitoring been in reducing the number of related illnesses and complaints in your workplace?

(74)(a) Do you have a comprehensive program of regular HVAC system inspection and maintenance?

(b) If so, what does the program consist of?

In order to assist OSHA in developing a more complete profile of existing workplace practices in dealing with hazards associated with poor indoor air quality, comment is requested on the following questions:

(75) How many workers in your workplace are affected by your current policy on indoor air quality?

(a) What type of costs (e.g., capital, operating or maintenance costs) have been involved with voluntarily adopting or changing indoor air quality, including smoking, policies?

(b) Have there been any cost savings (e.g., maintenance, insurance, productivity)?

(c) Are there any options you have considered adopting and have analyzed, but have not yet adopted (including ones that have been rejected)?

(d) What are they, what costs and benefits have you identified with them, and why have you not yet adopted them?

(e) What is the nature of your business?

(f) What is the size of the workforce at your establishment?

(76)(a) How have personnel relationships been affected by workplace policies related to indoor air quality, especially smoking?

(b) Have there been any quantifiable benefits in this area related to the implementation of new indoor air quality policies?

(77) If your company allows smoking in indoor areas, please state any restrictions that may apply:

(a) Is smoking restricted to designated smoking areas?

(b) Is smoking restricted during certain times?

(c) Are other restrictions enforced (if so, please state what they are)?

(78) In your opinion or from your experience, are there specific workplaces where it would not be feasible to comply with a standard that consists of any of the following:

(a) smoking in designated areas only,

(b) smoking in a designated area with separate ventilation,

(c) limited exposure to specific levels of PTS components, or

(d) a total smoking ban in indoor work areas?

(79) If your company has developed and implemented a smoking control policy:

(a) What conditions existed that prompted this action?

(b) Did the development and implementation of a successful smoking policy involve broad participation? For example, did the groups that participated include: management, union representatives, employees, smokers and nonsmokers?

(c) With regard to current policy in your workplace, how many workers are affected by the policy?

(d) What has been the effect of any smoking restriction on smoker behavior?

(80)(a) Once a policy was implemented, did you provide smokers with information and access to non-coercive stop-smoking aids, such as smoking cessation clinics, counseling and self-help materials?

(b) If you did, was it effective in helping smokers to quit?

(81)(a) What means do you use to enforce the policy?

(b) Do you use signs to post designated smoking areas?

(82) In the experience of companies that have implemented smoking control policies:

(a) Have costs of implementing and monitoring the policy been estimated?

(b) What are these costs?

(83) If you are a private sector employer, did you consider a smoking control policy in order to reduce potential liability?

(84) If your company has been involved in smoking-related litigation, have you initiated smoking control policies to reduce the possibility of further litigation?

(85) If, as a result of monitoring for radon, you determined that action was required to reduce the level:

(a) What action was taken?

(b) Was monitoring performed subsequent to abatement action?

(c) To what extent did the abatement change the levels?

(d) What was the cost of such mitigation?

#### *Local Policies and Practices*

(86)(a) In your local area (municipality or State) how many establishments have voluntarily established indoor air policies?

(b) What do these policies entail?

(c) Do these policies vary between types of businesses?

(d) Why were these policies adopted?

(87)(a) Are businesses facing legal pressure to implement general clean indoor air policies?

(b) What legal problems have been encountered when establishments have attempted to establish or modify indoor air quality policies?

Where states or localities have decided to regulate smoking in the workplace:

(88) OSHA requests that copies of state or local smoking rules, regulations, or guidelines be submitted.

(a) Why were certain types of workplaces included in the above but others omitted?

(b) Please identify sections of this rule, regulation, or guideline that are different for certain types of employers or conditions of employment (e.g., restaurants, private offices, and

factories) as compared to others (e.g., general office space and public space).

(c) Are structural changes in the ventilation system or the building of barriers between smoking and nonsmoking sections ever a specified option for employers in attempting to comply with the rule, regulation, or guideline?

(89) Have there been any difficulties in implementing, monitoring, enforcing, and evaluating the effectiveness of these rules, regulations, or guidelines in reducing exposure of nonsmokers to PTS?

(90)(a) Has compliance with these various rules, regulations, or guidelines been measured? If so, how?

(b) Have these various rules, regulations, or guidelines been effective in reducing the amount of PTS in various workplaces?

(c) What sort of violations are you experiencing?

(d) What are the penalties for noncompliance?

(e) What type of resources are being used to ensure compliance with the rule, regulation, or guideline?

(91) In the workplace experience, what costs or savings have resulted in your complying with the rule, regulation, or guideline?

#### *Potential Content of Regulation*

(92) If OSHA determines, on the basis of adequate evidence, that regulatory

action is needed to protect employees from adverse health effects related to indoor air quality, what elements do you believe such regulation should include? Please provide the basis for your suggested element(s).

#### III. References

The studies and other data listed below are referred to in this document. These references, designated as Exhibit 2-1—2-8 of Docket Number H-122, are available for examination and copying at the OSHA Docket Office, room N-2625, U.S. Department of Labor, Washington, DC 20210, between 10 am and 4 pm, Monday through Friday, legal holidays excepted.

1. American Society of Heating and Refrigerating and Air-Conditioning Engineers (ASHRAE). 1989. *ASHRAE 62-1989. ASHRAE Standard: Ventilation for Acceptable Indoor Air Quality*. ASHRAE, Inc. Atlanta, Georgia. ISSN 1041-2336.

2. Calabrese, E. 1978. *Pollutants and High-Risk Groups: The Biological Basis of Increased Human Susceptibility to Environmental and Occupational Pollutants*. John Wiley and Sons, New York.

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4. Glantz, S. and Parmley, W. 1991. Passive smoking and heart disease: Epidemiology, physiology, and biochemistry. *Circulation* 83(1):1-11.

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6. Repace, J. and Lowrey, A. 1985. A quantitative estimate of nonsmokers' lung cancer risk from passive smoking. *Environ Int.* 11:3-22.

7. Tager, I. 1989. Health effects of involuntary smoking in the workplace. *N.Y. State J. Med.* 89(1):27-31.

8. Woods, J. 1989. Cost avoidance and productivity in owning and operating buildings. In: Cone, J. and Hodgson, M. (eds): *Problem Buildings: Building-associated Illness and the Sick Building Syndrome*. *Occup. Med. State of Art Rev.* 4:753-770.

#### IV. Authority and Signature

This document was prepared under the direction of Gerard F. Scannel, Assistant Secretary for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., 20210. It is issued pursuant to section 6(b) of the Occupational Safety and Health Act of 1970 (84 stat. 1593; 29 U.S.C. 655).

Signed at Washington, DC, this 16th day of September 1991.

**Gerard F. Scannel,**

*Assistant Secretary of Labor.*

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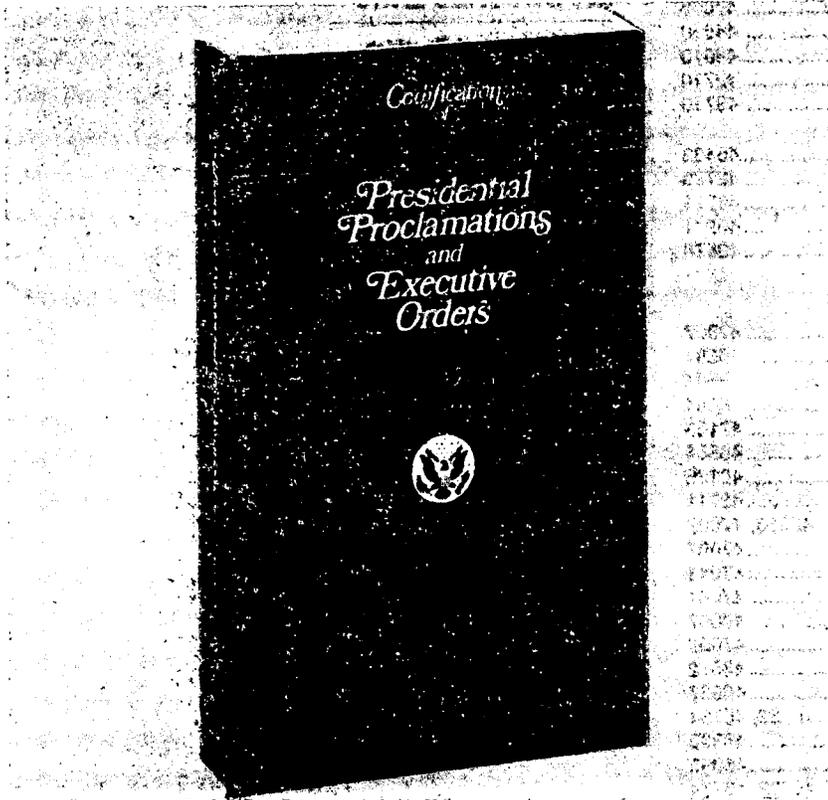
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**LIST OF PUBLIC LAWS**

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